

ORDINANCE NUMBER O- 20227 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 27 2012

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 29 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.2903, 27.2916, 27.2930, 27.2931, 27.2934, AND 27.2935, REPEALING SECTION 27.2936, AMENDING SECTIONS 27.2937, 27.2938, 27.2939, 27.2941, AND 27.2945, ADDING SECTION 27.2946, AMENDING SECTIONS 27.2950 AND 27.2951, ADDING SECTION 27.2952, AMENDING SECTION 27.2953, RETITLING AND AMENDING SECTION 27.2955, AMENDING SECTIONS 27.2960, 27.2965, 27.2967, AND 27.2970, RETITLING AND AMENDING SECTION 27.2972, AMENDING SECTION 27.2973, RETITLING AND AMENDING SECTION 27.2975, AMENDING SECTION 27.2980, AND AMENDING CHAPTER 2, ARTICLE 7, DIVISION 40 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 27.4002, 27.4009, 27.4017, AND 27.4045, RELATING TO THE CITY OF SAN DIEGO ELECTION CAMPAIGN CONTROL ORDINANCE AND THE CITY OF SAN DIEGO MUNICIPAL LOBBYING ORDINANCE.

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

WHEREAS, on January 20, 2012, the United States District Court issued what amounted to a final ruling in the *Thalheimer v. City of San Diego* litigation, striking down the City's \$1,000 limit on contributions from political parties to City candidates; and

WHEREAS, in conjunction with the above ruling, the Court confirmed the constitutionality of the City's attribution rules for political party contributions, which allow political parties to make contributions to City candidates only by using funds collected from, and attributable to, individuals in amounts that do not exceed the City's individual contribution limit; and

WHEREAS, the Ethics Commission voted to recommend that the City amend ECCO to clarify that political parties may make contributions to City candidates only by using funds collected from, and attributable to, individuals in amounts that do not exceed the City's individual contribution limit; and

WHEREAS, the Court in the *Thalheimer v. City of San Diego* litigation also found that ECCO's limits and source prohibitions on contributions to committees making independent expenditures in support of, or opposition to, a City candidate are no longer lawful in light of findings made by the United States Supreme Court in *Citizens United v. Federal Election Commission*; and

WHEREAS, consistent with the Court's decision in the *Thalheimer* case, the Ethics Commission voted to recommend that the City amend ECCO to remove all provisions relating to limits, source prohibitions, and supplemental filing requirements for contributions provided to committees making independent expenditures in support of, or opposition to, a City candidate; and

WHEREAS, in acknowledging that it costs substantially more to effectively run for a Citywide office than to run for a District office, while recognizing that the contribution limit for Citywide races may be increased without also increasing the appearance of corruption, the Ethics Commission voted to recommend that the City raise the contribution limit for Citywide races to \$1,000 per election, subject to biennial indexing; and

WHEREAS, the State of California recently enacted Government Code section 84615, which prohibits local jurisdictions from requiring that committees file a paper copy of any campaign statement that is required to be filed electronically, and in this regard the Ethics Commission voted to recommend conforming changes to ECCO, including changes that ensure that all individuals required to sign campaign statements under penalty of perjury continue to do through electronic means when filing statements online; and

WHEREAS, the Ethics Commission has also recommended a number of additional policy changes and housekeeping amendments, including those related to contributions from sole

proprietorships; net debt rules; the deposit and return of contribution checks; cash contributions; third pre-election statements; professional expense committees; yard signs; minimum size threshold for large campaign advertisements; telephone advocacy; the identification of persons providing major funding for committees primarily formed to support or oppose candidates or ballot measures; disclaimers on contribution solicitations; and soliciting contributions from City employees; and

WHEREAS, recent changes to the City's campaign laws, in particular the laws that allow committees primarily formed to support or oppose City candidates to accept contributions from any source in unlimited amounts, have prompted the Ethics Commission to consider related changes to the City's Lobbying Ordinance, and in this regard, the Ethics Commission has voted to recommend that the City's Lobbying Ordinance be amended to require lobbying firms and organization lobbyists to disclose the campaign contributions they make to, and the campaign fundraising they perform for, committees that are primarily formed to support or oppose one or more City candidates; and

