

ORDINANCE NO. 13-10 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND REPEALING SECTION 2.42.080 (ENFORCEMENT OF FAIR ELECTIONS ORDINANCE) AND ADDING A NEW SECTION 2.42.080 TO ESTABLISH THE PENALTIES FOR VIOLATION OF THE FAIR ELECTIONS ORDINANCE AND THE PROCESS FOR ENFORCING THE ORDINANCE

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

SECTION 1: Richmond Municipal Code Section 2.42.080 is hereby repealed.

SECTION 2: The Richmond Municipal Code is hereby amended by adding a new Section 2.42.080 as follows:

2.42.80. Penalties and Enforcement

(a) Penalties.

- (1) Criminal. Any person who knowingly or willfully violates any provision of Section 2.42.050 or 2.42.060 of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the County jail for a period of not more than six months or by a fine of \$5,000 for each violation, or three times the amount or value of the unlawful contribution, whichever is greater, or by both such fine and imprisonment. Any person who knowingly or willfully violates any provision of Section 2.42.070 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the County jail for a period of not more than six months or by a fine of \$5,000 for each violation, or three times the amount not properly reported, whichever is greater, or by both such fine and imprisonment. Any person who knowingly or willfully violates any provision of Section 2.42.075 of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the County jail for a period of not more than six months or by a fine of \$5,000 for each violation, or three times the cost of the mailing made in violation of this Chapter, whichever is greater, or by both such fine and imprisonment.
- (2) 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.
- (3) 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.
- (4) 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.

- i. 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:
 - A. Whether the required statements have been timely filed.
 - B. Whether the statements conform on their face with the requirements of this chapter.
 - C. Whether any reported contributions exceed the allowable maximums established under this ordinance.
- ii. 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 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)(2) 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 or District 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. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such invalidity shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

SECTION 4. This ordinance shall be effective 30 days after passage and adoption.

First introduced at a regular meeting of the City Council of the City of Richmond held on March 16, 2010, and finally passed and adopted at a regular meeting held on April 6, 2010, by the following vote:

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

NOES: None.

ABSTENTIONS: Councilmembers Bates, Lopez, and Viramontes

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of Ordinance No. 13-10 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting on April 6, 2010.