

Austin City Code

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ARTICLE 1. GENERAL PROVISIONS.

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

(A) The short name of this chapter is the Austin Fair Campaign Chapter.

(B) The proper operation of a representative democracy requires that elected public officials exercise independent judgment, act impartially, and remain responsible to the people.

(C) The City election process and city government should be protected from potential undue influence by individuals and groups making large contributions to the election campaigns of candidates for mayor and city council.

(D) The City election process and city government should be protected from even an appearance of undue influence by individuals or groups contributing to candidates for mayor and city council.

(E) The public should have justified confidence in the integrity of its government.

(F) Limitations on contributions of money, services, and materials by individuals or groups to candidates for City office will promote public confidence.

(G) Citizen participation in the operation of City election campaigns will enhance a broad based electoral process accountable to all citizens rather than a privileged few.

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

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

Source: Ord. 20080925-079.

§ 2-2-2 DEFINITIONS.

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

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

(3) CAMPAIGN PERIOD means the time period allowed in City Charter Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*).

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

(5) CANDIDATE means:

- (a) a candidate for mayor or city council;
- (b) a candidate's campaign committee; and

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

(6) CONTRIBUTION means a direct or indirect transfer of money, goods, services, or any other thing of value, including an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by the Texas Election Code, and a guarantee of a loan or extension of credit. The term does not include an expenditure required to be reported under Section 35.006

(b), Texas Government Code. In-kind labor, as defined in this chapter, is not a contribution.

(7) CONTRIBUTION AND EXPENDITURE REPORT means a periodic report of contributions and expenditures by a candidate, officeholder, or political committee required to be filed under the Texas Election Code, including any other matters required to be disclosed under this chapter.

(8) ELECTION or CITY ELECTION means the process by which an individual (whether opposed or unopposed) seeks election to City office, excluding an election for a ballot measure.

(9) EXPENDITURE means a payment of money or other thing of value, including an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.

(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.

(11) INDIVIDUAL means a natural person, and cannot mean a corporation or other entity.

(12) IN-KIND LABOR means the value of personal services provided without compensation by any individual who volunteers on behalf of a candidate or political committee.

(13) LOBBY or LOBBYING means the solicitation of a City official, by any means other than public expression at a meeting of City officials open to the public under the Open Meetings Act, directly or indirectly by a person in an effort to influence or persuade the City official to support or oppose, recommend or not recommend, vote for or against, or to take action or refrain from taking action on a municipal question, excluding mere requests for information or inquiries about a municipal question, matter, or procedure or communication to a City official that is incidental to other employment not for the purpose of lobbying.

(14) OFFICEHOLDER means an individual holding the office of mayor or City councilmember.

(15) OFFICEHOLDER ACCOUNT means an account maintained by an officeholder as permitted by the Texas Election Code to make officeholder expenditures, whether or not maintained as a segregated fund.

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

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

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

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

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

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

(22) RUNOFF ELECTION means an election following an election in which no candidate receives a majority of the votes cast.

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

Source: Ord. 20080925-079; Ord. 20090618-048; Ord. 20120802-069.

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

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

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

(C) Under this chapter, candidates, officeholders, and political committees participating in City elections may be required to make additional disclosures, to file additional notices, and to comply with certain restrictions not set out in the Texas Election Code.

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

Source: Ord. 20080925-079.

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

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

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

Source: Ord. 20080925-079.

§ 2-2-5 OFFENSES AND PENALTY.

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

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

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

Source: Ord. 20080925-079.

§ 2-2-6 CANDIDATE GUIDE.

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

(1) the City Charter, Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*);

(2) City Code Chapter 2-2 (*Campaign Finance*);

(3) copies of reporting forms required by state law; and

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

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

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

Source: Ord. 20080925-079.

§ 2-2-7 COMMENCEMENT OF CAMPAIGN PERIOD.

(A) A general election, special election, and a runoff election each have a separate campaign periods for purposes of City Charter Article III, Section 8 (*Limits on Campaign Contributions and Expenditures*) and this chapter.

(B) The campaign period for a runoff election begins the day after the date of an Election at which no candidate receives the majority of the votes.

(C) The campaign period for a special election, including a recall election, begins the day after the date the council calls the special election.

(D) A candidate may only raise funds for an election during an authorized campaign period.

Source: Ord. 20090618-048.

§ 2-2-8 TERMINATION OF INACTIVE CAMPAIGN TREASURER APPOINTMENT.

