

## ORDINANCE NO. 935

### AN ORDINANCE OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING CHAPTER 2.16 OF THE DEL MAR MUNICIPAL CODE REGARDING THE REGULATION OF CAMPAIGNS

WHEREAS, Del Mar Municipal Code Chapter 2.16 (Campaign Regulations) applies to candidates and campaigns formed to support or oppose candidates for elective office and ballot measures in the City of Del Mar; and

WHEREAS, on February 3-4, 2017, the City Council held a workshop regarding City Council priorities and designated Councilmembers Parks and Haviland (“Working Group”) to work on updating the City’s campaign practices to, among other goals, provide additional information to voters regarding the source of campaign communications; and

WHEREAS, on October 7, 2017, the Governor signed Assembly Bill 249 (the “California Disclose Act”) effective January 1, 2018, which, among other things, revised and enhanced state law requirements pertaining to disclosures required on various forms of campaign and candidate communications; and

WHEREAS, the California Disclose Act addressed some of the same issues contained in Chapter 2.16 providing an opportunity for the City to enhance its own laws by referring to and incorporating state law; and

WHEREAS, the City of Del Mar may generally provide for additional restrictions that go further than state law but may not be less restrictive; and

WHEREAS, it is the desire of the City Council to incorporate those elements of the California Disclose Act that implement the City’s intent related to campaign regulation and to retain and update those regulations that are more strict than state law.

NOW, THEREFORE, the City Council of the City of Del Mar, California, does ordain as follows:

#### SECTION ONE:

That Chapter 2.16, of the Del Mar Municipal Code is amended to read as follows:

#### **Chapter 2.16 – Campaign Regulations**

2.16.005 - Purpose.

This Chapter is intended, among other things:

- A. To promote an educated electorate by providing information to assist in the evaluation of ballot choices and to make an informed choice;
- B. To accomplish fair and honest elections;
- C. To prevent corruption or the appearance of corruption by regulating and making public those contributions whose amount is significant in light of the circumstances of the City;

D. To gather information in order to detect violations of the provisions of this Chapter.

2.16.010 - Application of Chapter.

A. The provisions of this Chapter are applicable only to:

1. Candidates seeking election in the City Council, their controlled committees, or committees formed or existing primarily to support or oppose their candidacies, and
2. Committees formed or existing primarily to support or oppose a candidate, or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in the City, and to City general purpose committees active only in the City.

B. When the term "committee" appears (1) in this Chapter, or (2) in provisions of the Political Reform Act of 1974, as amended, and is used by this Chapter to create duties, it refers to a person or combination of persons when such person or combination of persons:

1. Receives, for a particular City election, campaign contributions totaling \$250.00 or more; or
2. Expends for a particular City election a total of \$250.00 or more.

C. Unless otherwise provided herein, the provisions, definitions and interpretations of the Political Reform Act of 1974 (Government Code Secs. 81000 et seq.), as amended, including the regulations of the California Fair Political Practices Commission, as amended, are to be relied upon in administering this Chapter.

D. The requirements of this Chapter are in addition to, and shall not be administered or interpreted in conflict with, the requirements of the Political Reform Act of 1974, as amended.

2.16.020 - Statement of Organization.

A. Time for Filing.

1. Except as provided in this Section, within ten days of a committee coming into existence in accordance with this Chapter, the committee shall file with the City Clerk a "statement of organization" on a form approved by the City Clerk, setting forth the information contained in Government Code Sec. 84102. The committee shall thereafter comply with the regulations imposed on committees by this Chapter.
2. If a committee comes into existence in accordance with this Chapter within 15 or fewer days prior to an election in which the committee participates, then, within 24 hours of the committee coming into existence, the committee shall file with the City Clerk a "statement of organization" on a form approved by the City Clerk, setting forth the information contained in Government Code Sec. 84102. The committee shall thereafter comply with the regulations imposed on committees by this Chapter.

B. Report of Changes.

1. Except as provided in this Section, within ten days of any change in information contained in its statement of organization, the committee shall file with the City Clerk an amendment setting forth the change in information.
2. If a change in information contained in its statement of organization occurs within 15 or fewer days prior to an election in which the committee participates, then, within 24 hours of such change, the committee shall file with the City Clerk an amendment setting forth the change in information.

2.16.030 - Contribution Disclosure.

Each candidate and committee, as defined in this Chapter, shall file campaign statements when and in the manner specified in the Political Reform Act of 1974, as amended. In addition to the information required by the Political Reform Act of 1974, as amended, each candidate and committee filing a campaign statement shall, for each contribution of \$75.00 or more, disclose the information required by Government Code Sec. 84211(f).

2.16.040 - Limitation: Contribution to Candidates.

- A. No person, except as provided in paragraph C below, shall contribute more than \$200.00 total to a candidate or such candidate's controlled committees for any election.
- B. No candidate or controlled committee shall solicit or retain a contribution from any person when such contribution shall cause the contributor to be in violation of Subsection A herein.
- C. It shall be unlawful for a political party committee, as defined in California Government Code section 85205, to make, or for a candidate or controlled committee to solicit or retain a contribution that would cause the total amount contributed by all local, state, and federal committees of the same political party to the candidate and the candidate's controlled committee to exceed \$2,000 for any election.
- D. The provisions of this Section do not limit a candidate in making contributions of his or her personal funds to his or her own campaign contribution account.

2.16.050 - Identification of Source of Campaign Material.

- A. "Advertisement" as used in this Chapter shall have that meaning provided in Government Code section 84501(a), including, but not limited to, mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, billboards, business cards, campaign buttons 10 inches in diameter or larger, or bumper stickers 60 square inches or larger, whether distributed through the mail, by campaign workers, or any other means, and electronic materials disseminated over the Internet.
- B. Every campaign advertisement in printed form shall include the words "paid for by" immediately followed by the name, street address, and city of the person who paid for the communication in a contrasting Arial equivalent typeface that is easily legible and no less than 10 points in size.

C. Subject to the additional requirements and exceptions expressly noted below, and limited to advertisements concerning City Council candidates and City ballot measures, the campaign advertising disclosure rules contained in the Political Reform Act of 1974, as amended, including but not limited to California Government Code sections 84305 through 84511, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18440 through 18450.11, are hereby adopted by reference and incorporated into this Chapter 2.16 of the Del Mar Municipal Code as if fully set forth herein.

1. **Print Materials.** When disseminating printed advertisements, City Council candidates and candidate-controlled committees shall make their advertising disclosures as if formed as independent expenditure committees under California Government Code section 82013(b), except when such independent expenditure committees are disseminating mass campaign literature through the mail.
2. **Display Media.** When placing advertisements on large signs, as defined by title 2, section 18450.1(a) of the California Code of Regulations, City Council candidates and candidate-controlled committees shall make their advertising disclosures as if formed as independent expenditure committees under California Government Code section 82013(b).
3. **Electronic Materials.** When disseminating video, audio, text, or graphic advertisements over the Internet, candidates and committees shall include the “who funded this ad?” and “paid for by” advertising disclosures in the manner required by state law, except that candidates and candidate-controlled committees shall make such disclosures as if formed as independent expenditure committees under California Government Code section 82013(b).
4. **Political Advertisements.** When placing advertisements in newspapers, magazines, and periodicals, candidates and committees shall include the “paid for by” advertising disclosures in the manner required by state law, except that candidates and candidate-controlled committees shall make such disclosures as if formed as independent expenditure committees under California Government Code section 82013(b).

D. Nothing in this section establishes a Del Mar Municipal Code requirement:

1. That any City Council candidate or candidate controlled committee comply with California Government Code section 84506.5; or
2. That is applicable to any slate mailer organization.

E. Nothing in this section relieves any candidate or committee from its obligation to comply with any advertising disclosure requirement contained in state law.

#### 2.16.060 - Penalties.

A. Any person who knowingly or willfully violates any provision of this Chapter may be prosecuted for an infraction or a misdemeanor, at the discretion of the City's special counsel.

- B. Any person who violates a provision of this Chapter shall be liable in a civil action for damages in the amount of three times the amount not properly reported or unlawfully contributed, solicited or accepted, or expended on illegally distributed campaign materials, not to exceed \$1,000.00. Upon collection, said sum shall be deposited into the general fund of the City. (Government Code Sec. 36901).
- C. Any person who violates a provision of this Chapter by failing either to file a statement of organization or report a change of information in a filed statement of information shall be liable in a civil action for damages in the amount of \$1,000.00. Upon collection, said sum shall be deposited into the general fund of the City. (Government Code Sec. 36901).

2.16.070 - Enforcement.

- A. The City Attorney shall not investigate or prosecute any alleged violation of this Chapter, but may defend the constitutionality and legality of this Chapter in any civil proceeding in which the City or the City Council is a party.
- B. An action on behalf of the City alleging a violation of this Chapter may be commenced only by special counsel appointed and retained by the City Council.
  - 1. Persons residing in the City who believe that a violation of this Chapter has occurred may file a written complaint requesting investigation of such violation by the special counsel.
  - 2. Whether or not a resident's written complaint is received, if the special counsel determines that there is reason to believe a violation of this Chapter has occurred, special counsel is authorized to conduct an investigation and may commence such administrative, civil or criminal legal action as special counsel deems necessary to enforce this Chapter.
  - 3. Special counsel shall have investigative powers as are necessary for the performance of the duties described in this Chapter and may demand and shall be furnished records of campaign contributions and expenditures of any person or committee subject to this Chapter. Special counsel shall be immune to liability for special counsel's enforcement of this Chapter.
- C. Any resident of the City may bring a civil action, in a court of competent jurisdiction, regarding the provisions of this Chapter:
  - 1. To enjoin an actual or threatened violation;
  - 2. To compel compliance by a private person; or
  - 3. To obtain judicial declarations.
- D. Any action alleging a violation of this Chapter must be commenced within six months of the time the alleged violation occurred.

SECTION TWO:

This Ordinance was introduced on the 5th day of March, 2018.

SECTION THREE:

The City Clerk is directed to publish a summary of this Ordinance together with the votes cast thereon no less than five days prior to the consideration of its adoption and again within 15 days following adoption.

SECTION FOUR:

This Ordinance shall take effect and be in force thirty (30) days after the date of adoption.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Del Mar, California, held on the 19<sup>th</sup> day of March, 2018.

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Dwight Worden, Mayor  
City of Del Mar

APPROVED AS TO FORM:

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Leslie E. Devaney, City Attorney

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 935, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held on the 19th day of March, 2018, by the following vote:

AYES: Mayor Worden, Deputy Mayor Druker, Council Members Haviland and Parks  
NOES: None  
ABSENT: Council Member Sinnott  
ABSTAIN: None

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Ashley Jones,  
Administrative Services  
Director/City Clerk  
City of Del Mar