

SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S
Ethics Ordinance

PROPOSED AMENDMENTS

Rev. May 8, 2013

Chapter 2: Government

Article 7: Elections, Campaign Finance and Lobbying

Division 35: Ethics Ordinance

§27.3503 Definitions

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

....

Gift means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The value of a *gift* shall be as determined by title 2, section 18946 of the California Code of Regulations.

High Level Filer means the Mayor, the members of the *City Council*, the *City Attorney*, ~~*City Manager*~~, the *City Treasurer*, ~~*City Auditor*~~, the *City Comptroller*, the *Chief Operating Officer*, the *Chief Financial Officer*, the *Chief Investment Officer*, *Investment Officers*, members of the *Planning Commissioners Commission*, members of the *Funds Commission*, members of the *Retirement Board*, ~~members of the *San Diego Data Processing Corporation Board*~~, members of the *Defined Contribution Plan Board*, ~~the *Ethics Commission*~~, and any candidate for an elective office of the *City*, and any other individual whose position is governed by California Government Code sections 87200 through 87210.

....

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

Ministerial act means an act that does not require a *City Official* to exercise discretion concerning any outcome or course of action. For purposes of this Division, a decision on private land development made pursuant to Process 1 as described in Chapter 11 of the Municipal Code is a ministerial act.

Municipal Decision includes: means any governmental decision that is not a *ministerial act*.

- ~~(a) the drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution; and~~
- ~~(b) the amendment of any ordinance or resolution; and~~
- ~~(c) a report by a *City Official* to the *City Council* or a *City Council Committee*; and~~
- ~~(d) contracts; and~~
- ~~(e) quasi-judicial decisions, including:
 - ~~(1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; or~~
 - ~~(2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; or~~
 - ~~(3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code.~~~~
- ~~(f) any other decision of the *City Council* or a *City Board*.~~

Municipal Decision does not include any of the following:

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

....

§27.3515 Disclosure Of Behested Payments

- (a) A *City Official* who is an elected *High Level Filer* shall file a Fair Political Practices Commission Form 803 Behested Payment Report if any *person* makes one or more *payments* totaling \$5,000 or more for a legislative, governmental, or charitable purpose at the behest of the official. A *payment* is made at the behest of an official if it is requested, solicited, or suggested by the official, or otherwise

made in cooperation, consultation, coordination with, or at the consent of, the official.

- (b) The City Official shall file the Form 803 with the City Clerk within thirty calendar days following the date on which a payment causes the total payments made by that person at the behest of the official to reach or exceed \$5,000 in the same calendar year.
- (c) Once a person has reached the \$5,000 threshold during a calendar year, each subsequent behested payment by that person in any amount during the same calendar year must be reported to the City Clerk on a Form 803 within thirty calendar days.
- (d) A payment behested by a City Official includes a payment behested by his or her agent or employee on behalf of the official.
- (e) This section shall be interpreted in a manner consistent with the provisions of California Government Code section 82015(b)(2)(B)(iii) and title 2, section 18215.3 of the California Code of Regulations.

§27.3520 Restrictions on Benefits to Filers

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

- (a) It is unlawful for a *High Level Filer* to accept *gifts* from a single source in any calendar year with a total value of more than ~~\$320~~ \$440. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.
- (b) It is unlawful for a *High Level Filer* to accept an *honorarium*.
- (c) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *City Official* or *City* employee.
- (d) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *restricted source*.
- (e) It is unlawful for an elected *High Level Filer* to accept a *loan* that exceeds \$500 unless:

 - (1) The *loan* is made in writing and clearly states the terms of the *loan*; and
 - (2) The *loan* document includes the names of the parties to the *loan* agreement, as well as the date, amount, interest rate, and term of the *loan*; and
 - (3) The *loan* document includes the date or dates when payments are due and the amount of the payments.

~~(f)~~ It is unlawful for a *restricted source* to offer *travel expenses* to a *Filer*, and it is unlawful for a *Filer* to accept *travel expenses* from a *restricted source*.

~~(g)~~(f) It is unlawful for a *Local Code Filer* to accept *gifts* from any single source in any calendar year with a total value of more than ~~\$320~~ \$440 if the *Local Code Filer* would be required to report the receipt of the *gift* from that source on his or her statement of economic interests. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.

~~(h)~~(g) It is unlawful for a *Local Code Filer* to accept an *honorarium* from any ~~*restricted source* or from any other~~ source if that individual would be required to report the receipt of income or *gifts* from the source of the *honorarium* on his or her statement of economic interests.

~~(i)~~(h) It is unlawful for any *person* to offer, or for any *Filer* to solicit or accept, any *benefit* with the intent that the *Filer* will be influenced thereby in the performance of any official act.

§27.3521 Adjustment of Gift Limitations

The *gift* limitation amounts set forth in section 27.3520(a) and ~~(g) (f), section 27.3525(l)(1), and section 27.3561(b)(5)~~ are intended to be consistent with the California gift limitation amount amended biannually by the California Fair Political Practices Commission. Notwithstanding the dollar amounts set forth in section 27.3520(a) and ~~(g) (f), section 27.3525(l)(1), and section 27.3561(b)(5)~~, the *gift* limitation amount for this Division shall be the same as set forth in title 2, section 18940.2 of the California Code of Regulations.

§27.3522 Acceptance of Benefits

- (a) A *benefit* is “accepted” when the recipient knows that he or she has either actual possession of the *benefit* or takes any action exercising direction or control over the *benefit*.
- (b) In the case of a rebate or discount, a *benefit* is “accepted” when the recipient knows that the rebate or discount is not made in the regular course of business to members of the public.
- (c) Discarding a *benefit* does not negate receipt or acceptance of the *benefit*, except when the *benefit* is a pass or ticket ~~and subject to the exception set forth in section 27.3525(m)~~ that has not been used or transferred to another person.
- (d) Turning a *benefit* over to another *person* does not negate receipt or acceptance of the *benefit*.
- ~~(e) A payment made to, or on behalf of, an elected City Official or a candidate for an elective office of the City for his or her food constitutes the acceptance of a gift.~~

§27.3525 Exceptions to Restrictions on Benefits

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

- (a) ~~Anything which would otherwise be considered a *benefit*, but which is returned unused to the donor or the donor's agent or intermediary within 30 calendar days;~~
- (b) ~~Anything which would otherwise be considered a *benefit*, but which is delivered to the City of San Diego within 30 calendar days of receipt for donation to the City of San Diego's general fund, or which is delivered to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and for which the recipient does not claim a deduction for income tax purposes;~~
- (c) ~~A *gift* or *loan* from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, unless the individual giving the *gift* or making the *loan* is acting as an agent or intermediary for any person not identified in this subsection;~~
- (d) ~~*Gifts* exchanged between a *Filer* and an individual, other than a *Lobbyist*, on holidays, birthdays, or similar occasions provided that the presents exchanged are not substantially disproportionate in value;~~
- (e) ~~*Gifts* provided directly to members of the *Filer's* immediate family unless the *Filer* receives a direct benefit from the *gift* or the *Filer* exercises discretion and control over the use or disposition of the *gift*;~~
- (f) ~~Wedding *gifts*, although such *gifts* may be reportable on the *Filer's* statement of economic interests;~~
- (g) ~~Any devise, bequest, or inheritance;~~
- (h) ~~A prize or award received in a bona fide competition not related to the recipient's status as a *City Official* or candidate for *City* elective office, although any prize or award in excess of \$500 is reportable as income on the *Filer's* statement of economic interests;~~
- (i) ~~A personalized plaque or trophy with an individual value of less than \$250;~~
- (j) ~~A rebate or discount in the price of anything of value which is made in the regular course of business to members of the public;~~
- (k) ~~Leave credits, including vacation, sick leave, and compensatory time off, but not offerings of cash, donated to a *Filer* in accordance with a bona fide catastrophic or similar emergency leave program established by the *City* and available to all employees in the same job classification or position;~~
- (l) ~~Informational material provided to assist a *City Official* in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals,~~

~~videotapes, or free or discounted admission to informational conferences or seminars.~~

~~(1) “Informational material” may also include scale models, pictorial representations, maps, and other such items, provided that if the item’s fair market value is more than \$320, the *City Official* has the burden of demonstrating that the item is informational. This \$320 threshold is subject to adjustment in accordance with the provisions of section 27.3521.~~

~~(2) On-site demonstrations, tours, and inspections designed specifically for public officials are considered informational material.~~

~~(A) This exception does not apply to meals or to transportation to the site unless the transportation is not commercially available.~~

~~(m) Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a onetime or repeated basis) that the *Filer* does not use and does not give to another *person*;~~

~~(n) Passes or tickets to attend fund-raisers for campaign committees or other candidates, and tickets to fund-raisers for organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code;~~

~~(o) Campaign contributions, including rebates or discounts received in connection with campaign activities, although such campaign contributions must be reported in the time and manner required by the California Political Reform Act;~~

~~(p) Admission, food, beverages, and similar non-cash nominal benefits provided to the *Filer* at an event at which a *Filer* gives a speech, participates in a panel or seminar, or provides a similar service, provided however, that such food and beverages must be consumed on the day of the activity in which the *Filer* participates;~~

~~(q) Hospitality, including food, beverages, or occasional lodging, provided to a *Filer* by an individual in his or her home when the individual or a member of the individual’s *immediate family* is present;~~

~~(r) *Travel expenses* for travel within California provided directly in connection with an event at which a *Filer* gives a speech, participates in a panel or seminar, or provides a similar service;~~

~~(s) *Travel expenses* for travel outside California but within the United States (although such expenses may be reportable on the *Filer’s* statement of economic interests) if:~~

~~(1) The travel is reasonably related to a legislative or governmental purpose; and~~

- (2) ~~The travel is made in connection with an event at which the *Filer* gives a speech, participates in a panel or seminar, or provides a similar service; and~~
- (3) ~~The lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other similar service.~~
- (t) ~~*Travel expenses* for travel within the United States (although such expenses may be reportable on the *Filer's* statement of economic interests) if:

 - (1) ~~The travel is reasonably related to a legislative or governmental purpose; and~~
 - (2) ~~The *payment* is provided by the *City* or any other *Public Agency* or a bona fide public or private educational institution, defined in section 203 of the Revenue and Taxation Code, or by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or by a person that is domiciled outside the United States and that substantially satisfies the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code.~~~~
- (u) ~~*Travel expenses* in direct connection with campaign activities, including attendance at political fund raisers, that satisfy the requirements of title 2, section 18950.4 of the California Code of Regulations, although such expenses must be reported in the time and manner required by the Political Reform Act of 1974, as amended.~~
- (v) ~~*Travel expenses* paid by a campaign committee; a nonprofit organization of which the *City Official* is a member; or by an organization of which the *City Official* is a member acting in an official *City* capacity.~~
- (w) ~~*Travel expenses* of a *City Official* traveling on government business where the *payment* is a *gift* or other *payment* to the *City* rather than a *gift* or *payment* to the *City Official*, within the meaning of the Political Reform Act of 1974, as amended, and the regulations of the Fair Political Practices Commission.~~
- (x) ~~*Travel expenses* that are reasonably necessary in connection with a bona fide business, trade, or profession and that satisfies the criteria for federal income tax deduction for business expenses in sections 162 and 274 of the Internal Revenue Code, unless the sole or predominant activity of the business, trade, or profession is making speeches, although such *travel expenses* may be reportable on the *Filer's* statement of economic interests;~~
- (y) ~~*Payments* made at the behest of, at the request of, or in consultation or coordination with, an elected *City Official*, that are made to co-sponsor an event that is principally legislative, governmental, or charitable in nature, although such *payments* made to an elected *City Official* by a single source totaling \$5,000 or more in a calendar year for this type of event must be reported in accordance with California Government Code section 82015(b).~~

- ~~(z) Food, shelter, or similar assistance received in connection with a disaster relief program if the food, shelter, or similar assistance is:
 - ~~(1) provided by a *Public Agency* or organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code; and~~
 - ~~(2) is available to the general public.~~~~

- ~~(aa) Income received as a *payment* for a comedic, dramatic, musical, or other similar artistic performance; and *payments* received for the publication of books, plays, or screenplays, although such income may be reportable on the *Filer's* statement of economic interests;~~

- ~~(bb) Income earned for the *Filer's* personal services if the services are provided in connection with a bona fide business, trade, or profession—such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting—and the services are customarily provided in connection with the business, trade, or profession, although such income may be reportable on the *Filer's* statement of economic interests;
 - ~~(1) This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches.~~
 - ~~(2) The *Filer* must meet the criteria set forth in title 2, sections 18932 through 18932.3 of the California Code of Regulations to establish that he or she is practicing a bona fide business, trade, or profession before a payment received for personal services would be considered earned income and not an *honorarium*.~~~~

- ~~(cc) A *payment* which is not delivered to a *Filer* but is made as a donation at the behest of, at the request of, or in consultation or coordination with, a *Filer* directly to a bona fide charitable, educational, civic, religious, or similar organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.
 - ~~(1) This exception applies only if the donation is not made a condition for the speech, article, or attendance; and~~
 - ~~(2) The donation is not claimed by the *Filer* as a deduction for income tax; and~~
 - ~~(3) The *Filer* is not identified to the non-profit organization in connection with the donation; and~~
 - ~~(4) The donation has no reasonably foreseeable financial effect on the *Filer* or any member of the *Filer's* immediate family.~~~~

- ~~(dd) *Loans* received from banks or other financial institutions, and retail or credit card transactions, made in the regular course of business on terms available to members of the public. Although such *loans* in the amount of \$10,000 or more~~

~~and loans not on the Filer's principle place of residence, may be reportable on the Filer's statement of economic interests;~~

~~(ee) Loans made, or offered in writing, prior to January 1, 1998.~~

~~(a) All exceptions relating to gifts, loans, honoraria, and travel expenses contained in the Political Reform Act of 1974, as amended, including but not limited to California Government Code sections 82028 and 89501 through 89506, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18930 through 18961, are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.~~

~~(b) For purposes of subsection (a), any exception not applicable to a gift, loan, honorarium, or travel expense from a lobbyist, lobbying firm, or lobbyist employer registered with the State of California shall also not apply to a gift, loan, honorarium, or travel expense from a lobbyist, lobbying firm, or organization lobbyist registered with the City.~~

§27.3526 Reportable Benefits

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

~~(a) Gifts with a fair market value of \$50 or more, and multiple gifts from a single source with an aggregate fair market value of \$50 or more; and~~

~~(b) Loans which aggregate \$500 or more from a single source doing business in the City.~~

§27.3550 Lobbying Activities of Former City Officials

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

~~(1) For purposes of this section, "work on a particular project" means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using *confidential information*.~~

~~(2) For purposes of this section, "project" means any matter where a *private business* has made an application to the *City* for discretionary funding or~~

discretionary entitlements, or where the *City* exercises discretion to enter into a lease, agreement, or contract with a *private business*.

- (b) It is unlawful for any former *City Official*, for *compensation*, to knowingly counsel or assist any *person* other than a *Public Agency* in connection with an appearance or communication in which the former *City Official* is prohibited from engaging pursuant to subsection (a) for a one year period immediately following termination of service with the *City*.
- (c) As a means of facilitating compliance with subsections (a) and (b) in instances where long-term projects may change in character and scope over time and where large projects have discrete components or phases, any former *City Official* may seek a written determination from the *Ethics Commission* regarding whether prospective *direct communication* on a particular project would constitute a violation of this section.
- (d) It is unlawful for any former *City Official* to engage in *direct communication* for the purpose of *lobbying* the *City* if all of the following circumstances apply:
 - (1) the former *City Official* served as a *City Official* within the previous twelve months; and
 - (2) the former *City Official* received *compensation* from the *City* for his or her service as a *City Official*; and
 - (3) the former *City Official* is receiving *compensation* from a *private business* to engage in the *direct communication* with the *City*.
- (e) The prohibitions contained in subsections (a), (b), and (d) shall not apply:
 - (1) to prevent a former *City Official* from making or providing a statement, based on the former *City Official's* own special knowledge in the particular area that is the subject of the statement, provided that no *compensation* is thereby received other than that regularly provided for by law or regulation for witnesses;
 - (2) to prevent any former *City Official* from representing himself or herself, or any member of his or her *immediate family*, in their individual capacities, in connection with any matter pending before the *City*;
 - (3) to the activities of any former *City Official* who is an elected or appointed officer or employee of any *Public Agency*, or a consultant of any *Public Agency*, when that former *City Official* is solely representing that agency in his or her official capacity as an officer, employee, or consultant of the agency;
 - (4) to any ministerial action. A ministerial action is one that does not require a *City Official* to exercise discretion concerning any outcome or course of action; ~~or~~

- (5) to any individual appearing as a speaker at, or providing written statements that become part of the record of a *Public Hearing*; or
 - (6) to any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the *City* or *City* agent, officer, or employee.
- (f) ~~The prohibitions contained in subsection (d) shall not apply to any individual who terminated status as a *City Official* prior to October 1, 2006, and whose *lobbying* activities are limited to (1) the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or a proceeding before the Civil Service Commission, or (2) any management decisions regarding the working conditions of represented employees that clearly relate to the terms of a collective bargaining agreement or memorandum of understanding.~~
- ~~(g)~~(f) The exceptions in subsections (e)(1), (5), and (6) ~~and in subsection (f)~~ do not apply to any former *City Official* who, within one year of terminating *City* employment, was an elected *City Official* or served as the *City's City Manager Chief Operating Officer*.

