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## Tucson, AZ Code of Ordinances

## ARTICLE XII. REPORTING OF INDEPENDENT EXPENDITURES

### Sec. 12-191. Supplemental reporting of independent expenditures in city limits.

*Statement of purposes.* This article's purposes are to:

- (1) Allow voters access to information about who supports or opposes candidates financially;
- (2) Allow the city clerk to more effectively distinguish independent expenditures from expenditures made by candidates or candidates' campaign committees; and
- (3) Deter corruption and the appearance of corruption.

(a) *Additional notification.* In addition to the reporting required in subsections(g) and (k), a person that makes independent expenditures relating to any one candidate or office within sixty (60) days of the election shall:

- (1) Send by certified mail a copy of the campaign literature or advertisement to each candidate named or otherwise referred to in the literature or advertisement twenty-four (24) hours after depositing it at the post office for mailing, twenty-four (24) hours after submitting it to a telecommunications system for broadcast or twenty-four (24) hours after submitting it to a newspaper for printing.
- (2) The copy of the literature or advertisement sent to a candidate pursuant this section shall be a reproduction that is clearly readable, viewable or audible.

A person who violates this subsection is subject to a civil penalty of three (3) times the cost of the literature or advertisement that was distributed in violation of this subsection. This civil penalty shall be imposed as prescribed in sections 12-95 and 12-96 of this code.

(b) *Contents of report.* Any report under this article shall, in addition to providing all other required information, identify any person who has contributed five hundred dollars (\$500) or more.

(c) *Determining whether expenditure is for communication that expressly advocates the election or defeat of a clearly identified candidate.* In determining whether an expenditure should have been reported pursuant to subsections(g) and (k), the city clerk shall consider whether the expenditure was for a communication that expressly advocates the election or defeat of a clearly identified candidate and was not made with prior consent, cooperation, or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. In determining that a communication expressly advocates the election or defeat of a candidate, rather than a communication that advocates in favor of or against an issue, the city clerk will consider the following three (3) components:

- (1) Even if it is not presented in the clearest, most explicit language, speech is express if its message is unmistakable, unambiguous, and suggestive of only one plausible meaning.
- (2) Speech may only be termed advocacy if it presents a clear plea for action, and thus speech that is merely informative is not covered by this article.

(3) It must be clear what action is advocated. Speech cannot be considered express advocacy of the election or defeat of a clearly identified candidate when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. If any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to this article's disclosure requirements.

(d) *Exception for independent expenditures previously reported.* Subsections(g) and (k) shall not apply to any independent expenditure already reported by the person making the independent expenditure pursuant to the requirements of A.R.S. §§ 16-926 and 16-927, and the amount of that already reported independent expenditure shall not be used in calculating the trigger amounts for original and supplemental reports set forth in subsections(g) and (k).

(e) *Literature or Advertisements.* Any person purchasing literature or advertisements for the purpose of making an independent expenditure must also comply with this code.

(f) *Misdemeanor.* Any person who makes a knowingly false filing relating to an independent expenditure pursuant to this section is guilty of a class 1 misdemeanor.

(g) *Original report.* Any person who makes independent expenditures related to a particular city office or ballot measure cumulatively exceeding one thousand dollars (\$1,000) during a campaign period, shall file reports with the city clerk in accordance with this subsection so indicating.

(1) The name, address, title, email address and telephone number of the person making the independent expenditure.

(2) The date and amount of the expenditure, and the name of the vendor or other payee receiving the expenditure.

(3) The name of the candidate(s) and race(s) in which the expenditure was made and whether the expenditure was in support of or opposition to the candidate(s).

(4) The communication medium and description of what was purchased with the expenditure.

(5) An expenditure or disbursement is deemed made either on the date the committee authorizes the monies to be spent or the date the monies are withdrawn from the committee's account. For a transaction by check, the expenditure or disbursement is deemed made on the date the committee signs the check. For a credit card transaction on paper, the expenditure or disbursement is deemed made on the date the committee signs the authorization to charge the credit card. For an electronic transaction, an expenditure or disbursement is deemed made on the date the committee electronically authorizes the charge. For an agreement to purchase goods or services, the expenditure or disbursements is deemed made either on the date the parties enter into the agreement or the date the purchase order is issued.

(h) *Penalty for failure to file required report.* Any person who fails to file a report as required, or provide information, as required by this article shall be subject to a civil penalty of up to three (3) times the total amount of independent expenditures not reported. In the case of a political action committee, the civil penalty may be assessed against the political action committee's chairperson, its treasurer, or both.

(i) *"Person"* includes a political committee as defined in A.R.S. § 16-901, as well as a natural person.

(j) *Severability.* If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(k) *Supplemental report.* Any person who has previously reached the dollar amount specified in subsection(g) for filing an original report shall file a supplemental report each time previously unreported independent expenditures specified by subsection(g) exceed one thousand dollars (\$1,000).

(l) *Time of filing.* Any person who must file an original report pursuant to subsection(g), or who must file a supplemental report for previously unreported amounts pursuant to subsection(k), shall file the report with the city clerk not later than one (1) day after making the expenditure, excluding Saturdays, Sundays and legal holidays.

(m) All civil penalties paid under this section shall be appropriated to the election campaign account established pursuant to section 12-99 of this code.

Corporations, limited liability companies and labor organizations making independent expenditures relating to the City of Tucson candidates must comply with the provisions of A.R.S. Title 16.

(Ord. No. 11525, § 2, 2-21-18)