

**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**PART 1.** Section 2-2-2(10) of the City Code is repealed and replaced with a new Section 2-2-2(10) to read as follows: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 61<sup>st</sup> 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 (1) if the expenditure is made before the 60<sup>th</sup> day before the date of the  
2 election, no later than the fifth business day after the date of the  
3 expenditure;
- 4 (2) if the expenditure is made on or after the 60<sup>th</sup> day before the date of  
5 the election and before the 9<sup>th</sup> day before the date of the election, no  
6 later than 48 hours after the time of the expenditure;
- 7 (3) if the expenditure is made on or after the 9<sup>th</sup> day before the date of the  
8 election, no later than 24 hours after the time of the expenditure.

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

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

16 **§ 2-2-33 DISCLOSURE STATEMENT REQUIRED.**

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

21  
22 **PART 3.** This ordinance takes effect on August 1, 2012.

23 **PASSED AND APPROVED**

24  
25  
26  
27 \_\_\_\_\_, 2012

§  
§  
§

\_\_\_\_\_  
Lee Leffingwell  
Mayor

28  
29  
30  
31  
32 **APPROVED:** \_\_\_\_\_  
33 Karen Kennard  
34 City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk