

ORDINANCE NUMBER O- 21897 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 15 2024

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 26.0440, RELATING TO ADMINISTRATIVE FINES ASSESSED BY THE ETHICS COMMISSION.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

- A. The Council adopted San Diego Ordinance O-18945 (Jun. 5, 2001), codified as San Diego Municipal Code (Municipal Code) sections 26.0401 to 26.0415, establishing an Ethics Commission for the City of San Diego (City).
- B. The Council adopted San Diego Ordinance O-19034 (Feb. 11, 2002), establishing formal complaint and investigation procedures for the Ethics Commission.
- C. The Ethics Commission's purpose is to preserve public confidence in City government, among other purposes, and enforce ethics laws.
- D. The Ethics Commission must have sufficient tools to effectively punish and deter violations of ethics laws.
- E. Municipal Code section 26.0440(a) provides a maximum fine of \$5,000 for any violation of the City's ethics laws.
- F. The \$5,000 maximum fine for each count of ethics violations has not been increased since 2002.
- G. Some individuals and entities in the City consider paying a fine in the amount of \$5,000 for each count as a cost of doing business within the City and the maximum fine no longer provides a deterrent effect.

H. Presently, the monetary penalties for the ethics commissions in Los Angeles, Oakland, and San Francisco are up to five thousand dollars (\$5,000) for each violation or three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, whichever is greater.

I. Ethics commissions in Los Angeles, Oakland, and San Francisco are also examining the deterrent effect of their existing fine structures.

J. The Los Angeles City Council has submitted a charter amendment to the qualified voters of the City of Los Angeles for the election on November 5, 2024, which will, if passed, raise the monetary penalty for a violation of Los Angeles' ethics laws to \$15,000 for each violation, adjusted annually to reflect changes to the Consumer Price Index, or three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, whichever is greater.

K. This Ordinance will bring San Diego in line with Los Angeles, Oakland, and San Francisco with respect to trebling, and in line with the penalty amount in Los Angeles if the Los Angeles measure on the November ballot passes.

L. The purpose of this Ordinance is to more effectively preserve the public trust in government, ensure that the Ethics Commission has the proper tools to ensure effective deterrence, and avoid corruption and the appearance of corruption in City government.

M. Increasing the maximum fine for each violation of the City's ethics laws to either \$15,000 or three times the amount the person or entity failed to properly report or unlawfully contributed, expended, gave, or received will help the Ethics Commission achieve this purpose.

N. In April 2024, the City Attorney presented to the Ethics Commission a proposal to increase the Ethics Commission's maximum fine for each count as part of a larger reform package.

O. Under Municipal Code section 26.0414(f), the Ethics Commission reviews the City's ethics laws and may propose updates of those laws to the Council for approval.

P. On September 12, 2024, the Ethics Commission approved the proposed amendments in this Ordinance.

Q. The Office of the City Attorney prepared this Ordinance based on the information provided by Ethics Commission staff, and verified by the Ethics Commission's Executive Director, with the understanding that this information is complete and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 2, Article 6, Division 4 of the San Diego Municipal Code is amended by amending section 26.0440, to read as follows:

**§26.0440 Administrative Fines**


- (a) For each violation of *Governmental Ethics Laws*, the *Commission* may impose either of the following, based on the *Commission's* assessment of the severity of the violation:
- (1) a fine of up to \$15,000; or
  - (2) a fine of up to three times the amount the *Respondent* failed to properly report or unlawfully contributed, expended, gave, or received.

- (b) The limit in section 26.0440(a)(1) shall be adjusted in even-numbered years to reflect any changes in the Consumer Price Index applicable to the San Diego area for the two-year period ending on December 31 of the previous year. Adjustments shall be rounded to the nearest fifty dollars.
- (c) Failure of the *Respondent* to pay any fine assessed by the *Commission* is a misdemeanor and subjects the *Respondent* to the penalties set forth in Chapter 1 of this Code.

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Hilda R. Mendoza  
Senior Deputy City Attorney

HRM:nja  
August 26, 2024  
Or. Dept: Ethics Commission  
Doc. No. 3786655

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on

NOV 12 2024

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

Approved: 11/15/24  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**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 6,  
DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 26.0440, RELATING TO  
ADMINISTRATIVE FINES ASSESSED BY THE ETHICS  
COMMISSION.

**§26.0440 Administrative Fines**

- (a) ~~The maximum fine for any violation of *Governmental Ethics Laws* is \$5,000. The actual fine imposed for any violation may range from zero (\$0) to five thousand dollars (\$5,000), in accordance with the *Commission's* assessment of the severity of the violation. For each violation of *Governmental Ethics Laws*, the *Commission* may impose either of the following, based on the *Commission's* assessment of the severity of the violation:~~
- (1) a fine of up to \$15,000; or
  - (2) a fine of up to three times the amount the *Respondent* failed to properly report or unlawfully contributed, expended, gave, or received.
- (b) The limit in section 26.0440(a)(1) shall be adjusted in even-numbered years to reflect any changes in the Consumer Price Index applicable to the

San Diego area for the two-year period ending on December 31 of the previous year. Adjustments shall be rounded to the nearest fifty dollars.

- (c) Failure of the *Respondent* to pay any fine assessed by the *Commission* is a misdemeanor and subjects the *Respondent* to the penalties set forth in Chapter 1 of this Code.

HRM:nja  
August 26, 2024  
Or. Dept: Ethics Commission  
Doc. No. 3786652

Passed by the Council of The City of San Diego on NOV 12 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 15 2024.

AUTHENTICATED BY:

(Seal)

TODD GLORIA  
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Linda Irwin, 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

OCT 29 2024, and on NOV 15 2024.

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)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy  
For Krystell Medina

Office of the City Clerk, San Diego, California  
Ordinance Number O- 21897