WHEREAS, on May 16, 2012, and September 19, 2012, the City's Committee on Rules, Open Government and Intergovernmental Relations considered the amendments proposed by the Commission, and unanimously agreed to forward the Commission's recommendations to the full City Council; and

WHEREAS, in a memorandum to the Council dated September 28, 2012, the Ethics Commission summarized its recommendations and the reasons for the proposed amendments to the City's campaign and lobbying laws; and

WHEREAS, lobbying firms, organization lobbyists, and expenditure lobbyists are now required to file their registration forms and quarterly disclosure reports online, and therefore in the interests of promoting efficiency, simplifying the filing process for lobbyists and City staff, avoiding unnecessary redundancy, and reducing paperwork, the City Clerk has recommended eliminating the requirement that these lobbying entities also file a paper copy of such statements; and

WHEREAS, the City Council has considered the recommendations of the Ethics Commission and the City Clerk, as described hereinabove; 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 27.2903, 27.2916, 27.2930, 27.2931, 27.2934, and 27.2935, repealing section 27.2936, amending sections 27.2937, 27.2938, 27.2939, 27.2941, and 27.2945, adding section 27.2946, amending sections 27.2950 and 27.2951, adding section 27.2952, amending section 27.2953, retitling and amending section 27.2955, amending sections 27.2960, 27.2965, 27.2967, and 27.2970, retitling and amending section 27.2972, amending section 27.2973, retitling and amending section 27.2975, and amending section 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 City Clerk [No change in text.]

City Council means the Council of the City of San Diego vested with all legislative powers of the City of San Diego pursuant to article III, section 11 of the Charter of the City of San Diego.

Citywide General Election through Expenditure [No change in text.]

General purpose recipient committee means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose more than one *candidate* or *measure*, and is intended to be consistent with the definition of “general purpose committee” set forth in California Government Code section 82027.5.

Independent expenditure through Mass campaign literature [No change in text.]

Mass telephone communications means live or recorded telephone calls that are substantially similar in nature to 500 or more individuals or households for the purpose of (a) supporting or opposing a *clearly identified candidate* or a *clearly identified measure*; or (b) conducting a poll that mentions or refers to a *clearly identified candidate* or a *clearly identified measure*.

Measure through political purpose [No change in text.]

Primarily formed recipient committee means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year primarily to support or oppose one or more *City candidates* being voted on in the same election or one or more *City measures* being voted on in the same election, and is intended to be consistent with the definition of “primarily formed committee” set forth in California Government Code section 82047.5.

Professional expense committee through Professional fees and costs [No change in text.]

Special Election through Vendor [No change in text.]

§27.2916 Campaign Contribution Checking Account

- (a) Every *controlled committee* that accepts *contributions* and every *primarily formed recipient committee* shall establish one campaign checking account at an office of a bank or other financial institution providing checking account services located in the *City of San Diego*.
- (b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*

- (c) All *contributions* of money or checks, or anything of value converted by such *committee* to money or a check, shall be placed in the *committee's* checking account within forty calendar days, except that no *contribution* shall be deposited to a campaign *contribution* checking account without the receipt by the *committee* of all information required by title 2, section 18401 of the California Code of Regulations.

§27.2930 Base Level of Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* and title 2 of the California Code of Regulations with the following additional requirements:

- (a) All *candidate* and *committee* campaign disclosure statements that are generated from the output of a computer software program shall be generated with the names of all contributors listed in alphabetical order by last name. *Treasurers* for any *committee* that files handwritten campaign disclosure statements shall make reasonable good faith efforts to list the names of all contributors in alphabetical order by last name.
- (b) Every *candidate*, *controlled committee*, and *primarily formed recipient committee* that has pre-election filing obligations with the *City Clerk* pursuant to California Government Code section 84200.5 shall, on the Friday before the *election*, disclose on a Fair Political Practices Commission Form 497 filed with the *City Clerk* all previously undisclosed *contributions* of \$100 or more received after the closing date of its most recent Fair Political Practices Commission Form 460.
- (1) The Form 497 shall have a closing date of the Wednesday before the *election* and shall cover all *contributions* received through that day.
- (2) The Form 497, if not filed electronically in accordance with section 27.2931, shall be filed using a shipping service with delivery guaranteed by the Monday before the *election*, or by personal delivery.

- (c) When reporting *contributions* for regularly scheduled *City candidate elections*, *candidates* and *committees* shall include the notation “(P)” for all *contributions* that the contributor has designated for a primary *election*, and shall include the notation “(G)” for all *contributions* that the contributor has designated for a general *election*. In instances where the contributor has not designated his or her *contribution* for a particular *election*, the *candidate* or *committee* shall include the notation “(P)” for all *contributions* the *candidate* or *committee* has allocated for the primary *election*, and shall include the notation “(G)” for all *contributions* the *candidate* or *committee* has allocated for the general *election*.
- (d) When reporting *contributions* for specially scheduled *City candidate elections*, *candidates* and *committees* shall include the notation “(S)” for all *contributions* that the contributor has designated for a *special election*, and shall include the notation “(R)” for all *contributions* that the contributor has designated for a *special run-off election*. In instances where the contributor has not designated his or her *contribution* for a particular *election*, the *candidate* or *committee* shall include the notation “(S)” for all *contributions* the *candidate* or *committee* has allocated for the *special election*, and shall include the notation “(R)” for all *contributions* the *candidate* or *committee* has allocated for the *special run-off election*.
- (e) In conjunction with making the notations required by subsections (c) and (d), *candidates* and *committees* shall disclose the cumulative amount of *contributions* received from the contributor for each *election*.
- (f) *Sponsors* and *sponsored committees* participating in *City elections* are subject to the reporting obligations set forth in title 2, section 18419 of the California Code of Regulations.

- (g) It is unlawful to fail to comply with the disclosure requirements of California

Government Code sections 81000 *et seq.*, the disclosure requirements of title 2 of the California Code of Regulations, and the additional requirements of this section.

§27.2931 Online Disclosure of Campaign Statements

- (a) Except as set forth in subsections (e) and (f), every *candidate* and *committee* required to file a campaign statement with the *City Clerk* that has received *contributions* or made *expenditures* of \$10,000 or more in connection with *City elections*, and every *professional expense committee* required to file a campaign statement pursuant to section 27.2967, shall electronically file that campaign statement using the *City Clerk's* online filing system.
- (b) It is unlawful for a *candidate* or *committee* to electronically file a campaign statement for which California law requires a signature under penalty of perjury unless each required *treasurer, candidate*, or officer has reviewed the campaign statement and electronically certified under penalty of perjury that to the best of their knowledge the information contained therein is true and complete.
- (c) Any *candidate* or *committee* not required to file online pursuant to subsection (a) may do so voluntarily.
- (d) A *candidate* or *committee* that has electronically filed a campaign statement using the *City Clerk's* online filing system is not required to file a paper copy of that statement with the *City Clerk*.
- (e) A *candidate* or *committee* required by California law to file an original campaign statement with the Secretary of State and a copy of that statement with the *City Clerk* may elect to file the copy with the *City Clerk* either in paper format or by using the *City Clerk's* online filing system.

- (f) If the *City Clerk's* online filing system is not capable of accepting a particular type of campaign statement, *candidates* and *committees* shall file that campaign statement in paper format with the *City Clerk*.

§27.2934 Contribution Limitations for Political Party Committees

- (a) A political party committee, as defined in California Government Code section 85205, shall not be prohibited from making *contributions* to a *candidate* or *controlled committee* in a *City candidate election*, but shall be subject to the restrictions set forth in this section.
- (b) It is unlawful for a political party committee to make a *contribution* to a *candidate* or *controlled committee* unless the *contribution* is attributable to donations received from one or more individuals, and the total amount attributable to any one individual for that *candidate* does not exceed \$500 in a *City Council district election* or \$1,000 in an *election* for the office of Mayor or City Attorney.
- (c) It is unlawful for any portion of an individual's donation used by a political party committee for attribution purposes to be used again as a funding source for a different attribution made under this section.
- (d) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

§27.2935 Contribution Limitations

- (a) It is unlawful for an individual to make, or for a *candidate* or *controlled committee* to solicit or accept, a *contribution* that would cause the total amount contributed by that individual to the *candidate* and the *candidate's controlled committee* to exceed \$500 for any single *election* for a *City Council* district office, or to exceed \$1,000 for any single *election* for the office of 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 *candidate controlled 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 *contributions* made to a *general purpose recipient committee* or a *primarily formed recipient committee*.
- (e) The *contribution* limits imposed by this section do not apply to *contributions* made to a *professional expense committee*, 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.

§27.2937 Indexing of Campaign Contribution Limits

- (a) The *contribution* limits set forth in sections 27.2934, 27.2935, and 27.2965 shall be adjusted on a biennial basis in accordance with this section, commencing as follows:
 - (1) Adjustments for the *contribution* limits applicable to *elections* for a *City Council* district office, as set forth in sections 27.2934(b) and 27.2935(a), shall commence in 2011.
 - (2) Adjustments for the *contribution* limits applicable to *elections* for the office of Mayor or City Attorney, as set forth in sections 27.2934(b) and 27.2935(a), shall commence in 2015.

- (3) Adjustments for the *contribution* limit applicable to *professional expense committees*, as set forth in section 27.2965(c), shall commence in 2011.

(b) through (e) [no change in text]

§27.2938 Restrictions on Time Period of Contributions

- (a) It is unlawful for any *candidate* or *controlled committee* seeking *elective City office* to solicit or accept *contributions* prior to the twelve months preceding the primary *election* for the office sought.
- (b) It is unlawful for any *candidate* or *controlled committee* seeking *elective City Office* to solicit or accept, after the date of an *election*, a *contribution* that exceeds the net debts outstanding from the *election*.
- (1) As used in this subsection, the term “*election*” means the *election* for which the *candidate* incurred bills and debts and is raising *contributions* to pay net debts outstanding.
- (2) As used in this subsection, the term “net debts outstanding” has the same meaning as that set forth in title 2, section 18531.61 of the California Code of Regulations.
- (3) *Contributions* received after the date of an *election* shall reduce the total amount of net debts outstanding.
- (c) Notwithstanding subsection (b), it is unlawful for any *candidate* or *controlled committee* seeking *elective City office* to solicit or accept a *contribution* more than 180 days after the date of an *election*.
- (d) The restrictions set forth in this section do not apply to:
- (1) *contributions* made by a *candidate* to his or her *controlled committee*; or,
- (2) *contributions* made to a *professional expense committee*, as discussed in sections 27.2965-27.2969.

- (e) The restrictions on accepting *contributions* imposed by subsection (a) do not apply to *contributions* for recall *elections*.

§27.2939 Pre-Primary Contributions for General Election

- (a) though (c) [No change in text.]
- (d) The particular *election* for which *contributions* are received shall be reported in accordance with section 27.2930(c) and (d).

§27.2941 Cash Contributions

- (a) It is unlawful for any *candidate* or *committee* to receive cash *contributions* totaling \$100 or more from the same contributor for the same *election*.
- (b) A cash *contribution* includes a *contribution* made by money order, cashier's check, or other instrument that is drawn from an account that does not belong to the contributor or an intermediary of the contributor.
- (c) A cash *contribution* shall not be deemed received if it is not deposited and is returned to the contributor before the closing date of the campaign statement on which the *contribution* would otherwise be reported.
- (d) A cash *contribution* that is deposited shall not be deemed received if it is refunded within 72 hours of receipt, or within 48 hours of receipt if it is a "late contribution" as defined in California Government Code section 82036.

§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 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.”

- (b) Upon the discovery by the *candidate* or *controlled committee* that a violation of subsection (a) has occurred, such violation may be remedied by the *candidate* or *controlled committee* submitting written notice reciting the statement required by subsection (a) to all individuals who were sent the materials constituting the violation and to all individuals who made a *contribution* through the web site during the period of violation, and thereafter reporting in writing the nature of the violation and remedial action to the *Enforcement Authority*, provided that the remedial action takes place before the date of the *election* for which the solicitation was made, and no later than fourteen calendar days after the discovery of the violation.

