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ORDINANCE NUMBER O- 0745 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 08 2008

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 2, ARTICLE 7, DIVISION 29 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2901, 27.2935, 27.2936, 27.2951, AND 27.2953, RELATING TO THE CITY OF SAN DIEGO ELECTION CAMPAIGN CONTROL ORDINANCE.

WHEREAS, the provisions of City of San Diego's Election Campaign Control Ordinance [ECCO] limit the amount of contributions that an individual may give to a candidate or campaign committee to support or oppose a candidate in a single election, including a recall election; and

WHEREAS, the primary reason for ECCO's contribution limits is to avoid corruption and the appearance of corruption in municipal elections; and

WHEREAS, there is evidence that large contributions may bring about corruption or the appearance of corruption in any phase of a recall election, including the signature gathering phase of such an election; and

WHEREAS, the City Council desires to amend the provisions of ECCO to clarify that contribution limits apply to contributions that are made to support or oppose the recall of an individual holding elective City office, regardless of whether such contributions are made before, during, or after the circulation of a recall petition; and

WHEREAS, the City Council finds and declares that contribution limits are reasonable and necessary to avoid corruption and the appearance of corruption with respect to large

contributions made to support or oppose the recall of an individual holding elective City office;

NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 7, Division 29 of the San Diego Municipal Code is hereby amended by amending sections 27.2901, 27.2935, 27.2936, 27.2951, and 27.2953, to read as follows:

**§27.2901 Purpose and Intent**

It is the purpose and intent of the *City Council* of the *City* of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal *elections*; to prohibit *contributions* by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal *election* campaigns; to provide full and fair enforcement of all the provisions of this division; to avoid the corruption or the appearance of corruption brought about when *candidates* for *elective City office* accept large campaign *contributions*; and to avoid the corruption or the appearance of corruption brought about when large campaign *contributions* are made to support or oppose the recall of an individual holding *elective City office*. This division is enacted in accordance with the terms of section 5 of article XI of the Constitution of the State of California and articles II and III of the Charter of The City of San Diego. The provisions of section 27.0102 of this article shall not apply to this division.

**§27.2935 Contribution Limitations**

- (a) It is unlawful for an individual to make to any *candidate* or *committee* supporting or opposing a *candidate*, or for any *candidate* or *committee* supporting or opposing a *candidate* to solicit or accept, a *contribution* that would cause the total amount contributed by that individual to support or oppose the *candidate* to exceed \$250 for any single *election* if the *candidate* is seeking *City Council* district office, or to exceed \$300 for any single *election* if the *candidate* is seeking the office of the Mayor or City Attorney.
- (b) For purposes of this section, an officeholder who is the subject of a recall *election* is deemed to be a *candidate* seeking elective office, and the *contribution* limits set forth in subsection (a) shall apply to any *payment* made to any *committee* for purposes of supporting or opposing the recall of that officeholder, regardless of whether such *payment* is made before, during, or after the circulation of a recall *petition*.
- (c) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, or expend on behalf of, the *candidate's* own campaign.
- (d) The *contribution* limits imposed by this section do not apply to *general purpose recipient committees*, which are discussed in section 27.2936.
- (e) The *contribution* limits imposed by this section do not apply to *contributions* made to a legal defense fund, as discussed in sections 27.2965-27.2969.
- (f) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

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

- (a) *General purpose recipient committees* may participate in *City candidate elections* by using *contributions* from individuals, subject to the *contribution* limits established by this section.
- (b) It is unlawful for any *general purpose recipient committee* to use a *contribution* for the purpose of supporting or opposing a *candidate* seeking *City Council* district office unless the *contribution* is attributable to an individual in an amount that does not exceed \$250 per *candidate* per *election*.
- (c) It is unlawful for any *general purpose recipient committee* to use a *contribution* for the purpose of supporting or opposing a *candidate* seeking the office of Mayor or City Attorney unless the *contribution* is attributable to an individual in an amount that does not exceed \$300 per *candidate* per *election*.
- (d) It is unlawful for two or more *general purpose recipient committees* with *shared management* to attribute *contributions* to the same individual for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* if it causes the total amount those *committees* attribute to that individual to exceed the contribution limits set forth in subsections (b) and (c).
- (e) A *general purpose recipient committee* that attributes a *contribution* to an individual for the purpose of supporting or opposing one or more *candidates* seeking *elective City office* shall comply with the reporting requirements set forth in section 27.2930(b) and (c).
- (f) For purposes of this section, an officeholder who is the subject of a recall *election* is deemed to be a *candidate* seeking elective office, and the

*contribution* limits set forth in subsections (b) and (c) shall apply to any *payment* made to a *general purpose recipient committee* for purposes of supporting or opposing the recall of that officeholder, regardless of whether such *payment* is made before, during, or after the circulation of a recall *petition*.

(g) This section shall not be construed to limit the amount of money that an individual or any other *person* may give to a *general purpose recipient committee* in the form of *contributions*, dues, donations, fees, or other forms of monetary transactions, but shall be construed to limit the source and amount of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

(h) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

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

For purposes of supporting or opposing a *candidate seeking elective City office*, and for purposes of supporting or opposing the recall of an individual holding *elective City office*:

- (a) It is unlawful for any individual to make, or any *committee* to accept, a *contribution* drawn against a checking account or credit card account unless such account belongs to one or more individuals in their individual capacity.
- (b) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual in his or her individual capacity.
- (c) This section shall not be construed to prevent a *general purpose recipient*

*committee* from accepting checks or credit card *payments* from any *person* for any purpose, but shall be construed to prohibit accounts not owned by individuals from being the source of *contributions* a *general purpose recipient committee* may use to participate in *City candidate elections*.

**§27.2953 Contributions for Recall Elections**

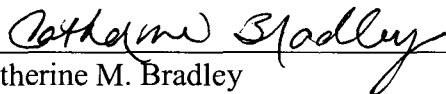
- (a) For purposes of making, soliciting, and accepting *contributions* under this division, the eventual occurrence of a recall *election* may be presumed upon the earlier of:
  - (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
  - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the City Clerk or the Secretary of State pursuant to state and local law.
- (b) The limits on *contributions* set forth in sections 27.2935 and 27.2936 and the prohibition against *contributions* from non-individuals set forth in section 27.2951 shall apply to every *payment* made to support or oppose the recall of an individual holding *elective City office*, regardless of whether such *payment* is made before, during, or after the circulation of a recall *petition*.
- (c) *Contributions* accepted for a recall *election* shall not count toward the *contribution* limits applicable to any other *election* even if ballots pertaining to the recall effort are never cast.

(d) After the failure of a recall *petition* or after the recall election, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds subject to the provisions of section 27.2924(c).

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City 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: MICHAEL J. AGUIRRE, City Attorney

By   
Catherine M. Bradley  
Chief Deputy City Attorney

CMB:als  
02/26/08  
Or.Dept:CityAtty  
O-2008-115

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 29 2008.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 5-8-08  
(date)

  
JERRY SANDERS, Mayor

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

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JERRY SANDERS, Mayor