



OFFICE OF THE CITY CLERK

REPORT

To The Honorable Mayor and City Council

DATE: July 22, 2000

REPORT NO.: 00-04(Rev.)

SUBJECT: PROPOSED AMENDMENTS TO THE SAN DIEGO CAMPAIGN
CONTROL ORDINANCE

ISSUE

During the past several years, the City Clerk has recognized the need to review and update the City's election code, Chapter II, Article 7 of the San Diego Municipal Code. The election code includes Division 29, the Campaign Control Ordinance, which was last reviewed and amended in 1994. At the City Council meeting of November 22, 1999, after reviewing and rejecting substantive amendments to the Campaign Control Ordinance, the City Clerk was directed to come back to the Council after the March election with housekeeping amendments to the ordinance. The Council also directed the creation of a Campaign Review Task Force, which is being addressed by the Rules Committee.

The Clerk has identified a number of areas where the Campaign Control Ordinance could be improved by addressing (a) changes in state law which impact local law; (b) processes that are not articulated in the code, or are not clearly articulated; and (c) problems in administration of the code. The Clerk's proposed update to the Campaign Control Ordinance will result in minimal change to its original intent, while appreciably simplifying its processes and clarifying its language.

CLERK'S RECOMMENDATION

Support the proposed amendments to the Campaign Control Ordinance and provide additional direction to the Clerk if desired.

DISCUSSION

Following direction given to the Clerk during the City Council meeting of November 22, 1999, and with input provided by interested parties, the Clerk is proposing a number of housekeeping amendments to the Campaign Control Ordinance, to enable candidates and campaign treasurers to comply more easily with the ordinance while maintaining the strength

of the original language. The more noteworthy of these housekeeping proposals are discussed below.

AMENDMENTS RELATED TO COMMITTEES

Suggested changes would raise the threshold for "committee" status from \$500 to \$1,000, thus making the Campaign Control Ordinance consistent with state law and eliminating repetitive filing requirements.

AMENDMENTS RELATED TO CONTRIBUTIONS

Suggested changes would make the Campaign Control Ordinance consistent with state law in that payments made by the occupant of a home or office, for costs related to any meeting or fund-raising event held in his or her home or office, are not considered to be a "contribution" provided that the total cost for the meeting or event is \$500 or less. Presently, if such an event were held for the purpose of obtaining contributions to a candidate or committee, it would be considered a "contribution" and subject to the \$250 contribution limit for candidate campaigns.

Additionally, suggested changes would provide a specific time-frame for a campaign treasurer to:

- (a) deposit a contribution into the campaign's bank account (extended from ten business days to 20 business days);
- (b) request all required information regarding a contributor, if that information was not provided at the time the contribution was made (ten days, compared with the present requirement that no contribution may be deposited if any of the required information is not provided at the time the contribution is made);
- (c) return a contribution to its contributor (extended from 15 business days to 25 business days after receipt of the contribution); and
- (d) report to the City Clerk a contribution which has been deposited in violation of the Campaign Control Ordinance (extended from five days to ten days from the date the violation was discovered).

AMENDMENTS RELATED TO LOANS

Suggested changes would:

- (1) make any loan a contribution, with the exception of (a) a loan made under circumstances which make it clear the loan was not made for political purposes; and (b) a loan received from a commercial lending institution in the ordinary course of business. Any loan not covered by these two exceptions would be considered a contribution; and thus subject to contribution limits;
- (2) enable the candidate or committee to disclose loans in the same time and manner as required by state law; and

(3) clarify that a candidate who loans personal funds to his or her committee may charge a rate of interest comparable to or less than that which would be charged by commercial lending institutions, or may choose to charge no interest whatsoever.

AMENDMENTS RELATED TO EXPENDITURES

Suggested changes would clarify how to determine the date of an expenditure; and how and when expenditures, including accrued expenses, must be disclosed. Disclosure is consistent with state law. Additionally, the amount allowed in a petty cash fund has been increased from \$40 to \$100 per week.

MISCELLANEOUS AMENDMENTS

Amendments were made to some sections solely for the purpose of clarifying language, making style changes, or correcting references. Definitions were added, deleted or clarified so that those who refer to the Campaign Control Ordinance might better understand its language.

Section 27.2925(f) has been deleted, as it may be read to require that multi-purpose committees physically segregate contributions and expenditures related to City candidates from all other contributions and expenditures. Such contributions and expenditures are already reported separately, and there is no need to physically separate them from other contributions and expenditures.

Added language makes lawful uses of campaign funds consistent with state law.

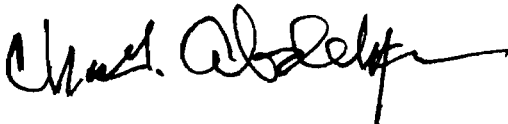
Because severability is covered elsewhere in the Municipal Code, the severability clause has been deleted as superfluous.

SUMMARY

In summary, the City Clerk is proposing a variety of amendments to the City's Campaign Control Ordinance. The amendments are primarily housekeeping in nature.

Should you have questions, please contact Deputy Director Joyce Lane at ext. 34024.