(A) In this section, “inactive candidate” or “inactive political committee” means a candidate or political committee that:

(1) has not filed a required report under Texas Election Code, Chapter 254 (*Political Reporting*), for more than one year since the last reporting deadline;

(2) in the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the city clerk; and

(3) has not filed:

(A) a final report under Texas Election Code, Section 254.065 (*Final Report*) or 254.125 (*Final Report of Committee for Supporting or Opposing Candidate or Measure*); or

(B) a dissolution report under Texas Election Code, Section 254.126 (*Dissolution Report of Committee for Assisting Officeholder*) or 254.159 (*Dissolution Report*).

(B) The city clerk may terminate the campaign treasurer appointment of an inactive candidate or inactive political committee.

(C) Before the city clerk may terminate a campaign treasurer appointment under this section, the city council must consider and approve the proposed termination in a regularly scheduled open meeting.

(D) Before the city clerk may terminate a campaign treasurer appointment under this section the city clerk must provide written notice to the affected candidate or committee of:

(1) the proposed termination of the candidate's or committee's campaign treasurer appointment;

(2) the date, time, and place of the meeting at which the city council will consider the proposed termination; and

(3) the effect of termination of the candidate's or committee's campaign treasurer appointment.

(E) The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the city council votes to terminate the appointment. Following that meeting, the city clerk shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Source: Ord. 20120308-003.

ARTICLE 2. VOLUNTARY LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES.

§ 2-2-11 VOLUNTARY CAMPAIGN CONTRACT.

(A) A candidate for mayor or city council may sign a contract with the City agreeing to abide

by limitations on that candidate's contributions and expenditures as specified in this article in exchange for benefits provided under this chapter.

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

- (1) 30 days after he or she becomes a candidate under the Texas Election Code; or
- (2) the date the candidate files for a place on the ballot.

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

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

Source: Ord. 20080925-079.

§ 2-2-12 CANDIDATES' EXPENDITURE LIMITATIONS.

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

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

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

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

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

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

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

Source: Ord. 20080925-079.

§ 2-2-13 CANDIDATES' CONTRIBUTION LIMITS.

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

- (1) Candidates for mayor:

(a) aggregate contributions of more than the amount set by City Charter Article III, Section 8(A)(1) for both the campaign period for the election and the campaign period for a runoff election; and

(b) more than \$24,000 in contributions in a campaign period from political committees for a regular election or an additional \$16,000 for a runoff election.

(2) Candidates for city council:

(a) aggregate contributions of more than the amount set by City Charter Article III, Section 8(A)(3), for both the campaign period for the election and the campaign period for a runoff election; and

(b) more than \$15,000 in contributions in a campaign period from political committees for a regular election or an additional \$10,000 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.

Source: Ord. 20080925-079.

§ 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."

(B) 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."

(C) The disclosures required by this section shall be clear and conspicuous:

(1) On printed political advertising, the disclosure shall be printed in sufficient type and size to be clearly readable, in two highly contrasting colors such as dark text on a light background, but in no case smaller than eight point font;

(2) On other forms of political advertising, including internet advertisement, television, and radio, the disclosure shall provide the reader, viewer, or listener with actual notice of the disclosure; and

(3) A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if the placement is easily overlooked.

(D) The requirements of subsections (A) through (C) do not apply to bumper stickers, pins, buttons, pens, apparel, and similar small or impractical items upon which the notice cannot be

conveniently printed.

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

Source: Ord. 20080925-079; Ord. 20100819-034.

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

“A candidate who signs a campaign contract shall promise to pay, and the City and each other candidate for the same office who signs a campaign contract shall agree to accept, in lieu of other damages, the amounts set out in this section as liquidated damages, and not as a penalty, in the event of a breach of the campaign contract. The City and each candidate with standing to enforce the campaign contract shall recover reasonable attorney’s fees from the breaching party in connection with a lawsuit for liquidated damages.”

Source: Ord. 20080925-079.

§ 2-2-16 OTHER ENFORCEMENT AND SANCTIONS.

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

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

Source: Ord. 20080925-079.

§ 2-2-17 WAIVER OF VOLUNTARY LIMITS.

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

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

(2) one or more candidates files for the same City office who by the filing deadline has not entered into a campaign contract or filed a notice of intent, under the Texas Election Code, to raise and spend less than \$500; or

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

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

Source: Ord. 20080925-079.

ARTICLE 3. DISCLOSURES AND FILING PROCEDURES FOR CONTRIBUTION AND EXPENDITURE REPORTS.

