

ORDINANCE NUMBER O- 20595 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 09 2016

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 29 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2903 AND 27.2924; RETITLING AND AMENDING SECTION 27.2925; AND AMENDING SECTIONS 27.2945, 27.2952, 27.2965, 27.2970, 27.2971, 27.2973, 27.2974, 27.2975 AND 27.2980, RELATING TO THE CITY OF SAN DIEGO ELECTION CAMPAIGN CONTROL ORDINANCE.

WHEREAS, pursuant to San Diego Municipal Code section 26.0414, the City of San Diego Ethics Commission (the Ethics Commission) has the responsibility of regularly reviewing the City's Election Campaign Control Ordinance (ECCO), and proposing updates to these laws to the City Council for its approval; and

WHEREAS, the Ethics Commission states that it has been unable to provide clear and concise guidance to members of the public regarding the pending matters disclosure form that individuals must submit when making contributions to a candidate's or elected official's professional expense committee (legal defense fund), because applicable language in ECCO is open to multiple interpretations; and

WHEREAS, the Ethics Commission states that ECCO would benefit from clarifying language regarding the pending matters disclosure form, including specifying the kinds of decisions that must be reported on the form, when a decision is actually pending, and when a contributor has an interest in the decision that must be disclosed; and

WHEREAS, the Ethics Commission voted unanimously to recommend changes to ECCO designed to provide more clarity and guidance regarding the submission of the pending matters form; and

WHEREAS, the Ethics Commission proposed changes because state and local campaign records retention laws do not currently require committees to maintain documentation regarding campaign advertisements in a manner that permits the Ethics Commission to verify whether committees have complied with ECCO's disclosure laws; and

WHEREAS, the Ethics Commission has proposed amendments designed to provide better guidance to committees regarding the records that must be maintained with regard to their campaign literature, telephone communications, billboards and other forms of large campaign advertising, and mass media advertising; and

WHEREAS, the Ethics Commission has also recommended a number of policy changes and clean-up amendments to ECCO, including: (1) harmonizing its definitions with those contained in state law; (2) mirroring recent state law changes to deadlines associated with surplus funds rules; (3) requiring that committees retain records relating to their campaign advertisements; (4) refining the disclosure requirement relating to the reimbursement of contributions; and (5) clarifying that sole proprietorships may make both monetary and non-monetary contributions to City candidates; and

WHEREAS, on July 2, 2015, the City's Charter Review Committee considered the amendments proposed by the Ethics Commission, and unanimously agreed to forward the recommendations to the full City Council; and

WHEREAS, in a memorandum to the Council dated July 15, 2015, the Ethics Commission summarized its recommendations and the reasons for the proposed amendments to the City's campaign laws; and

WHEREAS, on December 10, 2015, the Ethics Commission voted to approve additional amendments to the City's campaign laws to be consistent with new state laws that now require certain advertising disclaimers to be printed in 14-point, bold, sans serif font; and

WHEREAS, on December 10, 2015, the Ethics Commission also voted to recommend increasing from \$1,000 to \$2,000 the threshold amount in which an entity's receipt of contributions will make it a "recipient committee," to be consistent with new state law; and

WHEREAS, the City Council has considered the recommendations of the Ethics Commission; NOW, THEREFORE,

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

Section 1. That San Diego Municipal Code Chapter 2, Article 7, Division 29 is amended by amending sections 27.2903 and 27.2924; retitling and amending section 27.2925; and amending sections 27.2945, 27.2952, 27.2965, 27.2970, 27.2971, 27.2973, 27.2974, 27.2975 and 27.2980, to read as follows:

§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 through Citywide Primary Election [No change in text.]

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.

For purposes of this definition, an officeholder is considered elected to office on the date the Council adopts its resolution declaring the results of the election.

Clearly identified candidate through Clearly identified measure [No change in text.]

Committee means any *person* acting, or any combination of two or more *persons* acting jointly, who raise \$2,000 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, independent*

expenditure committees, primarily formed recipient committees, and general purpose recipient committees.

Contribution through Independent expenditure [No change in text.]

Independent expenditure committee means any person who makes independent expenditures totaling \$1,000 or more within a single calendar year without also receiving contributions of \$1,000 or more within a single calendar year.

Mass campaign literature through Measure [No change in text.]

Member communication means a communication directed solely to members, employees, or shareholders, or families of members, employees, or shareholders of an organization, including a communication to members of any political party, for the purpose of supporting or opposing one or more *City measures* or *candidates for elective City office*. *Member communications* do not include communications made by an organization for general public advertising such as broadcasting, billboards, and newspaper advertisements, or for communications to persons who are not members, employees, or shareholders, or families of members, employees, or shareholders of the organization. The meaning of *member 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.

Municipal decision has the same meaning as defined in San Diego Municipal Code section 27.4002.

Payment through Vendor [No change in text.]

§27.2924 Surplus Campaign Funds

(a) Upon the 90th day after leaving any elected office, or the 90th day following 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) through (c) [No change in text.]

§27.2925 Accounting and Recordkeeping

(a) through (b) [No change in text.]

(c) Every *candidate* or *committee* paying for campaign advertisements supporting or opposing one or more *City candidates* or *City measures* shall maintain records in accordance with the following requirements:

- (1) for *mass campaign literature* subject to section 27.2970, records that identify the date(s) of dissemination, the number of pieces disseminated, and the method of dissemination, as well as an original sample of each item of *mass campaign literature* disseminated by the *committee*;
- (2) for *mass telephone communications* subject to section 27.2971, records that identify the date(s) the telephone calls were made and the number of calls made, as well as a transcript of the messages communicated and a copy of any recorded messages;

- (3) for billboards and other large forms of advertising subject to section 27.2972, records that identify the location(s) where each advertisement was publicly displayed, the date(s) of display, the dimensions of each advertisement, the content and size of the requisite “paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format; and
 - (4) for mass media advertisements subject to section 27.2974, records that identify the publication or website where the advertisement appeared, the date(s) the advertisements appeared, the content and size of the requisite “paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format.
- (d) The records required by section 27.2925(c) shall be kept by the *candidate* or *committee* for a period of four years following the date that the campaign statement to which they relate is filed.
 - (e) 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.
 - (f) 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*.

§27.2945 Notification Regarding Reimbursement Prohibition

- (a) It is unlawful for any *candidate* or *controlled committee* to solicit *contributions* for a *City candidate election* from potential contributors by distributing printed materials or using an Internet website unless such materials or site contain at least one instance of the following statement in a prominent place printed in typeface that is easily legible, contrasts with the background, and is not smaller than the typeface used in a majority of the text in the materials or on the site: "It is unlawful to reimburse an individual's contribution to a City candidate unless the reimbursement is made by another individual and the names of both individuals are provided to the candidate."
- (b) [No change in text.]

§27.2952 Contributions from Sole Proprietorships

- (a) Notwithstanding the provisions of sections 27.2950 and 27.2951,
- (1) a *contribution* drawn from a checking account or credit card account held by an individual doing business as a sole proprietorship is considered a *contribution* from that individual for purposes of section 27.2935, and may lawfully be received by a *candidate for elective City office*; and
 - (2) a non-monetary *contribution* in the form of goods or services donated by an individual doing business as a sole proprietorship is considered a *contribution* from that individual for purposes of

section 27.2935, and may lawfully be received by a *candidate* for *elective City office*.

- (b) Any *candidate* disclosing on a campaign statement the source of a *contribution* received pursuant to subsection (a) shall identify the full name of the individual contributor notwithstanding the name of the sole proprietorship on the face of a check or on a credit card account.
- (c) The provisions of this section apply solely to individuals treated as sole proprietorships under federal tax laws, and do not apply to a *contribution* drawn from a checking account or credit card account held by a corporation, partnership, limited liability company, or any other type of business entity, or to a non-monetary *contribution* made by such entities.

§27.2965 Professional Expense Funds

(a) through (d) [No change in text.]

- (e) Every individual making a *contribution* to a *professional expense committee* shall accompany such *contribution* with a signed disclosure form indicating whether the individual has a financial interest in any *municipal decisions* pending before the applicable *City Official* or *candidate*. If the individual has such a financial interest, he or she shall identify the *municipal decision* and describe the nature of the interest on the disclosure form.

