

## NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given of the intention of the person(s) whose name(s) appear(s) hereon to circulate a petition within the City of San Diego for the purpose of providing a voluntary program of public financing for candidates in municipal elections.

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### **TITLE 1. SAN DIEGO MUNICIPAL CLEAN ELECTIONS ORDINANCE**

*Chapter 02, Article 7, Division 30 is added to the San Diego Municipal Code to read:*

#### **Article 7: Elections, Campaign Finance and Lobbying**

#### **Division 30: San Diego Clean Elections Ordinance**

##### **§27.3001 Purpose and Intent**

It is the purpose and intent of the people of the City of San Diego in enacting this division to provide a voluntary program of public financing for candidates in municipal elections to help achieve the following objectives: to give neighborhoods a better chance of being heard at City Hall; to enable neighborhood-based candidates who might otherwise be well qualified but lack the support of large campaign contributors to compete for municipal office; to strengthen the rights of all citizens to equal and meaningful participation in the democratic process; to facilitate the free-speech rights of all candidates and voters by providing candidates with adequate resources with which to communicate with the voters; to restore the First Amendment right of voters and candidates to be heard in the political process; to restore the core First Amendment value of open and robust debate in the political process; to diminish the public perception of corruption and strengthen public confidence in the democratic process and democratic institutions; and to increase the accountability of elected officials to the constituents who elect them. This division provides that the City Ethics Commission, with the assistance of the City Clerk, City Treasurer, and City Comptroller, will administer this public financing program, conduct regular, independent audits of campaigns and campaign funds, and closely monitor candidates with the ability to fine those who violate this ordinance. 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 provision of Section 27.0102 of this ordinance shall not apply to this division.

##### **§27.3002 Citation**

This division shall be cited as the San Diego Municipal Clean Elections Ordinance.

##### **§27.3003 Definitions**

In addition to the definitions provided in Chapter 2, Article 7, of the San Diego Municipal Code and in the California Political Reform Act Sections 82000 et seq., the following terms shall be defined as follows for the purposes of this ordinance:

“*Clean Elections Fund*” means the San Diego Clean Elections Fund established pursuant to section 27.3005 of this ordinance.

“*Clean Elections Program*” means the voluntary program of full public financing for *participating candidates* for the offices of Mayor, City Attorney, or City Council set forth in this division.

“*Commission*” means the San Diego Ethics Commission.

“*Covered office*” means the office of Mayor, City Attorney, or City Council.

“*Election*” means, for the purposes of this division, any election for a primary, general, recall, special or runoff election for any *covered office*.

“*Expenditure ceiling*” means the limit on expenditures during the *primary election campaign period* and during the *general election campaign period* by each candidate who qualifies for disbursements from the *Clean Elections Fund*.

“*Exploratory period*” means the period beginning 365 days prior to the *primary election* and ending on the day a candidate is certified by the *Commission* as a *participating candidate* pursuant to section 27.3007. This is the period during which candidates seeking to qualify as *participating candidates* in the *Clean Elections Program* are permitted to raise and spend a limited amount of private *seed money*.

“*General election campaign period*” means the period beginning the day after the *primary election* and ending at the close of the day of the *general election*.

“*Legal Defense Fund*” means a fund established and terminated pursuant to sections 27.2965 and 27.2969 of the Municipal Code.

“*Legal Defense Fund contribution*” means a contribution to a *Legal Defense Fund*.

“*Nonparticipating candidate*” means a candidate who is on the ballot but has chosen not to apply for Clean Money campaign funding, a candidate who is on the ballot and has applied but has not qualified to receive Clean Money funding, or a write-in candidate whose nominating petition has been found sufficient by the City Clerk pursuant to section 27.0319 of the Municipal Code.

“*Officeholder Fund*” means a fund established and maintained for the purpose of paying officeholder expenses unrelated to elections pursuant to section 27.3008 of this ordinance.

“*Officeholder Fund contribution*” means a contribution to an *Officeholder Fund*.

“*Participating candidate*” means a candidate who chooses to participate in and qualifies for the *Clean Elections Program*.

“*Primary election campaign period*” means the period beginning on the day a candidate is certified by the *Commission* as a *participating candidate* pursuant to section 27.3007 and ending at the close of the day of the *primary election*.

“*Qualifying contribution*” means a contribution of \$5 that is received by a candidate seeking to become eligible for the *Clean Elections Program* during the designated *qualifying period* and that is acknowledged by a written receipt identifying the contributor, the candidate for whom the contribution is made, and the solicitor of the contribution. No individual shall make more than one \$5 contribution to any one candidate per race. Contributors shall be registered voters in the City of San Diego. *Qualifying contributions* shall be made in cash, or by check or money order; shall be accompanied by a receipt, on a form developed and distributed by the Commission, identifying the contributor by full name and residential address and including a signed statement indicating that the contributor fully understands the purpose of the contribution, that the contribution is made without coercion or reimbursement, and that any misrepresentation is punishable as a misdemeanor. The contribution shall be turned over to the San Diego Ethics Commission for deposit in the *Clean Elections Fund* accompanied by a copy of the receipt.

“*Qualifying period*” means the period during which candidates are permitted to collect *qualifying contributions* in order to qualify for the *Clean Elections Program*. It begins 365 days prior to the primary *election* for that office and ends at 5 p.m. on the 88<sup>th</sup> day prior to the primary *election*. However, with respect to a primary *election* write-in candidate who advances to a general *election*, the *qualifying period* begins the day following the primary *election* and ends on the 88<sup>th</sup> day prior to the general *election*.

“*Seed money*” means an aggregate amount of private contributions from individuals for the purpose of seeking eligibility to the *Clean Elections Program* not to exceed:

- (a) \$30,000 for a candidate running for office of Mayor or City Attorney; or
- (b) \$7,500 for a candidate running for office of City Council.

**§27.3004 Administration of the Clean Elections Program and the Clean Elections Fund**

- (a) Administration of the *Clean Elections Program* and the *Clean Elections Fund* shall be the responsibility of the San Diego Ethics Commission, with the assistance of the City Clerk, City Treasurer, City Comptroller and any other City department or agency as determined necessary by the *Commission*.
- (b) The *Commission* shall adopt rules to carry out the purposes of this division. The *Commission* shall propose and adopt such rules in public meetings, with at least sixty days allowed for interested parties to comment after the rules are proposed.
- (c) Furthermore, the *Commission* shall:
  - (1) Prepare and publish written instructions explaining the *Clean Elections Program* to candidates and committees;
  - (2) Conduct *Clean Elections Program* workshops explaining the *Clean Elections Program* to candidates and committee treasurers;
  - (3) Develop and distribute forms appropriate for administration of the *Clean Elections Program*;
  - (4) Develop audit procedures to verify that a candidate’s *qualifying contributions* are from the stated sources, and develop procedures to otherwise determine eligibility for public financing as provided in this division;

- (5) Direct appropriations to, and disbursements from, the *Clean Elections Fund* established by section 27.3005;
- (6) Monitor compliance with the provisions of this division;
- (7) Conduct timely fiscal audits to ensure compliance with the provisions of this division, including audits of candidate expenditures to ensure compliance with the “Use of Public Funds” restrictions established by section 27.3011;
- (8) Enforce or cause to be enforced the provisions of this article;
- (9) Adopt a logotype for the use of Clean Elections *participating candidates* that shall be used to indicate the candidates’ participation in the *Clean Elections Program*, and allow such logotype to be used only by *participating candidates* on such printed literature as they may publish (*nonparticipating candidates* are prohibited from using the logotype); the logotype shall also be prominently displayed as part of a *participating candidate’s* statement in the Voters Pamphlet published by the city and preceding such candidate’s name on the ballot;
- (10) Select sponsors for debates among candidates pursuant to the following provisions:
  - (i) Organizations that are not affiliated with any political party or with any holder of or candidate for public office, and that have not endorsed any candidate in the pending municipal election, shall be eligible to sponsor one or more debates. The rules for conducting such debates shall be solely the responsibility of the organizations selected but shall not be made final without consultation with the *Commission*. The organizations selected shall be responsible for choosing the date, time and location of the debates.
  - (ii) *Participating candidates* for a contested citywide office shall be required to participate in two debates prior to the primary *election* and three debates prior to the general *election*;
  - (iii) *Participating candidates* for a contested city council office shall be required to participate in one debate prior to the primary *election* and one debate prior to the general *election*;
  - (iv) *Nonparticipating candidates* shall be invited and permitted to participate in these debates;
  - (v) The debates shall be cablecast on the City of San Diego’s government access cable television channel (CityTV) during prime time throughout the *primary* and *general election campaign periods*.
- (d) Based on candidate participation levels in the 2012 *elections* and any quadrennial *election* thereafter, within six months after such *election*, the *Commission* may adopt rules changing the number of *qualifying contributions* required for any candidate covered by this article by no more than twenty per cent of the number applicable for the preceding *election*. Under no circumstances shall the number of *qualifying contributions* required by candidates for City Council be less than 250; nor shall the number of *qualifying contributions* required by candidates for Mayor or City Attorney be less than 1,000.

**§27.3005 Clean Elections Fund**

- (a) There is hereby established an account within a special revenue fund of the City of San Diego known as the “San Diego Clean Elections Fund.” The Fund shall be used for providing public financing for the *election* campaigns of *participating candidates*; and for paying the administrative and enforcement costs of the San Diego Ethics Commission related to this division.
- (b) The City Council shall appropriate annually to the *Clean Elections Fund* at least an amount equal to \$4 per resident of the City of San Diego. The Council shall immediately begin appropriating funds for the *Clean Elections Fund* upon the effective date of this ordinance.
- (c) No more than ten percent of an appropriation made pursuant to subsection (b) of this section shall be used to pay the administrative and enforcement costs of this division.
- (d) In the event that the *Commission* determines, after the close of the *qualifying period* of any *election*, that the amount in the *Clean Elections Fund* is insufficient to fund all *participating candidates*, the *Commission* shall calculate the amount of additional funds necessary to fully fund all *participating candidates* and submit a request for such additional funds to the City Council. The City Council shall appropriate that amount to the *Clean Elections Fund* within two weeks of receiving the *Commission’s* request.
- (e) Under no circumstances shall the amount in the *Clean Elections Fund* exceed an amount equal to \$16 per resident of the City of San Diego, as determined by the most recent official United States Census Bureau Population Estimate for the City of San Diego. Any annual appropriation to the Fund made pursuant to subsection (b) of this section shall be reduced by any amount necessary to prevent the total amount in the Fund from exceeding the maximum balance established by this subsection.

**§27.3006 Statement of Participation or Nonparticipation in the *Clean Elections Program***

- (a) No later than at the end of the *qualifying period*, a candidate for Mayor, City Attorney, or City Council shall file with the *Commission* a statement of participation or nonparticipation in the *Clean Elections Program* on a form designated by the *Commission*. This statement is a public document. A statement of participation in the *Clean Elections Program* shall constitute a binding contract between the candidate and the *Commission*, signed by the candidate under penalty of perjury, and shall explicitly state that the signing candidate agrees:
  - (1) to comply with the voluntary *expenditure ceilings* set forth in section 27.3009;
  - (2) not to solicit or accept any contributions, other than *seed money*, *qualifying contributions*, *Officeholder Fund contributions* and *Legal Defense Fund contributions*;
  - (3) to adhere to all other rules established by the *Commission* for *participating candidates*; and
  - (4) that, if elected, the candidate will, during that term of office, neither solicit, nor accept, any contributions other than *seed money*, *qualifying contributions* and *Officeholder Fund contributions* and *Legal Defense Fund contributions* for the same, or other, elected office..
- (b) In the event that a primary *election* write-in candidate advances to the general *election*, such candidate shall within seven calendar days of certification of the primary *election*

vote file with the *Commission* a statement of participation or nonparticipation in the *Clean Elections Program* pursuant to subsection (a) of this section.

### **§27.3007 Qualification for Participating in the Clean Elections Program**

A candidate for a *covered office* shall be certified by the *Commission* as a *participating candidate* in the *Clean Elections Program* within seven days of satisfying all of the following criteria:

- (a) The candidate collects at least the following number of *qualifying contributions* before the close of the *qualifying period*:
  - (1) For City Council, 500 *qualifying contributions*, 300 of which must be made by registered voter residents of council district the candidate seeks to represent;
  - (2) For Mayor or City Attorney, 2000 *qualifying contributions*.
- (b) The candidate delivers to the *Commission* all *qualifying contributions* pursuant to a schedule established by the *Commission* providing for the submission of *qualifying contributions* once every two weeks during the *qualifying period*, along with a receipt on a form designated by the City for each *qualifying contribution* containing the printed name, address, and signature of the contributor, the name of the candidate for whom the contribution is made, and the printed name and signature of the solicitor of the contribution.
- (c) The candidate signs a statement of participation in the *Clean Elections Program* with the *Commission* pursuant to section 27.3006.
- (d) The candidate agrees to furnish to the *Commission* any information and proof of compliance as may be requested.

### **§27.3008 Obligations of Participating Candidates**

- (a) A *participating candidate* and the treasurer of the candidate's campaign committee shall attend a *Clean Elections Program* workshop conducted by the *Commission* pursuant to section 27.3004(c)(2).
- (b) A *participating candidate* who accepts any benefits during the special or *primary election campaign period* shall comply with all the requirements of this article through the *general election campaign period* whether the candidate continues to accept benefits or not.
- (c) A *participating candidate* may accept and spend a limited amount of early contributions called *seed money* during the *exploratory period*. This period is established to allow candidates to explore their potential candidacy and eligibility for the *Clean Elections Program*.
- (d) *Seed money* contributions shall not exceed \$100 per individual from any contributor, including the candidate. Any *seed money* contributions not spent by the end of the *exploratory period* shall be paid to the *Clean Elections Fund*.
- (e) A *participating candidate*, if elected, during such individual's term of office may accept a limited amount of contributions called *Officeholder Fund contributions* to a separate *Officeholder Fund* account and may spend such funds to defray officeholder expenses as defined by the *Commission*. No funds from this account shall be used for the purpose of influencing any election. The *Commission* shall adopt rules specifying an amount limit on *Officeholder Fund contributions*, a per-calendar year aggregate limit on *Officeholder Funds* and permissible uses of *Officeholder Fund contributions*.

- (f) *A participating candidate* shall not use personal funds in connection with the candidate's election, except for one \$5 *qualifying contribution*, a *seed money* contribution up to the \$100 limit established by subsection (d) of this section, an *Officeholder Fund contribution* up to the \$100 limit established by subsection (e) of this section, and a *Legal Defense Fund contribution* up to \$250 during a single calendar year.
- (g) *Participating candidates* in contested races for the offices of Mayor and City Attorney shall participate in three one-hour debates during a contested primary *election* and three one-hour publicly broadcast debates during a contested general *election*. *Participating candidates* in contested races for the office of City Council shall participate in one one-hour publicly cablecast debates during a contested primary *election* and one one-hour publicly broadcast debates during a contested general *election*. Debates shall be held and cablecast as set forth in section 27.3004. The obligation that a *participating candidate* participate in a debate required by this section shall be waived upon a determination by the *Commission* that the failure to participate in the debate occurred under circumstances beyond the control of the candidate and of such nature that a reasonable person would find the failure justifiable or excusable.
- (h) All expenditures by a *participating candidate* during the *primary election campaign period* and *general election campaign period* shall be funded by public grants from the *Clean Elections Fund* distributed pursuant to section 27.3010 and shall not exceed the *expenditure ceilings* established by section 27.3009. However, a primary *election* write-in candidate who advances to the general *election* remains eligible to become a *participating candidate* for the general *election* despite having made expenditures using private contributions or personal funds during the *primary election campaign period*, so long as such candidate's primary *election* expenditures did not exceed the *expenditure ceilings* established by section 27.3009.
- (i) A *participating candidate* shall meet the candidate nomination requirements established by Article 7, Division 2 of the Municipal Code and qualify to have the *participating candidate's* name appear on the ballot for the *covered office* for the *election* in which public funds are received.

### **§27.3009 Voluntary Expenditure Ceilings**

- (a) A *participating candidate* or candidate's controlled committee shall limit campaign expenditures to the following amounts for each *covered office*:
  - (1) For the office of Mayor:
    - (i) \$0.58 per resident of the City of San Diego during the *primary election campaign period*;
    - (ii) \$1.45 per resident of the City of San Diego during the *general election campaign period*.
  - (2) For the office of City Attorney:
    - (i) \$0.43 per resident of the City of San Diego during the *primary election campaign period*;
    - (ii) \$0.87 per resident of the City of San Diego during the *general election campaign period*.
  - (3) For the office of City Council:
    - (i) \$0.11 per resident of the City of San Diego during the *primary election campaign period*;

- (ii) \$0.18 per resident of the City of San Diego during the *general election campaign period*.
- (b) The *expenditure ceilings* established by subsection (a) of this section shall be based on the total population of the City of San Diego as determined by the most recent official United States Census Bureau Population Estimate for the City of San Diego.

**§27.3010 Disbursements of Public Funds**

- (a) Within five calendar days of being certified as a *participating candidate* in the *Clean Elections Program* pursuant to section 27.3007, public funds shall be disbursed to such *participating candidate* from the *Clean Elections Fund* in a bloc grant amounting to:
  - (1) the full *expenditure ceiling* for that office and *election* as provided in section 27.3009, in the case of a *participating candidate* who is opposed by another candidate certified to appear on the ballot or by a write-in candidate whose nominating petition has been found sufficient by the City Clerk pursuant to section 27.0319 of the Municipal Code; or
  - (2) twenty-five percent of the *expenditure ceiling* for that office and *election* as provided in section 27.3009, in the case of a *participating candidate* who is unopposed.
- (b) If there are insufficient public funds in the *Clean Elections Fund* available for all *participating candidates*, whatever funds are available in the Fund shall be distributed on a pro rata basis to *participating candidates* as determined by the *Commission*. At the time the *Commission* determines that there are insufficient public funds in the *Clean Elections Fund* and no additional funds will be appropriated to the *Clean Elections Fund* pursuant to section 27.3005(d), all *participating candidates* shall be permitted to use the remaining public funds for legitimate campaign purposes and shall be permitted to raise and spend private contributions subject to the private contribution limitations established by Article 7, Division 29, of the Municipal Code, and subject to the *expenditure ceilings* established by section 27.3009 of this ordinance.

**§27.3011 Use of Public Funds**

- (a) Notwithstanding section 27.2917 of the Municipal Code, public funds disbursed to a *participating candidate* from the *Clean Elections Fund* shall be used exclusively for the purposes of promoting that candidate's candidacy and shall not be expended for any other candidacy or campaign, transferred to any other person, or converted to personal use. Personal use includes any use of public funds to fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign. The *Commission* shall adopt rules more fully defining permissible and impermissible uses of public funds.
- (b) Unexpended or unencumbered public funds on the day following the defeat, withdrawal or election to office by the *participating candidate* shall revert back to the *Clean Elections Fund*.

**§27.3912 Special Elections**

Public campaign financing shall be available to candidates in special *elections*. The *Commission* shall modify the provisions of this ordinance for implementation in the context of special *elections*. Such modifications may include a reduction in the number of *qualifying contributions* a candidate must collect, as well as a reduction in the number of days in which

such *qualifying contributions* must be collected. Under no circumstances, however, shall the number of *qualifying contributions* be reduced by more than fifty percent.

#### **§27.3013 Electronic Filing and Disclosure**

The *Commission* shall adopt rules requiring all *participating candidates* to file all campaign finance reports and other required forms and documents electronically using the City Clerk's online filing system described in section 27.2931.

#### **§27.3014 Cost of Living Adjustments**

The *Commission* shall in January of every fourth year following the year of enactment adjust the dollar amounts referenced in this section to reflect changes in the Consumer Price Index for San Diego as determined by the United States Department of Labor. Those adjustments shall be rounded to the nearest:

- (a) \$0.01 for the per-resident voluntary expenditure ceilings established by section 27.3009;
- (b) \$1 for the per-resident appropriation established by section 27.3005(b), the per-resident *Clean Elections Fund* amount limit established by section 27.3005(e);
- (c) \$1,000 for the aggregate *seed money* limit established by section 27.3003 and the electronic filing threshold established by section 27.3013.

#### **§27.3015 Enforcement**

Violations and alleged violations of this division shall be subject to the complaint, investigation and enforcement procedures established by Municipal Code section 27.2990.

#### **§27.3016 Penalties**

Violations of this division, generally, shall be penalized pursuant to Municipal Code section 27.2991. In addition to the penalties set forth in section 27.2991, a person who violates a provision of this division may be required to return public funds received pursuant to this division.

#### **§27.3017 Amendment of the San Diego Municipal Clean Elections Ordinance**

The City Council may, by the affirmative vote of two-thirds of the number of Councilmembers established by City Charter Art. III § 12, amend this ordinance to carry out the purposes and intent of this ordinance if, at least ten days before Council vote, the proposed amendment to this ordinance in its final form has been delivered to the *Commission* and made available to the public.

*Chapter 02, Article 7, Division 2, Paragraph 20 is amended to read:*

#### **§27.0220 Nominating Fee**

The *election* nominating fee shall be two hundred dollars (\$200) for the office of City Councilmember and five hundred dollars (\$500) for the office of Mayor and City Attorney. The nominating fee is ~~non-refundable~~ and shall be paid when nomination papers are submitted for filing. The nominating fee shall be refunded to a candidate upon such candidate's certification as a participating candidate in the Clean Elections Program pursuant to Municipal Code section 27.3007. The nominating fee is otherwise non-refundable.

Chapter 02, Article 7, Division 6, Paragraph 25 is amended to read:

**§27.0625 Clerk’s Duty to Send Voter Pamphlet**

The City Clerk shall send to each voter, together with the sample ballot, a voter pamphlet which contains the written statements of candidates’ qualifications and photographs that are prepared pursuant to this division. The voter pamphlet shall also include a description of the San Diego Municipal Clean Elections Ordinance. The description shall indicate that each candidate whose name is preceded in the voter pamphlet by the Clean Elections logotype developed pursuant to Municipal Code section 27.3004(c)(9) is a participant in the Clean Elections Program. Furthermore, the name of each candidate qualified as a participating candidate in the Clean Elections Program pursuant to Municipal Code section 27.3007 shall be preceded in the voter pamphlet with the Clean Elections logotype.

Chapter 02, Article 7, Division 6, Paragraph 34 is amended to read:

**§27.0634 Listing of Candidates on Ballots**

Names of candidates as they shall be listed on ballots shall be determined in the following manner:

- (a) At the City-Wide Primary Election and the City-wide General Election of the Mayor or City Attorney, or at any City-wide special election, the order of the names of candidates shall be rotated by Council District so that the first name listed on the ballot in District 1 shall be second in District 2 and the name listed last in District 1 shall be listed first in District 2 and then be second in District 3 and so on through all the districts. The order of the names as they shall be listed in District 1 shall be determined by the City Clerk by lot.
- (b) At any District Primary Election or any District General Election for Council Office, the order of names of candidates as they shall appear on the ballot shall be determined by the City Clerk by lot.
- (c) The name of each candidate qualified as a participating candidate in the Clean Elections Program pursuant to Municipal Code section 27.3007 shall be preceded on the ballot with the Clean Elections logotype developed pursuant to Municipal Code section 27.3004(c)(9).

**TITLE 2. SEVERABILITY**

If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions are severable.

**TITLE 3. EFFECTIVE DATE**

Pursuant to Charter section 17, this ordinance shall take effect thirty days after approval by the voters.