

Late Backup

#079
09-25-08

ORDINANCE NO.

1 **AN ORDINANCE REPEALING AND REPLACING CITY CODE CHAPTER 2-2**
2 **RELATING TO CAMPAIGN FINANCE; CREATING PENALTIES; AND**
3 **PROVIDING FOR EMERGENCY PASSAGE.**
4

5 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**
6

7 **PART 1.** Chapter 2-2 of the City Code (*Campaign Finance*) is repealed and replaced to
8 read

9 **CHAPTER 2-2. CAMPAIGN FINANCE.**

10 **ARTICLE 1. GENERAL PROVISIONS.**

11 **§ 2-2-1 DECLARATION OF POLICY AND LEGISLATIVE FINDINGS.**

- 12 (A) The short name of this chapter is the Austin Fair Campaign Chapter
- 13 (B) The proper operation of a representative democracy requires that elected
14 public officials exercise independent judgment, act impartially, and remain
15 responsible to the people.
- 16 (C) The City election process and city government should be protected from
17 potential undue influence by individuals and groups making large
18 contributions to the election campaigns of candidates for mayor and city
19 council
- 20 (D) The City election process and city government should be protected from even
21 an appearance of undue influence by individuals or groups contributing to
22 candidates for mayor and city council
- 23 (E) The public should have justified confidence in the integrity of its government
- 24 (F) Limitations on contributions of money, services, and materials by individuals
25 or groups to candidates for City office will promote public confidence
- 26 (G) Citizen participation in the operation of City election campaigns will enhance
27 a broad based electoral process accountable to all citizens rather than a
28 privileged few

1 (H) Enactment of this chapter is an appropriate exercise of the City's authority as a
2 home rule municipality under Texas law, and that the benefits of this chapter
3 will include a more efficient, less costly election process and more responsive,
4 effective city government

5 (I) This chapter is enacted based on these findings, in furtherance of these
6 policies, and is a narrowly tailored remedy to address the compelling
7 government interests of preventing corruption or the appearance of corruption,
8 preserving the individual citizen's confidence in government, and ensuring the
9 integrity of the City's election system

10 **§ 2-2-2 DEFINITIONS.**

11 (1) CAMPAIGN or CAMPAIGN COMMITTEE means the principal,
12 authorized political committee of a candidate for City office

13 (2) CAMPAIGN CONTRACT means a contract between a candidate for
14 mayor or city council and the City as provided by this chapter.

15 (3) CAMPAIGN PERIOD means the time period allowed in City Charter
16 Article III, Section 8(F)(2) Runoff elections and recall elections have
17 separate campaign periods

18 (4) CAMPAIGN TREASURER means the individual designated by a
19 candidate, officeholder, or political committee under the Texas Election
20 Code, including a candidate acting as his or her own campaign treasurer

21 (5) CANDIDATE means:

22 (a) a candidate for mayor or city council,

23 (b) a candidate's campaign committee; and

24 (c) related to Article 4 (*Independent Expenditures*), a person who has,
25 or has had during an election or runoff election, authority to act on
26 behalf of the candidate or candidate's campaign.

27 (6) CONTRIBUTION means a direct or indirect transfer of money, goods,
28 services, or any other thing of value, including an agreement made or
29 other obligation incurred, whether legally enforceable or not, to make a
30 transfer The term includes a loan or extension of credit, other than
31 those expressly excluded by the Texas Election Code, and a guarantee of
32 a loan or extension of credit. The term does not include an expenditure
33 required to be reported under Section 35 006(b), Texas Government
34 Code. In-kind labor, as defined in this chapter, is not a contribution

- 1 (7) CONTRIBUTION AND EXPENDITURE REPORT means a periodic
2 report of contributions and expenditures by a candidate, officeholder, or
3 political committee required to be filed under the Texas Election Code,
4 including any other matters required to be disclosed under this chapter
- 5 (8) ELECTION or CITY ELECTION means the process by which an
6 individual (whether opposed or unopposed) seeks election to City office
7 A "runoff election" and a "recall election" are separate elections For
8 the purposes of this chapter, "City election" and "election" shall not
9 include ballot measures
- 10 (9) EXPENDITURE means a payment of money or other thing of value,
11 including an agreement made or other obligation incurred, whether
12 legally enforceable or not, to make a payment
- 13 (10) INDEPENDENT EXPENDITURE means an expenditure on behalf of,
14 or opposing the election of, any candidate, if the expenditure is made
15 independently of the candidate and the candidate's campaign committee,
16 and without the prior consent of or cooperation or strategic
17 communication between an independent person and the candidate or the
18 candidate's campaign committee.
- 19 (11) INDIVIDUAL means a natural person, and cannot mean a corporation or
20 other entity
- 21 (12) IN-KIND LABOR means the value of personal services provided
22 without compensation by any individual who volunteers on behalf of a
23 candidate or political committee.
- 24 (13) LOBBY or LOBBYING means the solicitation of a City official, by any
25 means other than public expression at a meeting of City officials open to
26 the public under the Open Meetings Act, directly or indirectly by a
27 person in an effort to influence or persuade the City official to support or
28 oppose, recommend or not recommend, vote for or against, or to take
29 action or refrain from taking action on a municipal question, excluding
30 mere requests for information or inquiries about a municipal question,
31 matter, or procedure or communication to a City official that is
32 incidental to other employment not for the purpose of lobbying
- 33 (14) OFFICEHOLDER means an individual holding the office of mayor or
34 City councilmember
- 35 (15) OFFICEHOLDER ACCOUNT means an account maintained by an
36 officeholder as permitted by the Texas Election Code to make