(1) For purposes of this subsection:

- (A) a *municipal decision* is pending before a *City Official* or *candidate* if it is reasonably foreseeable that it will be acted

on by the *City Official* or *candidate* or by any governmental body of which that *City Official* or *candidate* is a member;

(B) the term “governmental body” in (e)(1)(A) above means the *City Council*, any *City Council* committee, the board of directors of any *City* agency, and any *City Board*, commission, committee, or task force; and

(C) an individual has a financial interest in a *municipal decision* if:

(i) the individual or any member of the individual’s immediate family is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or

(ii) the individual or any member of the individual’s immediate family holds a managerial level position, or has a 10% or greater ownership interest, in a business entity that is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or

(iii) the individual or any member of the individual’s immediate family has an ownership interest in real property that is the subject of the decision; or

(iv) it is reasonably foreseeable that the decision will have a direct or substantial financial impact on real

property in which the individual or any member of the individual's immediate family has an ownership interest.

(v) Notwithstanding subsections (e)(1)(C)(i) through (e)(1)(C)(iv), an individual does not have a financial interest in a *municipal decision* that will have only a nominal, inconsequential, or insignificant financial effect on the individual's financial interests or those of his or her immediate family.

(D) An individual who makes an electronic or telephonic *contribution* to a *professional expense committee* is deemed to be in compliance with this section if, within one calendar day of making the *contribution*, the individual provides the signed disclosure form to the *committee* or deposits it with the U.S. Postal Service or a comparable service for delivery to the *committee*.

(2) An individual is not required to identify a financial interest in a *municipal decision* on the disclosure form if both of the following are true:

(A) the individual's *contributions* are required to be disclosed by a *lobbying firm* or *organization lobbyist* (as both are defined in San Diego Municipal Code section 27.4002) in

accordance with San Diego Municipal Code section 27.4017; and

(B) the *municipal decision* in which the individual has a financial interest has been identified on the most recent registration form or quarterly disclosure report filed by the *lobbying firm* or *organization lobbyist* (as both are defined in San Diego Municipal Code section 27.4002).

(3) It is unlawful for a *professional expense committee* to deposit a *contribution* from any individual without first obtaining a signed disclosure form from that individual.

(4) Within 10 calendar days of the filing deadline applicable to the campaign statement required by section 29.2967, the *professional expense committee* shall file with the *City Clerk* a copy of each disclosure form received during the reporting period pursuant to this subsection.

(f) [No change in text.]

§27.2970 Mass Campaign Literature

(a) It is unlawful for any *candidate* or *committee* to pay for *mass campaign literature* for the purpose of supporting or opposing a *City candidate* or *ballot measure* unless each item of *mass campaign literature* includes the words “paid for by” immediately followed by the name, street address, and city of that *candidate* or *committee*.

- (b) In addition to the requirements set forth in subsection (a) it is unlawful for any *candidate* or *committee* to send *mass campaign literature* through the mail for the purpose of supporting or opposing a *City candidate* or *City measure* unless the name, street address, and city of the *candidate* or *committee* are shown on the outside of each item of *mass campaign literature*, and on at least one of the inserts included within each piece of mail.
- (1) through (2) [No change in text.]
- (c) For *candidates* and *candidate-controlled committees* supporting the *candidate's* candidacy, the disclosures required by subsections (a) and (b), other than for yard signs, shall be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size. For all other *committees*, the disclosures required by subsections (a) and (b), other than for yard signs, shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.
- (d) It is unlawful for any *candidate* or *committee* to pay for *mass campaign literature* in the form of yard signs for the purpose of supporting or opposing a *City candidate* or *ballot measure* unless the face of each yard sign 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 has a height no less than five percent of the height of the yard sign.

- (e) For purposes of this section, an organization's post office box may be stated in lieu of a street address if that organization's address is a matter of public record with the Secretary of State.
- (f) If a *controlled committee* pays for *mass campaign literature*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by this section.
- (g) The requirements set forth in this section do not apply to *member communications* distributed by an organization that is not a political party, email communications, Internet web pages, or slate mailers.

§27.2971 Telephone Communications

- (a) through (d) [No change in text.]
- (e) Any *candidate* or *committee* paying for a live or recorded telephone communication subject to this section shall maintain records relating to such communications in accordance with section 27.2925(c).
- (f) [No change in text.]