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

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

(A) for all individual contributions of \$200 or more in a reporting period, disclosure of the occupation of the contributor and the name of the contributor's employer;

(B) in disclosing expenditures, the nature and purpose of any payment over \$50 to a consultant or contractor, including a general description of the goods or services provided to the campaign; and

(C) in disclosing credit card transactions over \$50, the nature and purpose of the expenditure or expenditures paid by credit card, including a description of the goods or services paid for, itemized for each individual transaction over \$50.

Source: Ord. 20080925-079.

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

(A) In this section:

(1) **BUNDLER** means a person who bundles campaign contributions. The term does not apply to an individual whose only fundraising activity is a fundraising event held at the individual's residence if the event raises funds in an aggregate amount of less than \$5,000.

(2) **BUNDLING** means the soliciting and obtaining, during a campaign period, contributions on behalf of a candidate of \$200 or more per person from five or more persons.

(B) For each reporting period in which a candidate for whom a bundler has bundled contributions must file a report of contributions and expenditures, the candidate must also file a separate report with the City Clerk disclosing:

(1) the name and address of each bundler who has bundled for the candidate;

(2) the bundler's occupation and the name of the bundler's employer; and

(3) the name, address, occupation and employer of each individual contributor whose

contribution was bundled by the bundler;

(4) the amount contributed by each individual contributor whose contribution was bundled by the bundler;

(5) the total amount the bundler has bundled for the candidate during the reporting period; and

(6) the name of each person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*) employed by, or compensated to lobby, by:

(a) the bundler;

(b) a business association through which the bundler does business; or

(c) the bundler's employer.

(C) A candidate who receives bundled contributions shall notify each bundler of the requirements of this section. A bundler shall provide to each candidate, at the time the bundler delivers bundled contributions to the candidate, the information necessary for the candidate to report the information required by this section. The failure of a bundler to provide the information required by this subsection does not excuse any failure by a candidate to report the required information.

(D) Except as may be further limited by Subsection (E), a person who is registered, who is required to register, or who is employed by a person who is registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*) may not bundle contributions totaling more than five times the contribution limit set by Article III, Section 8(A)(1) of the City Charter for any one candidate in a campaign period.

(E) This subsection applies only to a business association that is registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), that is owned in whole or in part by a person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), that employs a person registered or required to register under Chapter 4-8 (*Regulation of Lobbyists*), or that compensates another person to lobby on a municipal question of interest to the business association. Partners, shareholders, principals, employees, and persons who conduct business through the same business association, are considered to be a single bundler for the purpose of this subsection. The total amount bundled by all the partners, shareholders, principals, employees, and persons who conduct business through the same business association when added together may not exceed ten times the contribution limit set by Article III, Section 8(A)(1) of the City Charter for the entire business association for any one candidate in a campaign period.

Source: Ord. 20080925-079; Ord. 20100819-034; Ord. 20120426-088.

§ 2-2-23 GENERAL PURPOSE COMMITTEES.

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

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

Source: Ord. 20080925-079.

§ 2-2-24 RETURNED CONTRIBUTIONS.

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

(A) after a contribution has been deposited in a financial institution account, a partial or full refund must be paid by cashier's check;

(B) copies of returned checks, refund checks, and any related correspondence must be retained by the campaign treasurer in accordance with Section 2-2-28 (*Retention of Records*); and

(C) any contribution received and accepted, but refunded to the contributor, must be disclosed as both a contribution and an expenditure on the applicable contribution and expenditure report.

Source: Ord. 20080925-079.

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

(A) A candidate, officeholder, or campaign committee filing a January 15 year-end contribution and expenditure report shall provide the following information for the previous calendar year for each checking, savings, or other financial institution account:

(1) name of the financial institution and type of account;

(2) a listing of date, payee, and amount of checks issued on that account that have not cleared by December 31;

(3) a listing of checks received as contributions and deposited, but dishonored by the contributor's financial institution;

(4) all interest or dividends earned;

(5) all deposits and withdrawals not disclosed on a filed contribution and expenditure report; and

(6) the beginning and ending balance.

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

Source: Ord. 20080925-079.

§ 2-2-26 ELECTRONIC FILING.

(A) A candidate or candidate's campaign committee must file City election contribution and expenditure reports electronically as determined by the city clerk. The electronic format must allow for searching by words or fields.

(B) The city clerk shall post the report on the city clerk's campaign finance report website within one business day of receipt.

Source: Ord. 20080925-079; Ord. 20090521-017; Ord. 20120426-087.

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

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

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

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

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

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

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

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

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

Source: Ord. 20080925-079.

§ 2-2-28 RETENTION OF RECORDS.

A candidate or officeholder subject to this chapter must:

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

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

Source: Ord. 20080925-079.

§ 2-2-29 SPECIAL PRE-ELECTION REPORTS.

(A) This section applies to:

(1) a candidate who accepts contributions that total more than \$10,000 during the period beginning the 9th day before the date of an election and ending at 5 p.m. on the day before the date of an election;

(2) a political committee that accepts contributions that total more than \$2,500 during the period beginning the 9th day before the date of an election and ending at 5 p.m. on the day before the date of an election; and

(3) a political committee that makes expenditures that total more than \$1,000 during the period beginning the 9th day before the date of an election and ending at 5 p.m. on the day before the date of an election.

(B) A candidate described in Subsection (A) shall file a special pre-election report with the City Clerk that includes the following information:

(1) the name of the candidate;

(2) the name and address of each contributor making a contribution, or contributions, that total more than \$200 during the period beginning the 9th day before the date of the election and ending at 5p.m. on the day before the date of the election;

(3) the amount of each contribution;

(4) the date each contribution was accepted; and

(5) a description of any in-kind contribution.

(C) A political committee described in Subsection (A) shall file a special pre- election report with the City Clerk that includes the following information:

(1) the name of the political committee;

(2) the name and address of each contributor making a contribution, or contributions, that total more than \$200 during the period beginning the 9th day before the date of the election and ending at 5p.m. on the day before the date of the election;

(3) the amount of each contribution;

(4) the date each contribution was accepted;

(5) a description of any in-kind contribution;

(6) the amount of each expenditure over \$1,000 made during the period beginning the 9th day before the date of an election and ending at 5p.m. on the day before the date of an election, the name and address of each person to whom a reportable expenditure was made, and the date and the purpose of the expenditure.

(D) A candidate or political committee must file a special pre-election report each time the reporting thresholds prescribed by Subsection (A) are met. The filing of one special pre- election report does not excuse the filing of a subsequent report or reports for the same period if the reporting thresholds prescribed by Subsection (A) are met more than once.

(E) A special pre-election report shall be filed electronically, unless otherwise exempted from electronic filing.

(1) A special pre-election report must be received by the city clerk no later than 5 p.m. of the first business day after the date that a contribution that triggers the filing requirement is

accepted or after an expenditure that triggers the filing requirement is made.

(2) The city clerk shall post a special pre- election report on the City's Web site no later than 5 p.m. on the first business day after the date that the city clerk receives the report.

(3) Any information reported on a special pre-election report must also be reported on the candidate's or political committee's next contribution and expenditure report.

Source: 20120524-078.

ARTICLE 4. INDEPENDENT EXPENDITURES.

§ 2-2-31 DEFINITIONS.

In this article:

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

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

(2) refers to:

(a) a clearly identified candidate by:

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

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

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

(i) the measure's number;

(ii) a description of the measure; or

(iii) an unambiguous reference to the measure;

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

(4) is made later than the 61st day before the date of an election in which the candidate or the ballot measure appears on the ballot; and

(5) is capable of reaching at least:

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

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

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

Source: Ord. 20120802-069.

§ 2-2-32 REPORTING OF INDEPENDENT EXPENDITURES.

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

- (1) the full name and address of the person to whom each expenditure is made;
- (2) the date and amount of each expenditure;
- (3) the purpose of each expenditure;

(4) the name of each candidate whose election or defeat the expenditure advocates, or each ballot measure the passage or defeat of which the expenditure advocates; and

(5) in the case of an expenditure for an electioneering communication, the name of each candidate to whom the communication referred or each ballot measure to which the communication referred.

(B) A person making a report required by Subsection (A) shall include in the report a sworn statement that each independent expenditure was made without prior consent, cooperation, strategic communication, consultation, or sharing of material information regarding the communication's content, intended audience, timing, or method of dissemination between an affected 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 making the expenditure, or that person's agent or employee.

(C) 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 ninth day before the date of the election, no later than the second business day after the date of the expenditure; or

(3) if the expenditure is made on or after the ninth day before the date of the election, no later than 5 p.m. on the first business day after the date of the expenditure.

(D) A report required by this section shall be filed electronically, unless otherwise exempted from electronic filing. The city clerk shall post a report under this section on the City's Web site on the first business day after the date that the clerk receives the report.

(E) 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 by state law.

Source: Ord. 20120802-069.

§ 2-2-33 DISCLOSURE STATEMENT REQUIRED.

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

Source: Ord. 20120802-069.

ARTICLE 5. OFFICEHOLDER ACCOUNTS AND CAMPAIGN DEBT.

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

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

Source: Ord. 20080925-079.

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

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

- (A) campaign debt in existence as of the first day of each calendar year;
- (B) campaign debt in existence as of the last day of each calendar year;
- (C) in addition, the officeholder shall report the following information on all campaign debt existing as of December 31 of the reporting year:
 - (1) for loans and other debt evidenced by a note, the name of the creditor, the principal amount owed, the interest rate, and the date of maturity;
 - (2) for all other campaign debts, the name of the creditor and the principal amount owed; and
 - (3) debts under \$50 may be aggregated and reported as a miscellaneous category.

Source: Ord. 20080925-079.

§ 2-2-43 EXISTENCE OF CAMPAIGN DEBT.

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

Source: Ord. 20080925-079; Ord. 20090521-017.

ARTICLE 6. RESTRICTIONS ON CONTRIBUTIONS.

§ 2-2-51 RESTRICTIONS ON CASH CONTRIBUTIONS.

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

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

Source: Ord. 20080925-079.

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

(A) Except as provided in Subsection (B), a person shall not make a contribution to a candidate or officeholder and a candidate or officeholder shall not solicit or accept a contribution at a City-owned building, except at a City-owned building that is available for rental to the general public and that is rented for a campaign related event at the time the contribution is made.

(B) This section does not prohibit contributions mailed to a candidate or officeholder at a City mailing address.

Source: Ord. 20080925-079.

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

(A) The city council finds that the practice of lobbying for compensation creates a unique relationship between candidates and officeholders on the one hand, and lobbyists on the other. To preserve public confidence in the electoral process, to diminish the appearance of impropriety and special influence, and to minimize the role of political contributions in the legislative and regulatory processes and the awarding of public contracts, it is appropriate to prohibit persons who lobby the city council from making contributions to candidates for mayor and city council and to officeholders. Accordingly, no person who is compensated to lobby the city council and who is required to register with the City as a lobbyist, and no spouse of the person, may contribute more than \$25 in a campaign period to an officeholder or candidate for mayor or city council, or to a specific purpose political committee involved in an election for mayor or city council.

(B) A lobbyist may contribute to the Austin Fair Campaign Fund created under this chapter.

Source: Ord. 20080925-079.

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

(A) Except as provided in Subsection (C), a specific-purpose political committee supporting or opposing a candidate in a city election may not:

(1) accept a contribution of more than the contribution limit established in City Charter Article III, Section 8(A)(1) (*Limits on Campaign Contributions and Expenditures*); or

(2) accept an aggregate contribution total of more than the amount set by City Charter Article III, Section 8(A)(3) (*Limits on Campaign Contributions and Expenditures*) from sources other than natural persons eligible to vote in a postal zip code completely or partially within the Austin city limits.

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

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

Source: Ord. 20080925-079.

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

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

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

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

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

Source: Ord. 20080925-079.

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

A candidate may only authorize one campaign committee.

Source: Ord. 20080925-079.

§ 2-2-57 RESTRICTIONS ON EXPENDITURES BY AFFILIATED PERSON.

A person who is considered a candidate under Section 2-2-2 (5)(c) (*Definitions*), shall not make an expenditure from funds that have not been lawfully accepted by a candidate or a candidate's campaign committee.

Source: Ord. 20080925-079.

ARTICLE 7. AUSTIN FAIR CAMPAIGN FINANCE FUND.

§ 2-2-61 ESTABLISHMENT.

This Article establishes a separate City account known as the Austin Fair Campaign Finance Fund. The fund provides partial public support for qualifying candidates. The fund shall also be used to offset the cost of administering the City's lobbying ordinance, the costs of handling disclosure filings, and the costs of administering the Austin Fair Campaign Chapter. To effect the purposes of this chapter, all funds in the separate account at the time of a City election are to be appropriated for distribution to qualifying candidates in any runoff elections. If there are no qualifying candidates in runoff elections, funds so appropriated shall be returned to the separate account.

Source: Ord. 20080925-079.

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

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

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

Source: Ord. 20080925-079.

§ 2-2-63 QUALIFYING CANDIDATES.

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

Source: Ord. 20080925-079.

§ 2-2-64 FUNDING FOR QUALIFYING CANDIDATES.

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

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

- (1) on request, the city clerk shall state the available balance in the Austin Fair Campaign Finance Fund;
- (2) funds for a city runoff election shall be made available as soon as practicable after the results of the city general election are certified; and

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

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

Source: Ord. 20080925-079.

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

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

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

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

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

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

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

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

Source: Ord. 20080925-079.