

TOWN OF SAN ANSELMO

RESOLUTION NO. 3968

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
ESTABLISHING GUIDELINES FOR ADMINISTRATIVE HEARINGS
ON VIOLATIONS OF SAN ANSELMO MUNICIPAL CODE TITLE 2, CHAPTER 11
REGULATING DISCLOSURE AND REPORTING
OF INDEPENDENT EXPENDITURES IN TOWN ELECTIONS**

WHEREAS, on June 28, 2011, the San Anselmo Town Council adopted a new Ordinance adding Title 2, Chapter 11 to the San Anselmo Municipal Code establishing disclosure and reporting requirements for independent expenditures made in Town elections;

WHEREAS, Town Municipal Code Section 11.16.060 provides that a person receiving a Notice of Violation of Title 2, Chapter 11 from the Town Clerk may request an administrative hearing to contest the Notice of Violation;

WHEREAS, Section 11.16.060 authorizes the Town Attorney to establish a panel of volunteers to act as impartial hearing officers for hearings requested under Section 11.16.060; and

WHEREAS, the Town Council wishes to establish guidelines to be followed by the hearing officers in conducting administrative hearings pursuant to Section 11.16.060;

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of San Anselmo that it hereby approves the "Statement of Rights and Procedures for Administrative Hearings under San Anselmo Municipal Code Title 2, Chapter 11" attached hereto as Exhibit "A" and incorporated herein by reference.

I hereby certify that the foregoing resolution was duly passed and adopted at a regular meeting of the San Anselmo Town Council held on the 13th day of September, 2011, by the following vote:

AYES: Coleman, Greene, Kroot, McInerney, Thornton

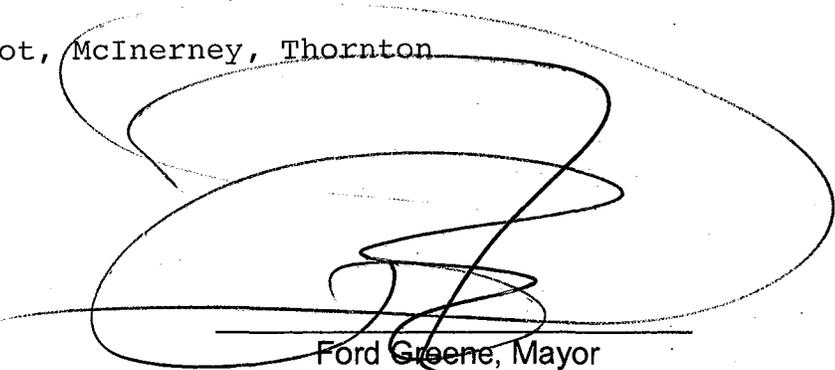
NOES: None

ABSENT: None

ABSTAIN: None



Barbara Chambers, Town Clerk



Ford Greene, Mayor

**STATEMENT OF RIGHTS AND PROCEDURES
FOR ADMINISTRATIVE HEARINGS UNDER
SAN ANSELMO MUNICIPAL CODE TITLE 2 CHAPTER 11**

**At the beginning of the administrative hearing, the Administrative Hearing Officer shall distribute and read aloud the following Statement of Rights and Procedures, which shall be applicable in the proceeding. Each of the Notice of Violation recipients present at the hearing shall be required to sign and return the Statement to the Administrative Hearing Officer at the beginning of his/her case.*

STATEMENT OF RIGHTS AND PROCEDURES

The following shall apply with respect to any administrative hearing that is scheduled upon a contest of Notice of Violation under Title 2 Chapter 11 of the San Anselmo Municipal Code:

1. An administrative hearing on a contest of a Notice of Violation will be heard by an Administrative Hearing Officer scheduled to hear the contest, at the time and place indicated on the Notice of Hearing sent to the contesting recipient of the Notice of Violation (hereafter the "Contestant").
2. A Contestant may request the disqualification of an Administrative Hearing Officer on the grounds of bias, by submitting a written request with the specified grounds for disqualification to the City Clerk no later than two (2) days after the date of the Notice of Hearing. The City Clerk will advise the Contestant in writing if the disqualification request has been granted or denied. If at any time the Administrative Hearing Officer believes that he or she may have a bias for or against a particular Contestant, the Administrative Hearing Officer shall disqualify himself or herself.
3. The administrative hearing is an informal proceeding; formal rules of evidence do not apply. A Contestant may testify and have other witnesses testify on his or her behalf, and may submit any additional evidence, in support of the contest of the Notice of Violation. Such additional evidence includes, but is not limited to, records, documents, and photographs.
4. The Contestant and any other witness appearing at the hearing shall be required to swear an oath or affirmation as to the truthfulness of the testimony under penalty of perjury, and shall give their names and addresses for the record.
5. The Contestant may have a representative make a presentation on his or her behalf at the hearing.
6. The Administrative Hearing Officer shall make a decision based upon all the evidence presented. The Notice of Violation and any staff report submitted to the Administrative Hearing Officer shall constitute prima facie evidence of the respective facts contained in those documents. This means that unless a clear error or defect appears on the face of these documents, a violation will be deemed to exist, subject to the Contestant's evidence. To prevail in the case, the Notice of Violation recipient must present evidence which has a

greater weight when weighed against the evidence opposing it, and which has more convincing force or greater probability of truth.

7. The Administrative Hearing Officer's Decision on the contest of the Notice of Violation will be mailed to the Contestant within five (5) days after the conclusion of the hearing. If the Decision indicates that the Notice of Violation will be upheld, the Decision shall indicate a penalty amount and payment schedule for the fine.
8. The Contestant may appeal the Administrative Hearing Officer's Decision, by filing a Notice of Appeal with the Marin County Superior Court pursuant to the procedures specified in Government Code Section 53069.4.

ACKNOWLEDGMENT OF RECEIPT

The undersigned acknowledges that he/she has been advised and has received a copy of the foregoing Statement of Rights and Procedures.

Dated: _____

[Signature of Contestant]

[Printed name of Contestant]