§27.3551 Future Employment of City Officials

- (a) It is unlawful for any *City Official* to make, participate in making, or use his or her official position to influence a decision involving the interests of a *person* with whom ~~he or she~~ the *City Official*, or a member of the *City Official's* immediate family, is seeking, negotiating, or securing an agreement concerning future employment.
- (b) It is unlawful for any *person* who has a matter pending before the *City* to negotiate, directly or indirectly, knowingly or willfully, the possibility of future employment of a *City Official*, or a member of the *City Official's* immediate family, if that *City Official* who is making, participating in making, or using his or her official position to influence, a decision concerning that matter.
- (c) The prohibitions set forth in subsections (a) and (b) do not apply to a *City Official's* prospective employment with a *public agency*.

§27.3560 Financial Interest in Contract

- (a) It is unlawful for any *City Official* to be financially interested in any contract made by them in their official capacity.
- (b) It is unlawful for any contract to be made by the *City Council* or any board or commission established by the *City Council* if any individual member of the body has a financial interest in the contract.

~~(e)~~ For purposes of the prohibitions set forth above in subsections (a) and (b), the term financial interest means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a non-interest prescribed in California Government Code section 1091.5, which would prevent the *City Officials* involved from exercising absolute loyalty and undivided allegiance to the best interests of the *City*.

~~(d)~~(c) Any *City Official* with a remote interest in a prospective contract of the *City* must disclose the existence of the remote interest to the body of the board which the *City Official* is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the *City Official* must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.

(d) This section shall be interpreted in a manner that is consistent with California Government Code sections 1090 through 1099. In this regard, these provisions of state law are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.

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

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

- (a) the *City Official* or a member of his or her *immediate family*, if the material financial effect is distinguishable from its effect on the public generally; or
- (b) any of the following economic interests:
 - (1) any business entity in which the *City Official* or a member of the *City Official's immediate family* has invested \$2,000 or more; and
 - (2) any business entity for which the *City Official* or a member of the *City Official's immediate family* is a director, officer, partner, trustee, employee, or hold any position of management; and
 - (3) any real property which the *City Official* or a member of the *City Official's immediate family* has invested \$2,000 or more; and
 - (4) any person from whom a *City Official* or a member of the *City Official's immediate family* has received (or by whom you have been promised) \$500 or more in income within twelve months prior to the *municipal decision*; and
 - (5) any person from whom a *City Official* or a member of the *City Official's immediate family* has received gifts which total \$320 or more within twelve months prior to the *municipal decision*. This gift threshold is subject to adjustment in accordance with the provisions of section 27.3521; and

- 6) ~~the personal expenses, income, assets, or liabilities of a *City Official* or a member of the *City Official's immediate family*.~~
- (e) ~~For purposes of this section, “material financial effect” has the same meaning as that term is used in title 2, sections 18705 through 18705.5 of the California Code of Regulations.~~
- (a) It is unlawful for a *City Official* to make, participate in making, or in any way use his or her official position to influence a *municipal decision* in which he or she knows or has reason to know he or she has a disqualifying financial interest.
- (b) A *City Official* has a disqualifying financial interest in a *municipal decision* if that *municipal decision* will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the *City Official* or his or her *immediate family*, or on any of their economic interests in business entities, real property, sources of income, sources of gifts, or their own personal finances.
- (c) This section shall be interpreted in a manner that is consistent with the provisions of California Government Code sections 87100 through 87105 and title 2, sections 18700 through 18709 of the California Code of Regulations. In this regard, these provisions of state law are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.

§27.3562 Disqualification of City Officials in Municipal Decisions Involving Benefactors

- (a) It is unlawful for any *City Official* to participate in any *municipal decision* where a party to the *municipal decision* has, within the previous twelve months, given the *City Official*, promised to give the *City Official*, or acted as an intermediary for the *City Official* to have, an opportunity for *compensation*.
- (b) For purposes of this section, opportunities for *compensation* provided to a *City Official* include opportunities for *compensation* provided to the *City Official's immediate family*. When such an opportunity for *compensation* is provided to a member of the *City Official's immediate family*, the *City Official* shall not participate in a *municipal decision* involving a party to the *municipal decision* unless the *City Official* had no knowledge or involvement in securing the opportunity for *compensation*.
- (c) This section does not apply to opportunities for *compensation* provided by a *public agency*.

§27.3564 Misuse of City Position or Resources

- (a) It is unlawful for any *City Official* to use his or her position or prospective position, or the power or authority of his or her office or position, in any manner intended to induce or coerce any *person* to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain, of the *City Official* or his or her immediate family. As used in this

section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. A *City Official* engages in a prohibited use of his or her official position or prospective position when he or she engages in activities other than in the lawful and proper performance of his or her *City* duties.

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