1 officeholder expenditures, whether or not maintained as a segregated
2 fund

3 (16) OFFICEHOLDER EXPENDITURE means a payment made or
4 obligation incurred by an officeholder when the payment or obligation is
5 for officeholder purposes authorized by this chapter.

6 (17) PERSON means an individual, corporation, partnership, labor union, or
7 labor organization, or any unincorporated association, firm, committee,
8 club, or other organization or group of persons, including a political
9 committee organized under the Texas Election Code, not limited to the
10 definition in Section 1-1-2 (*General Definitions*) of the Code

11 (18) POLITICAL ADVERTISING shall have the meaning set out in the
12 Texas Election Code

13 (19) POLITICAL COMMITTEE means a specific purpose political
14 committee or general purpose political committee as defined in the
15 Texas Election Code.

16 (20) QUALIFYING CANDIDATE means a candidate who has signed a
17 campaign contract under this chapter and who has met the requirements
18 under this chapter to qualify for funds from the Austin Fair Campaign
19 Finance Fund.

20 (21) REPORTING PERIOD means a period established under the Texas
21 Election Code for filing of contribution and expenditure reports.

22 (22) STRATEGIC COMMUNICATION means a communication regarding
23 advertising, campaign strategies, and voter groups between the
24 candidate, candidate's campaign committee, or their agents or
25 employees and any of the persons, agents, or employees of the entity
26 making expenditures

27 **§ 2-2-3 CONFORMITY WITH TEXAS ELECTION CODE.**

28 (A) Terms not defined in this chapter but defined in the Texas Election Code shall
29 have the meanings assigned to them in the Texas Election Code

30 (B) The starting and ending dates of reporting periods and the due dates of
31 contribution and expenditure reports for City elections shall continue to be
32 governed by the Texas Election Code

33 (C) Under this chapter, candidates, officeholders, and political committees
34 participating in City elections may be required to make additional disclosures,

1 to file additional notices, and to comply with certain restrictions not set out in
2 the Texas Election Code

- 3 (D) If there is a conflict between this chapter and the Texas Election Code or other
4 state law, state law prevails. The requirements set out in this chapter are
5 cumulative of those in the Texas Election Code, and nothing in this chapter
6 shall be construed to limit obligations imposed by the Texas Election Code

7 **§ 2-2-4 CONFORMITY WITH CONSTITUTIONAL AND CHARTER**
8 **PROVISIONS; SEVERABILITY.**

- 9 (A) This chapter shall comply in all respects with applicable provisions of the
10 United States Constitution, the Texas Constitution, and the City Charter

- 11 (B) If any provision of this chapter is declared by a court of law to be illegal, void,
12 invalid, unconstitutional, or in violation of the City Charter, the provisions of
13 Code Section 1-1-12 (*Severability*) shall be given a liberal construction to
14 maintain the effectiveness of all other provisions of this chapter

15 **§ 2-2-5 OFFENSES AND PENALTY.**

- 16 (A) Except as provided in Subsection (B), a person who knowingly violates this
17 chapter or a provision of City Charter Article III, Section 8 (*Limits on*
18 *Campaign Contributions and Expenditures*) commits a Class C misdemeanor
19 punishable in accordance with Section 1-1-99 (*Offenses, General Penalty*) by
20 a fine not to exceed \$500. Each expenditure, contribution, or other action in
21 violation of this chapter constitutes a separate offense

- 22 (B) This section does not apply to Article 2 (*Voluntary Limitations on*
23 *Contributions and Expenditures*), except as otherwise specifically provided in
24 that article

- 25 (C) The remedies authorized under this chapter are cumulative of other remedies
26 available under state and federal law.

27 **§ 2-2-6 CANDIDATE GUIDE.**

- 28 (A) The city clerk shall prepare a candidate guide to current city election
29 provisions, including

- 30 (1) the City Charter, Article III, Section 8 (*Limits on Campaign*
31 *Contributions and Expenditures*),
32 (2) City Code Chapter 2-2 (*Campaign Finance*),
33 (3) copies of reporting forms required by state law, and

1 (4) copies of reporting and disclosure forms required by this chapter

2 (B) The city clerk shall make the candidate guide available cost-free in hard copy
3 at least six months before a City election. The city clerk may also make the
4 guide available online in an electronic format that is readily reproducible

5 (C) The city clerk shall give each candidate filing a designation of campaign
6 treasurer or for a place on the ballot and a prospective candidate a copy of the
7 candidate guide

8 **ARTICLE 2. VOLUNTARY LIMITATIONS ON CONTRIBUTIONS AND**
9 **EXPENDITURES.**

10 **§ 2-2-11 VOLUNTARY CAMPAIGN CONTRACT.**

11 (A) A candidate for mayor or city council may sign a contract with the City
12 agreeing to abide by limitations on that candidate's contributions and
13 expenditures as specified in this article in exchange for benefits provided
14 under this chapter

15 (B) A candidate must personally sign the campaign contract the earlier of

16 (1) 30 days after he or she becomes a candidate under the Texas Election
17 Code; or

18 (2) the date the candidate files for a place on the ballot

19 (C) Only a candidate who signs a campaign contract with the City will qualify for
20 public funds from the Austin Fair Campaign Finance Fund under Article 7 of
21 this Chapter (*Austin Fair Campaign Finance Fund*)

22 (D) A candidate who signs a campaign contract must report a contribution or
23 expenditure during the first reporting period in which it is made and apply the
24 contribution or expenditure to the candidate's voluntary limits

25 **§ 2-2-12 CANDIDATES' EXPENDITURE LIMITATIONS.**

26 (A) A candidate who signs a campaign contract under this chapter shall not, during
27 the campaign period, make expenditures exceeding the following limits

28 (1) candidates for mayor: expenditures of \$120,000 and an additional
29 \$80,000 in a runoff election; and

30 (2) candidates for city council: expenditures of \$75,000 and an additional
31 \$50,000 in a runoff election

1 (B) A candidate in a race for mayor or city council shall not make expenditures
2 from his or her own funds that exceed five percent of the applicable voluntary
3 expenditure limits in this section for an election or runoff election. An
4 expenditure by a candidate is an expenditure by his or her campaign. A
5 candidate shall report expenditures from personal funds consistent with state
6 requirements

7 (C) If a candidate has signed a campaign contract under this chapter, expenditures
8 on behalf of the candidate other than independent expenditures shall apply to
9 the candidate's voluntary expenditure limits

10 (D) A candidate makes an expenditure subject to this article on the date that:

- 11 (1) a payment is actually made, or
12 (2) an agreement requiring payment is entered into; or
13 (3) an obligation to make a payment is incurred.

14 **§ 2-2-13 CANDIDATES' CONTRIBUTION LIMITS.**

15 (A) Except as provided in subsection (B), a candidate who signs a campaign
16 contract under this chapter shall not accept contributions from an individual or
17 any political committee exceeding the following limits:

18 (1) Candidates for mayor.

- 19 (a) aggregate contributions of more than the amount set by City
20 Charter Article III, Section 8(A)(1) for both the campaign period
21 for the election and the campaign period for a runoff election; and
22 (b) more than \$24,000 in contributions in a campaign period from
23 political committees for a regular election or an additional \$16,000
24 for a runoff election.

25 (2) Candidates for city council:

- 26 (a) aggregate contributions of more than the amount set by City
27 Charter Article III, Section 8(A)(3), for both the campaign period
28 for the election and the campaign period for a runoff election, and
29 (b) more than \$15,000 in contributions in a campaign period from
30 political committees for a regular election or an additional \$10,000
31 for a runoff election

(B) A candidate for mayor or city council may spend personal funds on his or her own campaign up to the applicable five percent expenditure limits set out in Section 2-2-12 (*Candidates' Expenditure Limitations*) Expenditures from personal funds shall be reported in a manner consistent with state law

(C) A candidate accepts a contribution subject to this Article on the date that

(1) it is accepted under the Texas Election Code,

(2) an agreement is made to accept the contribution; or

(3) an obligation is incurred to accept a transfer.

§ 2-2-14 DISCLOSURE OF COMPLIANCE WITH CHAPTER.

(A) A candidate who signs a campaign contract shall include the following notice in all political advertising "This campaign has agreed to comply with the contribution and expenditure limits of the Austin Fair Campaign Chapter "

(1) Except to the extent prohibited by the Federal Communications Act, a candidate who chooses not to sign a campaign contract shall include the following notice in all political advertising "This campaign has not agreed to comply with the contribution and expenditure limits of the Austin Fair Campaign Chapter "

(2) The disclosures required by this section shall

(a) on printed political advertising, be printed in eight point type size or larger, and

(b) on other forms of political advertising, appear in a clear, conspicuous manner to provide the reader, viewer, or listener with actual notice of the disclosure

(B) A candidate or other campaign representative who authorizes the publication of political advertising without the notice required by this section commits an offense

§ 2-2-15 LIQUIDATED DAMAGES.

Each campaign contract shall provide for liquidated damages payable to the City and to other candidates for the same office who sign a campaign contract, in substantially the following form

"The actual damages that may be sustained by the City and by another candidate by reason of a candidate's breach of a campaign contract are uncertain and would

1 be difficult to determine The parties stipulate that a reasonable and just
2 compensation to each damaged party, including the City and another candidate, for
3 a candidate's breach of the contribution or expenditure limits in a campaign
4 contract would be three times the amount or value of the excessive expenditure
5 made or contribution accepted In addition, the City may recover as damages from
6 a candidate who breaches a campaign contract of the amount paid to that candidate
7 from the Austin Fair Campaign Finance Fund

8 "A candidate who signs a campaign contract shall promise to pay, and the City and
9 each other candidate for the same office who signs a campaign contract shall agree
10 to accept, in lieu of other damages, the amounts set out in this section as liquidated
11 damages, and not as a penalty, in the event of a breach of the campaign contract
12 The City and each candidate with standing to enforce the campaign contract shall
13 recover reasonable attorney's fees from the breaching party in connection with a
14 lawsuit for liquidated damages "

15 **§ 2-2-16 OTHER ENFORCEMENT AND SANCTIONS.**

16 (A) A candidate who breaches the terms of a campaign contract shall not be
17 considered as a provider of goods or services to the City under a contract for a
18 period of four years following the date of the election in which the breach
19 occurs, unless controlling state law requires that his or her bid or proposal be
20 accepted by the City. The city council may waive this ineligibility by a
21 unanimous vote

22 (B) This article is enforceable as a matter of contract law in the courts of the state
23 of Texas Except for a violation of the required notice provisions of Section 2-
24 2-14 (*Disclosure of Compliance with Chapter*), this article is not intended to
25 create criminal liability

26 **§ 2-2-17 WAIVER OF VOLUNTARY LIMITS.**

27 (A) A candidate who signs a campaign contract need not comply with the
28 voluntary contribution and expenditure limits and may continue to use on
29 campaign advertising the statement of compliance with the Austin Fair
30 Campaign Chapter if

31 (1) another candidate who signed a campaign contract has exceeded the
32 voluntary contribution and expenditure limits at the time of filing a
33 contribution and expenditure report;

34 (2) one or more candidates files for the same City office who by the filing
35 deadline has not entered into a campaign contract or filed a notice of

1 intent, under the Texas Election Code, to raise and spend less than \$500,
2 or

3 (3) independent expenditures in a race for the same council office by one
4 person exceed \$10,000 at any time before the election.

5 (B) A candidate who signed a campaign contract may, up to the end of the filing
6 period for a place on the ballot, elect to opt out of the contract if another
7 candidate has filed a designation of campaign treasurer for that office and has
8 not within 30 days signed a campaign contract or a notice of intent, under the
9 Texas Election Code, to raise and spend less than \$500. If a candidate opts out
10 of a contract, he or she may continue to use the disclaimer provided for in
11 Section 2-2-14, but shall not be eligible to receive funds from the Austin Fair
12 Campaign Finance Fund

13 **ARTICLE 3. DISCLOSURES AND FILING PROCEDURES FOR** 14 **CONTRIBUTION AND EXPENDITURE REPORTS.**

15 **§ 2-2-21 ADDITIONAL INFORMATION REQUIRED ON ALL** 16 **CONTRIBUTION AND EXPENDITURE REPORTS FILED WITH THE CITY.**

17 In addition to the information required under the Texas Election Code, contribution
18 and expenditure reports filed with the City by a candidate, office holder, and political
19 committee involved in a City election shall include the following information.

- 20 (A) for all individual contributions of \$200 or more in a reporting period,
21 disclosure of the occupation of the contributor and the name of the
22 contributor's employer,
- 23 (B) in disclosing expenditures, the nature and purpose of any payment over \$50 to
24 a consultant or contractor, including a general description of the goods or
25 services provided to the campaign; and
- 26 (C) in disclosing credit card transactions over \$50, the nature and purpose of the
27 expenditure or expenditures paid by credit card, including a description of the
28 goods or services paid for, itemized for each individual transaction over \$50.

29 **§ 2-2-22 FUNDRAISING AND BUNDLING BY INTERMEDIARIES.**

30 A candidate or office holder shall include in their contribution and expenditure
31 report the name and address of any person who solicits and obtains contributions on their
32 behalf, during a reporting period, of \$200 or more per person from five or more
33 individuals. This disclosure requirement shall not apply to an individual who raises funds
34 in an aggregate amount of \$5,000 or less for a candidate through a fundraising event held
35 at the individual's residence

1 **§ 2-2-23 GENERAL PURPOSE COMMITTEES.**

2 (A) A general purpose committee that makes contributions or expenditures in
3 connection with a City election must file with the city clerk a copy of each
4 contribution and expenditure report filed with the Texas Ethics Commission
5 This requirement shall apply to all reporting periods in which the general
6 purpose committee makes 50 percent or more of its expenditures in connection
7 with a City election, or makes an expenditure of \$2,500 or more in connection
8 with a City election. The filing date for filing with the city clerk is the date
9 established under the Texas Election Code for filing with the Texas Ethics
10 Commission

11 (B) A general purpose political committee that makes more than 50 percent of its
12 expenditures in a reporting period in connection with a City election, or makes
13 an expenditure of \$2,500 or more in connection with a City election, or intends
14 to do so, shall file with the city clerk as a notice of intent an original or a copy
15 of its current "Appointment of a Campaign Treasurer" not later than the 60th
16 day before making a contribution or expenditure in connection with a City
17 election. At the written request of the general purpose political committee, the
18 original filing with the city clerk of the "Appointment of a Campaign
19 Treasurer" may serve as a notice of intent to participate in future City
20 elections.

21 **§ 2-2-24 RETURNED CONTRIBUTIONS.**

22 A candidate, officeholder, or candidate's campaign committee returning a
23 contribution shall comply with the following requirements

- 24 (A) after a contribution has been deposited in a financial institution account, a
25 partial or full refund must be paid by cashier's check,
- 26 (B) copies of returned checks, refund checks, and any related correspondence must
27 be retained by the campaign treasurer in accordance with Section 2-2-28
28 (Retention of Records); and
- 29 (C) any contribution received and accepted, but refunded to the contributor, must
30 be disclosed as both a contribution and an expenditure on the applicable
31 contribution and expenditure report

32 **§ 2-2-25 ANNUAL RECONCILIATION FILING BY CANDIDATES AND**
33 **CAMPAIGN COMMITTEES.**

34 (A) A candidate, officeholder, or campaign committee filing a January 15 year-end
35 contribution and expenditure report shall provide the following information for

1 the previous calendar year for each checking, savings, or other financial
2 institution account

- 3 (1) name of the financial institution and type of account,
- 4 (2) a listing of date, payee, and amount of checks issued on that account that
5 have not cleared by December 31,
- 6 (3) a listing of checks received as contributions and deposited, but
7 dishonored by the contributor's financial institution,
- 8 (4) all interest or dividends earned,
- 9 (5) all deposits and withdrawals not disclosed on a filed contribution and
10 expenditure report, and
- 11 (6) the beginning and ending balance

12 (B) A candidate, officeholder, or campaign committee filing a January 15 year-end
13 contribution and expenditure report shall file a listing of all checks identified
14 by date of receipt, contributor, and amount, received by December 31 but not
15 deposited into any account. Checks received by the candidate, officeholder, or
16 campaign committee must be disclosed whether or not they have been
17 "accepted" within the definition of the Texas Election Code

18 **§ 2-2-26 ELECTRONIC FILING.**

- 19 (A) Excepted as provided at subsection (B), a candidate or candidate's campaign
20 committee must file City election contribution and expenditure reports
21 electronically as determined by the city clerk
- 22 (B) A candidate's campaign committee is exempted from this section if the
23 committee files with the city clerk a signed statement stating that the candidate
24 has not raised and does not intend to raise more than \$30,000 in contributions
25 for the campaign period, unless contributions to the candidate or candidate's
26 campaign committee exceed \$30,000, after which subsequent contribution and
27 expenditure reports for the campaign period must be filed electronically
- 28 (C) A candidate who signs a campaign contract agrees to file contribution and
29 expenditure reports electronically, and must file required contribution and
30 expenditure reports electronically regardless of the amount of contributions
31 and expenditures.
- 32 (D) The city clerk shall post the report on the city clerk's campaign finance report
33 website within one business day of receipt.

1 **§ 2-2-27 DISCLOSURE OF LOANS FROM A CANDIDATE OR**
2 **OFFICEHOLDER AND EXPENDITURES FROM THE FUNDS OF A**
3 **CANDIDATE OR OFFICEHOLDER.**

4 (A) A candidate for City office or an officeholder who loans personal funds to his
5 or her campaign, or makes expenditures from personal funds in support of his
6 or her campaign, shall report the amount so loaned or expended as follows:

7 (1) beginning on the date an individual becomes a candidate in a city
8 election and continuing until midnight on the tenth day before a city
9 election, a candidate shall report.

10 (a) the new loans or expenditures cumulating to \$25,000 or more
11 within seven business days after the total reaches \$25,000, and

12 (b) additional loans or expenditures cumulating \$25,000 or more within
13 seven business days each time the total reaches \$25,000; and

14 (2) during the period beginning at midnight on the 10th day before a City
15 election and continuing until midnight on the day before the election, a
16 candidate shall report

17 (a) the previously unreported loans or expenditures cumulating to
18 \$25,000 or more within twenty-four hours after the total reaches
19 \$25,000, and

20 (b) additional loans or expenditures totaling \$25,000 or more within
21 twenty-four hours each time the total reaches \$25,000.

22 (B) A candidate for City office who files a report as required by this section must
23 file as provided in Section 2-2-26 (*Electronic Filing*)

24 **§ 2-2-28 RETENTION OF RECORDS.**

25 A candidate or officeholder subject to this chapter must

26 (A) maintain copies of checks, bank statements, and deposit slips for a period of
27 five years after the close of the reporting period to which the records are
28 applicable,

29 (B) make them available to the Ethics Review Commission, on request, within the
30 five year retention period

31 **ARTICLE 4. INDEPENDENT EXPENDITURES.**

32 **§ 2-2-31 EXPENDITURES THAT ARE NOT INDEPENDENT.**

1 An expenditure is not independent for purposes of this chapter if there has been
2 any strategic communication between the candidate, the candidate's campaign staff, his
3 or her campaign committee, or any of the agents or employees of the candidate or the
4 committee, and the person or entity making the expenditure, or his or her agents and
5 employees

6 **§ 2-2-32 SPECIAL REPORTING OF EXPENDITURES NOT BY A**
7 **CANDIDATE.**

8 (A) Seven day disclosure report

- 9 (1) Every person other than a candidate or a candidate's campaign
10 committee who makes an expenditure or expenditures in an aggregate
11 amount exceeding \$1,000 during any calendar year for the purpose of
12 promoting the election or defeat of any candidate or candidates in a city
13 election shall file a report with the city clerk within seven business days
14 after making the independent expenditure or expenditures, on a form
15 prescribed by the city clerk, a report stating the name and address of the
16 individual or political committee making the expenditures, the name of
17 each candidate or candidates whose election or defeat the expenditure
18 advocates, the name and street address of the person or persons to whom
19 the expenditure or expenditures were made, and the total amount,
20 purpose, and date of each expenditure and whether the expenditure was
21 an independent expenditure under this chapter.
- 22 (2) A person making an independent expenditure or expenditures shall, at
23 the same time he or she files their report with the city clerk, also file a
24 sworn statement with the city clerk that the expenditure or expenditures
25 were made without the prior consent of the affected candidate or
26 candidates, and without strategic communication
- 27 (3) A person required to file a report with the city clerk under Section 2-2-
28 32(A) shall simultaneously mail or deliver a copy of the report to every
29 candidate whose election or defeat is promoted by the independent
30 expenditure.

31 (B) Fourty-eight hour reports

- 32 (1) Beginning on the tenth day before an election and ending at 5 00 p m. on
33 the day before election day, individuals or political committees making
34 independent expenditures that singly or in the aggregate exceed \$1,000
35 shall report the expenditures within 48 hours to the city clerk. The
36 report must include the name and address of the individual or political
37 committee making the expenditures; the name of each candidate or

1 candidates whose election or defeat the expenditure advocates, the name
2 and street address of the person or persons to whom the expenditure or
3 expenditures were made, and the total amount, purpose, and date of each
4 expenditure and whether the expenditure was an independent
5 expenditure

6 (2) A person making an independent expenditure or expenditures shall, at
7 the same time he or she files their report with the city clerk, also file a
8 sworn statement with the city clerk that the expenditure or expenditures
9 were made without the prior consent of the affected candidate or
10 candidates, and without strategic communication

11 (3) A person required to file a report with the city clerk under Section 2-2-
12 32(B)(1) shall simultaneously mail or deliver a copy of the report to
13 every candidate whose election or defeat is promoted by the independent
14 expenditure

15 (C) Reports to the city clerk required by this section shall be filed electronically on
16 forms to be developed and made available by the city clerk. On receipt of a
17 report filed under this section, the city clerk shall post it on the city clerk's
18 campaign finance report website within one business day

19 **ARTICLE 5. OFFICEHOLDER ACCOUNTS AND CAMPAIGN DEBT.**

20 **§ 2-2-41 PERMITTED EXPENDITURES FROM OFFICEHOLDER ACCOUNTS.**

21 A City officeholder may maintain an officeholder account in accordance with the
22 Texas Election Code. In addition to any restrictions existing under the Texas Election
23 Code, expenditures from an officeholder account are specifically limited to the following
24 purposes: compensation of the officeholder's staff, office supplies, travel expenses
25 related to City matters, meals, purchase and lease of office equipment, staff training,
26 development and recruiting; newsletters, contributions to charitable organizations,
27 membership dues, nonpolitical advertising, contributions to not-for-profit organizations,
28 and expenditures for telephones and telephone services incurred by the officeholder in
29 performing a duty or engaging in an activity in connection with the office. Nothing in
30 this section shall be interpreted to restrict an officeholder's ability to make campaign
31 contributions, as defined by the Texas Election Code, from an officeholder account

32 **§ 2-2-42 ANNUAL RECONCILIATION OF CAMPAIGN DEBT.**

33 An officeholder must include in the reconciliation filed with his or her annual
34 January 15 contribution and expenditure report the following information for each
35 calendar year

36 (A) campaign debt in existence as of the first day of each calendar year,

1 (B) campaign debt in existence as of the last day of each calendar year,

2 (C) in addition, the officeholder shall report the following information on all
3 campaign debt existing as of December 31 of the reporting year

4 (1) for loans and other debt evidenced by a note, the name of the creditor,
5 the principal amount owed, the interest rate, and the date of maturity,

6 (2) for all other campaign debts, the name of the creditor and the principal
7 amount owed, and

8 (3) debts under \$50 may be aggregated and reported as a miscellaneous
9 category

10 **§ 2-2-43 EXISTENCE OF CAMPAIGN DEBT.**

11 The existence and amount of a campaign debt relating to a prior campaign period
12 shall be determined based on the actual outstanding obligations of the candidate or
13 campaign committee as of the date of the election for which the debt is incurred, and all
14 funds held by the candidate or candidate's campaign committee in cash or bank accounts
15 on that date shall be considered an offset to the campaign debt

16 **ARTICLE 6. RESTRICTIONS ON CONTRIBUTIONS.**

17 **§ 2-2-51 RESTRICTIONS ON CASH CONTRIBUTIONS.**

18 (A) Except as provided in Subsection (B), a candidate or officeholder who accepts
19 cash contributions in connection with a City election must maintain a receipt
20 book for cash contributions, listing the date of any cash contribution and the
21 contributor's name and address. If a candidate or officeholder has not
22 accepted cash contributions aggregating more than \$500 per reporting period,
23 he or she must provide a receipt within five days of receiving the contribution
24 to each cash contributor whose contribution exceeds \$50. Once a candidate or
25 officeholder has accepted cash contributions aggregating more than \$500 per
26 reporting period, he or she shall provide a receipt to each subsequent cash
27 contributor within five days of the contribution

28 (B) This section does not apply to cash contributions received by a candidate or
29 officeholder at one or more fundraising events having a stated ticket price of
30 \$25 per person or less. Cash contributions received at the fundraising events
31 may be aggregated for City reporting purposes, if the candidate or the
32 officeholder, and the treasurer, file with the next contribution and expenditure
33 report an affidavit stating the amount of cash proceeds received at the event
34 and verifying that no individual made a cash contribution of more than \$50 in
35 connection with the event

1 **§ 2-2-52 RESTRICTIONS ON CONTRIBUTIONS AT CITY-OWNED**
2 **BUILDINGS.**

- 3 (A) Except as provided in Subsection (B), a person shall not make a contribution to
4 a candidate or officeholder and a candidate or officeholder shall not solicit or
5 accept a contribution at a City-owned building, except at a City-owned
6 building that is available for rental to the general public and that is rented for a
7 campaign related event at the time the contribution is made
- 8 (B) This section does not prohibit contributions mailed to a candidate or
9 officeholder at a City mailing address

10 **§ 2-2-53 RESTRICTIONS ON CONTRIBUTIONS BY LOBBYISTS.**

- 11 (A) The city council finds that the practice of lobbying for compensation creates a
12 unique relationship between candidates and officeholders on the one hand, and
13 lobbyists on the other. To preserve public confidence in the electoral process,
14 to diminish the appearance of impropriety and special influence, and to
15 minimize the role of political contributions in the legislative and regulatory
16 processes and the awarding of public contracts, it is appropriate to prohibit
17 persons who lobby the city council from making contributions to candidates
18 for mayor and city council and to officeholders. Accordingly, no person who is
19 compensated to lobby the city council and who is required to register with the
20 City as a lobbyist, and no spouse of the person, may contribute more than \$25
21 in a campaign period to an officeholder or candidate for mayor or city council,
22 or to a specific purpose political committee involved in an election for mayor
23 or city council.
- 24 (B) A lobbyist may contribute to the Austin Fair Campaign Fund created under
25 this chapter

26 **§ 2-2-54 RESTRICTIONS ON CONTRIBUTIONS TO AND EXPENDITURES BY**
27 **SPECIFIC-PURPOSE POLITICAL COMMITTEE.**

- 28 (A) Except as provided in Subsection (C), a specific-purpose political committee
29 supporting or opposing a candidate in a city election may not
- 30 (1) accept a contribution of more than the contribution limit established in
31 City Charter Article III, Section 8(A)(1) (*Limits on Campaign*
32 *Contributions and Expenditures*), or
- 33 (2) accept an aggregate contribution total of more than the amount set by
34 City Charter Article III, Section 8(A)(3) (*Limits on Campaign*
35 *Contributions and Expenditures*) from sources other than natural persons

1 eligible to vote in a postal zip code completely or partially within the
2 Austin city limits

3 (B) A specific-purpose political committee supporting or opposing a candidate in a
4 City election that receives a contribution prohibited by Subsection (A) may not
5 accept the contribution and must refuse and return the contribution not later
6 than the end of the reporting period during which the contribution is received
7 If a specific-purpose political committee subject to this section has received an
8 aggregate contribution total of more than the amount set by Subsection (A)(2),
9 it may not make an expenditure in a City election until it has returned the
10 contributions of more than the allowed amount

11 (C) This subsection does not limit a specific-purpose political committee's
12 aggregate contribution total from natural persons eligible to vote in a postal zip
13 code completely or partially within the Austin city limits

14 **§ 2-2-55 RESTRICTIONS ON USE OF EXISTING FUNDS FROM**
15 **POLITICAL COMMITTEES, CANDIDATES, AND OFFICEHOLDERS.**

16 (A) Except as provided in Subsection (B), a City election candidate may not use a
17 political contribution to make a campaign expenditure for City office if the
18 contribution was accepted while the candidate:

19 (1) was a candidate for an office other than a City office, or

20 (2) held an office other than a City office, unless the person had become a
21 candidate for city office

22 (B) This section does not apply to a contribution raised in compliance with the
23 timing, dollar amount, and source restriction in this Chapter and City Charter,
24 Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*),
25 calculated on a last-in, first-out basis, which means that the last funds received
26 are eligible for consideration for campaign expenditures

27 **§ 2-2-56 RESTRICTIONS ON CREATION OF CAMPAIGN COMMITTEE.**

28 A candidate may only authorize one campaign committee.

29 **ARTICLE 7. AUSTIN FAIR CAMPAIGN FINANCE FUND.**

30 **§ 2-2-61 ESTABLISHMENT.**

31 This Article establishes a separate City account known as the Austin Fair
32 Campaign Finance Fund. The fund provides partial public support for qualifying
33 candidates. The fund shall also be used to offset the cost of administering the City's

1 lobbying ordinance, the costs of handling disclosure filings, and the costs of
2 administering the Austin Fair Campaign Chapter To effect the purposes of this chapter,
3 all funds in the separate account at the time of a City election are to be appropriated for
4 distribution to qualifying candidates in any runoff elections If there are no qualifying
5 candidates in runoff elections, funds so appropriated shall be returned to the separate
6 account

7 **§ 2-2-62 FUNDING FOR AUSTIN FAIR CAMPAIGN FINANCE FUND.**

8 (A) The City staff shall maintain a plan setting out financing options for the
9 funding of the Austin Fair Campaign Finance Fund The staff is directed to
10 include in the financing plan the following options for dedicated or
11 appropriated funds

- 12 (1) a \$300 registration fee for persons required to register as compensated
13 lobbyists under Chapter 4-8 (*Regulation of Lobbyists*) of the City Code,
14 (2) donations from individuals and business entities,
15 (3) liquidated damages and criminal fines collected for violations of
16 campaign contracts or this chapter;
17 (4) when technically feasible, a \$1 voluntary check-off on City utility bills,
18 and
19 (5) all filing fees paid to the City by candidates for mayor and city council.

20 **§ 2-2-63 QUALIFYING CANDIDATES.**

21 To become a qualifying candidate eligible to receive public funds from the Austin
22 Fair Campaign Finance Fund, a candidate for mayor or city council must sign a campaign
23 contract, and agree to participate in specified debates arranged by the City Ethics Review
24 Commission

25 **§ 2-2-64 FUNDING FOR QUALIFYING CANDIDATES.**

26 (A) To the extent that funds are available from the Austin Fair Campaign Finance
27 Fund, a qualifying candidate in a runoff election shall receive an equal
28 distribution of the available funds in the Austin Fair Campaign Finance Fund
29 If no candidate in a runoff election is eligible, the funds will be reserved for
30 future elections

31 (B) Funding from the Austin Fair Campaign Finance Fund shall be distributed to
32 qualifying candidates in a runoff election under the following procedure and
33 formula.

1 (1) on request, the city clerk shall state the available balance in the Austin
2 Fair Campaign Finance Fund;

3 (2) funds for a city runoff election shall be made available as soon as
4 practicable after the results of the city general election are certified; and

5 (3) the city clerk shall review the "30-day" and "8-day" before election
6 contribution and expenditure reports and any supporting materials filed
7 by qualifying candidates seeking public funds to verify compliance with
8 the expenditure limits of the candidate's campaign contract

9 (C) Funding from the Austin Fair Campaign Finance Fund shall not be made
10 available to candidates in uncontested elections, recall elections, or elections to
11 fill vacancies created by a recall election

12 **§ 2-2-65 OTHER CONSIDERATIONS FOR CAMPAIGN CONTRACT.**

13 (A) A candidate who signs a campaign contract must participate in a series of
14 candidate forums, whether or not the candidate qualifies for funds

15 (B) The Ethics Review Commission shall produce not fewer than three forums for
16 each contested race as follows:

17 (1) one forum must air on public access television, and

18 (2) other forums may be produced and made available to the public by radio,
19 broadcast, publication on the Internet, or other means approved by the
20 commission.

21 (C) The City shall make recordings of audio or video forums available to the
22 public at all branches of the City library

23 (D) The City may purchase advertising promoting the candidate forums

24 (E) The Ethics Review Commission shall establish equitable guidelines to
25 coordinate and produce the candidate forums

1 **PART 2.** Council finds that the importance of protecting the public from the exercise of
2 undue influence in the election process for council offices constitutes an emergency
3 Because of this emergency, this ordinance takes effect immediately on its passage for the
4 immediate preservation of public peace, health and safety.

5 **PASSED AND APPROVED**

6
7
8
9 _____, 2008

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§
§

Will Wynn
Mayor

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12
13
14 **APPROVED:** _____
15 David Allan Smith
16 City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk