

Article 7: Elections, Campaign Finance and Lobbying

Division 35: City of San Diego Ethics Ordinance

*(“City of San Diego Ethics Ordinance”
added 4-29-2002 by O-19055 N.S.)*

§27.3501 Purpose and Intent

It is the purpose and intent of the *City Council* of the City of San Diego in enacting this Division to assure that individuals and interest groups in our society have a fair and equal opportunity to participate in government; to embrace clear and unequivocal standards of disclosure and transparency in government so as to avoid conflicts of interest and the appearance of conflicts of interest; to increase understanding of the *City Charter*, ordinances, and the roles of *City Officials*; to help reinforce public trust in governmental institutions; and to assure that this Division is vigorously enforced. *(“Purpose and Intent” added 4-29-2002 by O-19055 N.S.)*

§27.3502 Citation

This Division shall be cited as the City of San Diego Ethics Ordinance. *(“Citation” added 4-29-2002 by O-19055 N.S.)*

§27.3503 Definitions

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. Except as otherwise provided herein, the terms and provisions of this Division shall have the meanings and shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (California Government Code sections 81000 through 91014) and the regulations of the California Fair Political Practices Commission, as amended. For purposes of this Division, the following definitions shall apply:

Benefit means any *honorarium*, *gift*, *travel expense*, or *loan* made to, or in the interest of, an individual or a member of the individual’s *immediate family*.

Campaign Control Ordinance means the San Diego Municipal Election Campaign Control Ordinance, codified at Chapter 2, Article 7, Chapter 29 of the San Diego Municipal Code.

City means the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

City Board includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

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; 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.

Compensation means the receipt of any monetary or non-monetary payment, except a stipend paid to a board member of a public non-profit corporation to which the *City* is the sole member, for the services or time of a *person*. *Compensation* includes, but is not limited to, salary, wages, fees, and any discount or economic opportunity not made available in the regular course of business to members of the public.

Confidential information means information to which any of the following apply:

- (a) At the time of the use or disclosure of the information, the disclosure is prohibited by a statute, regulation, or rule which applies to the *City*; or
- (b) the information is not general public knowledge and will have, or could reasonably be expected to have, a material financial effect on any source of income, investment, or interest in the real property of a *City Official*; or
- (c) the information pertains to pending contract, labor, or real property negotiations and disclosing the information could reasonably be expected to compromise the bargaining position of the *City*; or

- (d) the information pertains to pending or anticipated litigation and disclosing the information could reasonably be expected to compromise the ability of the *City* to successfully defend, prevail in, or resolve the litigation.

Direct Communication means:

- (a) talking to a *person*, either by telephone or in person; or
- (b) corresponding with a *person*, either in writing, by electronic transmission, or by facsimile machine.

Direct Communication does not include:

- (a) solely responding to questions from any *City Official*; or
- (b) a direct response to an enforcement proceeding with the *City*.

Doing business with the City means entering into or performing pursuant to a contract with the *City*. *Doing business with the City* includes soliciting, entering into, or performing contracts for goods, equipment, services or financial assistance but does not include the receipt of or payment for services normally rendered by the *City* to residents and businesses such as sewer service, water service, street maintenance, and similar services.

Ethics Commission means the City of San Diego Ethics Commission created by City of San Diego Ordinance O-18945, codified in Chapter 2, Article 6, Division 4, of the San Diego Municipal Code.

Filer means a *High Level Filer* or a *Local Code Filer*.

Filing Officer means the Clerk of the City of San Diego charged with the duties and responsibilities prescribed in title 2, sections 18110 and 18115 of the California Code of Regulations.

Gift means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

High Level Filer means the Mayor, the members of the *City Council*, the *City Attorney*, *City Manager*, *City Treasurer*, *City Auditor*, Planning Commissioners, members of the Funds Commission, members of the Retirement Board, members of the San Diego Data Processing Corporation Board, members of the Defined Contribution Plan Board, the *Ethics Commission*, and any candidate for an elective office of the *City*.

Honorarium means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

- (a) A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate.
- (b) An “article published” means a nonfictional written work:
 - (1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and
 - (2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication.
- (c) “Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering.

Immediate family means an individual’s spouse and dependent children.

Influencing a municipal decision means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing, participating in, or seeking to modify or delay such action. *Influencing a municipal decision* also includes providing information, statistics, analysis or studies to a *City Official*.

In-House Lobbyist means an individual who engages in *Lobbying* solely on behalf of his or her business or employer. *In-House Lobbyist* includes, but is not limited to, owners, officers, and salaried employees of a business.

Loan means the temporary transfer of money or goods for the personal use of an individual with the expectation that the money or goods will be returned.

Lobbying means *Direct Communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other *person*.

Lobbyist means an individual who receives or becomes entitled to receive the threshold *compensation* amount during any calendar quarter for *Lobbying*, and who has had at least one *Direct Communication* with a *City Official* in that calendar quarter. *Lobbyist* includes:

- (a) *In-House Lobbyists* who engage in *Lobbying*;
- (b) individuals under contract to engage in *Lobbying*; and
- (c) individuals employed by a firm under contract to provide *Lobbying* services, whose pro-rated salary for *Lobbying* activities meets the threshold *compensation* during any calendar quarter.

Lobbyist Employer means any *person*, other than a *Lobbying* firm, who:

- (a) Employs one or more *Lobbyists* for economic consideration, other than reimbursement for reasonable *travel expenses*, for the purpose of *influencing a municipal decision*; or
- (b) Contracts for the services of a *Lobbying* firm for economic consideration, other than reimbursement for reasonable *travel expenses*, for the purpose of *influencing a municipal decision*.

Local Code Filer means any *City Board* member, and any employee of the *City*, except for classified employees, who is required to file a statement of economic interests pursuant to a conflict of interest code adopted by the *City Council*.

Municipal Decision includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution; and
- (b) the amendment of any ordinance or resolution; and
- (c) a report by a *City Official* to the *City Council* or a *City Council* Committee; and
- (d) contracts; and
- (e) quasi-judicial decisions, including:
 - (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; or

- (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; or
- (3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code.
- (f) any other decision of the *City Council* or a *City Board*.

Municipal Decision does not include any of the following:

- (a) any request for advice regarding or for an interpretation of laws, regulations, *City* approvals, or policies; or
- (b) any ministerial action such as decisions on private land development made pursuant to Process 1 as described in Chapter 11 of this Municipal Code; or

Party means any *person* who files an application for, or is the subject of, or participates in a *municipal decision*.

Payment means a distribution, transfer, *loan*, advance, deposit, or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

Pecuniary Gain means any monetary benefit to a *person* or to a member of the *person's immediate family*.

Person means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *persons* acting in concert.

Private business means any organization, partnership, corporation, or entity that is not a *Public Agency*.

Public Agency means the United States or any of its agencies; the State of California; the *City*; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

Public Hearing means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *Lobbyist* testifying at that hearing.

Restricted source includes:

- (a) a *Lobbyist*, *lobbying* firm, or *Lobbyist Employer*, seeking to *influence a municipal decision*;

- (b) a *person doing business with the City*; and
- (c) a *person* who, during the reporting period, *directly communicated* with a *City Official* pertaining to a *municipal decision* which would have a material financial effect on such *person*; or
- (d) a *person* who is a party to a *municipal decision* which within the prior nine months was pending before the *City Official*, and for nine months following the date a final decision is rendered in the proceeding.

A *restricted source* does not include an individual (other than a *Lobbyist*) who is employed by a *restricted source*.

Travel expenses means reasonable payments, advances, or reimbursements for travel, including actual transportation and related lodging, food, and beverages.

(“Definitions” added 4-29-2002 by O-19055 N.S.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Amended 9-19-2006 by O-19538 N.S.; effective 10-19-2006.)

§27.3510 Disclosure of Economic Interests

- (a) All *High Level Filers* shall file a statement of economic interests with the *Filing Officer* of the City of San Diego pursuant to the Political Reform Act of 1974, as amended.
- (b) All *Local Code Filers* shall file a statement of economic interests with the *Filing Officer* of the City of San Diego pursuant to the applicable Conflict of Interest Code adopted by the *City Council*.
- (c) On or before April 1 of each calendar year, all individuals referred to in subsections (a) and (b) shall file a statement of economic interests covering a disclosure period of January 1 through December 31 of the previous calendar year, except that any such individual who assumed a *City* office between October 1 and December 31 of the previous year and files a statement of economic interests pursuant to subsection (e) need not file a statement of economic interests until the following year.
- (d) In addition to the requirements set forth in subsection (c), on or before July 31 of each calendar year, all *High Level Filers* elected to office by the electors of the City of San Diego shall, on a form provided by the *Ethics Commission*, either certify that they have not received any reportable *gifts* during the period of January 1 through June 30, or disclose any reportable *gifts* received during that period.

- (e) Every *Filer* assuming office shall file a statement of economic interests within 30 calendar days after assuming office, unless the *City Official* is beginning a new term in the same office.
- (f) Every *Filer* who leaves office shall file a statement of economic interests within 30 calendar days of leaving office, unless that *City Official* is assuming another office with the *City*.
- (g) The information and amounts required to be disclosed with respect to each financial interest, and the manner of disclosing that information, shall be the same as required by Article 2 of Chapter 7 of the Political Reform Act of 1974, as amended, or by the Conflict of Interest Code adopted by the Council of the City of San Diego and applicable to the *Filer*.
(“Disclosure of Economic Interests” added 4-29-2002 by O-19055 N.S.)

§27.3520 Restrictions on Benefits to Filers

For the purposes of this section, a *benefit* offered to, solicited by, or accepted by, a *Filer* includes any *benefit* offered to, solicited by, or accepted by any member of a *Filer’s immediate family*, except as provided in section 27.3525(e). Subject to the exceptions set forth in section 27.3525, *Filers* are subject to the following restrictions with regard to their acceptance of *benefits*:

- (a) It is unlawful for a *High Level Filer* to accept *gifts* from a single source in any calendar year with a total value of more than \$320. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.
- (b) It is unlawful for a *High Level Filer* to accept an *honorarium*.
- (c) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *City Official* or *City* employee.
- (d) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *restricted source*.
- (e) It is unlawful for an elected *High Level Filer* to accept a *loan* that exceeds \$500 unless:
 - (1) The *loan* is made in writing and clearly states the terms of the *loan*; and
 - (2) The *loan* document includes the names of the parties to the *loan* agreement, as well as the date, amount, interest rate, and term of the *loan*; and
 - (3) The *loan* document includes the date or dates when payments are due and the amount of the payments.

- (f) It is unlawful for a *restricted source* to offer *travel expenses* to a *Filer*, and it is unlawful for a *Filer* to accept *travel expenses* from a *restricted source*.
- (g) It is unlawful for a *Local Code Filer* to accept *gifts* from any single source in any calendar year with a total value of more than \$320 if the *Local Code Filer* would be required to report the receipt of the *gift* from that source on his or her statement of economic interests. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.
- (h) It is unlawful for a *Local Code Filer* to accept an *honorarium* from any *restricted source* or from any other source if that individual would be required to report the receipt of income or *gifts* from the source of the *honorarium* on his or her statement of economic interests.
- (i) It is unlawful for any *person* to offer, or for any *Filer* to solicit or accept, any *benefit* with the intent that the *Filer* will be influenced thereby in the performance of any official act.
 (“Restrictions on Benefits to Filers” added 4-29-2002 by O-19055 N.S.)

§27.3521 Adjustment of Gift Limitations

The *gift* limitation amounts set forth in section 27.3520(a) and (g), section 27.3525(l)(1), and section 27.3561(b)(5) are intended to be consistent with the California gift limitation amount amended biannually by the California Fair Political Practices Commission. Notwithstanding the dollar amounts set forth in section 27.3520(a) and (g), section 27.3525(l)(1), and section 27.3561(b)(5), the *gift* limitation amount for this Division shall be the same as set forth in title 2, section 18940.2 of the California Code of Regulations.
 (“Adjustment of Gift Limitations” added 4-29-2002 by O-19055 N.S.)

§27.3522 Acceptance of Benefits

- (a) A *benefit* is “accepted” when the recipient knows that he or she has either actual possession of the *benefit* or takes any action exercising direction or control over the *benefit*.
- (b) In the case of a rebate or discount, a *benefit* is “accepted” when the recipient knows that the rebate or discount is not made in the regular course of business to members of the public.
- (c) Discarding a *benefit* does not negate receipt or acceptance of the *benefit*, except when the *benefit* is a pass or ticket and subject to the exception set forth in section 27.3525(m).

- (d) Turning a *benefit* over to another *person* does not negate receipt or acceptance of the *benefit*.
- (e) A *payment* made to, or on behalf of, an elected *City Official* or a candidate for an elective office of the *City* for his or her food constitutes the acceptance of a *gift*.
 (“Acceptance of Benefits” added 4-29-2002 by O-19055 N.S.)

§27.3525 Exceptions to Restrictions on Benefits

The following are not considered *benefits* for the purpose of this Division, and are not subject to the restrictions of section 27.3520:

- (a) Anything which would otherwise be considered a *benefit*, but which is returned unused to the donor or the donor’s agent or intermediary within 30 calendar days;
- (b) Anything which would otherwise be considered a *benefit*, but which is delivered to the City of San Diego within 30 calendar days of receipt for donation to the City of San Diego’s general fund, or which is delivered to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and for which the recipient does not claim a deduction for income tax purposes;
- (c) A *gift* or *loan* from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, unless the individual giving the *gift* or making the *loan* is acting as an agent or intermediary for any *person* not identified in this subsection;
- (d) *Gifts* exchanged between a *Filer* and an individual, other than a *Lobbyist*, on holidays, birthdays, or similar occasions provided that the presents exchanged are not substantially disproportionate in value;
- (e) *Gifts* provided directly to members of the *Filer’s immediate family* unless the *Filer* receives a direct benefit from the *gift* or the *Filer* exercises discretion and control over the use or disposition of the *gift*;
- (f) Wedding *gifts*, although such *gifts* may be reportable on the *Filer’s* statement of economic interests;
- (g) Any devise, bequest, or inheritance;
- (h) A prize or award received in a bona fide competition not related to the recipient’s status as a *City Official* or candidate for *City* elective office, although any prize or award in excess of \$500 is reportable as income on the *Filer’s* statement of economic interests;

- (i) A personalized plaque or trophy with an individual value of less than \$250;
- (j) A rebate or discount in the price of anything of value which is made in the regular course of business to members of the public;
- (k) Leave credits, including vacation, sick leave, and compensatory time off, but not offerings of cash, donated to a *Filer* in accordance with a bona fide catastrophic or similar emergency leave program established by the *City* and available to all employees in the same job classification or position;
- (l) Informational material provided to assist a *City Official* in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.
 - (1) “Informational material” may also include scale models, pictorial representations, maps, and other such items, provided that if the item’s fair market value is more than \$320, the *City Official* has the burden of demonstrating that the item is informational. This \$320 threshold is subject to adjustment in accordance with the provisions of section 27.3521.
 - (2) On-site demonstrations, tours, and inspections designed specifically for public officials are considered informational material.
 - (A) This exception does not apply to meals or to transportation to the site unless the transportation is not commercially available.
- (m) Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a onetime or repeated basis) that the *Filer* does not use and does not give to another *person*;
- (n) Passes or tickets to attend fund-raisers for campaign committees or other candidates, and tickets to fund-raisers for organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code;
- (o) Campaign contributions, including rebates or discounts received in connection with campaign activities, although such campaign contributions must be reported in the time and manner required by the California Political Reform Act;
- (p) Admission, food, beverages, and similar non-cash nominal benefits provided to the *Filer* at an event at which a *Filer* gives a speech, participates in a panel or seminar, or provides a similar service, provided however, that such food and beverages must be consumed on the day of the activity in which the *Filer* participates;

- (q) Hospitality, including food, beverages, or occasional lodging, provided to a *Filer* by an individual in his or her home when the individual or a member of the individual's *immediate family* is present;
- (r) *Travel expenses* for travel within California provided directly in connection with an event at which a *Filer* gives a speech, participates in a panel or seminar, or provides a similar service;
- (s) *Travel expenses* for travel outside California but within the United States (although such expenses may be reportable on the *Filer's* statement of economic interests) if:
 - (1) The travel is reasonably related to a legislative or governmental purpose; and
 - (2) The travel is made in connection with an event at which the *Filer* gives a speech, participates in a panel or seminar, or provides a similar service; and
 - (3) The lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other similar service.
- (t) *Travel expenses* for travel within the United States (although such expenses may be reportable on the *Filer's* statement of economic interests) if:
 - (1) The travel is reasonably related to a legislative or governmental purpose; and
 - (2) The *payment* is provided by the *City* or any other *Public Agency* or a bona fide public or private educational institution, defined in section 203 of the Revenue and Taxation Code, or by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or by a person that is domiciled outside the United States and that substantially satisfies the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code.
- (u) *Travel expenses* in direct connection with campaign activities, including attendance at political fund-raisers, that satisfy the requirements of title 2, section 18950.4 of the California Code of Regulations, although such expenses must be reported in the time and manner required by the Political Reform Act of 1974, as amended.
- (v) *Travel expenses* paid by a campaign committee; a nonprofit organization of which the *City Official* is a member; or by an organization of which the *City Official* is a member acting in an official *City* capacity.

- (w) *Travel expenses* of a *City Official* traveling on government business where the *payment* is a *gift* or other *payment* to the *City* rather than a *gift* or *payment* to the *City Official*, within the meaning of the Political Reform Act of 1974, as amended, and the regulations of the Fair Political Practices Commission.
- (x) *Travel expenses* that are reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches, although such *travel expenses* may be reportable on the *Filer's* statement of economic interests;
- (y) *Payments* made at the behest of, at the request of, or in consultation or coordination with, an elected *City Official*, that are made to co-sponsor an event that is principally legislative, governmental, or charitable in nature, although such *payments* made to an elected *City Official* by a single source totaling \$5,000 or more in a calendar year for this type of event must be reported in accordance with California Government Code section 82015(b).
- (z) Food, shelter, or similar assistance received in connection with a disaster relief program if the food, shelter, or similar assistance is:
 - (1) provided by a *Public Agency* or organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code; and
 - (2) is available to the general public.
- (aa) Income received as a *payment* for a comedic, dramatic, musical, or other similar artistic performance; and *payments* received for the publication of books, plays, or screenplays, although such income may be reportable on the *Filer's* statement of economic interests;
- (bb) Income earned for the *Filer's* personal services if the services are provided in connection with a bona fide business, trade, or profession – such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting – and the services are customarily provided in connection with the business, trade, or profession, although such income may be reportable on the *Filer's* statement of economic interests;
 - (1) This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches.
 - (2) The *Filer* must meet the criteria set forth in title 2, sections 18932 through 18932.3 of the California Code of Regulations to establish that he or she is practicing a bona fide business, trade, or profession

before a payment received for personal services would be considered earned income and not an *honorarium*.

- (cc) A *payment* which is not delivered to a *Filer* but is made as a donation at the behest of, at the request of, or in consultation or coordination with, a *Filer* directly to a bona fide charitable, educational, civic, religious, or similar organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.
 - (1) This exception applies only if the donation is not made a condition for the speech, article, or attendance; and
 - (2) The donation is not claimed by the *Filer* as a deduction for income tax; and
 - (3) The *Filer* is not identified to the non-profit organization in connection with the donation; and
 - (4) The donation has no reasonably foreseeable financial effect on the *Filer* or any member of the *Filer's immediate family*.
- (dd) *Loans* received from banks or other financial institutions, and retail or credit card transactions, made in the regular course of business on terms available to members of the public. Although such *loans* in the amount of \$10,000 or more and *loans* not on the *Filer's* principle place of residence, may be reportable on the *Filer's* statement of economic interests;
- (ee) *Loans* made, or offered in writing, prior to January 1, 1998.
("Exceptions to Restrictions on Benefits" added 4-29-2002 by O-19055 N.S.)

§27.3526 Reportable Benefits

In addition to the provisions of section 27.3525 that require the disclosure of certain *benefits*, the following *benefits* are reportable on the *Filer's* statement of economic interests:

- (a) *Gifts* with a fair market value of \$50 or more, and multiple *gifts* from a single source with an aggregate fair market value of \$50 or more; and
- (b) *Loans* which aggregate \$500 or more from a single source doing business in the *City*.
("Reportable Benefits" added 4-29-2002 by O-19055 N.S.)

§27.3530 Loans as Gifts

- (a) A *loan* received by a *City Official* may become a *gift* and subject to the *gift* reporting and limitations set forth in section 27.3520, as follows:
- (1) If the *loan* has a defined date or dates for repayment and has not been repaid, the *loan* will become a *gift* when the statute of limitations for filing an action for default has expired; or
 - (2) If the *loan* has no defined date or dates for repayment, the *loan* will become a *gift* if it remains unpaid when one year has elapsed from the later of:
 - A. The date the *loan* was made; or
 - B. The date the last payment of \$100 or more was made on the *loan*; or
 - C. The date upon which the *City Official* has made payments aggregating to less than \$250 during the previous twelve months.
- (b) The following *loans* will not become *gifts* to a *City Official*:
- (1) A *loan* described above on which the creditor has taken reasonable action to collect the balance due; and
 - (2) A *loan* described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
 - (3) A *loan* made to a *City Official* who has filed for bankruptcy and the *loan* is ultimately discharged in bankruptcy.
- (“*Loans as Gifts*” added 4-29-2002 by O-19055 N.S.)

§27.3550 Lobbying Activities of Former City Officials

- (a) It is unlawful for any former *City Official* who received *compensation* from the *City* to work on a particular project during his or her *City* service to engage in *direct communication* with the *City*, for *compensation*, with regard to any pending application for discretionary funding or discretionary entitlements before the *City* relating to that particular project on behalf of any *person* other than a *Public Agency* for a one year period immediately following termination of service with the *City*.

- (1) For purposes of this section, “work on a particular project” means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using *confidential information*.
 - (2) For purposes of this section, “project” means any matter where a *private business* has made an application to the *City* for discretionary funding or discretionary entitlements, or where the *City* exercises discretion to enter into a lease, agreement, or contract with a *private business*.
- (b) It is unlawful for any former *City Official*, for *compensation*, to knowingly counsel or assist any *person* other than a *Public Agency* in connection with an appearance or communication in which the former *City Official* is prohibited from engaging pursuant to subsection (a) for a one year period immediately following termination of service with the *City*.
 - (c) As a means of facilitating compliance with subsections (a) and (b) in instances where long-term projects may change in character and scope over time and where large projects have discrete components or phases, any former *City Official* may seek a written determination from the *Ethics Commission* regarding whether prospective *direct communication* on a particular project would constitute a violation of this section.
 - (d) It is unlawful for any former *City Official* to engage in *direct communication* for the purpose of *lobbying* the *City* if all of the following circumstances apply:
 - (1) the former *City Official* served as a *City Official* within the previous twelve months; and
 - (2) the former *City Official* received *compensation* from the *City* for his or her service as a *City Official*; and
 - (3) the former *City Official* is receiving *compensation* from a *private business* to engage in the *direct communication* with the *City*.
 - (e) The prohibitions contained in subsections (a), (b), and (d) shall not apply:
 - (1) to prevent a former *City Official* from making or providing a statement, based on the former *City Official's* own special knowledge in the particular area that is the subject of the statement, provided that no *compensation* is thereby received other than that regularly provided for by law or regulation for witnesses;

- (2) to prevent any former *City Official* from representing himself or herself, or any member of his or her *immediate family*, in their individual capacities, in connection with any matter pending before the *City*;
 - (3) to the activities of any former *City Official* who is an elected or appointed officer or employee of any *Public Agency*, or a consultant of any *Public Agency*, when that former *City Official* is solely representing that agency in his or her official capacity as an officer, employee, or consultant of the agency;
 - (4) to any ministerial action. A ministerial action is one that does not require a *City Official* to exercise discretion concerning any outcome or course of action; or
 - (5) to any individual appearing as a speaker at, or providing written statements that become part of the record of a *Public Hearing*.
 - (6) to any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the *City* or *City* agent, officer, or employee.
- (f) The prohibitions contained in subsection (d) shall not apply to any individual who terminated status as a *City Official* prior to October 1, 2006, and whose *lobbying* activities are limited to (1) the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or a proceeding before the Civil Service Commission, or (2) any management decisions regarding the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of understanding.
- (g) The exceptions in subsections (e)(1), (5), and (6) and in subsection (f) do not apply to any former *City Official* who, within one year of terminating *City* employment, was an elected *City Official* or served as the *City's* City Manager.

*("Lobbying Activities of Former City Officials" added 4-29-2002 by O-19055 N.S.)
(Amended 9-19-2006 by O-19538 N.S.; effective 10-19-2006.)*

§27.3551 Future Employment of City Officials

- (a) It is unlawful for any *City Official* to make, participate in making, or use his or her official position to influence a decision involving the interests of a *person* with whom he or she is seeking, negotiating, or securing an agreement concerning future employment.

- (b) It is unlawful for any *person* who has a matter pending before the *City* to negotiate, directly or indirectly, knowingly or willfully, the possibility of future employment of a *City Official* who is making, participating in making, or using his or her official position to influence, a decision concerning that matter.
(“*Future Employment of City Officials*” added 4-29-2002 by O-19055 N.S.)

§27.3560 Financial Interest in Contract

- (a) It is unlawful for any *City Official* to be financially interested in any contract made by them in their official capacity.
- (b) It is unlawful for any contract to be made by the *City Council* or any board or commission established by the *City Council* if any individual member of the body has a financial interest in the contract.
- (c) For purposes of the prohibitions set forth above in subsections (a) and (b), the term financial interest means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a non-interest prescribed in California Government Code section 1091.5, which would prevent the *City Officials* involved from exercising absolute loyalty and undivided allegiance to the best interests of the *City*.
- (d) Any *City Official* with a remote interest in a prospective contract of the *City* must disclose the existence of the remote interest to the body of the board which the *City Official* is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the *City Official* must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.
(“*Financial Interest in Contract*” added 4-29-2002 by O-19055 N.S.)

§27.3561 Disqualification of City Officials in Municipal Decisions Affecting Economic Interests

It is unlawful for any *City Official* to knowingly *influence a municipal decision* if it is reasonably foreseeable that the *municipal decision* will have a material financial effect on:

- (a) the *City Official* or a member of his or her *immediate family*, if the material financial effect is distinguishable from its effect on the public generally; or
- (b) any of the following economic interests:
 - (1) any business entity in which the *City Official* or a member of the *City Official's immediate family* has invested \$2,000 or more; and

- (2) any business entity for which the *City Official* or a member of the *City Official's immediate family* is a director, officer, partner, trustee, employee, or hold any position of management; and
 - (3) any real property which the *City Official* or a member of the *City Official's immediate family* has invested \$2,000 or more; and
 - (4) any *person* from whom a *City Official* or a member of the *City Official's immediate family* has received (or by whom you have been promised) \$500 or more in income within twelve months prior to the *municipal decision*; and
 - (5) any *person* from whom a *City Official* or a member of the *City Official's immediate family* has received *gifts* which total \$320 or more within twelve months prior to the *municipal decision*. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521; and
 - (6) the personal expenses, income, assets, or liabilities of a *City Official* or a member of the *City Official's immediate family*.
- (c) For purposes of this section, "material financial effect" has the same meaning as that term is used in title 2, sections 18705 through 18705.5 of the California Code of Regulations.
(*"Disqualification of City Officials in Municipal Decisions Affecting Economic Interests " added 4-29-2002 by O-19055 N.S.*)

