

## Chapter 2.42 - FAIR ELECTIONS

*Footnotes:*

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*Source: Ordinance No. 18-93 N.S. amended by Ordinance No. 29-94 N.S.*

## 2.42.010 - Title.

This ordinance shall be known and may be cited as the "City of Richmond Fair Elections Ordinance."

## 2.42.020 - Finding and declarations.

- (a) Monetary contributions to political campaigns are a legitimate form of participation in the American political process; however, the financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence upon the election of candidates.
- (b) The increasing costs of political campaigns compel many candidates to raise larger percentages of money from interested groups with a specific financial stake in matters which may come before the City Council. This has caused a public perception that votes may be improperly influenced by monetary contributions.
- (c) The tendency for campaign contributions to be dominated by a small number of very large contributors undermines the integrity of the governmental process, the competitiveness of campaigns, and the public confidence in local officials and local agencies.
- (d) High campaign costs are forcing officeholders to spend more time on fund raising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

## 2.42.030 - Purpose of the chapter.

The City Council enacts this chapter to accomplish the following purposes:

- (1) To improve methods of financing campaigns in order to ensure the public's right-to-know, combat corruption and undue influence, and promote citizen participation in the political process.
- (2) To prevent parties with a specific financial interest in the City's decision from exerting undue influence over those decisions by means of large campaign contributions.
- (3) To allow candidates and officeholders to spend a lesser proportion of their time on fund raising and greater proportion of their time dealing with issues of importance to the City and its residents.
- (4) To improve the disclosure of contribution sources in reasonable and effective ways.
- (5) To restore public trust in governmental electoral institutions.
- (6) To ensure that independent expenditures were not used to evade contribution limits.
- (7) To prevent large contributors to independent expenditure committees from influencing candidates in the same way that candidates are influenced by large contributors who give to them directly.
- (8) To avoid the corruption or appearance of corruption of candidates who otherwise note those entities that have given large contributions to independent expenditure committees and thus be influenced by those

large contributions to the independent expenditure committees.

- (9) To reduce the political quid pro quo by candidates who might be more inclined to provide favors and attention to those entities that, without this chapter, would have contributed large sums to the candidate's campaign through the independent expenditure intermediary.

#### 2.42.040 - Definitions.

Unless otherwise specifically provided in this Ordinance or required by the context, the words and phrases in this chapter shall have the same meanings as in the California Elections Code and the Political Reform Act of 1974 (Government Code Section 8100, et seq.) and regulations adopted thereunder.

"Campaign statement" means any itemized report of campaign contributions and/or expenditures which a candidate or any person is required to file under the California Elections Code, the Political Reform Act of 1974 (California Government Code Sections 81000, et seq.), the Richmond Municipal Code, and any regulations adopted under the foregoing legislation.

"Candidate" means a candidate for election to the Richmond City Council or to the office of Mayor of the City of Richmond; and if the candidate is elected, means the officeholder.

"Candidate-controlled committee" means a committee which is controlled by a candidate, or which acts jointly with a candidate in connection with the making of expenditures. A candidate controls a committee if the candidate, his or her agent, or any other committee which he or she controls has a significant influence on the actions or the decisions of the committee.

"Candidate's designated committee" means the controlled committee designated by the candidate to receive contributions or make expenditures for his or her campaign, as declared in a signed statement filed with the City Clerk pursuant to Section 2.42.070(b) of this chapter.

"City" means the City of Richmond.

"City Council" means the City Council of the City of Richmond.

"Contribution":

- (1) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure.
- (2) The term "contribution" includes the candidate's own money or property used on behalf of his or her candidacy; the granting of discounts or rebates not extended to the public generally, or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a

candidate or committee without payment of full and adequate consideration; a loan or extension of credit to the candidate on terms not generally available to the public, not made in the ordinary course of business of the contributor, and made without payment of full and adequate consideration.

- (3) The term "contribution" further includes any-transfer of anything of value received by a committee for another committee, unless full and adequate consideration is received.
- (4) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.
- (5) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are \$500 or less.
- (6) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.
- (7) A contribution to the candidate's designated committee is deemed a contribution to the candidate.

"Election cycle" means the period starting on the effective date of this ordinance and ending on December 31, 1993, for candidates seeking office in the November, 1993, City election, and shall mean the period starting on the effective date of this ordinance and ending on December 31, 1995, for candidates seeking office in the November, 1995, City election; and thereafter, the "Election Cycle" shall mean the period starting on the first day of January following the last November election for the office of Mayor or for a City Council seat and ending on the 31st day of December following the next election for the Office of Mayor or the same City Council seat.

"Independent expenditure committee" means any person who makes independent expenditures supporting or opposing a candidate for City Council or Mayor in the City of Richmond only and the expenditure is not made to or at the behest of the affected candidate.

"Mayor" means the Mayor of the City of Richmond.

"Non-monetary contribution" shall be valued as a contribution at the true or estimated fair market value of the goods, services, or facilities contributed to the campaign. A fair market value is the price that a person would be required to pay to acquire the same goods or services in the open market place.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, candidate-controlled committee, broad based political committee, political committee, and any other organization or group of persons acting in concert.

#### 2.42.050 - Campaign contribution limitations.

##### (a) Limitations on Contributions.

- (1) No person shall make to any candidate or independent expenditure committee and no candidate or independent expenditure committee shall solicit or accept any contribution which would cause the total amount contributed by that person to that candidate or independent expenditure committee to exceed

\$2,500 in each election cycle.

- (2) No person shall make an anonymous contribution or contributions to a candidate, and no candidate shall accept or solicit an anonymous contribution, totaling one hundred dollars (\$100) or more in an election cycle.
  - (3) A candidate shall maintain a written record of the name and address of each person from whom contributions of one hundred dollars (\$100) or more are received in an election cycle.
  - (4) The limitation on contributions provisions of Section 2.42.050(a)(1) shall not apply to a candidate's contribution or loan of his or her own personal funds to his or her own designated committee.
- (b) Return of Excess Contributions. A contribution need not be reported, nor shall it be deemed accepted, if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

#### 2.42.060 - Limitations on transfers from candidate-controlled committees.

- (a) Contributions received by a candidate-controlled committee after the effective date of this ordinance shall be subject to the contribution limitations set forth in this chapter when such contributions are transferred to the candidate's designated committee.
- (b) The following method shall be utilized to calculate the amount that is in compliance with the contribution limitations.
  - (1) The candidate shall review the contributions which have been received by the candidate-controlled committee after the effective date of this chapter, beginning with the last contribution received and working back in time until the total amount of cash and cash equivalents held by the candidate-controlled committee is reached.
  - (2) Should the review indicate that the aggregate amount of contributions from a contributor in the candidate-controlled committee account and in the designated committee account exceeds any applicable limitation, the total amount that may be transferred shall be reduced by the amount in excess of the applicable contribution limitation.

#### 2.42.070 - Disclosure.

- (a) Disclosure.
  - (1) The information required to be recorded by a candidate under Section 2.42.050 shall be disclosed in a written report to the City Clerk as of and at the required filing date of any campaign statement. If the information required to be disclosed has been compiled in another document which the candidate is required to prepare, that document may be filed with the City Clerk in lieu of the statement required herein.
  - (2) In addition to the statements required to be filed under the California Political Reform Act of 1974 or the Richmond Municipal Code, each candidate shall file with the City Clerk a statement disclosing the name and address of any contributor of a loan or extension of credit made to the candidate on terms not generally available to the public, not made in the ordinary course of business of the contributor, and

made without payment of full and adequate consideration. If the information required to be disclosed has been compiled in another document which the candidate is required to prepare, that document may be file with the City Clerk in lieu of the statement required herein.

(b) Designated Committee Statement.

- (1) Each candidate shall file a statement with the City Clerk naming one committee as the candidate's designated committee for the duration of the election cycle. The designated committee may not be changed during the election cycle. All other committees controlled by the candidate are prohibited from receiving contributions for expenditure in the candidate's campaign for the election for which the designated committee was selected, and from making expenditures on behalf of the candidate's campaign for the election for which the designated committee was selected, except as transfers of funds from other, candidate-controlled committees to the designated committee are permitted within the limits set by this ordinance, and within any limits set by the California Political Reform Act of 1974.
- (2) The statement required by Section 2.42.070(b)(1) of this ordinance shall be in the following form:  
"I, [name of candidate], declare that [name of designated committee and ID number, if available] is the only candidate-controlled committee I shall allow to receive contributions for, or make expenditures on behalf of, my campaign for the election of [date of election]."
- (3) The statement required by Section 2.42.070(b)(1) of this chapter shall be signed and dated by the candidate, and shall be filed with the City Clerk before any expenditures are made in the election campaign or any contributions are solicited or accepted for the election campaign; except that the statement shall not be required to be filed until 14 days after the passage of the ordinance codified in this chapter.

(c) Ownership of Non-Individual Contributors. Each candidate shall ascertain and disclose, on the campaign statement or in a separate statement filed with the City Clerk attached to each campaign statement covering the period partly or wholly within the election cycle, the name and address of each person who holds at least 50 percent ownership or equity interest in a non-individual contributor of contributions totaling one hundred dollars (\$100) or more. A non-individual contributor shall provide to the candidate the name and address of each person required by this section to be disclosed at the time the contribution is made, and in no event later than the closing date of the campaign reporting period in which the contribution is made. The candidate shall inform each non-individual contributor of contributions of one hundred dollars (\$100) or more of its obligation to provide the information required by this section. No candidate designated committee, or designated committee's treasurer shall be liable for failure to make the disclosure required by this section if the name and address information has not been timely provided by the non-individual contributor, unless the candidate, designated committee, or designated committee's treasurer knew or had reason to know the facts requiring disclosure.

(d) Press Disclosure. The City Clerk shall, three (3) working days after any filing or payment deadline, disclose to the public by press release the name of any candidate who has failed to file any statements required under this chapter in the current election or who has failed to pay to the City in a timely manner any fees owed from or resulting from fees imposed by the City for the campaign and/or in previous elections.

(e) Filing of Non-Richmond Committee Reports. Any committee, as defined under Government Code Section 82013, domiciled outside of the City of Richmond which makes contributions or independent expenditures

for or against any candidate for City Council or Mayor or for or against any local ballot measure which is being voted upon only in the City of Richmond shall file with the City Clerk a copy of all campaign statements required to be filed under the California Political Reform Act of 1974. The deadline for filing such campaign statements with the City Clerk shall be the same deadline for filing campaign statements with the California Secretary of State or any County Clerk as set forth in the California Political Reform Act of 1974.

2.42.075 - Required disclosure on mass mailings.

- (a) Any committee, including a primarily formed committee as defined by Government Code Section 82047.5, that makes, during the calendar year in which the election is held, more than five thousand dollars in independent expenditures for or against a candidate for City office, or more than five thousand dollars in expenditures for or against the qualification, or passage, of a City ballot measure, shall provide the following information in a clear and legible manner on the front page of any mass mailing (delivered to residences by any means including hand delivery) by the committee in the election for which the expenditures were made:
- (1) The words "Major funding by:" followed by the following information for each of the three largest contributors who have contributed at least twenty-five hundred dollars to the committee during the one-year period immediately preceding the date of distribution of the mass mailing, listed in order of the amount of contributions:
    - (A) In the case of an individual, the first and last name and the occupation of the individual shall be stated.
    - (B) In the case of any entity other than an individual or committee, the full name of the entity and its business interests shall be stated.
    - (C) In the case of another committee, the full name of the committee and the name and occupation of the individuals, or name and business interests of the entities, who direct or control the expenditures of the committee shall be stated. For the purposes of this section, a person shall be deemed to direct or control the expenditures of the committee if the person was the largest contributor to the committee for the one-year period immediately preceding the expenditure. If two or more of the largest contributors have contributed the same amount, they shall be listed according to chronological sequence of their contributions, with the most recent contribution listed first.
  - (b) When making the disclosures required in subsection (a)(1), the committee must use at least a twelve (12) point font size in contrasting color for all words in that disclosure, except in the event the surface area of the front page of a mass mailing is less than forty (40) square inches, in which case the committee must use at least a ten (10) point font size. The committee shall not place any other text within one-half inch of the disclosures required in subsection (a)(1), except in the event the surface area of the front page of a mass mailing is less than forty (40) square inches, in which case the committee shall not place any other text within one-fourth inch of the disclosures required in subsection (a).
  - (c) For purposes of this section "front page" shall mean the envelope, page, or panel where the address appears, or in the case of unaddressed items, any outside panel.
  - (d) This section does not apply to communications from an organization to its members.
  - (e) No later than 120 days before each municipal election, the City Clerk shall mail to each committee that has previously filed a campaign statement with the City Clerk, except candidate-controlled committees and

committees that have properly terminated their status as committees under State law, a document prepared by the City Attorney that explains the requirements of this section in easy to understand terms. The document may take the form of "frequently asked questions" and may include graphics to illustrate the requirements of this section. The City Clerk shall also provide this document to any entity that qualifies as a committee within the 120-day period before a municipal election.

(Ord. No. 04-12 N.S., 6-19-2012; Ord. No. 11-12 N.S., § 1, 9-18-2012)

#### 2.42.080 - Penalties and enforcement.

##### (a) Penalties.

- (1) Civil. Any person who intentionally or negligently violates Section 2.42.050 or 2.42.060 of this chapter shall be liable in a civil action for an amount up to \$5,000 for each violation or three times the amount or value of the unlawful contribution, whichever is greater. Any person who intentionally or negligently violates Section 2.42.070 of this chapter shall be liable in a civil action for an amount up to \$5,000 for each violation or three times the amount not properly reported, whichever is greater. Any person who intentionally or negligently violates Section 2.42.075 of this chapter shall be liable in a civil action for an amount up to \$5,000 for each violation or three times the cost of the mailing made in violation of this chapter, whichever is greater. The City Attorney is authorized to institute and prosecute any civil action pursuant to this section. Any civil penalties recovered under this section shall be deposited in the Richmond City Treasury.
- (2) Personal Liability. Candidates and treasurers are responsible for complying with this chapter and may be held personally liable for violations by their committees. Nothing in this chapter shall operate to limit the candidate's liability for, nor the candidate's ability to pay, any fines or other payments imposed pursuant to administrative or judicial proceedings.
- (3) Joint and Several Liability. If two or more persons are responsible for any violation of this chapter, they shall be jointly and severally liable.

##### (b) Enforcement.

- (1) Campaign Statement Review.
  - (A) The City Clerk shall monitor all campaign statements and shall notify the candidate or committee of any of the following apparent violations of this chapter:
    - (i) Whether the required statements have been timely filed.
    - (ii) Whether the statements conform on their face with the requirements of this chapter.
    - (iii) Whether any reported contributions exceed the allowable maximums established under this chapter.
  - (B) The candidate or committee shall be allowed to correct any reports within five (5) days after receipt of notice of an apparent violation sent by the City Clerk.
- (2) Civil Injunction Actions. The City Attorney, or any resident, may bring a civil action to enjoin violations of, or compel compliance with, the provisions of this chapter, or for civil penalties under subsection (a)(1) of this section, or both. No resident may commence an action under this subsection without first providing written notice to the City Attorney of the intent to commence an action. The notice shall include a

statement of the grounds for believing a cause of action exists. The resident shall deliver the notice to the City Attorney at least 60 days in advance of filing an action for an alleged violation of Section 2.42.050, 2.42.060 or 2.42.070, or at least ten days for an alleged violation of Section 2.42.075. No resident may commence an action under this subsection if the City Attorney has commenced a civil action against the defendant, or if another resident has filed a civil action against the defendant under this subsection. A court may award reasonable attorney's fees and costs to any party who obtains civil penalties or equitable relief under this subsection. If the Court finds that an action brought by a party under this subsection is frivolous, the Court may award the defendant reasonable attorney's fees and costs.

- (3) Issuance of Subpoenas. The City Attorney may issue subpoenas in furtherance of his or her duties under this chapter.

(Ord. No. 13-10 N.S., §§ 1, 2, 4-6-2010; Ord. No. 11-12 N.S., § 2, 9-18-2012)

#### 2.42.090 - Distribution of chapter to candidates.

The City Clerk shall distribute a complete copy and a summary of this chapter to all potential candidates for City Council and Mayor at the time the potential candidate requests and receives a nomination petition.

#### 2.42.100 - Applicability of other laws.

Nothing in this chapter shall exempt any person or committee from applicable provisions of any other laws of this State.