Sincerely,



Charles G. Abdelnour
City Clerk

Attachment

cc: City Attorney
City Manager

CHAPTER 2 - Government
ARTICLE 7 - Election Code
DIVISION 29 - San Diego Municipal Election Campaign Control Ordinance

SECTION 27.2901 - Purpose and Intent

Inherent to the high cost of ~~election~~ campaigning is the problem of improper influence, real or potential, exercised by campaign ~~contributions~~ over elected officials. 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; and to provide full and fair enforcement of all the provisions of this division; and to avoid the corruption or the appearance of corruption brought about when candidates for elective office accept large campaign contributions. 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 27.2902 0102 of this article shall not apply to this divisor.

SECTION 27.2902 - Citation

This division shall be cited as the San Diego Municipal **Election** Campaign Control Ordinance.

SECTION 27.2903 - Definitions

Whenever in this division the following words or phrases are used in this division, they mean:

"Agent" means a **person** who acts on behalf of any other **person**.

~~(a)~~ "Broadcast station" means any **person** who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934, including any cable television system franchised or otherwise licensed by the **City**.

~~(b)~~ "Candidate" means any individual who

- ~~— (1) is listed on the ballot for **elective City office**; or~~
- ~~— (2) has begun to circulate nominating **petitions** or authorized others to do so on his or her behalf for nomination for or **election** to a **City office**; or~~
- ~~— (3) has received a **contribution** or made an **expenditure** or authorized another **person** to receive a **contribution** or make an **expenditure** with the intent to bring about his or her nomination for or **election** to any **City office**; or~~
- ~~— (4) is a **City office holder** who becomes the subject of a recall **election**. For purposes of Section 27.2903(b) (4), a **City office holder** "becomes the subject of a recall **election**" on the date a notice of intention to circulate a recall **petition** is published pursuant to San Diego Municipal Code section 27.2704.~~

"Candidate" has the same meaning as that term is defined in Section 27.0103. That is, "Candidate" means any individual who

(a) is listed on the ballot for **elective City office**; or

(b) has begun to circulate nominating **petitions** or authorized others to do so on his or her behalf for nomination for or **election** to a **City** office; or

(c) has received a **contribution** or made an **expenditure** or authorized another person to receive a **contribution** or make an **expenditure** with the intent to bring about his or her nomination for or **election** to any **City** office; or

(d) is a **City** office holder who becomes the subject of a recall **election**. A **City** office holder "becomes the subject of a recall **election**" on the date a notice of intention to circulate a recall **petition** is published pursuant to the recall provisions of this article.

"**City**" means the **City** of San Diego.

(e) "**City** office" means the offices of Mayor, **Council** member, and **City** Attorney of the **City** of San Diego.

"**City-wide General Election**" has the same meaning as that term is defined in Section 27.0103.

"**City-wide Primary Election**" has the same meaning as that term is defined in Section 27.0103.

"**Clerk**" has the same meaning as that term is defined in Section 27.0103.

(d) "**Committee**" means any **person** or combination of **persons** who for **political purposes** directly or indirectly: (1) Receives **contributions** totaling five hundred dollars (\$500) or more in a calendar year; or (2) Makes **expenditures** totaling five hundred dollars (\$500) or more in a calendar year; has the same meaning as that set forth in California Government Code Section 82013(a) through (b).

"**Compensation**" means any economic consideration for services rendered. This includes reimbursement for expenses.

(e) "**Contribution**"

(+ a) "**Contribution**" includes:

(i 1) any **payment**, as defined in Section 27.2903 (+); or

(ii 2) any loan, forgiveness of a loan, **payment** of a loan by a third party, or any enforceable promise to make a **payment**, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for **political purposes**; or unless the loan is received from a commercial lending institution in the ordinary course of business.

(iii 3) forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered resulting from a settlement of a claim disputed by the **candidate** or **committee**, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute; or

(iv 4) any **expenditure** made at the behest of a **candidate**, or **committee** or elected **elective officer**, unless full and adequate consideration is received for making the **expenditure**; or

(v 5) any purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; or

(vi 6) a **candidate's** own money or property used on behalf of his or her candidacy; or

(vii 7) any granting of discounts or rebates not extended to the public generally, or any granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all **candidates** for the same office; or

(viii 8) any **payment** of **compensation** by any **person** for the ~~personal~~ services or

expenses of any other *person* if such services are rendered or expenses incurred on behalf of a *candidate* or *committee* without *payment* of full and adequate consideration; or

(ix 9) any transfer of anything of value by a *committee* to another *committee*, unless full and adequate consideration is paid.

(z b) "*Contribution*" does not include:

(i 1) the transfer of anything of value if the transfer is made pursuant to an enforceable promise, to the extent that the amounts have been previously reported as a *contribution*; or

(ii 2) the cost of an event held in a home or office for costs related to any meeting or fundraising event held in honor or behalf of a *candidate* or *committee* when the total cost of the event is no more than five hundred dollars (\$500) and the event is not held for the purpose of obtaining *contributions* to the *candidate* or *committee*; or

(iii 3) any *payment* made by an individual for the individual's own *travel expenses* if the *payment* is made voluntarily and without an understanding or agreement that they shall be directly or indirectly repaid to the individual; or

(iv 4) any *independent expenditure*; or

(v 5) the rendering of volunteer personal services.