§27.3562 Disqualification of City Officials in Municipal Decisions Involving Benefactors

- (a) It is unlawful for any *City Official* to participate in any *municipal decision* where a *party* to the *municipal decision* has given the *City Official*, promised to give the *City Official*, or acted as an intermediary for the *City Official* to have, an opportunity for *compensation*.
- (b) For purposes of this section, opportunities for *compensation* provided to a *City Official* include opportunities for *compensation* provided to the *City Official's immediate family*. When such an opportunity for *compensation* is provided to a member of the *City Official's immediate family*, the *City Official* shall not participate in a *municipal decision* involving a *party* to the *municipal decision* unless the *City Official* had no knowledge or involvement in securing the opportunity for *compensation*.
(*"Disqualification of City Officials in Municipal Decisions Involving Benefactors " added 4-29-2002 by O-19055 N.S.*)

§27.3563 Incompatible Activities

It is unlawful for any *City Official* who receives *compensation* from the *City* to engage in any employment, activity, or enterprise for *compensation* which is inconsistent with, incompatible with, in conflict with, or inimical to, his or her duties as a *City Official*. Specifically, it is unlawful for any *City Official* to receive *compensation* for performing any work, service, activity, or enterprise for private gain or advantage if it involves:

- (a) the consumption of time for which the *City Official* is receiving *compensation* by the *City*; or
- (b) the facilities, equipment, or supplies of the *City*; or
- (c) the *City Official*'s use of his or her badge, uniform, prestige, or the influence of his or her position with the *City*; or
- (d) *compensation* received or accepted by the *City Official* from anyone other than the *City* for the performance of an act which the *City Official* would be required or expected to render in the regular course or hours of his or her *City* employment or as a part of his or her duties as a *City Official*; or
- (e) the performance of an act in other than his or her capacity as a *City Official* which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other *City Official*; or
- (f) a consumption of time that would render the performance of his or her duties as a *City Official* less efficient.

(“*Incompatible Activities*” added 4-29-2002 by O-19055 N.S.)

§27.3564 Misuse of City Position or Resources

- (a) It is unlawful for any *City Official* to use his or her position or prospective position, or the power or authority of his or her office or position, in any manner intended to induce or coerce any *person* to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain, of the *City Official* or his or her immediate family. As used in this section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. A *City Official* engages in a prohibited use of his or her official position or prospective position when he or she engages in activities other than in the lawful and proper performance of his or her *City* duties.

- (b) It is unlawful for any *City Official* to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using *City* facilities, equipment, supplies, or other *City* resources.
- (c) It is unlawful for any *person* to induce or coerce, or attempt to induce or coerce any other *person* to engage in any activity prohibited by subsections (a) and (b).
- (d) It is unlawful for any *City Official* to engage in outside employment during any hours he or she is receiving *compensation* to engage in *City* business.
- (e) It is unlawful for any current or former *City Official* to use or disclose to any *person* any *confidential information* he or she acquired in the course of his or her official duties, except when such disclosure is a necessary function of his or her official duties.
- (f) Nothing in this section shall prohibit the use of *City* resources to provide information to the public about the possible effects of any bond issue or other ballot measure relating to *City* activities, operations, or policies, provided that:
 - (1) the use of public resources is otherwise legally authorized; and
 - (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(“*Misuse of City Position or Resources*” added 4-29-2002 by O-19055 N.S.)

§27.3570 Political Influence Prohibited

It is unlawful for any *City Official* to use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the *City* as a reward or return for personal or partisan political service.
(“*Political Influence Prohibited*” added 4-29-2002 by O-19055 N.S.)

§27.3571 Solicitation of Political Campaign Contributions

- (a) It is unlawful for any *City Official* to solicit, directly or indirectly, a political campaign contribution from any *City* employee with knowledge that the *person* from whom the contribution is solicited is a *City* employee.
- (b) It is unlawful for any candidate for elective office of the *City* to solicit, directly or indirectly, a political campaign contribution from a *City* employee with knowledge that the *person* from whom the contribution is solicited is a *City* employee.

- (c) Notwithstanding subsections (a) and (b), this section shall not prohibit a *City Official* or a candidate for elective office of the *City* from soliciting political campaign contributions from *City* employees if the solicitation is part of a solicitation made to a significant segment of the public which may include *City* employees, and the solicitation does not otherwise violate the provisions of the *Campaign Control Ordinance*.
- (d) Nothing in this section prohibits a *City* employee from making a political campaign contribution to a *City Official* or candidate for elective office, and nothing in this section prohibits a *City Official* or candidate for elective office from accepting a political campaign contribution from a *City* employee.
(“*Solicitation of Political Campaign Contributions*” added 4-29-2002 by O-19055 N.S.)

§27.3572 No Payment for Office

It is unlawful for any *City Official* to give or promise to give to any *person* any portion of his or her *compensation* or any money or thing of value in consideration of having been, or of being nominated, appointed, voted for, or elected to any office or employment.

(“*No Payment for Office*” added 4-29-2002 by O-19055 N.S.)

§27.3573 Protection of Employees Against Retaliation for Reporting Violations

- (a) It is unlawful for any *City Official* to use or threaten to use any official authority or influence to discourage, restrain, or interfere with any other *person* for the purpose of preventing such *person* from acting in good faith to report or otherwise bring to the attention of the *Ethics Commission* or other appropriate agency, office, or department any information which, if true, would constitute:
 - (1) a work-related violation by a *City Official* of any law or regulation; or
 - (2) a gross waste of *City* funds; or
 - (3) a gross abuse of authority; or
 - (4) a conflict of interest of a *City Official*; or
 - (5) a specific and substantial danger to public health or safety due to an act or omission of a *City Official*, use of a *City* office or position, or use of *City* resources for personal gain.

- (b) It is unlawful for any *City Official* to use or threaten to use any official authority or influence to effect any action as a reprisal against a *City Official* who reports or otherwise brings to the attention of the *Ethics Commission* or other appropriate agency, office, or department any information regarding the subjects described in subsection (a).
- (c) Any *person* who believes that he or she has been subjected to any action prohibited by this section may file a complaint with the *Ethics Commission*. The *Ethics Commission* shall thereupon investigate the complaint in accordance with the provisions of Chapter 2, Article 6, Division 4, of this Municipal Code. Upon the conclusion of its investigation, the *Ethics Commission* may take appropriate action as allowed under its enforcement authority.
- (d) In the event the *Ethics Commission* determines that it has a conflict of interest in an investigation of a retaliation complaint, the *Ethics Commission* staff shall refer the investigation of the retaliation complaint to the *City Attorney* who shall take appropriate action as otherwise provided by law.
(“*Protection of Employees Against Retaliation for Reporting Violations*” added 4-29-2002 by O-19055 N.S.)

§27.3580 Ethics Commission Advice

Any *City Official* or *Filer* may request that the *Ethics Commission* provide written advice concerning the legality of accepting any specific *benefit*, or concerning the legality of any other activity discussed in this Division. Such request shall contain sufficient information to allow the *Ethics Commission* or its staff to properly consider the matter.

(“*Ethics Commission Advice*” added 4-29-2002 by O-19055 N.S.)

§27.3581 Enforcement

- (a) Any *person* who believes that a violation of any portion of this Division has occurred may file a complaint with the *Ethics Commission*.
- (b) The *Ethics Commission* 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.
- (c) Nothing in this Division limits the authority of the *City Attorney*, any law enforcement authority, or any prosecuting attorney to enforce the provisions of this Division under any circumstances where the *City Attorney*, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

(“*Enforcement*” added 4-29-2002 by O-19055 N.S.)

§ 27.3582 Application of Requirements

The requirements imposed by this Division on *City Officials* shall not apply to any *City Official* who terminated his or her *City* service or whose term of office expired prior to the effective date of this Division; provided, however, that a *person* who returns to *City* service on or after the effective date of this Division shall be subject to the requirements of this Division.

(“Application of Requirements” added 4-29-2002 by O-19055 N.S.)

§27.3583 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 Municipal Code.
- (b) 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 subject to the administrative enforcement process and penalties set forth in Chapter 2, Article 6, Division 4, of this Municipal Code.
- (c) Any *person* criminally 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.

(“Penalties” added 4-29-2002 by O-19055 N.S.)

§27.3588 Late Filing Penalties

If any *Filer* files a statement of economic interests after any deadline imposed by this Division, he or she shall, in addition to any other penalties or remedies established by the Division, be liable to the *City* in the amount of ten dollars (\$10) per day after the deadline until the statement is filed. Liability need not be enforced by the *City* if the *Filing Officer* or the *Ethics Commission* determines, on an impartial basis, that the late filing was not willful and that enforcement of the liability will not further the purposes of this Division, except that no liability shall be waived if a statement or report is not filed within 30 calendar days after the *Filing Officer* has sent such *Filer* specific written notice of the filing requirement.

(“Late Filing Penalties” added 4-29-2002 by O-19055 N.S.)

§27.3595 Applicability of Other Laws

Nothing in this Division shall exempt any *person* from complying with applicable provisions of any other laws.

(“Applicability of Other Laws” added 4-29-2002 by O-19055 N.S.)