

ORDINANCE 2011-18

SHORT TITLE:

**AN ORDINANCE AMENDING SECTIONS 2.05.010 AND 2.05.040 OF THE PROVO CITY CODE PERTAINING TO CAMPAIGN FINANCE DISCLOSURE STATEMENTS.**

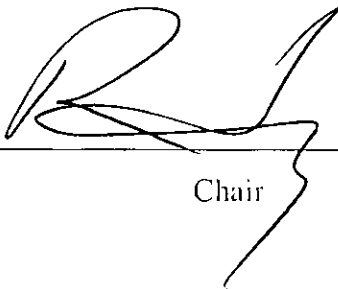
I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	MOTION	SECOND	FOR	AGAINST	OTHER	
CW 1	LAURA H. CABANILLA					Absent	
CW 2	STEVEN C. TURLEY			✓			
CD 1	CYNTHIA R. DAYTON		✓	✓			
CD 2	RICHARD D. HEALEY			✓			
CD 3	MIDGE JOHNSON	✓		✓			
CD 4	SHERRIE HALL EVERETT			✓			
CD 5	STERLING BECK			✓			
				TOTALS	6	0	1

This ordinance was passed by the Municipal Council of Provo City, on the 14<sup>th</sup> day of JUNE, 2011 on a roll call vote as described above. Signed this 14<sup>th</sup> day of JUNE, 2011.

  
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 Chair

II  
APPROVAL BY MAYOR

This ordinance is approved by me this 15 day of JUNE 2011.

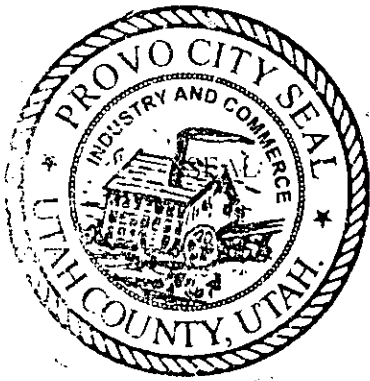
  
 \_\_\_\_\_  
 Mayor

ORDINANCE 2011-18

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was recorded in the office of the Provo City Recorder on the 16<sup>th</sup> day of JUNE 2011, with a short summary being published on the 27<sup>th</sup> day of JUNE 2011, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2011-18.



Signed this 16<sup>th</sup> day of JUNE 2011.

Jane Weiss  
City Recorder

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ORDINANCE 2011-18.

AN ORDINANCE AMENDING SECTIONS 2.05.010 AND 2.05.040 OF  
THE PROVO CITY CODE PERTAINING TO CAMPAIGN FINANCE  
DISCLOSURE STATEMENTS.

WHEREAS, in a Municipal Council meeting held on May 3, 2011, the Municipal  
Council amended Chapter 2.05 (Campaign Finance Disclosure) to change the  
requirements for campaign finance disclosures and the penalties for violating those  
requirements; and

WHEREAS, the Municipal Council resolved during that meeting to revisit the  
issue of penalties, enforcement mechanisms, and appeals when dealing with violations of  
the campaign finance disclosure requirements; and

WHEREAS, on June 14, 2011 the Municipal Council held a duly noticed public  
meeting to ascertain the facts regarding this matter, which facts are found in the meeting  
record; and

WHEREAS, after considering the facts presented to the Municipal Council, the  
Council finds (i) Chapter 2.05 of the Provo City Code should be amended as set forth  
below; and (ii) such action reasonably furthers the health, safety and general welfare of  
the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City,  
Utah as follows:

PART I:

Chapter 2.05 of the Provo City Code is hereby amended as follows:

**Section 2.05.010 Definitions.**

...

**"Contribution"** means:

(a) a gift, subscription, loan advance or deposit of money or anything of  
value except loan of money by a national or state bank made in accordance with  
the applicable banking laws and regulations and in the ordinary course of  
business;

(b) an express, legally enforceable contract, promise, or agreement  
~~express or implied whether or not legally enforceable~~ to make a contribution ~~for~~  
such purposes;

(c) a transfer of funds between political committees and a candidate's  
campaign committee; or

46 (d) a payment for the personal services of another person by a person other  
47 than the candidate's campaign committee for services rendered to the candidate or  
48 such candidate's campaign committee; ~~but or~~

49 (e) goods or services provided to, or for the benefit of, a candidate or  
50 campaign committee at less than fair market value, except where such goods or  
51 services are not authorized by, or coordinated with, the candidate or campaign  
52 committee; but

53 (ef) "Contribution" shall not include personal services provided without  
54 compensation by individuals volunteering their time on behalf of a candidate or a  
55 candidate's campaign committee.

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59 "Received" means:

60 (a) for a cash contribution, that the cash is given to a candidate or a  
61 member of the candidate's personal campaign committee;

62 (b) for a contribution that is a negotiable instrument or check, that the  
63 negotiable instrument or check is negotiated; and

64 (c) for any other type of contribution, that any portion of the contribution's  
65 benefit inures to the candidate.

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70 **2.05.040. Campaign Financing Disclosure Statements.**

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74 (3) The campaign financing disclosure statements required under this section shall  
75 include the following information:

76 (a) Except as provided in Subsection (3)(b):

77 (i) report all itemized and total:

78 (A) campaign contributions, including in-kind and other  
79 nonmonetary contributions, received before the close of the  
80 reporting date; and

81 (B) campaign expenditures made through the close of the  
82 reporting date; and

83 (ii) identify:

84 (A) for each contribution that exceeds fifty dollars (\$50),  
85 the amount of the contribution and the full name and address of the  
86 donor;

87 (B) for each nonmonetary contribution:

88 (i) the fair market value of the contribution with that  
89 information provided by the contributor; and

90 (ii) a specific description of the contribution; and

91 (BC) the aggregate total of all contributions that  
92 individually do not exceed fifty dollars (\$50); and

93 (CD) for each campaign expenditure, the amount of the  
94 expenditure and the name of the recipient of the expenditure; or  
95  
96 ...  
97

98 (5) (a) If a candidate fails to timely file a campaign financing disclosure  
99 statement that conforms to the requirements of this chapter before the municipal  
100 general election ~~by the deadline specified in this section~~, the City Recorder shall  
101 inform the appropriate election official who:

102 (i) shall:

103 (A) if practicable, remove the candidate's name from the  
104 ballot by blacking out the candidate's name before the ballots are  
105 delivered to voters; or

106 (B) if removing the candidate's name from the ballot is not  
107 practicable, inform the voters by any practicable method that the  
108 candidate has been disqualified and that votes cast for the  
109 candidate will not be counted; and

110 (ii) may not count any votes for that candidate.

111 (b) If a candidate or a campaign committee fails to timely file a campaign  
112 financing disclosure statement that conforms to the requirements of this chapter,  
113 the City Recorder shall impose a fine of \$100 against the candidate or campaign  
114 committee.

115 ~~(bc)~~ Notwithstanding Subsections ~~(45)(a) and (5)(b)~~, a candidate who  
116 timely files a campaign finance statement ~~seven (7) days before a municipal~~  
117 general election is not subject to a fine or disqualified if:

118 (i) the statement details accurately and completely the information  
119 required under this section, except for inadvertent omissions or  
120 insignificant errors or inaccuracies; and

121 (ii) the omissions, errors, or inaccuracies are corrected in an  
122 amended report or in the next scheduled report.

123 (d) If it appears that any candidate or campaign committee has failed to  
124 timely file a campaign financing disclosure statement that conforms to the  
125 requirements of this chapter or if the City Recorder has received a written  
126 complaint alleging a violation of this chapter or the falsity of any campaign  
127 financing disclosure statement, the City Recorder shall, within five days of  
128 discovery of a violation or receipt of a written complaint, notify the candidate or  
129 campaign committee of the violation or written complaint and direct the candidate  
130 or campaign committee to file an amended report correcting the problem.

131 (e) It is unlawful for any candidate or campaign committee to fail to file an  
132 amended report within 14 days after receiving notice from the City Recorder  
133 under this section. Each candidate or campaign committee who violates this  
134 Subsection (5)(e) is guilty of a class B misdemeanor.

135 ~~(e) If a candidate files a campaign finance statement that is found by the~~  
136 ~~City Recorder's office to omit or misstate any contribution that is required to be~~

137 ~~reported under this Chapter, the candidate shall be subject to a fine equal to ten~~  
138 ~~percent (10%) of the omitted or misstated amount or two hundred and fifty dollars~~  
139 ~~(\$250), whichever is greater. If the candidate fails to pay such fine within five~~  
140 ~~(5) days of being notified by the City Recorder's office, the City Recorder shall~~  
141 ~~take the steps described in Subsection 5(a) to disqualify the candidate~~

142 (6) (a) A campaign finance statement required under this section is considered  
143 timely filed if it is received in the City Recorder's office by close of normal  
144 business hours 5:00 p.m. on the date due.

145 (b) The City Recorder may extend the time in which a candidate or  
146 campaign committee is required to file a campaign financing disclosure statement  
147 if the candidate or campaign committee notifies the City Recorder of the existence  
148 of an extenuating circumstance that is outside the control of the candidate or  
149 campaign committee.

150 ...

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152 PART II:

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154 A. If a provision of this Ordinance 2011-18 conflicts with a provision of a  
155 previously adopted ordinance concerning the same title, chapter, and/or section number  
156 amended herein, the provision in this Ordinance shall prevail.

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158 B. This ordinance and its various sections, clauses and paragraphs are hereby  
159 declared to be severable. If any part, sentence, clause or phrase is adjudged to be  
160 unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

161

162 C. The Municipal Council hereby directs that the official copy of the Provo City  
163 Code be updated to reflect the provisions enacted by this ordinance.

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165 D. This ordinance shall take effect immediately after being posted or published as  
166 required by law.

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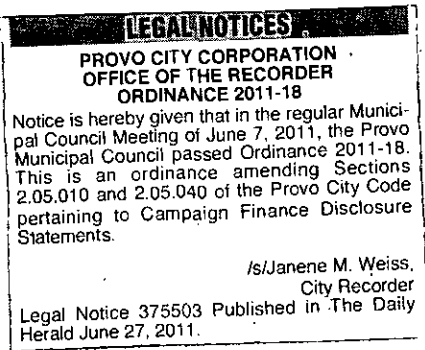
168 END OF ORDINANCE.

# PROOF OF PUBLICATION

from

## The Daily Herald

STATE OF UTAH } SS.  
Utah County }



I, Morgan Bassett, being first duly sworn depose and say that I am the Legal Billing Clerk of the Daily Herald, a newspaper of general circulation, published seven times each week at Provo, Utah, County of Utah; that the notice attached hereto, 375503 - ORDINANCE 2011-18, and which is a copy, was published in said newspaper, the first publication having been made on the 27th day of June, 2011, and the last on the 27th day of June, 2011; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and the same was published in the newspaper proper and not in the supplement.

Same was also published online at utahlegals.com, according to Section 45-1-101, Utah Code Annotated beginning on the first date of publication and for 30 days thereafter.

*Morgan Bassett*

Subscribed and sworn before me this 27th day of June, 2011.

*Debbie L. Chandler*

Notary Public

Residence: Spanish Fork, Utah

My commission expires 06/05/2013