§27.2946 Solicitation of Contributions from City Employees

- (a) It is unlawful for a *candidate* or a *candidate's controlled committee* to solicit, directly or indirectly, a *contribution* from a *City* employee with knowledge that the *person* from whom the *contribution* is solicited is a *City* employee.
- (b) This section shall not prohibit a *candidate* or a *candidate's controlled committee* from soliciting *contributions* from *City* employees if the solicitation is part of a solicitation made to a significant segment of the public that may include *City* employees, and the solicitation does not otherwise violate the provisions of this Division.
- (c) Nothing in this section prohibits a *City* employee from making a *contribution* to a *candidate*, and nothing in this section prohibits a *candidate* from accepting a *contribution* from a *City* employee.
- (d) As used in this section, the term “*City* employee” means any employee of the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

§27.2950 Prohibitions and Limits on Contributions From Organizations

- (a) It is unlawful for a *candidate* or *controlled committee*, or any *treasurer* thereof, or any other *person* acting on behalf of any *candidate* or *controlled committee*, to solicit or accept a *contribution* from any *person* other than an individual or a political party committee for a *City candidate election*.
- (b) It is unlawful for a *person* other than an individual or a political party committee to make a *contribution* to a *candidate* or *controlled committee* for a *City candidate election*.
- (c) The prohibitions in subsections (a) and (b) shall not be construed to prevent a *person* other than an individual or political party committee from making a *contribution* to a *controlled committee* that is organized solely for the purpose of supporting or opposing the qualification, adoption, or defeat of one or more ballot *measures*, and the *controlled committee* pursues no other purpose.
- (d) For purposes of subsection(c), a recall *election* is not a ballot *measure election*.
- (e) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual.

§27.2951 Prohibition on Contributions From Organization Bank Accounts

For purposes of a *City candidate election*, including a *City recall election*:

- (a) It is unlawful for any individual to make a *contribution* to a *candidate* or *controlled committee* drawn against a checking account or credit card account unless such account belongs to one or more individuals in their individual capacity.
- (b) It is unlawful for any *candidate* or *controlled committee* to accept a *contribution* unless it is drawn against a checking account or credit card account belonging to a political party committee or to one or more individuals in their individual capacity.

- (c) 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.

§27.2952 Contributions from Sole Proprietorships

- (a) Notwithstanding the provisions of sections 27.2950 and 27.2951, 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 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 check or on the credit card account.
- (c) The provisions of this section apply solely to entities recognized 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.

§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 27.2934 and 27.2935 and the prohibition against *contributions* from non-individuals other than political party committees set forth in sections 27.2950 and 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).

§27.2955 Obligations Regarding Unlawful Contributions

- (a) If a *candidate, committee, or committee treasurer* is offered a *contribution*, the acceptance of which would constitute a violation of this division, the *candidate, committee, or committee treasurer* shall refuse the offer.
- (b) Except as set forth in sections 27.2943 and 27.2956, if a *candidate, committee, or committee treasurer* receives a monetary *contribution*, the acceptance of which would constitute a violation of this division, neither the *candidate, committee, nor committee treasurer* shall be subject to any penalty for receipt of that *contribution* if the *candidate, committee, or committee treasurer* either:
 - (1) does not deposit the *contribution* into the campaign *contribution* checking account; or
 - (2) deposits the *contribution* into the campaign *contribution* checking account, but returns the *contribution* to the contributor within ten calendar days of the

deposit or before the filing deadline for the reporting period in which the
contribution was received, whichever occurs first.

(c) though (d) [No change in text.]

§27.2960 Extensions of Vendor Credit

- (a) *Vendors* may extend credit to *candidates* and their *controlled committees* in the ordinary course of business in the same manner they extend it to *persons* for other than *political purposes*.
- (b) A *candidate* or *controlled committee* for *elective City office* that accepts goods or services for *political purposes* on credit under subsection (a), shall pay for those goods or services in full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For purposes of this subsection, a good faith dispute shall be presumed if the *candidate* or *controlled committee* produces the following:
 - (1) evidence that the *candidate* or *controlled committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
 - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
- (c) The provisions of subsection (b) do not apply to debt owed to a financial institution for an outstanding credit card balance.

§27.2965 Professional Expense Funds

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

- (c) It is unlawful for any individual to make, or for any elected *City Official* or *candidate* to solicit or accept from any individual, professional expense fund *contributions* totaling more than \$500 during a single calendar year in connection with an audit or a civil, criminal, or administrative proceeding identified in the Statement of Organization required by section 27.2966(b). This dollar amount is subject to changes in the Consumer Price Index as described in section 27.2937.

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

§27.2967 Disclosures by Professional Expense Committee

- (a) The *professional expense committee* of any *City Official* or *candidate* who is a *candidate* in an upcoming *City election* shall disclose its professional expense fund activity on campaign statements filed in accordance with the schedule prescribed by the Political Reform Act for other *candidate controlled committees* in the *City*.
- (b) The *professional expense committee* of any *City Official* or *candidate* who is not a *candidate* in an upcoming *City election* shall disclose its professional expense fund activity on campaign statements filed quarterly, as follows:
- (1) No later than April 30 for the period of January 1 through March 31.
 - (2) No later than July 31 for the period of April 1 through June 30.
 - (3) No later than October 31 for the period of July 1 through September 30.
 - (4) No later than January 31 for the period of October 1 through December 31.
- (c) The disclosures required under this section shall be made electronically using the *City Clerk's* online filing system, as described in section 27.2931.

§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) [No change in text.]
- (c) 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) 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) 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) The requirements set forth in this section do not apply to *member communications* distributed by an organization that is not a political party, e-mail communications, Internet web pages, or slate mailers.

§27.2972 Billboards and other Large Forms of Advertising

- (a) It is unlawful for any *candidate* or *committee* to pay for any advertising on a billboard or other large form of advertising for the purpose of supporting or opposing one or more ballot *measures* or *candidates* for *elective City office* unless the communication includes the words “paid for by” followed by the name of that *candidate* or *committee*.

- (b) The typeface used in the disclosure statement required by subsection (a) shall have a height no less than five percent of the height of the advertisement and be printed in a contrasting color.
- (c) As used in this section, the term “other large form of advertising” pertains to any sign, banner, poster, or other form of campaign advertising that is 30 square feet or larger and visible to the general public.

§27.2973 Paid Spokespersons — Ballot Measures

- (a) A *committee* that makes an *expenditure* of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a ballot *measure* shall file a report with the *City Clerk* within 10 days of the *expenditure*. The report shall identify the *measure*, the date of the *expenditure*, the name of the recipient, and the amount expended.
- (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 typeface that is easily legible, contrasts with the background, and is no less than 12 points in size if the advertisement consists of printed material, or spoken in a clearly audible format if the advertisement is a telephone message.

§27.2975 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 typeface that is easily legible, contrasts with the background, and is no less than 12 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) The provisions of this section do not apply to advertisements that are *member communications*, made through an e-mail communication, placed on a slate mailer, printed on small promotional items on which the disclosure cannot reasonably be printed or displayed in an easily legible typeface, printed on wearing apparel, or skywriting.
- (c) Except as expressly stated herein, the requirements of this section are intended to be consistent with the advertising regulations imposed by title 2, sections 18450.4 and 18450.5 of the California Code of Regulations on *primarily formed recipient committees* with contributors of \$50,000 or more.

§27.2980 Disclosure of Electioneering Communications

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

(g) Any communication, other than a *member communication*, made at the behest of a *candidate* is a *contribution* to that *candidate* and is subject to the limits and prohibitions specified in sections 27.2935 and 27.2950.

(h) [No change in text.]

Section 2. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending sections 27.4002, 27.4009, 27.4017, and 27.4045 to read as follows:

§27.4002 Definitions

All defined terms in this division appear in italics. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

Activity expense to *Expenditure lobbyist* [No change in text.]

Fundraising activity means soliciting, or directing others to solicit, *contributions* from one or more contributors, either personally or by hosting or sponsoring a fundraising event, and either (a) personally delivering \$2,000 or more in *contributions* to a *candidate*, a *candidate's* controlled committee, or a committee primarily formed to support or oppose one or more *candidates*, or (b) identifying oneself to a *candidate*, a *candidate's* controlled committee, or a committee primarily formed to support or oppose one or more *candidates* as having any degree of responsibility for \$2,000 or more in *contributions* received as a result of that solicitation.

Gift to Travel expenses [No change in text.]

§27.4009 Contents of Registration Form

(a) Every *lobbying firm* shall file with the City Clerk a registration form that contains the following information:

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

(3) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who engaged in *fundraising activities* for a current elected *City Official* or a committee primarily formed to support a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*.

(4) through (9) [No change in text.]

(b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:

(1) through (5) [No change in text.]

(6) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who engaged in *fundraising activities* for a current elected *City Official* or a committee primarily formed to support a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*.

(7) through (11) [No change in text.]

§27.4017 Contents of Quarterly Disclosure Report

(a) Each *lobbying firm's* quarterly disclosure report shall contain the following information:

(1) through (3) [No change in text.]

(4) an itemization of any *contributions* totaling \$100 or more made by the *lobbying firm* or any of its owners, officers, or *lobbyists* during the reporting period to a *candidate's* election committee or to a committee primarily formed to support or oppose one or more *candidates*, including the date and amount of each *contribution* and the name of the applicable committee.

- (5) [No change in text.]
- (6) for each fundraising effort by an owner, officer, or *lobbyist* of the *lobbying firm* who engaged in *fundraising activities* during the reporting period:
 - (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
 - (B) the name of the campaign committee benefiting from the *fundraising activity*;
 - (C) a description of the ballot measure, if any;
 - (D) the date(s) of the *fundraising activity*;
 - (E) a brief description of the *fundraising activity*; and
 - (F) the approximate amount of (i) all *contributions* personally delivered by the owner, officer, or *lobbyist* to the *candidate* or campaign committee; and (ii) all *contributions* for which the owner, officer, or *lobbyist* has identified himself or herself to the *candidate* or campaign committee as having some degree of responsibility for raising.
- (7) through (11) [No change in text.]
- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:
 - (1) through (3) [No change in text.]
 - (4) an itemization of any *contributions* totaling \$100 or more made by the *organization lobbyist* or any of its owners, compensated officers, or *lobbyists* during the reporting period to a *candidate's* election committee or to a committee primarily formed to support or oppose one or more *candidates*, including the date and amount of each *contribution* and the name of the applicable committee.

(5) [No change in text.]

(6) for each fundraising effort by any of the *organization lobbyist's* owners, compensated officers, or *lobbyists* who engaged in *fundraising activities* during the reporting period:

- (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
- (B) the name of the campaign committee benefiting from the *fundraising activity*;
- (C) a description of the ballot measure, if any;
- (D) the date(s) of the *fundraising activity*;
- (E) a brief description of the *fundraising activity*; and
- (F) the approximate amount of (i) all *contributions* personally delivered by the owner, officer, or *lobbyist* to the *candidate* or campaign committee; and (ii) all *contributions* for which the owner, officer, or *lobbyist* has identified himself or herself to the *candidate* or campaign committee as having some degree of responsibility for raising.

(7) through (11) [No change in text.]

(c) [No change in text.]

§27.4045 Online Disclosure of Forms and Reports

- (a) Every *lobbying entity* required to file a registration form or quarterly disclosure report pursuant to this division shall use the *City Clerk's* electronic filing system to file online such forms or reports.
- (b) It is unlawful for a *lobbying entity* to electronically file a registration form or quarterly disclosure report unless a duly authorized owner or officer of the *lobbying*


entity has reviewed the contents of the form or report and electronically verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

- (c) A *lobbying entity* that has electronically filed a registration form or quarterly disclosure report using the *City Clerk's* online filing system is not required to file a paper copy of that form or report with the *City Clerk*.
- (d) In the event that the *City Clerk's* online filing system is not capable of accepting a required form or report, a *lobbying entity* shall file that form or report in paper format with the *City Clerk*.

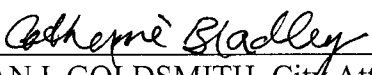
Section 3. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on January 1, 2013, and shall be applicable only to elections occurring after that date.

APPROVED AS TO FORM AND LEGALITY:

By 
Christina Cameron, Esq.
General Counsel, Ethics Commission

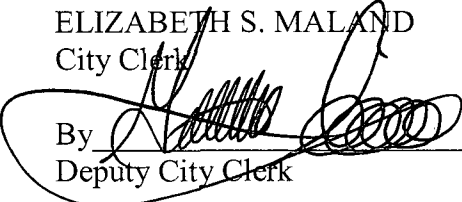
APPROVED AS TO FORM:

By 
JAN I. GOLDSMITH, City Attorney

CMB:sc
10/11/12
10/22/12 COR.COPY
Or.Dept:Ethics
Doc.No.:459789

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at its meeting of 11/27/12.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 11-27-12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor