

**ORDINANCE NO. 11-12 N.S.**

**ORDINANCE AMENDING SECTION 2.42.075 OF THE RICHMOND MUNICIPAL CODE TO SPECIFY THE INFORMATION THAT MUST BE INCLUDED ON A MASS MAILING IN SUPPORT OF, OR IN OPPOSITION TO, A CANDIDATE FOR RICHMOND ELECTIVE OFFICE, OR A RICHMOND CITY BALLOT MEASURE, AND TO SPECIFY WHICH TYPES OF POLITICAL COMMITTEES ARE SUBJECT TO THESE REQUIREMENTS; AND AMENDING SECTION 2.42.080 OF THE RICHMOND MUNICIPAL CODE TO REPEAL THE PROVISION OF THAT SECTION IMPOSING CRIMINAL PENALTIES FOR VIOLATIONS OF CHAPTER 2.42 OF THE RICHMOND MUNICIPAL CODE.**

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The Council of the City of Richmond do ordain as follows:

**Section 1. Amendment.** The Richmond Municipal Code is hereby amended by amending Section 2.42.075 thereof to read as follows:

**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 ~~is~~, 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.

**Section 2. Amendment.** The Richmond Municipal Code is hereby amended by amending Section 2.42.080 thereof to read as follows:

**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 10 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 ~~or criminal~~ 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.

**Section 3. Severability**

This Ordinance shall be interpreted in a manner consistent with all federal and state laws, rules and regulations. The provisions of this Ordinance are severable. If any section, subsection, sentence or clause (“portion”) of this Ordinance is held to be invalid or unconstitutional by a

final judgment of a court, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that this Ordinance, and each portion, would have been adopted irrespective of whether any one or more portions of the Ordinance are found invalid. If any portion of this Ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Ordinance that can be given effect. This Ordinance shall be broadly construed to achieve its stated purposes.

First read at a regular meeting of the Council of the City of Richmond, California, held, June 5, 2012, and finally passed and adopted at a regular meeting thereof held September 18, 2012, by the following vote:

AYES: Councilmembers Bates, Beckles, Boozé, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

BRUCE REED GOODMILLER  
City Attorney

State of California            }  
County of Contra Costa        } : ss.  
City of Richmond             }

I certify that the foregoing is a true copy of Ordinance No. 11-12 N.S., finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on September 18, 2012.