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## Late Backup

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**PART 1.** Section 2-2-2(10) of the City Code is repealed and replaced with a new Section 2-2-2(10) to read as follows: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

(A) an expenditure for an electioneering communication or for express advocacy as those terms are defined in Article 4; and

(B) an expenditure on behalf of, or opposing the election of, a candidate, if:

(1) the expenditure is made independently of the candidate and the candidate's campaign committee; and

(2) the expenditure is made:

(a) 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

(b) without prior sharing of material information regarding the communication's content, intended audience, timing, or method of dissemination 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 DEFINITIONS.**

1 In this article:

2 (A) **ELECTIONEERING COMMUNICATION** means a communication  
3 that:

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

6 (2) refers to:

7 (a) a clearly identified candidate by:

8 (i) containing the candidate's name, nickname, or image; or

9 (ii) making an unambiguous reference to the candidate or to  
10 the candidate's status as a candidate, challenger, or  
11 incumbent; or

12 (b) a clearly identified ballot measure, by containing:

13 (i) the measure's number;

14 (ii) a description of the measure; or

15 (iii) an unambiguous reference to the measure;

16 (3) is disseminated by publication, broadcast, Internet, a mass mailing,  
17 a telephone bank, or a billboard;

18 (4) is made later than the 61<sup>st</sup> day before the date of an election in  
19 which the candidate or the ballot measure appears on the ballot;  
20 and

21 (5) is capable of reaching at least:

22 (a) 5,000 people eligible to vote in the election; or

23 (b) two percent of the number of registered voters eligible to vote  
24 in the election.

25 (B) **EXPRESS ADVOCACY** means a communication that refers to a clearly  
26 identified candidate or ballot measure to expressly advocate the election or  
27 defeat of the candidate or measure using a phrase such as "Vote for," "Re-  
28 elect," "Cast your ballot against," "Cast you ballot for," "Defeat," "Vote  
29 Down," or "No More Funds for X."

1                   **§ 2-2-32 DISCLOSURE OF INDEPENDENT EXPENDITURES.**

2                   (A) A person who makes one or more independent expenditures in a City  
3                   election that in the aggregate exceed \$500, shall report:

- 4                               (1) the full name and address of the person to whom each expenditure is  
5                               made;
- 6                               (2) the date and amount of each expenditure;
- 7                               (3) the purpose of each expenditure;
- 8                               (4) the name of each candidate whose election or defeat the expenditure  
9                               advocates, or each ballot measure the passage or defeat of which the  
10                              expenditure advocates; and
- 11                              (5) in the case of an expenditure for an electioneering communication,  
12                              the name of each candidate to whom the communication referred or  
13                              each ballot measure to which the communication referred.

14                   (B) A person making a report required by Subsection (A) shall include in the  
15                   report a sworn statement that each independent expenditure was made  
16                   without prior consent, cooperation, strategic communication, consultation,  
17                   or sharing of material information regarding the communication's content,  
18                   intended audience, timing, or method of dissemination between an affected  
19                   candidate, the candidate's campaign staff, the candidate's campaign  
20                   committee, or an agent or employee of the candidate or the committee, and  
21                   the person making the expenditure, or that person's agent or employee.

22                   (C) The disclosure required by Subsection (A) shall be made:

- 23                              (1) if the expenditure is made before the 60<sup>th</sup> day before the date of the  
24                              election, no later than the fifth business day after the date of the  
25                              expenditure;
- 26                              (2) if the expenditure is made on or after the 60<sup>th</sup> day before the date of  
27                              the election and before the ninth day before the date of the election, no  
28                              later than the second business day after the date of the expenditure; or
- 29                              (3) if the expenditure is made on or after the ninth day before the date of  
30                              the election, no later than 5 p.m. on the first business day after the  
31                              date of the expenditure.

32                   (D) A report required by this section shall be filed electronically, unless otherwise  
33                   exempted from electronic filing. The city clerk shall post a report under this

1 section on the City's Web site on the first business day after the date that the  
2 clerk receives the report.

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

8 **§ 2-2-33 DISCLOSURE STATEMENT REQUIRED.**

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

14  
15 **PART 3.** This ordinance takes effect on August 1, 2012.

16 **PASSED AND APPROVED**

17  
18 §  
19 §  
20 \_\_\_\_\_, 2012 § \_\_\_\_\_  
21 Lee Leffingwell  
22 Mayor  
23

24  
25 **APPROVED:** \_\_\_\_\_  
26 Karen Kennard  
27 City Attorney  
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25 **ATTEST:** \_\_\_\_\_  
26 Shirley A. Gentry  
27 City Clerk  
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