§27.2973 Paid Spokespersons - Ballot Measures

- (a) [No change in text.]
- (b) Any advertisement subject to the provisions of subsection (a) shall include the following statement: "(spokesperson's name) is being paid by (committee's name) for appearing in this campaign advertisement" in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size if the advertisement

consists of printed material, or spoken in a clearly audible format if the advertisement is a telephone message.

§27.2974 Disclosure on Advertisements in Mass Media

- (a) [No change in text.]
- (b) For *candidates* and *candidate-controlled committees* paying for advertising supporting the *candidate's* candidacy, the disclosure statement required by subsection (a) shall be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size. For all other *committees*, the disclosure statement required by subsection (a) shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.

§27.2975 Major Funding of Advertisements Supporting or Opposing Candidates and Ballot Measures

- (a) In addition to all other applicable disclosure requirements set forth in this Division, it is unlawful for any *primarily formed recipient committee* to pay for an advertisement supporting or opposing a *City candidate* or ballot *measure* unless each *person* who has cumulatively contributed \$10,000 or more to the *committee* is identified in the advertisement as providing major funding to the *committee*.
 - (1) If there are more than two donors of \$10,000 or more, the *committee* is only required to disclose the highest and second highest in that order.
 - (2) In the event that two or more donors of identical amounts meet the threshold for the top two contributors, the order of disclosure shall

be made beginning with the most recent contributor of that amount.

- (3) The disclosure shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size, except that if the advertisement is on a yard sign, billboard, or any other large form of advertising, as defined in section 27.2972, the disclosure's typeface shall have a height no less than five percent of the height of the advertisement.
- (4) The disclosure shall reflect information that is accurate as of the date the *committee* places the order to purchase the advertisement.

(b) through (c) [No change in text.]

§27.2980 Disclosure of Electioneering Communications

- (a) Every *electioneering communication* in printed form shall include the words "paid for by" immediately followed by the name, street address, and city of the *person* who paid for the communication in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.

(b) through (h) [No change in text.]

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: JAN I. GOLDSMITH, City Attorney

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

SBS:jdf
12/21/15
01/11/16 Rev.
03/09/16 Cor. Copy
Or.Dept: Ethics Commission
Doc. No.: 1094780

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

See Attached Memo and signature page

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 236-6220

DATE: March 8, 2016
TO: Elizabeth Maland, City Clerk
FROM: Sharon Spivak, Deputy City Attorney
SUBJECT: Request to fix typographical error: Ordinance No. O-20595,
Adopted February 9, 2016

It has come to our attention that an ordinance recently approved by the City Council contained a typographical error that needs to be corrected. We are making this request via memorandum to ensure that the San Diego Municipal Code is promptly updated, as allowed under San Diego Charter section 275(a) when there is a clear typographical error.

The text of the section that is affected follows below. Specifically, the word “and” needs to be changed to the word “or” in Municipal Code section 27.2965(e)(1)(C)(iii), as set forth below. The word was inadvertently mis-typed in our office as we prepared different versions of the ordinance for Council.

The full text of the section follows below, with a strikeout of the word “and” and an underline where the word “or” should be substituted. (See the end of subsection (e)(1)(C)(iii).)

Please contact me if you have additional questions.

§27.2965 Professional Expense Funds

- (a) through (d) [No change in text.]
- (e) Every individual making a *contribution* to a *professional expense committee* shall accompany such *contribution* with a signed disclosure form indicating whether the individual has a financial interest in any *municipal decisions* pending before the applicable *City Official* or *candidate*. If the individual has such a financial interest, he or she shall identify the *municipal decision* and describe the nature of the interest on the disclosure form.

(1) For purposes of this subsection:

(A) through (B) [No change in text.]

(C) an individual has a financial interest in a *municipal decision* if:

- (i) the individual or any member of the individual's immediate family is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
- (ii) the individual or any member of the individual's immediate family holds a managerial level position, or has a 10% or greater ownership interest, in a business entity that is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
- (iii) the individual or any member of the individual's immediate family has an ownership interest in real property that is the subject of the decision; ~~and~~ or
- (iv) it is reasonably foreseeable that the decision will have a direct or substantial financial impact on real property in which the individual or any member of the individual's immediate family has an ownership interest.
- (v) Notwithstanding subsections (e)(1)(C)(i) through (e)(1)(C)(iv), an individual does not have a financial interest in a *municipal decision* that will have only a nominal, inconsequential, or insignificant financial effect on the individual's financial interests or those of his or her immediate family.

(D) [No change in text.]

(2) through (4) [No change in text.]

(f) [No change in text.]

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

APPROVED: JAN I. GOLDSMITH, City Attorney

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

SBS:jdf
12/21/15
01/11/16 Rev.
Or.Dept: Ethics Commission
Doc. No.: 1094780

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN 26 2016.

ELIZABETH S. MALAND
City Clerk

By Stan Nease
Deputy City Clerk

Approved: 2/5/2016
(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 26 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 FEB 09 2016

AUTHENTICATED BY:

(Seal)

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

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

By Hay Brady, 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

JAN 11 2016, and on FEB 09 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 Hay Brady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20595

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 29 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2903 AND 27.2924; RETITLING AND AMENDING SECTION 27.2925; AND AMENDING SECTIONS 27.2945, 27.2952, 27.2965, 27.2970, 27.2971, 27.2973, 27.2974, 27.2975 AND 27.2980, RELATING TO THE CITY OF SAN DIEGO 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 through Citywide Primary Election [No change in text.]

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.

For purposes of this definition, an officeholder is considered elected to office on the date the Council adopts its resolution declaring the results of the election.

Clearly identified candidate through *Clearly identified measure* [No change in text.]

Committee means any *person* acting, or any combination of two or more *persons* acting jointly, who raise ~~\$1,000~~ \$2,000 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, independent expenditure committees, primarily formed recipient committees, and general purpose recipient committees.*

Contribution through *Independent expenditure* [No change in text.]

Independent expenditure committee means any *person* who makes *independent expenditures* totaling \$1,000 or more within a single calendar year without also receiving contributions of \$1,000 or more within a single calendar year.

Mass campaign literature through *Measure* [No change in text.]

Member communication means a communication directed solely to members, employees, or shareholders, or families of members, employees, or shareholders of an organization, including a communication to members of any political party, for the purpose of supporting or opposing one or more City *measures* or *candidates* for *elective City office*. *Member communications* do not include communications made by an organization for general public advertising such as broadcasting, billboards, and newspaper advertisements, or for communications to persons who are not members, employees, or shareholders, or families of members, employees, or shareholders of the organization. The meaning of *member 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.

Municipal decision has the same meaning as defined in San Diego Municipal Code section 27.4002.

Payment through Vendor [No change in text.]

§27.2924 Surplus Campaign Funds

(a) Upon the 90th day after leaving any elected office, or at the 90th day following 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) through (c) [No change in text.]

§27.2925 **Accounting and Recordkeeping**

(a) through (b) [No change in text.]

(c) Every candidate or committee paying for campaign advertisements supporting or opposing one or more City candidates or City measures shall maintain records in accordance with the following requirements:

(1) for mass campaign literature subject to section 27.2970, records that identify the date(s) of dissemination, the number of pieces disseminated, and the method of dissemination, as well as an original sample of each item of mass campaign literature disseminated by the committee;

(2) for mass telephone communications subject to section 27.2971, records that identify the date(s) the telephone calls were made and the number of calls made, as well as a transcript of the messages communicated and a copy of any recorded messages;

(3) for billboards and other large forms of advertising subject to section 27.2972, records that identify the location(s) where each advertisement was publicly displayed, the date(s) of display, the dimensions of each advertisement, the content and size of the requisite "paid for by" disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format; and

(4) for mass media advertisements subject to section 27.2974, records that identify the publication or website where the advertisement

appeared, the date(s) the advertisements appeared, the content and size of the requisite "paid for by" disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format.

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

~~(e)~~(e) 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)~~(f) 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*.

§27.2945 Notification Regarding Reimbursement Prohibition

(a) It is unlawful for any *candidate* or *controlled committee* to solicit *contributions* for a *City candidate election* from potential contributors by distributing printed materials or using an Internet ~~web site~~ website unless such materials or site contain at least one instance of the following statement in a prominent place printed in typeface that is easily legible, contrasts with the background, and is not smaller than the typeface used in a majority of the text in the materials or on the site: ~~"It is unlawful for any type of business entity to reimburse an individual for a contribution made~~

by that individual to a City candidate.” “It is unlawful to reimburse an individual’s contribution to a City candidate unless the reimbursement is made by another individual and the names of both individuals are provided to the candidate.”

- (b) [No change in text.]

§27.2952 Contributions from Sole Proprietorships

- (a) Notwithstanding the provisions of sections 27.2950 and 27.2951,
- (1) a contribution drawn from a checking account or credit card account held by an individual doing business as a sole proprietorship is considered a contribution from that individual for purposes of sections 27.2934 and section 27.2935, and may lawfully be received by a candidate for elective City office; and
- (2) a non-monetary contribution in the form of goods or services donated by an individual doing business as a sole proprietorship is considered a contribution from that individual for purposes of section 27.2935, and may lawfully be received by a candidate for elective City office.
- (b) Any candidate disclosing on a campaign statement the source of a contribution received pursuant to subsection (a) shall identify the full name of the individual contributor notwithstanding the name of the sole proprietorship on the face of the a check or on the a credit card account.
- (c) The provisions of this section apply solely to ~~entities recognized~~ individuals treated as sole proprietorships under federal tax laws, and do

not apply to a *contribution* drawn from a checking account or credit card account held by a corporation, partnership, limited liability company, or any other type of business entity, or to a non-monetary *contribution* made by such entities.

§27.2965 Professional Expense Funds

(a) through (d) [No change in text.]

(e) ~~It is unlawful for any individual to make a *contribution* to a *professional expense committee* 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 *professional expense committee* is a member or employee. When filing the campaign statements required by section 29.2967, the *professional expense committee* shall attach to such statement a copy of each disclosure form received pursuant to this subsection. Every individual making a *contribution* to a *professional expense committee* shall accompany such *contribution* with a signed disclosure form indicating whether the individual has a financial interest in any *municipal decisions* pending before the applicable *City Official* or *candidate*. If the individual has such a financial interest, he or she shall identify the *municipal decision* and describe the nature of the interest on the disclosure form.~~

(1) For purposes of this subsection:

- (A) a municipal decision is pending before a City Official or candidate if it is reasonably foreseeable that it will be acted on by the City Official or candidate or by any governmental body of which that City Official or candidate is a member;
- (B) the term “governmental body” in (e)(1)(A) above means the City Council, any City Council committee, the board of directors of any City agency, and any City Board, commission, committee, or task force; and
- (C) an individual has a financial interest in a municipal decision if:
- (i) the individual or any member of the individual’s immediate family is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
 - (ii) the individual or any member of the individual’s immediate family holds a managerial level position, or has a 10% or greater ownership interest, in a business entity that is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
 - (iii) the individual or any member of the individual’s immediate family has an ownership interest in real property that is the subject of the decision; and

(iv) it is reasonably foreseeable that the decision will have a direct or substantial financial impact on real property in which the individual or any member of the individual's immediate family has an ownership interest.

(v) Notwithstanding subsections (e)(1)(C)(i) through (e)(1)(C)(iv), an individual does not have a financial interest in a *municipal decision* that will have only a nominal, inconsequential, or insignificant financial effect on the individual's financial interests or those of his or her immediate family.

(D) An individual who makes an electronic or telephonic contribution to a *professional expense committee* is deemed to be in compliance with this section if, within one calendar day of making the *contribution*, the individual provides the signed disclosure form to the *committee* or deposits it with the U.S. Postal Service or a comparable service for delivery to the *committee*.

(2) An individual is not required to identify a financial interest in a *municipal decision* on the disclosure form if both of the following are true:

(A) the individual's *contributions* are required to be disclosed by a *lobbying firm or organization lobbyist* (as both are

defined in San Diego Municipal Code section 27.4002) in accordance with San Diego Municipal Code section 27.4017; and,

(B) the municipal decision in which the individual has a financial interest has been identified on the most recent registration form or quarterly disclosure report filed by the lobbying firm or organization lobbyist (as both are defined in San Diego Municipal Code section 27.4002).

(3) It is unlawful for a professional expense committee to deposit a contribution from any individual without first obtaining a signed disclosure form from that individual.

(4) Within 10 calendar days of the filing deadline applicable to the campaign statement required by section 29.2967, the professional expense committee shall file with the City Clerk a copy of each disclosure form received during the reporting period pursuant to this subsection.

