

ORDINANCE NO. 2013-1265

AN ORDINANCE ADDING DIVISION 3 TO ARTICLE 2 OF CHAPTER 2
(ADMINISTRATION) OF THE FARMINGTON CITY CODE ENTITLED "CAMPAIGN
FINANCING"

WHEREAS, the Farmington City Council determined it is in the best interest of citizens to provide transparency in the elections for Mayor, Council and Municipal Judge by enacting local regulation in the area of campaign financing; and

WHEREAS, the Farmington City Council, in its continuing efforts to be assured of the public's trust, wishes to establish policies making its government more open, honest and accountable to its citizens; and

WHEREAS, the City Council desires to establish guidelines for the Mayor, Councilors and Municipal Judge for disclosures of campaign contributions, gifts, expenditures and reporting of same; and

WHEREAS, the City Council has determined that the ability of a contributor to contribute an unlimited amount to a candidate's campaign may lead to the use of undue influence or the appearance of undue influence on the candidate.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

Section One. A new Division 3, entitled "Campaign Financing," is added to Article 2, Chapter 2, of the Farmington City Code, as follows:

"DIVISION 3. CAMPAIGN FINANCING

Sec. 2-3-43. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Candidate means an individual seeking election to the position of mayor, councilor or municipal judge at a regular or special election of the city.

Contribution means a gift, subscription, loan, advance or deposit of any money or other thing of value which is made for the primary purpose of supporting or opposing a candidate for elective office. This does not include the value of a volunteer's time provided without compensation or unreimbursed personal expenses, such as vehicle use or meals, of individuals who volunteer a portion or all of their time on behalf of a candidate.

Election means any regular or special municipal election in the city.

Expenditure means a payment, transfer, or distribution, or obligation or promise to pay, transfer or distribute any money or other thing of value for the purpose of influencing the outcome of an election of a candidate, but does not include the candidate's or his immediate family's personal expenses such as vehicle use or meals.

General purpose political committee means a political committee other than a special purpose political committee.

Political committee means every two or more persons who are selected, appointed, chosen or associated for the purpose of, wholly or in part, supporting or opposing a candidate at any election, and includes political committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group which raises, collects, expends or contributes money or any other thing of value for the purpose of supporting or opposing a candidate in a municipal election.

Reporting individual means every candidate, every treasurer of every special purpose political committee or treasurer of every general purpose political committee whose purpose is to aid the candidate in the campaign for municipal office.

Special purpose political committee means a political committee making contributions to support or oppose one candidate, such contributions being limited to one special or one regular election.

Sec. 2-3-44. Applicability of article.

This article also applies to any contributions, expenditures, persons, or committees whose purpose is to encourage adoption or defeat of any municipal question submitted to the voters of the city.

Sec. 2-3-45. Paid political ads.

No candidate or political committee shall pay all or any part of the cost of a political ad endorsing a candidate for an election without disclosing such sponsorship in the ad.

Sec. 2-3-46. Reports required.

Each candidate and each treasurer of each special purpose political committee and general purpose political committee shall file with the city clerk a report of expenditures and contributions on forms prescribed by the city clerk. When the reporting individual is a candidate, the report shall include the expenditures and contributions of those political committees authorized by the candidate to expend and receive funds on behalf of his candidacy, and when the candidate files a report for the political committee, the treasurer thereof need not file a report of expenditures and contributions for the period of time covered in the candidate's report.

Sec. 2-3-47. Forms furnished by city.

The city clerk shall furnish upon request to political committees or candidates the form for the reporting of expenditures and contributions. The clerk shall give each candidate, or a designated representative, the prescribed reporting forms at the time of filing the declaration of candidacy. Approximately ten (10) days before any report of expenditures and contributions is required to be filed by this division, the city clerk shall send each candidate, by mail or e-mail, a reminder of the deadline for filing the report.

Sec. 2-3-48. Contents.

Under this division, each reporting individual shall file a report containing the following information:

(1) A report of expenditures and contributions, itemizing each item of expenditure and contribution, including:

- a. The name and address of the person or business to whom an expenditure was made or from whom a contribution was received;
- b. The amount of the expenditure or contribution, or value thereof;
- c. A description of the in-kind services or goods received; and
- d. The date of the expenditure or contribution.

(2) The report shall include all contributions received and expenditures made which have not been previously reported, regardless of when received or made and even if received or made before the candidate filed a declaration of candidacy; and

(3) The report of expenditures and contributions shall be subscribed and sworn to by the candidate or treasurer of the political committee, as the case may be.

Sec. 2-3-49. Time for filing.

All candidates and special purpose political committees and general purpose political committees shall file reports of expenditures and contributions for the following reporting periods:

(a) During the year where the candidate is running for election, a report shall be filed by 5:00 p.m. on the following dates:

- (1) The second Monday of January;
- (2) The second Monday of February;
- (3) The Thursday before the election;
- (4) The date which is 30 days after an election unless that date is a weekend or a holiday and then on the next regular business day;

(5) The second Monday of October.

(b) During any year in which the candidate did not run in an election, a report shall be filed by 5:00 p.m. on the second Monday of each October, unless the candidate or committee neither received nor expended campaign funds since the last report was filed.

Sec. 2-3-50. Late filing penalty.

If any candidate or treasurer of a political committee files a report of expenditures and contributions after any deadline imposed by the campaign procedures, such person shall be liable and shall pay to the city clerk at the time of late filing the sum of \$50.00 per day for each regular working day after the time required by this division for the filing of reports of expenditures and contributions. An incomplete report will be considered as no report; a late filing penalty will apply to the completed report if it is not filed within the prescribed time limits. All sums collected for such penalty shall be deposited in the general fund of the city. If sent by certified mail or registered mail, the report shall be deemed filed on the date three days following the date of the postmark.

Sec. 2-3-51. Failure to file report.

Any candidate who fails or refuses to file a report of expenditures and contributions in the manner and within the time required by this division shall not be issued a certificate of election until such candidate files the report of expenditures and contributions.

Sec. 2-3-52. Political committee treasurer.

It is unlawful for the members of any political committee or candidate to make any expenditure or solicit or accept any contribution for the purpose of supporting or opposing a candidate, unless:

(1) A treasurer has been appointed and is constantly maintained; however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate may appoint a successor, provided that nothing in this subsection prohibits a candidate from appointing himself treasurer;

(2) All disbursements of money and receipts of contributions shall be recorded by and through such treasurer; and

(3) Such treasurer, upon disbursing or receiving money or other things of value, shall immediately enter and thereafter keep in a proper book, to be preserved by him, a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursement or receipt, to whom disbursed or from whom received and the object and purpose for which it has been disbursed or received.

Sec. 2-3-53. Contribution limitations.

(a) Total contributions to any candidate's campaign for any municipal office by any individual or business entity shall not exceed \$2300.00 per election. Total contributions to any candidate's campaign for any municipal office by any political committee shall not exceed \$5,000.00 per election.

(b) Anonymous contributions are prohibited and a candidate may not knowingly accept or use a contribution without disclosing the source of the contribution on the candidate's reports. If a candidate comes into possession of an attempted anonymous contribution it shall not be used for campaign purposes, but shall be contributed to a charitable organization of the candidate's choice.

(c) A candidate may contribute to the candidate's own campaign without regard to the limitations in paragraph (a) of this section as long as those contributions and the expenses they are used to pay for are reported on the reports required in Sections 2-3-46 through 2-3-51 of this article.

Sec. 2-3-54. Election financial records.

(a) Candidates for elective office or treasurers for political committees shall keep financial records for a period of six months following the date of election, in order that the records will be available if a complaint is filed or inquiry is made. Such financial records shall include cancelled checks, invoices, receipts, bank statements, bills of

sale, statements of account, and all other financial records pertinent to the campaign.

(b) In preparing and maintaining financial records such as ledgers and journals and recording contributions and expenditures on the disclosure statement of campaign financing, the candidates or treasurers of political committees shall:

- (1) Record in-kind contributions as both contributions and expenditures with a description of such in-kind services or goods received;
- (2) Record campaign loans as contributions, with subsequent repayment of loans credited against contributions; and
- (3) Record returned contributions as credits against contributors.

(c) The services of a person who is performing the duties of treasurer pursuant to this division shall not be considered a campaign contribution as defined in this section.

(d) The gross receipts of a fundraising activity on behalf of a candidate for elective office are considered to be campaign contributions, and all expenditures associated with such a fundraising activity are considered to be campaign expenditures. As used in this interpretation, the term "gross receipts" includes all monies and donations of any kind which are received as part of the fundraising activity.

Sec. 2-3-55. Committee Statement.

The city clerk, upon being advised of the formation and existence of a special political committee, as defined in this article, shall furnish by mail or e-mail to the chairman, moderator, or head, however designated, of such committee, and also the fundraising member thereof, however designated, if known, a copy of this division and shall call attention to the requirements for reporting contributions and expenditures by the political committee as provided for in this division. Within ten days from receipt of the notification from the city, the political committee shall prepare and file with the office of the city clerk a statement, signed by the head of the committee or by the finance chairman thereof, setting forth the following:

- (1) The exact name of the committee;
- (2) Its official address and phone number, if available;
- (3) Its membership and officials thereof; and
- (4) Acknowledgment of receipt of a copy of this division and of the requirements regarding filing of reports.

It is recognized that an affirmative duty rests on the candidates and officials of political committees to be aware of the provisions of this division, and accordingly, such candidates and officials are enjoined to prepare and file the required statements without a request from the office of the city clerk. City officials are encouraged, but not required, to inform candidates and committees of their duties pursuant to this division."

Section Two. All other provisions of Article 2, Chapter 2, shall remain the same.

PASSED, APPROVED, SIGNED AND ADOPTED this 9th day of July, 2013.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk