

RESTRICTIONS ON POLITICAL ACTIVITY FOR BOARD/COMMISSION MEMBERS

June 2018

The November 2018 ballot will include mayor/council member elections, and may include bond measures, charter amendments, and citizen-initiated petition items. It is important that city officials, including appointed officials such as board and commission members, follow laws and guidelines concerning election activity. Engaging in certain political activities can result in violations (with attendant consequences) of the City Charter, the City Code, and civil and criminal statutes. The City's Personnel Policies and Administrative Bulletins, while governing employees rather than appointed officials, are additionally instructive.

- **Running for Office:** Board and commission members **may** seek election to any public office. The following **must resign** their appointed positions in order to run for elective office: Planning Commissioners, Municipal Civil Service Commissioners, and municipal court judges. *Charter, Article IX, Section 6.* The resign-to-run provision applies to municipal court judges only if the unexpired term of their office exceeds one year. The Charter states: "If any judge of a municipal court announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, at a time when the unexpired term of the judge's office exceeds one year, the judge's announcement or candidacy is an automatic resignation of the office of municipal judge." *Charter, Article VI, Section 2.*
- **Personal Contributions: Personal Political Expression:** Except as noted in the subsection immediately below, board and commission members **may** contribute personal money or labor to a campaign, or take a position on election items or candidates, in their free time. This is allowed in city elections and in all other elections. Board and commission members **may** put campaign bumper stickers on their personal vehicles, but not on city vehicles, and **may** place campaign signs on their private property. *Texas Attorney General Opinion MW-243.*
- **Officials in Uniform or on Active Duty:** Board and commission members in uniform or on active duty **may not** take an "active part" in any campaign for an elective position of the city. The term "active part" means passing out campaign literature, writing letters, making political speeches, signing petitions, actively soliciting votes or support, making negative or derogatory remarks about candidates, and the like. *Charter, Article XII, Section 2.* Board and commission members should not engage in political activities when using their city title.
- **Seeking Contributions/Exerting Influence:** Board and commission members **may not** solicit campaign contributions from any City employee, elected official or appointed official. Board and commission members **may not**, in any way exert influence, either directly or indirectly, on any city employee, elected official, or appointed official to favor any person or candidate for office in the city. This is a misdemeanor criminal offense and, upon conviction, the official shall forfeit their office and be punished by fine. *Charter, Article XII, Section 2.*
- **No Requirement to Contribute:** Board and commission members **are not** required to contribute to any political fund or render any political service to any person or party whatsoever. A board and commissioner member **may not** remove a person, or reduce a person's classification or salary, or otherwise prejudice a person for refusing to contribute or render political service. Any city official who attempts to do so shall be guilty of violating the charter. *Charter, Article XII, Section 2.*
- **No City Resources to Advocate:** Board and commission members **may** take a position on a ballot item or a candidate, so long as they use no city resources (including their title) to do so. Board and commission members **may** make communications that **factually** describe a ballot measure so long as the communication does not advocate passage or defeat in any way.

- **No City Resources for Election Campaigning:** Board and commission members **may not** contribute or use any city resources, equipment, or money for election campaigning. This includes a prohibition against using city worktime, property, websites, workspaces, and the like to support or oppose a campaign, candidate, or ballot measure. It also includes a prohibition against distributing materials such as signs, brochures, flyers, cards, buttons, bumper stickers, or the like in the workplace, including making materials available to be viewed or picked up. Note that posting on social media platforms during City worktime would also fall under distributing materials in the workplace and is therefore prohibited. *Charter, Article XII, Section 2.*
- **No Contributions at City-Owned Buildings:** Board and commission members **may not** make a contribution to any candidate or officeholder at a city-owned building, except at a city-owned building that is available for rental to the general public and that is actually rented for a campaign event at the time the contribution is made. *City Code, Section 2-2-52(A).*
- **No Public Funds for Political Advertising:** Board and commission members **may not** spend or authorize spending public funds for political advertising. This is a Class A misdemeanor criminal offense. *Texas Election Code, Section 255.003.* It also could subject the official to being personally fined by the Texas Ethics Commission or being held personally criminally liable. Political advertising includes communications that are created, produced, copied, or distributed using city resources; that advocate for or against campaigns, candidates, propositions, or ballot measures; that are published in a paid newspaper, magazine, or other periodical, or are broadcast by radio or television; or that appear in a pamphlet, circular, flyer, billboard or other sign, bumper sticker, internet website, or similar form of written communication. *Texas Election Code, Section 251.001(16).* This prohibition against authorizing or spending public funds includes using City equipment, computers, copiers, supplies, staff, postage, stationary, email, websites, twitter or other social media sites, bulletin or electronic message boards, resources, ATXN Channel 6, and the like.
- **Limitation on Remuneration:** Board and commission members **may not** accept remuneration, directly or indirectly, for campaign work relating to an item placed on the ballot if the member served on the body which exercised discretionary authority in the development of the ballot item and participated in the discussion or voted on the item. *Code Section 2-7-62(K).*
- **Requirement to Comply:** City officials are responsible for maintaining current knowledge of the city's charter and code provisions, as revised, and abiding by them; and are responsible for abiding by applicable state statutes.