(f) [No change in text.]

§27.2970 Mass Campaign Literature

(a) It is unlawful for any candidate or committee to pay for mass campaign literature, ~~other than a yard sign,~~ for the purpose of supporting or opposing a City candidate or ballot measure unless each item of mass campaign literature 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) In addition to the requirements set forth in subsection (a) it is unlawful for any *candidate* or *committee* to send *mass campaign literature* through the mail for the purpose of supporting or opposing a *City candidate* or *City measure* unless the name, street address, and city of the *candidate* or *committee* are shown on the outside of each item of *mass campaign literature*, and on at least one of the inserts included within each piece of mail, ~~in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.~~

(1) through (2) [No change in text.]

- (c) For candidates and candidate-controlled committees supporting the candidate's candidacy, the disclosures required by subsections (a) and (b), other than for yard signs, shall be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size. For all other committees, the disclosures required by subsections (a) and (b), other than for yard signs, shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.

- (e)(d) It is unlawful for any *candidate* or *committee* to pay for *mass campaign literature* in the form of yard signs for the purpose of supporting or opposing a *City candidate* or *ballot measure* unless the face of each yard sign 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 has a height no less than five percent of the height of the yard sign.

~~(d)~~(e) For purposes of this section, an organization's post office box may be stated in lieu of a street address if that organization's address is a matter of public record with the Secretary of State.

~~(e)~~(f) If a *controlled committee* pays for *mass campaign literature*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by this section.

~~(f)~~(g) The requirements set forth in this section do not apply to *member communications* distributed by an organization that is not a political party, email communications, Internet web pages, or slate mailers.

§27.2971 Telephone Communications

(a) through (d) [No change in text.]

(e) Any *candidate* or *committee* paying for a live or recorded telephone communication subject to this section shall maintain for four years a ~~transcript of the message being communicated, a copy of any recorded messages, and a record of the number of calls for each message~~ records relating to such communications in accordance with section 27.2925(c).

(f) [No change in text.]

§27.2973 Paid Spokespersons — Ballot Measures

(a) [No change in text.]

- (b) Any advertisement subject to the provisions of subsection (a) shall include the following statement: “(spokesperson's name) is being paid by (committee’s name) for appearing in this campaign advertisement” in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than ~~12~~ 14 points in size if the advertisement consists of printed material, or spoken in a clearly audible format if the advertisement is a telephone message.

§27.2974 Disclosure on Advertisements in Mass Media

- (a) [No change in text.]
- (b) For candidates and candidate-controlled committees paying for advertising supporting the candidate’s candidacy, the The disclosure statement required by subsection (a) shall be in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size. For all other committees, the disclosure statement required by subsection (a) shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.

§27.2975 Major Funding of Advertisements Supporting or Opposing Candidates and Ballot Measures

- (a) In addition to all other applicable disclosure requirements set forth in this Division, it is unlawful for any *primarily formed recipient committee* to pay for an advertisement supporting or opposing a *City candidate* or ballot *measure* unless each *person* who has cumulatively contributed \$10,000 or more to the *committee* is identified in the advertisement as providing major funding to the *committee*.

- (1) If there are more than two donors of \$10,000 or more, the *committee* is only required to disclose the highest and second highest in that order.
- (2) In the event that two or more donors of identical amounts meet the threshold for the top two contributors, the order of disclosure shall be made beginning with the most recent contributor of that amount.
- (3) The disclosure shall be in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than ~~12~~ 14 points in size, except that if the advertisement is on a yard sign, billboard, or any other large form of advertising, as defined in section 27.2972, the disclosure's typeface shall have a height no less than five percent of the height of the advertisement.
- (4) The disclosure shall reflect information that is accurate as of the date the *committee* places the order to purchase the advertisement.

(b) through (c) [No change in text.]

§27.2980 Disclosure of Electioneering Communications

- (a) Every *electioneering communication* in printed form shall include the words "paid for by" immediately followed by the name, street address, and city of the *person* who paid for the communication in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than ~~12~~ 14 points in size.

(b) through (h) [No change in text.]

SBS:jdf
12/21/15
Or.Dept: Ethics Commission
Doc. No.: 1095634