(f) "*Controlled committee*" means any *committee* controlled directly or indirectly by a *candidate* or which acts jointly with a *candidate* or *controlled committee* in connection with the making of *expenditures*. A *candidate* controls a *committee* if the *candidate*, the *candidate's agent* or any other *committee* controlled by the *candidate* has a significant influence on the actions or decisions of the *committee*.

"*Council*" has the same meaning as that term is defined in Section 27.0103.

"*District General Election*" has the same meaning as that term is defined in Section 27.0103.

"*District Primary Election*" has the same meaning as that term is defined in Section 27.0103.

(g) "*Election*" has the same meaning as that term is defined in Section 27.0103, but does not include *elections* of the San Diego Unified School District. means any primary, general or *special election* held in the *City* of San Diego, including any initiative, referendum or recall *election*. Primary, general and *special elections* are separate *elections* for purposes of this Division.

(a) For the purpose of this division, a *District or City-wide Primary Election*, a *District or City-wide General Election*, and a *special election* are single and separate *elections*.

"*Elective Office*" has the same meaning as that term is defined in Section 27.0103, but does not include the office of a member of the governing board of the San Diego Unified School District.

(h) "*Enforcement Authority*" means the *City Attorney* or other special prosecutor designated by resolution of the *City Council*. Nothing in this Division limits the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this Division under any circumstances where the law enforcement agency or prosecuting attorney otherwise has lawful authority to do so. has the same meaning as that term is defined in Section 27.0103.

(i) "*Expenditure*" means a *payment*, a forgiveness of a loan, a *payment* of a loan by a third party, or an enforceable promise to make a *payment*, unless it is clear from the circumstances that it is not made for *political purposes*. An *expenditure* is made on the date the *payment* is made or on the date consideration, if any, is received, whichever is earlier.

"Gift" has the same meaning as that set forth in California Government Code Section 82028.

(j) "**Independent expenditure**" means any **expenditure** made by any **person** in connection with a communication which:

(1 **a**) expressly supports or opposes the nomination, **election**, defeat or recall of a clearly identified **candidate**; or

(2 **b**) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified **measure**; or

(3 **c**) taken as a whole and in context, unambiguously urges a particular result in a **City election**.

An **expenditure** that is made to or at the behest of a **candidate** or a **committee** supporting or opposing a **measure** is not an **independent expenditure**.

(k) "**Measure**" has the same meaning as that term is defined in Section 27.0103 and does not include a recall **election**. That is, "**Measure**" means any **City Charter** amendment or proposition which is

(a) submitted to a popular vote at a **City election** by action of the **City Council**; or

(b) submitted or intended to be submitted to a popular vote at a **City election** by the procedure of initiative or referendum whether or not it qualifies for the ballot. A **measure** and a proposition are synonymous; and means any **City Charter** amendment or proposition which is:

~~— (1) submitted to a popular vote at a **City election** by action of the **City Council**; or~~

~~— (2) submitted or intended to be submitted to a popular vote at a **City election** by the procedure of initiative or referendum whether or not it qualifies for the ballot.~~

The term "**measure**" does not include a recall **election**.

(l) "**Payment**" means any **payment**, reimbursement, distribution, transfer, loan, advance, deposit, **gift** or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

(m) "**Person**" means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, **committee**, labor union, or any other organization or group of **persons** acting in concert.

"**Petition**" has the same meaning as that term is defined in Section 27.0103.

(n) "**Political purpose**" means the purpose of influencing or attempting to influence the action of the **voters** for or against the nomination, **election**, defeat or recall of any **candidate** or holder of a **City** office **elective officer**, for or against the qualification of a **City measure** for the ballot, or for or against the adoption or defeat of any **City measure**.

"**Special election**" has the same meaning as that term is defined in Section 27.0103, but does not include **elections** of the San Diego Unified School District.

"**Travel expenses**" has the same meaning as that term is defined in Section 27.4002.

(o) "**Treasurer**" or "**Committee treasurer**" means the individual designated to perform the duties of **treasurer** under San Diego Municipal Code section Section 27.2912.

"Voter" has the same meaning as that term is defined in Section 27.0103.

(p) "**Vendor**" means any **person** who delivers goods or renders services to a **candidate** or **committee**, unless it is clear from the circumstances that they were not made for **political purposes**.

SECTION 27.2904 - Candidate and Committee Status; Duration

(a) For purposes of this Division, any individual who is a **candidate** retains the status of **candidate**, and any **person** or combination of **persons** constituting a **committee** retains the status of **committee**, until that status is terminated either:

(a1) pursuant to California Government Code section 84214 and all **vendors** granting credit for goods or services have been paid in full; or

(b2) pursuant to Sections 27.2971(c) or 27.2971(d) of this Municipal Code.

(b) For purposes of this division, any **committee** retains the status of **committee** until that status is terminated pursuant to California Government Code section 84214.

SECTION 27.2905 - Recall Elections

For purposes of this Division, a recall **election** begins on the date a notice of intention to circulate a recall **petition** is published pursuant to ~~SDMG section 27.2704~~ the recall provisions of this article; and, a recall **election** occurs whether **voters** cast ballots pertaining to the recall or not.

SECTION 27.2906 - Reserved for Future Use

SECTION 27.2907 - Reserved for Future Use

SECTION 27.2908 - Reserved for Future Use

SECTION 27.2909 - Reserved for Future Use

SECTION 27.2910 - Reserved for Future Use

SECTION 27.2911 - Duty to Have Campaign Treasurer

Every **candidate** and every **committee** shall have a **treasurer**. A **candidate** may designate him- or herself as **treasurer**. ~~No person other than an~~ Only an individual may be designated as a **treasurer**.

SECTION 27.2912 - Authority of Treasurer

No **expenditure** may be made by or on behalf of a **committee** without the authorization of the **treasurer**. No **contribution** may be accepted or **expenditure** made by or on behalf of a **committee** at a time when the office of **treasurer** is vacant.

SECTION 27.2913 - Reserved for Future Use

SECTION 27.2914 - Reserved for Future Use

SECTION 27.2915 - Reserved for Future Use

SECTION 27.2916 - Reserved for Future Use

SECTION 27.2917 - Reserved for Future Use

SECTION 27.2918 - Reserved for Future Use

SECTION 27.2919 - Reserved for Future Use

SECTION 27.2920 - Reserved for Future Use

SECTION 27.2921 - Campaign Contribution Checking Account

(a) Every **candidate** and every **committee** receiving ~~contributions~~ of five hundred dollars (\$500) or more shall establish one campaign **contribution** 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** and the ~~enforcement authority~~ within ~~twenty-four (24) hours~~ on the same forms and in the time and manner required by California Government Code Sections 81000 *et seq.*

(c) Upon opening of an account, all **contributions** of money or checks, or anything of value converted by such **candidate** or **committee** to money or a check, made to a **candidate**, to a ~~person~~ an individual on behalf of a **candidate**, to a **committee** supporting or opposing a **candidate** or a **City measure**, or to a ~~person~~ an individual on behalf of a **committee** supporting or opposing a **candidate** or a **City measure** shall be placed in the **candidate's** or **committee's** checking account within ~~ten (10)~~ twenty business **days**.

(d) ~~No contribution~~ shall be deposited to a campaign ~~contribution~~ checking account without the receipt by the ~~candidate~~ or ~~committee~~ of that Contributions must include the information required by California Government Code Sections 84210 and 84211. concerning the ~~contribution~~ to be deposited. Any information that has not been provided shall be requested, in writing, by the campaign treasurer within ten business days of receipt of the contribution. No contribution shall be deposited to a campaign contribution checking account without the receipt by the candidate or committee of that information.

(e) Any **contribution** not deposited within ~~twenty ten (10)~~ twenty business **days** shall be returned to the contributor as soon as possible after the ~~twentieth tenth (10)~~ twentieth business **day**, but no later than ~~twenty-five fifteen (15)~~ twenty business **days** after receipt of the **contribution**. ~~A candidate and a committee~~ formed solely for the purpose of acting in aid of the nomination or ~~election~~ of the **candidate** may establish and maintain one joint checking account for the **candidate** and the **committee**.

SECTION 27.2922 - Disbursements

Funds shall be disbursed from a campaign **contribution** checking account established pursuant to Section 27.2921 hereof only by check signed by the **candidate** or by the **candidate's** or **committee's** campaign **treasurer** or designated **agents** of the campaign **treasurer**. Each ~~candidate~~ or ~~committee~~ shall maintain a written record of the payee of each check drawn on a campaign ~~contribution~~ checking account and an itemized record of the goods or services for which each check is issued.

SECTION 27.2923 - Petty Cash Fund

Section 27.2922 notwithstanding, the ~~candidate~~ or campaign ~~treasurer~~ or other designated ~~agents~~ authorized to issue checks on a campaign ~~contribution~~ checking account may disburse to the ~~candidate~~ or ~~committee~~ establishing the checking account an amount not greater than \$20 per week to be used for petty cash purposes by the ~~candidate~~ or ~~committee~~. An amount not greater

than \$40 per week may be disbursed to a ~~candidate~~ and ~~committee~~ jointly establishing a campaign ~~contribution~~ checking account, to be used for petty cash purposes.

A petty cash fund may be established for each campaign bank account under the following conditions:

(a) No more than \$100 may be held in the petty cash fund at any one time.

(b) No **expenditure** that totals \$100 or more may be made from the petty cash fund.

(c) **Expenditures** from a petty cash fund are deemed to be **expenditures** from the campaign bank account.

SECTION 27.2924 - Liquidation of Accounts

In the event that **payment** has been made for all goods and services furnished in connection with the campaign of a **candidate** or **committee**, a campaign **contribution** checking account may be liquidated by paying the remaining balance in the checking account to the **candidate** or to the **committee** for his or its use in any lawful manner pursuant to California Government Code Sections 81000 *et seq.*

SECTION 27.2925 - Accountability Accounting

(a) In addition to any other requirements of this Division, every **candidate** or **committee** establishing a campaign **contribution** checking account pursuant to this Division shall maintain a record of each of the following:

(1) any **contribution** offered to and refused in whole or in part by the **candidate** or **committee**; and

(2) any **contribution** received by the **candidate** or **committee** and returned in whole or in part to the contributor; and

(3) any **contribution** received by the **candidate** or **committee** and deposited in whole or in part into the campaign **contribution** checking account; and

(4) any disbursement made from the campaign **contribution** checking account.

(b) The records required by Section 27.2925(a) shall include, but not be limited to, all of the following:

(1) the name and address of the contributor; and

(2) the amount of the **contribution**, and the date on which it was received or offered; and

(3) if the **contribution** is made by check, a legible photocopy of the check; and

(4) if the **contribution** offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash **contribution** was deposited into the campaign **contribution** checking account; and

(5) legible photocopies or originals of all bank records pertaining to the campaign **contribution** checking account; and

(6) if a **contribution** is self-funded made by the **candidate** to his or her own campaign, a statement disclosing the source of the funds; and

(7) if a **contribution** is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the **contribution**, and the basis for the estimate; and

(8) for each disbursement made from or check drawn on the campaign **contribution** checking account, the canceled check, the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.

(c) The records required by Section 27.2925 (a) and (b) shall be kept by the **candidate** or **committee treasurer** establishing the account for a period of four (4) years following the date that the campaign statement to which they relate is filed.

(d) Each **candidate** and **committee** shall deliver, on demand, to any public officer having authority to enforce this Division a written authorization permitting the officer to have access to all records pertaining to the campaign **contribution** checking account.

(e) Each **candidate** and **committee** shall, on demand, make available to any public officer having authority to enforce this Division all records required by this Division to be maintained by the **candidate** or **committee**.

(f) Each ~~committee~~ that also participates in ~~elections~~ other than ~~City candidate elections~~ shall segregate ~~contributions~~ received and ~~expenditures~~ made for ~~political purposes~~ in connection with ~~City candidate elections~~ from all other ~~contributions~~ or ~~expenditures~~ made.

~~SECTION 27.2926 - Campaign Contribution Trust Account Establishment~~ Reserved for Future Use

~~SECTION 27.2927 - Campaign Contribution Trust Account Disbursements~~ Reserved for Future Use

~~SECTION 27.2928 - Campaign Contribution Trust Account Surplus Funds~~ Reserved for Future Use

~~SECTION 27.2929 - Campaign Contribution Trust Account Confidentiality~~ Reserved for Future Use

SECTION 27.2930 - Reserved for Future Use

SECTION 27.2931 - Campaign Statements and Disclosures

Each **candidate** and **committee** shall file campaign statements in the time and manner required by the Political Reform Act of 1974 as amended (California Government Code Sections 81000 et seq. et seq.). Compliance with the disclosure requirements of the Political Reform Act of 1974, as amended California Government Code Sections 81000 et seq. is deemed to be compliance with this Section.

~~SECTION 27.2932 - Campaign Statement Contents~~ Reserved for Future Use

~~SECTION 27.2933 - Campaign Statement Verification~~ Reserved for Future Use

~~SECTION 27.2934 - Campaign Statement Filing~~ Reserved for Future Use

~~SECTION 27.2935 - Campaign Statement Filing Fee~~ Reserved for Future Use

~~SECTION 27.2936 - Campaign Statement Exceptions Declaration~~ Reserved for Future Use

~~SECTION 27.2937 - Campaign Statement Public Inspection and Copying~~ Reserved for Future Use

~~SECTION 27.2938 - Campaign Statement Retention~~ Reserved for Future Use

SECTION 27.2939 - Reserved for Future Use

~~SECTION 27.2940 - Reserved for Future Use~~ Lawful Use of Campaign Funds

Uses of campaign funds held by any **committee** formed in accordance with this division shall be governed by California Government Code Sections 81000 et seq.

SECTION 27.2941 - Contribution Limits

(a) It is unlawful for a **candidate**, **committee** supporting or opposing a **candidate**, or individual

person acting on behalf of a **candidate** or **committee** to solicit or accept from any other individual person a **contribution** which will cause the total amount contributed by that other individual person in support of or opposition to a **candidate** to exceed two hundred fifty dollars (\$250) for any single **election**.

(b) It is unlawful for any individual person to make to any **candidate** or **committee** supporting or opposing a **candidate** a **contribution** that will cause the total amount contributed by that individual person in support of or opposition to a **candidate** to exceed two hundred fifty dollars (\$250) for any single **election**.

(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, including loan to, or expend on behalf of the **candidate's** own campaign.

(d) For purposes of Section 27.2941(a) and (b), the term "**committee**" includes but is not limited to a **committee** that makes independent expenditures. The contribution limits contained in 27.2941(b) apply to the total contributions of an individual to a candidate, whether to the candidate's controlled committee or to a committee that makes independent expenditures in support of that candidate.

SECTION 27.2942 - ~~Limits on Loans to Candidates and Committees~~ Reserved for Future Use

~~(a) Except as provided in Section 27.2942(b) and (c), a candidate or committee may not obtain a loan in excess of the monetary limits set forth in Section 27.2941 from any person for the purpose of supporting or opposing a candidate in a City election.~~

~~(b) Subject to the requirements of Section 27.2943, a candidate may personally borrow any amount of money and contribute that money to the candidate's own campaign.~~

~~(c) A committee may borrow any amount of money for the purpose of supporting or opposing the qualification of a City measure for the ballot, or adopting or defeating a City measure, so long as the committee is organized solely for either of these two purposes, and pursues no other purpose.~~

SECTION 27.2943 - ~~Disclosure, Evidence and Terms and Disclosure of Loans~~

(a) A candidate who makes a loan to his or her committee from his or her personal funds is not required to charge interest on that loan, but may charge a rate of interest comparable to or less than that which would be charged by a commercial lending institution for loans not made for political purposes.

(b) Every candidate and committee shall disclose loans in the same time and manner required by California Government Code Sections 84211, 84216 and 84216.5.

~~(a) If a candidate or committee obtains a loan in compliance with Section 27.2942 the candidate or committee shall comply with all of the following requirements:~~

~~(1) The candidate or committee shall document the loan by a written agreement that sets forth the lender, loan amount, funding source if different from the lender, interest rate, repayment terms, asset(s) pledged for the loan, records of payments on the loan including legible photocopies of any canceled checks, and any other promises or conditions pertaining to the loan; and~~

~~(2) The candidate or committee shall file with the City Clerk a legible photocopy of the written agreement required by Section 27.2943(a) with the within five (5) calendar days of the execution of the agreement or the receipt of the loan proceeds, whichever occurs first; and~~

~~(3) The candidate or committee treasurer shall personally sign a promissory note for the amount borrowed and with a specific payment schedule and other terms comparable to that which~~

would be imposed by a commercial lending institution for loans not made for *political purposes*;

— (4) The *candidate* or *committee* shall agree to repay the loan at a rate of interest comparable to that which would be charged by a commercial lending institution for loans not made for *political purposes*;

— (5) A *candidate* shall not pledge security for the loan other than the personal assets of the *candidate* or the joint assets or community property of the *candidate* and the *candidate's* spouse, except that other individuals may pledge security for the loan in an amount not to exceed the monetary limits set forth in Section 27.2941; and

— (6) A *candidate* or *committee* shall maintain copies of all loan documents, and make legible copies available for inspection in the manner provided in Section 27.2925.

— (b) Section 27.2943 does not apply to *committees* that are organized solely for the purpose of supporting or opposing the qualification of a *City measure* for the ballot or solely for the purpose of adopting or defeating a *City measure*, and that pursue no other purpose.

SECTION 27.2944 - Payment for and Disclosure of Payment for Goods or Services

(a) An *expenditure* is made on the date the *payment* is made or the date that the *candidate* or *committee* receives the goods or services, whichever is earlier.

(b) Every *candidate* and *committee* shall disclose *expenditures* in the same time and manner required by California Government Code Section 84211. An *expenditure* which has been incurred but not paid during a reporting period shall be disclosed as an accrued expense.

(c) ~~(a)~~ Except as provided in Section 27.2945, each *candidate* or *treasurer* of a *controlled committee* that supports or opposes a *candidate* shall pay, or cause to be paid, each *vendor* upon receipt of the *vendor's* goods or services in whole or in part.

(d) ~~(b)~~ Except as provided in Section 27.2945, the *treasurer* of a *committee* that makes *independent expenditures* in support of or in opposition to a *candidate* shall pay, or cause to be paid, each *vendor* upon receipt of the *vendor's* goods or services in whole or in part.

SECTION 27.2945 - Extensions of Vendor Credit

(a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner as extended to *persons* for other than *political purposes*.

(b) For leases or rentals of one ~~(1)~~ month or more, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay at least one month's rent in advance of taking possession. Thereafter, *candidates* or *committees* shall pay rent in advance.

(c) For leases or rentals of less than one ~~(1)~~ month, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay in full in advance.

(d) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under section 27.2945(a), shall pay for those goods or services in full no later than ninety ~~(90)~~ calendar *days* after receipt of a bill or invoice and in no event later than ninety ~~(90)~~ calendar *days*

after the last calendar day of the month in which the goods were delivered or the services were rendered.

SECTION 27.2946 - Continuing Violations

A *candidate* or *committee treasurer* violates Section 27.2945(b), (c) or (d) whenever the *candidate* or *committee treasurer* fails to pay any rent or for goods or services in full within the time periods set forth in Section 27.2945. Each and every calendar day any obligation remains partially or wholly unpaid after the time periods set forth in Section 27.2945 constitutes a separate

violation.

SECTION 27.2947 - Prohibitions and Limits on Contributions From Organizations

(a) It is unlawful for a **candidate, committee, committee treasurer** or other **person** acting on behalf of a **candidate** or **committee** to accept a **contribution** from any **person** other than an individual.

(b) It is unlawful for a **person** other than an individual to make a **contribution** to any **candidate** or **committee**, except to a **committee** that is organized solely for the purpose of supporting or opposing the qualification of a **City measure** for the ballot, or the adoption or defeat of a **City measure**, and the **committee** pursues no other purpose.

(c) For purposes of Section 27.2947(a) and (b), the term "**committee**" includes any **committee** that makes **independent expenditures**, in addition to any **controlled committee**.

(d) Notwithstanding Section 27.2947(a), a **committee** may accept a **contribution** from any **person** if the **committee** is organized solely for the purpose of supporting or opposing the qualification of a **City measure** for the ballot, or the adoption or defeat of a **City measure**, and the **committee** pursues no other purpose.

(e) For purposes of Section 27.2947(b) and (d), a recall **election** is not an **election** on a **City measure**.

SECTION 27.2948 - Obligation to Return 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) 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**:

(1) does not deposit the **contribution** into the campaign **contribution** checking account; and,
(2) returns the **contribution** within twenty five (5) calendar business days of the calendar day the **contribution** was received.

(c) If a **candidate, committee, or committee treasurer** deposits into the campaign **contribution** checking account a monetary **contribution** the acceptance of which constitutes a violation of this Division, the **candidate, committee, or committee treasurer** shall within ten five (5) calendar days of the date of the candidate's, committee's or committee treasurer's discovery of the violation report provide in writing to the **City Clerk** all facts pertaining to the **contribution**, including but not limited to:

(1) a copy of any check(s), draft(s), or other instrument(s) by which the **contribution** was made; and

(2) if made in cash, a report of the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and

(3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and

(4) a report of the means of tender, delivery or confirmation of the **contribution** (e.g. U.S. Postal Service or private mail, courier service, in **person**, etc.); and

~~(5): If delivered in **person** by the contributor or the contributor's **agent**, the a report shall include of the full name; and street address; and telephone number of the contributor ~~or **agent**.~~~~

(d) The **candidate** or **committee treasurer** shall promptly deliver from available funds, if any,

an amount equal to any monetary **contribution** constituting a violation of this dDivision that is deposited into the campaign **contribution** checking account to the **City Clerk** and made payable to the **City Treasurer**. The **City Treasurer** shall deposit any **contribution** or equivalent amount he or she receives under Section 27.2948 into the **City's** General Fund.

SECTION 27.2949 - Prohibition of Anonymous Contributions

Total anonymous **contributions** to a **candidate** or **committee** which exceed in the aggregate two hundred dollars (\$200) with respect to a single **election** shall not be used by the **candidate** or **committee** for whom it was intended. To the extent that total anonymous **contributions** exceed two hundred dollars (\$200) the excess shall be paid promptly, from available campaign funds, if any, to the **City Clerk** and made payable to the **City Treasurer** for deposit in the General Fund of the **City**.

SECTION 27.2950 - Prohibition of Assumed Name Contributions in the Name of Another Individual

~~No **contribution** shall be made, directly or indirectly, by any **person** or combination of **persons** acting jointly in a name other than the name by which they are identified for legal purposes, nor in the name of another **person** or combination of **persons**. No **person** shall make a **contribution** in his or its name of anything belonging to another **person** or received from another **person** on the condition that it be used as a **contribution**. When it is discovered by the campaign **treasurer** that a **contribution** has been received in violation of this section, the campaign **treasurer** shall pay promptly, from available funds, if any, the amount received in violation of this section to the **City Treasurer** for deposit in the General Fund of the **City**.~~

(a) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a **contribution** in a name other than the name by which he or she or they are identified for legal purposes.

(b) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a **contribution** in the name of another individual or combination of individuals.

(c) It is unlawful for any individual, or combination of individuals acting jointly, to make directly or indirectly a **contribution** in his or her or their name of:

(1) anything belonging to another individual; or

(2) anything received from another individual on the condition that it be used as a **contribution**.

(d) When it is discovered by the campaign **treasurer** that a **contribution** has been received and deposited in violation of Section 27.2950, the campaign **treasurer** shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That

amount shall be delivered to the **City Clerk** and made payable to the **City Treasurer** for deposit in the General Fund of the **City**.

SECTION 27.2951 - Campaign Expenditures Uncontrolled by Candidate or Committee

Persons or organizations not subject to the control of a **candidate** or **committee** but who make **independent expenditures** for or against a **candidate** or **committee** shall indicate clearly on any material published, displayed or broadcast that it was not authorized by a **candidate** or **committee**, when such **expenditures** in whole or part would have been covered by the provisions of this

ordinance if they were subject to the control of a *candidate* or *committee*.

SECTION 27.2952 - Advertising Rates; Service Fees and Charges

To the extent that any *person* sells space in any newspaper or magazine or sells time on a *broadcast station* to a *candidate* or *committee* or performs other services in connection with the campaign of the *candidate* or for or against the *measure*, the charges made for the use of such space or time shall not exceed or be less than the charges normally made for comparable use of such space or time by other users thereof.

SECTION 27.2953 - Campaign Expenditures Received by Communications Media--Statement Required

SECTION 27.2954 - Suppliers of Goods and Services — Disclosure of Records Required

It is unlawful for any ~~No~~ *person* who supplies goods or services or both goods and services to a *candidate* or *committee* for use in connection with the campaign of ~~the~~ a *candidate* or for or against ~~the~~ a *measure* shall to refuse knowingly to divulge or disclose to the *Enforcement Authority* his or her record of any *expenditures* made by the *candidate* or *committee* in *payment* for such goods or services or both.

SECTION 27.2955 - Reserved for Future Use

SECTION 27.2956 - Reserved for Future Use

SECTION 27.2957 - Reserved for Future Use

SECTION 27.2958 - Reserved for Future Use

SECTION 27.2959 - Reserved for Future Use

SECTION 27.2960 - Reserved for Future Use

SECTION 27.2961 - Duties of City Clerk

In addition to other duties required of him under the terms of this division, the *City Clerk* shall:

(a) Supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all *candidates* and *committees*, and to all other *persons* required to report.

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.

(c) Notify promptly all *persons* and known *committees* who have failed to file a document in the form and at the time required by state law.

(d) Report apparent violations of this division and applicable state law to the Enforcement Authority.

(e) Compile and maintain a current list of all statements or parts of statements filed with the his office pertaining to each *candidate* and each *measure*.

(f) Cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.

SECTION 27.2962 - Duties of the Enforcement Authority

SECTION 27.2963 - Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers

(a) The **Enforcement Authority** shall enforce the provisions of this division.

(b) Any **person** who believes that a violation of any portion of this division has occurred may file a complaint with the **Enforcement Authority**. If the **Enforcement Authority** determines that there is reason to believe a violation of this division has occurred, it shall make an investigation. Whenever the **Enforcement Authority** has reason to believe a willful violation of this division has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

(c) The **Enforcement Authority** shall have such investigative powers as are necessary for the performance of the duties prescribed in this division, and **The Enforcement Authority** may demand and shall be furnished records of campaign **contributions** and expenses at any time.

(d) The **Enforcement Authority** shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this division.

SECTION 27.2964 - Reserved for Future Use

SECTION 27.2965 - Reserved for Future Use

SECTION 27.2966 - Reserved for Future Use

SECTION 27.2967 - Reserved for Future Use

SECTION 27.2968 - Reserved for Future Use

SECTION 27.2969 - Reserved for Future Use

SECTION 27.2970 - Reserved for Future Use

SECTION 27.2971 - Penalties

(a) Any **person** who violates any part of this dDivision, 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 I of this Municipal Code.

(b) In addition to being subject to the penalties set forth in Chapter I of this Municipal Code, any **person** found guilty of violating Sections 27.2941 or 27.2947, or both, shall be required to forfeit the amount received in violation of this dDivision and pay over these funds to the **City Treasurer** for deposit in the **City's** General Fund.

(c) If, after an **election**, a **candidate** or office holder is convicted of a violation of any provision of this Division, the **election** to office of such **candidate** or office holder shall be void and the office shall become vacant immediately upon the later of the following two (2) dates:

(1) the date of the **candidate** or office holder's conviction; or

(2) the date the **candidate** would have taken office, if the **candidate** is not an incumbent.

In the event of a vacancy resulting from application of Section 27.2971(c), the vacancy shall be filled in accordance with the procedures set forth in the **City Charter** for the filling of vacant **City** offices.

(d) If a **candidate** is convicted of violating any provision of this dDivision any time prior to the **election**, the candidacy shall be terminated immediately and the **person** shall be no longer eligible for **election**.

(e) Any **person** convicted of a violation of any provision of this dDivision shall be ineligible to hold a **City elective office** for a period of five (5) years from and after the date of the conviction.

(f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this dDivision must be commenced shall not begin to run until the **City's** discovery of the violation.

SECTION 27.2972 - ~~Effect of Violation on Outcome of Election~~ Reserved for Future Use

SECTION 27.2973 - Effect of Violation on Certification of Election Results

(a) The *City Clerk* shall not issue any certificate of nomination or *election* to any *candidate* until his or her campaign statements required in Section 27.2931, or, if no campaign statement is required, the written declaration permitted under Section 84212 of the California Government Code have been filed in the form and at the place required by the ~~Political Reform Act of 1974~~, California Government Code Sections 81000 et seq.

(b) The *City Council* shall not adopt a resolution declaring any *candidate* to be nominated or elected until such statements or declaration have been filed in the form and at the place required of the *candidate* in this division.

SECTION 27.2974 - Rules of Construction

This division shall be construed liberally in order to effectuate its purposes. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this division which does not directly affect the jurisdiction of the *City Council* or the *City* to control campaign *contributions* and *expenditures* shall avoid the effect of this division.

SECTION 27.2975 - Severability

~~If any provision of this division, or the application thereof to any *person* or circumstance, is held invalid, the validity of the remainder of the division and the applicability of such provisions to other persons and circumstances shall not be affected thereby.~~