

**SAN ANTONIO CITY CODE
CHAPTER 2, ARTICLE VII**

**CITY OF SAN ANTONIO
MUNICIPAL CAMPAIGN FINANCE REGULATIONS
JANUARY 13, 2005 EDITION**

June 19, 2009 Redline

Proposed Changes in Red

Notes/Commentary in BLUE

SAN ANTONIO CITY CODE

ARTICLE VII. MUNICIPAL CAMPAIGN FINANCE REGULATIONS

DIVISION 1. GENERAL

SEC. 2-300 STATEMENT OF POLICY

It is essential in a democratic system that the public has confidence in the integrity, independence, and impartiality of those who are elected to act on their behalf in government. There is a public perception that a relationship exists between substantial contributions and access to elected officials. To diminish the perceived or actual connection between contributions and influence, the City adopts this Campaign Finance Code to promote public confidence and, it is hoped, a greater degree of citizen participation in the electoral process.

Sec. 2-301 Definitions

(a) Contribution Cycle: The following constitute separate contribution cycles:

- 1) the pre-election contribution cycle begins on July 1 of the calendar year before the date of the regular municipal election, and ends on the date of the regular municipal election;
- 2) for a candidate or a specific-purpose political action committee (SPAC) formed for the purpose of supporting a candidate in a run-off election after the regular municipal election, beginning the day after the regular municipal election, and ending on the date of the run-off election;
- 3) the post-election contribution cycle begins on the day after the regular municipal election or the day after the run-off election, as applicable, until June 30 of the calendar year before the next regular municipal election.

(b) Under Texas Election Code, Section 251.001, a “contribution” means a direct or indirect transfer of money, goods, or services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision.

The term “contribution” does not include a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made.

(c) A loan is deemed to be made in the ordinary due course of business if it:

- (1) bears the usual and customary interest rate of the lending institution for the category of loan involved;
- (2) is made on a basis that assures repayment;
- (3) is evidenced by a written instrument; and
- (4) is subject to a due date or amortization schedule.

(d) Terms not defined in this chapter but defined in the Texas Election Code shall have the meanings assigned to them in the Texas Election Code.

DIVISION 2. CONTRIBUTION LIMITS

Sec. 2-302 Limitation Of Political Contributions To Candidates or Officeholders For Mayor Or Council and Specific-Purpose Political Action Committees.

(a) A candidate for district office on the City Council or City Council officeholder may not accept more than \$500.00 in political contributions from any individual or single entity per contribution cycle.

(b) A candidate for Mayor or Mayoral officeholder may not accept more than \$1000.00 in political contributions from any individual or single entity per contribution cycle.

(c) A specific-purpose political action committee (SPAC) registered with the City of San Antonio and formed for the purpose of supporting a candidate for district office on the City Council or City Council officeholder may not accept more than \$500.00 in political contributions from any individual or single entity per contribution cycle.

(d) A specific-purpose political action committee (SPAC) registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or the Mayoral officeholder for the City of San Antonio may not accept more than \$1000.00 in political contributions from any individual or single entity per contribution cycle.

(e) Except as provided in Section 2-304 of this chapter, the limits set out in subsections (a) - (d) of this section apply to contributions made in the form of loans, extensions of credit, and guarantees of loans or extensions of credit as described in Section 2-301(b). Repayment of loans does reset the contribution limit.

(f) Political action committees, commercial entities, or campaign vendors cannot provide in-kind contributions with a commercial value to candidates or officeholders beyond the limits established in this section. Individuals may donate their time as campaign volunteers without limit. "In-kind" contribution means

goods or services provided to or by a person at no charge or for less than their fair market value.

(g) An individual or entity cannot make a political contribution in cash exceeding \$50 to a candidate or candidate committee for Mayor or City Council, or to a municipal officeholder, or to a specific-purpose political action committee formed for the purpose of supporting a municipal candidate or officeholder, nor can any of these candidates, officeholders or specific-purpose political action committees accept political contributions in cash exceeding \$50, from a single donor during a reporting period as defined in the Texas Election Code §253.033. This restriction includes tickets to fund-raising events.

(h) A person may not knowingly make or authorize a political contribution or expenditure in the name of or on behalf of another, unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure.

(i) A minor may make a contribution only if done so knowingly and voluntarily with funds, goods or services owned or controlled exclusively by the minor and not with proceeds of a gift where the purpose was to provide funds to be contributed. The minor shall submit a form with the contribution acknowledging his or her minor status and that his or her contribution complies with this provision.

(j) A “coordinated campaign expenditure” shall be considered a contribution subject to the limits set forth within this section and subject to the disclosure requirements for campaign contributions made to a candidate for elected city office. As used in this subsection, the term “coordinated campaign expenditure” means a payment, other than a direct contribution, for an activity, service or product that contains express advocacy for the election or defeat of a clearly identified candidate(s) for city office and is made in cooperation, consultation, or concert, with or at the request or suggestion of, a candidate(s) for city office or a candidate’s representative, agent or employee.

Coordinated campaign expenditures shall include, but not be limited to the following:

- 1) Voter identification and/or get-out-the-vote activity on behalf of a specific candidate(s) for city office;
- 2) A public communication that refers to a clearly identified candidate(s) for city office and that promotes or supports a candidate(s) for that office, or attacks or opposes a candidate(s) for that office, or is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate(s).

The following is not considered a coordinated campaign expenditure:

- 1) Direct monetary contributions made to a candidate for city office;
- 2) In-kind contributions made to a candidate for city office;
- 3) Payment by an individual or organization for the individual's or organization's overhead expenses including but not limited to rent, utilities, taxes, office supplies or salaries;
- 4) Volunteer (unpaid) activity(ies) on the part of the individual or members of the organization.

Sec. 2-303 Time Limitation To Accept Donations

(a) A candidate for Mayor or City Council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4th calendar day before the regular municipal election date.

(b) During a run-off election, a candidate for Mayor or City Council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council shall not accept nor deposit campaign contributions after 5:00 P.M. on the 4th calendar day before the date of the run-off election.

(c) Contributions received after the deadlines set out in (a) and (b) of this section or contributions not deposited by these deadlines may be deposited during the subsequent contribution cycle. Such contributions will be subject to limitations for the contribution cycle during which they are deposited.

Sec. 2-304 Limits on Repayment of Loans or Reimbursements from Political Contributions

(a) Loan Limit for Candidates for City Council.

A candidate for City Council may not use political contributions in an aggregate amount of more than \$25,000 during an election cycle to:

- 1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or
- 2) reimburse campaign expenditures made from personal funds; or
- 3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(b) Loan Limit for Candidates for Mayor.

A candidate for Mayor may not use political contributions in an aggregate amount of more than \$50,000 during an election cycle to:

- 1) repay a loan to his or her campaign account that the candidate has made from his or her personal assets; or
- 2) reimburse campaign expenditures made from personal funds; or
- 3) repay a loan to the candidate or to any authorized committee of the candidate from any other person, persons, entity or entities.

The limit established by this section applies to the cumulative total from one or all combined loans.

(c) A candidate cannot accept a loan made in cash.

DIVISION 3. POLITICAL CONTRIBUTION AND EXPENDITURE ACCOUNTS AND REPORTS

Sec. 2-305 Single Account

(a) A candidate for Mayor or City Council or officeholder or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council must deposit each and every political contribution into one and only one specified bank account. This single account must be used for all political contributions and expenditures pertaining to municipal office.

(b) Persons with established campaign accounts before the date this code goes into effect can transfer funds into the new single campaign account.

(c) At the time a candidate files the Appointment of Campaign Treasurer pursuant to Texas Election Code Section 252.001, the candidate shall declare the municipal office sought. If a candidate subsequently decides to seek a different office, the candidate shall file an amended Appointment of Campaign Treasurer declaring the new office sought.

(d) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new

campaign treasurer appointment, in accordance with the requirements of Texas Election Code Section 252.010.

(e) If, after declaring a candidacy for any elected office, the candidate subsequently declares his or her candidacy for any elected municipal office, he or she may maintain the same campaign finance account. However, if the candidate seeks a municipal office which is subject to lower campaign contribution limits than the previously sought office, the candidate shall return all contributions in excess of the limits for the municipal office sought.

(1) The transferor committee's available funds shall be viewed as those contributions most recently received that add up to the amount of cash on hand.

(2) Contributions transferred must be aggregated with any contributions made by the same donor to the committee receiving the transfer. Amounts that would cause a contributor to exceed his or her pre-election cycle contribution limit must be excluded from the transfer.

Sec. 2-306 Campaign Bank Account Statements

A candidate for Mayor or City Council or the campaign treasurer, or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council, must send a campaign account statement directly to the designated campaign finance enforcement authority once a month within five business days of receiving the statement from the financial institution. The candidate may choose to direct the financial institution to send a copy of the statement directly to the campaign finance enforcement authority.

The Office of the City Clerk shall serve as the official records repository for the municipal campaign finance authority.

Sec. 2-307 Electronic Filing of Campaign Finance Reports

(a) Candidates for Mayor or City Council and officeholders will electronically file and update contribution and expenditure reports required under the Texas Elections Code with the Office of the City Clerk.

(b) In general and runoff elections, candidates for mayor or city council or specific-purpose political action committee registered with the City of San Antonio and formed for the purpose of supporting a candidate for Mayor or City Council, shall also electronically file an additional 3-day campaign finance contributions report. This report is to be filed no later than 5:00 P.M. on the third calendar day preceding the general or run-off election day. This report is in

addition to the reports required by the Texas Election Code. If this deadline falls on a weekend or on a city holiday, the report will be due no later than 5:00 PM on the next business day.

(c) The City will provide access to computer equipment for candidates to file the electronic reports. A candidate, officeholder, or political committee that is required to file electronic reports under this chapter may apply for an exemption if

(1) the candidate, officeholder, or campaign treasurer of the committee files with the Office of the City Clerk an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; *and*

(2) the candidate, officeholder, or committee does not, in a calendar year, accept political contributions that in the aggregate exceed \$20,000 or make political expenditures that in the aggregate exceed \$20,000.

(d) The City of San Antonio will post the contribution and expenditure reports through a designated Elections Website.

(e) Knowingly failing to timely file a report required by this section is a violation hereof, as is the knowingly filing of a report with incorrect, misleading, or incomplete information. If an individual inadvertently files an incorrect or incomplete report, it is his or her responsibility to file an amended report as soon as possible, though no later than fourteen (14) days after discovery of the error or after the error should have reasonably been discovered.

Division 4. POLITICAL ACTION COMMITTEES

Sec. 2-308 Political Action Committees

All political action committees (PACs) or groups spending money on municipal campaign activity or advertising associated with a city candidate or measure election, or specially designated City Council agenda item shall also, in addition to compliance with reporting requirements under the Texas Election Code, submit such reports electronically with the municipal campaign finance authority. Deadlines and contents of reports for political action committees required by the Texas Election Code shall be set in accordance with the Texas Election Code.

Division 5. CITY CONTRACTORS and ZONING APPLICANTS

Sec. 2-309 Contribution Prohibitions

(a) ~~Any person acting as a legal signatory for a proposed contractual relationship that applies for a~~ **When an individual or entity seeks to obtain a “high-risk profile” discretionary contract as designated by the city, as defined by the City of San Antonio Contracting Policy and Process Manual, may the following individuals shall** not make a political contribution to any councilmember or candidate **or political action committee that supports or opposes a city councilmember or candidate** from **the 10th business day after the time the person submits the response to** the Request for Proposal (RFP) or Request for Qualifications (RFQ) **or other solicitation is released,** or ~~begins negotiations or discussions~~ for a contract for which no competitive solicitation has been issued by the city **from the time the city begins negotiations or discussions, and ending on the** ~~until~~ 30th calendar days following the contract award.;

- 1. any individual seeking a high-profile contract;**
- 2. any owner or officer of an entity seeking a high-profile contract;**
- 3. the legal signatory of the high-profile contract;**
- 4. any attorney, lobbyist or consultant hired or retained to assist the individual or entity in seeking a high-profile contract;**
- 5. the spouses of any person listed in 1, 2 or 3 of this subsection.**

(b) Any legal signatory for a proposed “high-risk **profile**” contract must be identified within the response to **a solicitation** ~~the RFP’s or RFQ’s~~, if the identity of the signatory will be different from the individual submitting the response. Where no competitive solicitation is being issued by the city, the legal signatory must be identified in writing at the time negotiations are initiated.

(c) If ~~the legal signatory entering the contract~~ **any individual listed in subsection (a)** has made ~~such~~ a contribution **in violation of this section,** the city may not award the contract to that person, or to the ~~business~~ entity ~~for whom that contributor acted as legal signatory.~~ Any contract awarded in violation of this provision shall be voidable at the discretion of the City Council.

(d) When an individual or entity applies for a zoning change, the following shall not make a political contribution to any councilmember or candidate or political action committee that supports or opposes a city councilmember or candidate from the time the zoning application is submitted to the city until 30 calendar days after final action on the application by the Zoning Commission or City Council:

- 1. any individual applying for a zoning change; or**
- 2. any owner or officer of an entity applying for a zoning change; or**
- 3. the spouse of an individual listed in 1 or 2 of this subsection**

(e) If any individual listed in subsection (d) of this section has made a contribution in violation of this section, the city may not approve the

requested change in the zoning district boundary. Any zoning change granted in violation of this provision shall be voidable at the discretion of the City Council.

~~(d)~~(f) In the event that a candidate or officeholder unknowingly accepts a contribution in contravention of the provisions of this section, then it shall be the duty of the candidate or officeholder to return the contribution within 5 business days after he or she ~~becomes aware of the violation~~ has received notification from city staff that a contribution in violation of this section has been discovered. Candidates and councilmembers who return contributions within the 5 business days cannot be held liable for violation of this section.

~~(e) The criteria for designation as a “high-risk” contract are:~~

- ~~(1) Value of the contract over the life of the contract will exceed \$1 million;~~
- ~~(2) Contracts with value exceeding \$25,000 to be obtained without competitive solicitation;~~
- ~~(3) Contract is for goods or services of a highly complex nature or the contract terms will be non-standard; or~~
- ~~(4) Contracts with exceptional community interest.~~

DIVISION 6. ENFORCEMENT AUTHORITY AND SANCTIONS

Sec. 2-310 Ethics Review Board

- (a) Municipal Campaign Finance Regulations Enforcement Authority. The Ethics Review Board created pursuant to Article XIII of the City Charter shall have authority to review reports required under this chapter and shall have the jurisdiction to investigate, make findings, issue rulings and assess sanctions concerning any alleged violation of this chapter, by any person subject to these provisions.
- (b) Municipal Campaign Finance Advisory Opinions Issued by the Ethics Review Board.
 - (1) By writing filed with the City Clerk, any officeholder or candidate for city council, mayor or officer of a political action committee registered with the Office of the City Clerk may request an advisory opinion with respect to the interpretation of the code of municipal campaign finance regulations, but only with respect to whether proposed action by that person would violate these regulations. The City Clerk shall promptly transmit all requests

for advisory opinions to the Ethics Compliance Officer and the chair of the Ethics Review Board.

- (2) Within twenty (20) days of receipt by the chair of the Ethics Review Board of a request for an advisory opinion, the Board, acting *en banc* or through a designated Ethics Panel, shall issue a written advisory opinion. During the preparation of the opinion, the Board may consult with the Ethics Compliance Officer of the city and other appropriate persons. An advisory opinion shall not reveal the name of the person who made the request, if that person requested anonymity, in which case the opinion shall be written in the form of a response to an anonymous, hypothetical fact situation.

A copy of the opinion shall be indexed and kept by the Ethics Review Board as part of its records. In addition, copies of the opinion shall be forwarded by the chair of the Ethics Review Board, or the Ethics Compliance Officer, to the person who requested the opinion, to the members of the Ethics Review Board, and to the City Clerk. The City Clerk shall make the opinion available as a public record in accordance with the Local Government Records Act. The Ethics Compliance Officer shall promptly post the opinion on the Internet via the City of San Antonio homepage.

- (c) Civil Sanctions for Violations of the Municipal Campaign Finance Regulations. The following civil sanctions may be imposed by the Ethics Review Board which finds by a preponderance of the evidence that the municipal campaign finance regulations have been violated:

- (1) Letter of Notification. The Ethics Review Board may issue a letter of notification to any individual subject to the municipal campaign finance regulations where the board finds that the violation was clearly unintentional or inadvertent. The letter must advise the person to whom it is directed of any steps to be taken to avoid future violations;
- (2) Letter of Admonition. The Ethics Review Board may issue a letter of admonition to any individual subject to the municipal campaign finance regulations where the board finds that the violation was minor and/or may have been unintentional or inadvertent;
- (3) Letter of Reprimand. The Ethics Review Board may issue a letter of reprimand to any individual subject to the municipal campaign finance regulations where the board finds that the violation was made intentionally or knowingly;

- (4) Referral to Ethics Training. Upon finding of violation of the municipal campaign finance regulations, the Ethics Review Board may require any individual subject to the municipal campaign finance regulations to attend training on these regulations;
 - (5) A fine not exceeding five hundred dollars (\$500) where the Board finds that the violation was made intentionally or knowingly. Each day after any deadline for which any required statement has not been filed, or for which a statement on file is incorrect, misleading, or incomplete, constitutes a separate offense.
- (d) The rules and procedures set out in Chapter 2, Article III of the City Code (Ethics Code), Sections 2-80 through 2-91 shall apply to the enforcement of this article (municipal campaign finance regulations), including:
- (1) procedures for filing and responding to complaints of violations of the municipal campaign finance regulations;
 - (2) disposition of complaints;
 - (3) the imposition or recommendation of sanctions;
 - (4) extension of deadlines; and
 - (5) the timeliness of filings

DIVISION 7. TERMINATION OF CAMPAIGN TREASURER APPOINTMENT

Sec. 2-311. Termination of Campaign Treasurer Appointment by the City Council.

(a) The City Council may terminate the campaign treasurer appointment of an inactive candidate or an inactive political committee.

(b) For purposes of subsection (a) of this section, a candidate becomes “inactive” if the candidate files a campaign treasurer appointment with the Office of the City Clerk and more than one year has lapsed since the candidate has filed any required campaign finance reports with the Office of the City Clerk.

(c) For purposes of subsection (a) of this section, a political committee becomes “inactive” if the political committee files a campaign treasurer appointment with the Office of the City Clerk and more than one year has lapsed since the campaign treasurer of the political committee has filed any required campaign finance reports with the Office of the City Clerk.

Sec. 2-312. Notice of Proposed Termination of Campaign Treasurer Appointment.

(a) Before the City Council may consider termination of a campaign treasurer appointment under Section 2-311 of the City Code, the office of the City Clerk shall send written notice to the affected candidate or political committee.

(b) The written notice must be given at least fourteen (14) business days before the date of the meeting at which the City Council will consider the termination of a campaign treasurer appointment and must include:

(1) the date, time, and place of the City Council meeting;

(2) a statement of the City Council's intention to consider termination of the campaign treasurer; and

(3) a reference to the particular sections of the statutes and rules that give the City Council the authority to consider the termination of a campaign treasurer appointment;

(4) the effect of termination of a campaign treasurer appointment.

DIVISION 8. ELECTION AND CAMPAIGN FINANCE REGULATIONS TRAINING

Sec. 2-313 Training.

The Office of the City Attorney shall provide training on the Municipal Campaign Finance Regulations, the municipal campaign finance electronic filing system and the City of San Antonio Ethics Code at least once six months prior to each municipal election. The training shall be open to officeholders, candidates for office, their agents and interested members of the public.

DIVISION 9. EFFECTIVE DATE

Sec. 2-314 Effective Date

(a) This article is effective August 15, 2004.

(b) This article applies to a political contribution accepted or political expenditure made on or after the effective date.

(c) A political contribution accepted or a political expenditure made before the effective date of this article is governed by law in effect on the date the contribution was accepted or the expenditure was made.

(d) A political contribution may not be accepted after the effective date of this article if the contribution from that donor, together with all contributions from that donor accepted before the effective date of this article, would exceed the maximum contribution established by Section 2-302.

(e) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted before the effective date of this article.

(f) A candidate or officeholder who has made a political expenditure from personal funds before the effective date of this article may reimburse his or her personal funds for that political expenditure from political contributions accepted after the effective date of this article in amount that in the aggregate does not exceed the limit imposed by Section 2-304 of this article.