

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 39 RELATING TO RESPONSIBLE BANKING.

Article 2: Administrative Code

Division 39: Responsible Banking Ordinance

§22.3901 Title and Purpose

This Division shall be known as the “Responsible Banking Ordinance.” The purpose of this Division is to ensure that *financial institutions* with whom the City does business are responsive to community needs and seek to promote economic growth and community reinvestment within the City of San Diego. This Division is intended to supplement the efforts of the San Diego City/County Community Reinvestment Task Force and City Treasurer in implementing Council Policy 900-09 (“Community Reinvestment”). Nothing in this Division shall limit the authority of the City Treasurer as provided in Charter section 45 nor the authority of the Funds Commission established by Charter section 41.

§22.3902 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. section 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Affordable means affordable to low or moderate-income individuals as provided in the CRA.

Banking services means depository, disbursement, payroll, and securities clearance and safekeeping services.

Branch means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a minibranch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

Community development means:

- (1) affordable housing (including multifamily rental housing) for low- or moderate-income individuals;
- (2) community services targeted to low- or moderate-income individuals;
- (3) activities that promote economic development by financing small businesses; and
- (4) activities to revitalize or stabilize low-or moderate-income neighborhoods.

Community development loan means a loan that has as its primary purpose community development, and is not otherwise collected and reported for

consideration as a consumer, home or small business loan by the financial institution.

Committee means the Community Reinvestment Review Advisory Committee as established in Chapter 2, Article 6, Division 23 of this Code.

CRA means the Community Reinvestment Act of 1977 (12 U.S.C. § 2901, et seq.).

Community Reinvestment Plan means a document created by a financial institution that describes its plan to meet the financial needs of the City of San Diego's residents, as provided in this Division.

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage or small business loan.

Disabled veteran owned business means a business certified as such by the State of California or certified as a "Service Disabled Veteran Owned Small Business" by the federal government.

Disadvantaged business means a business certified as such by any department of the State of California or other public agency recognized by the City of San Diego. Disadvantaged businesses include women owned businesses, minority owned businesses, and any other business so certified.

Emerging business means the same as emerging business enterprise, as provided in Municipal Code, Chapter 2, Article 6, Division 36.

Emerging local business means an emerging business that meets the definition of “local business enterprise” as provided in Municipal Code, Chapter 2, Article 6, Division 36.

Financial institution means an entity engaged in the State of California in the business of accepting cash deposits for checking and savings accounts from customers and using those cash deposits to issue loans. Financial institutions include banks, savings and loans, and credit unions.

Low-income means individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent of the area median family income.

Moderate-income means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 percent and less than 80 percent of the area median family income.

Predatory lending practices are lending practices that are specifically prohibited by State or federal law, including practices such as: (1) the frequent making of new loans to refinance existing loans; (2) the selling of additional products without the borrower’s informed consent; and (3) the charging of excessive fees.

Small business loan means a loan to a small local business or emerging local business.

Small local business means a small business that meets the definition of “local business enterprise” as provided in Municipal Code, Chapter 2, Article 6, Division 36 and also includes a Disadvantaged Business, if the business otherwise meets the criteria for a small local business.

§22.3903 **City Treasurer**

This Division shall not be interpreted to impede or amend the City Treasurer's powers and duties as described in the San Diego Charter, the San Diego Municipal Code, or applicable state and federal laws and regulations.

§22.3904 **Community Reinvestment Plan**

(a) No later than January 15, of every odd-numbered year, any financial institution that provides or wishes to provide banking services to the City shall submit to the Committee, a two-year Community Reinvestment Plan describing any current or proposed programs and initiatives that address the financial needs of the City's residents and businesses in the following categories:

- (1) Residential lending, including affordable single-family and multi-family residential mortgage programs;
- (2) New construction and rehabilitation lending and investment, especially to nonprofit organizations and to low- and moderate-income persons;
- (3) Small business lending and investment, especially to low- and moderate-income persons and neighborhoods;
- (4) Community development lending and investment;
- (5) Consumer lending and checking and deposit services, especially to low- and moderate-income persons and neighborhoods;
- (6) Continuation of the full range of financial services to the entire community, notwithstanding mergers, consolidations and

acquisitions activities and other practices pertaining to headquarter office and *branch* openings and closings; and

(7) Philanthropic and charitable giving to local nonprofit cultural and social service organizations and community groups involved in *community development* activities or to City-sponsored *community development* activities.

(b) The *Community Reinvestment Plan* shall include a summary of proposed programs and activities as provided in Section 22.3904(a), but is not required to include confidential financial information or information that qualifies as a trade secret under California Civil Code section 3426.1(d).

(c) Within 60 days after submittal of a *Community Reinvestment Plan* a public meeting will be scheduled for consideration of the *Plan* by the *Committee*. The *financial institution* will be provided an opportunity to present its *Community Reinvestment Plan* to the *Committee* at the meeting.

(d) The *Community Reinvestment Plan* will be made available for consideration by the San Diego City/County Community Reinvestment Task Force in fulfillment of its responsibilities under Council Policy 900-09.

(e) Within 60 days after the *Community Reinvestment Plan* is filed with the *Committee*, the City will publish the plan on its website.

§22.3905 **Annual Reports**

(a) By July 15, 2014, and annually by July 15 thereafter, any *financial institution* that provides or wishes to provide *banking services* to the City

shall submit a report to the *Committee* addressing its compliance with its *Community Reinvestment Plan* and providing the information required in sections 22.3905(b) and (c) for the prior calendar year. Information reported pursuant to section 22.3905(b)(1)-(4) shall be reported by census tract.

(b) The *financial institution* shall detail its community reinvestment activities within the City of San Diego as follows:

(1) residential loans, including:

(A) home purchase loans, both federally subsidized and conventional;

(B) refinancing of home loans;

(C) home improvement loans;

(D) home equity loans;

(E) multi-family loans;

(F) modifications of distressed loans; and

(G) *affordable* single-family and multi-family residential mortgages;

(H) foreclosure information, including defaults and delinquencies on home loans, and real estate owned properties;

(2) *small business loans* including:

(A) *small local business* loans,

(B) *emerging local business* loans,

- (C) *disabled veteran owned business loans,*
 - (D) *disadvantaged local business loans;*
 - (3) *community development loans and investments;*
 - (4) *consumer loans, especially to low- and moderate-income persons and neighborhoods;*
 - (5) *philanthropic and charitable giving to local nonprofit cultural and social service organizations and community groups involved in community development activities or to City-sponsored community development activities; and*
 - (6) *efforts to affirmatively market and make available loans and financial services within City neighborhoods, including outreach to low- and moderate- income City residents.*
- (c) *The financial institution shall also provide the following information in the annual report:*
- (1) *the number and locations of the financial institution's branches and automated tellers in the City;*
 - (2) *the number of persons employed as loan officers, senior management staff, and members of the board of directors categorized by gender and ethnicity;*
 - (3) *the financial institution's most recent CRA rating, if applicable, the date of the rating, and a copy of the pages of the most recent CRA evaluation report which affirms and describes the basis for the CRA rating; and*

- (4) whether the *financial institution* or any *affiliate* is the subject of a court judgment that it has engaged in *predatory lending practices*; if so, the details of the judgment and of the changes in practices instituted by the *financial institution* to address the violation.
- (d) If a *financial institution* has not previously submitted a *Community Reinvestment Plan*, at the time of its initial annual report submittal it shall submit a *Community Reinvestment Plan* with the annual report.
- (e) The City will publish a *financial institution's* annual report on its website within 60 days after the report is filed.

§22.3906 Community Reinvestment Review Committee

- (a) The *Committee* shall consider the *Community Reinvestment Plans* as provided in Section 22.3904.
- (b) The *Committee* shall review the annual reports provided pursuant to section 22.3905 for compliance with the *financial institutions' Community Reinvestment Plans*.
- (c) The *Committee* shall provide an annual report to the City Council and the City Treasurer which shall include the *Committee's* recommendations for Treasurer and City Council consideration of *financial institutions* to provide *banking services* to the City. The *Committee's* report shall include specific reference to the information relied upon by the *Committee* as to any *financial institution* the *Committee* does not recommend.
- (d) The *Committee* will not establish scores or otherwise rank *financial institutions* for purposes of making its recommendations.

- (e) The *Committee* report shall be one of the factors considered by the City Treasurer in making determinations for *banking services* pursuant to Charter section 45. The *Committee* recommendation shall not be interpreted to require the selection of any particular *financial institution* for *banking services*. The ability of any *financial institution* to offer the highest level of service quality and overall value to the City, while meeting the specifications and requirements of a particular City request for *banking services* shall remain the standard for awarding City contracts.

PMD:jdf
9/6/2012
Or.Dept: District 4