

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 2-2 THE CITY CODE RELATED TO THE CAMPAIGN FINANCE REPORTING, AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 2-2-2(10) of the City Code is repealed and replaced with a new Section 2-2-2(10) to read as follows:

(10) **INDEPENDENT EXPENDITURE** means an expenditure on behalf of, or opposing the election of, a candidate, if:

- (A) the expenditure is made independently of the candidate and the candidate's campaign committee; and
- (B) the expenditure is made:
 - (1) without prior consent, cooperation, strategic communication, or consultation between the candidate, the candidate's campaign staff, the candidate's campaign committee, or an agent or employee of the candidate or the committee, and the person or entity making the expenditure, or that person's agent or employee, and
- (C) without prior sharing of pertinent campaign information between the candidate, the candidate's campaign staff, the candidate's campaign committee, or an agent or employee of the candidate or the committee, and the person or entity making the expenditure, or that person's agent or employee.

PART 2. Chapter 2-2 of the City Code is amended by repealing Article 4 of Chapter 2-2 of the City Code and replacing it with a new Article 4 to read as follows:

ARTICLE 4. INDEPENDENT EXPENDITURES.

§ 2-2-31 DEFINITION.

In this Article, **ELECTIONEERING COMMUNICATION** means a communication that:

- (a) costs, or is part of a series of communications that in the aggregate cost, more than \$2,500;

- 1 (b) refers to a clearly identified candidate for a City office, whether by
2 containing the candidate's name, nickname, or image, or by making any
3 other unambiguous reference to the candidate or to the candidate's status as
4 a candidate, challenger, or incumbent;
- 5 (c) is disseminated by publication, television, Internet, mass mailing, telephone
6 bank, or a billboard;
- 7 (d) is made later than the 61st day before the date of an election in which the
8 candidate for a City office appears on the ballot; and
- 9 (e) is capable of reaching at least 5,000 people eligible to vote in the election,
10 or 2% of the number of voters eligible to vote in the election, whichever is
11 less.

12 **§ 2-2-32 DISCLOSURE OF INDEPENDENT EXPENDITURES.**

- 13 (A) A person who makes an independent expenditure in a City election,
14 including an independent expenditure for an electioneering communication,
15 shall report the full name and address of the person to whom the
16 expenditure is made, the date and purpose of the expenditure, and, except as
17 provided by Subsection (B), the name of each candidate whose election or
18 defeat the expenditure advocates.
- 19 (B) If the only reason this section applies to an expenditure is because the
20 expenditure was for an electioneering communication, the disclosure
21 required by Subsection (A) shall include name of each candidate to whom
22 the communication referred.
- 23 (C) The application of this section to an electioneering communication does not
24 limit the application of this section to political advertising.
- 25 (D) A person making a report required by Subsection (A) shall include in the
26 report a sworn statement that each independent expenditure was made
27 without prior consent, cooperation, strategic communication, or
28 consultation between an affected candidate, the candidate's campaign staff,
29 the candidate's campaign committee, or an agent or employee of the
30 candidate or the committee, and the person making the expenditure, or that
31 person's agent or employee.
- 32 (E) The disclosure required by Subsection (A) shall be made:

- (1) if the expenditure is made before the 60th day before the date of the election, no later than the fifth business day after the date of the expenditure;
- (2) if the expenditure is made on or after the 60th day before the date of the election and before the 9th day before the date of the election, no later than 48 hours after the time of the expenditure;
- (3) if the expenditure is made on or after the 9th day before the date of the election, no later than 24 hours after the time of the expenditure.

(F) A report required by this section shall be filed electronically, unless otherwise exempted from electronic filing.

(G) Information reported under this section by a candidate, a political committee, or a person subject to Section 254.261 (*Direct campaign expenditure exceeding \$100*) of the Texas Election Code, must also be reported on the candidate's, political committee's, or person's next contribution and expenditure report, if required.

§ 2-2-33 DISCLOSURE STATEMENT REQUIRED.

In addition to any other disclosure statement required by law, a political advertisement or electioneering communication paid for in whole or in part by an independent expenditure, must disclose the names of the five largest donors in the preceding 12 months to the person making the independent expenditure.

PART 3. This ordinance takes effect on August 1, 2012.

PASSED AND APPROVED

_____, 2012 § _____
 § _____
 § _____
 Lee Leffingwell
 Mayor

APPROVED: _____
 Karen Kennard
 City Attorney

ATTEST: _____
 Shirley A. Gentry
 City Clerk