

# SECTION THREE

CAMPAIGN REFORM  
(HBMC Chapters 2.06, 2.07)

GIFTS TO PUBLIC OFFICIALS  
(California Government Code Section 89503)

GIFTS AND HONORARIA  
(Fair Political Practices Commission, January, 2012)

## CAMPAIGN REFORM

(HBMC Chapters 2.06, 2.07)

### Chapter 2.06 CAMPAIGN DOCUMENTS

#### 2.06.010 Findings and Purpose

The City Council finds and declares as follows:

A. Elections are susceptible to the dissemination of campaign literature known as “hit pieces.” These documents are sent to voters in the later stages of a campaign, typically contain personal attacks on candidates or the proponents/opponents of measures and frequently misrepresent a candidate’s position on issues or the true impact of a measure.

B. Prompt public disclosure of the contents of last-minute campaign documents including hit pieces will allow for the discussion of important issues and the conduct of fair elections by: (1) offering the candidate attacked an opportunity to accurately represent his or her position on issues; (2) offering opponents or proponents the opportunity to respond to statements about a measure that are untrue or believed to be untrue; and (3) providing an opportunity for a candidate, proponent or opponent to disavow the contents of any campaign document that he or she believes represents an unfair, untrue or improper attack on any person.

C. The requirement for prompt disclosure of last-minute campaign documents is content neutral, serves compelling municipal interests in fair elections and full discussions of relevant issues, and is the least intrusive method available to further these interests. (3978-6/13)

#### 2.06.020 Definitions

For the purposes of this chapter, the following terms shall have the meaning specified in this section:

“**Campaign document**” means any writing or document which supports, opposes or relates to any candidate or measure.

“**Candidate**” means any individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials for the City of Huntington Beach.

“**Distributing**” or “**distribution**” shall mean mailing via United States mail or passing out any campaign document to any person.

“**Measure**” means any initiative, referendum, Charter amendment or other proposition which is listed on the ballot for any general or special municipal election and which is being voted on only in the City of Huntington Beach.

“**Person**” includes any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (3978-6/13)

#### 2.06.030 Filing

Any person distributing 1,000 or more substantially similar campaign documents within 30 days of any general or special municipal election shall, within one business day of first distribution, transmit two copies of the campaign document to the City Clerk for the City of Huntington Beach. (3978-6/13)

## **2.06.040 Public Record**

Campaign documents filed with the City Clerk shall be a matter of public record. The City Clerk shall make available, upon the request of any person appearing at the office of the City Clerk during normal business hours, a copy of campaign documents filed with the City Clerk. (3978-6/13)

## **2.06.050 Penalties**

Any violation of this chapter shall be punishable by:

A. **Administrative Citation.** Violation of this chapter is subject to the issuance of an administrative citation under the provisions of Chapter 1.18 of this code. An operator may be cited for violations occurring on the premises in their presence or for knowingly permitting violations of this chapter.

B. **Civil Action.** The City Attorney may institute an action in any court of competent jurisdiction, including an action to abate a nuisance, to restrain, enjoin, or abate the condition(s) found to be in violation of the provisions of this chapter, as provided by law.

C. It shall be a violation of this chapter for any principal, including but not limited to any operator, to permit, procure, counsel or assist any agent of that principal, including but not limited to an employee or independent contractor, to violate any provision of this chapter. (3978-6/13)

## **Chapter 2.07 CAMPAIGN REFORM**

### **Note**

\* Note: §§ 2.07.060, 2.07.110, 2.07.120, 2.07.160—2.07.210 and 2.07.250 repealed by Ord. 3803.

## **2.07.010 Name**

This chapter shall be known and may be cited as the “City of Huntington Beach Campaign Reform Law.” (3220-1/94)

## **2.07.020 Purpose**

The purpose of this chapter is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of City candidates. To achieve such purpose, this chapter is designed to reduce the influence of large contributions, to ensure that multiple contributions in excess of the contribution limits do not originate from the same source of funds, to ensure that individuals and interest groups continue to have a fair and equal opportunity to participate in electing City candidates, and to maintain public trust in governmental institutions and the electoral process. (3220-1/94)

## **2.07.030 Relation to Political Reform Act of 1974**

This chapter is intended to supplement the Political Reform Act of 1974. Unless the term is specifically defined in this chapter, or the contrary is stated or clearly appears from the context, words and phrases shall have the same meaning as when they are used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, as the same may be, from time to time amended. (3220-1/94)

## **2.07.040 Definitions**

“**City candidate**” means any person who is a candidate for City Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach.

“**Elective City officer**” means any person who is Mayor, a member of the City Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach.

“**Electronic filing**” means the submission of required campaign statements and reports in an electronic format approved by the Secretary of State and the City Clerk.

“**Non-elected City official**” means any person who is a member of a City of Huntington Beach board, committee, or commission, and who is not elected to that position.

“**Person**” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (3220-1/94, 4009-4/14)

### **2.07.050 Campaign Contribution Limitations**

No person shall make to any City candidate or the controlled committee of any such City candidate, and no such candidate or committee shall accept from any such person, a contribution or contributions totaling more than \$500.00 in a City Council, City Clerk, City Treasurer, or City Attorney election cycle. Thereafter said contribution limitations shall increase by the October consumer price index (CPI) of Los Angeles, Long Beach, and Anaheim areas, rounded to the nearest \$10.00, effective at the beginning of each new election cycle. (3220-1/94, 3599-2/03, 3803-6/08)

### **2.07.070 Election Cycle**

**A. City Council, City Clerk, City Treasurer, and City Attorney Elections.** For purposes of the limits of this chapter, as applied to elections for City Council, City Clerk, City Treasurer, and City Attorney, the final date for contributions shall be December 31st of the year in which the election for the open position was held. Contributions made after the final date shall be deemed contributions for the next election cycle. Notwithstanding the foregoing, contributions made after the final date to an elected councilmember who is ineligible for a further consecutive term, shall be deemed a contribution for the most recent election cycle in which such councilmember was eligible, and such contributions shall be subject to all other limitations and regulations in effect during said election cycle.

**B. Examples of the Election Cycle.** January 1, 1987, to December 31, 1990, was the “election cycle” for the 1990 election. Pursuant to this section, the four-year period for purposes of applying the interpretation of the Campaign Ordinance Election Cycle 2.07.070(A) shall be as follows:

**1. Example 1.**

1992 Election Cycle - Three Council Seats and City Clerk and City Treasurer: January 1, 1989 - December 31, 1992.

- a. The “last election” was November 1988.
- b. December 31, 1988, was the last or final date for receipt of campaign contributions for the 1988 election.
- c. January 1, 1989, began the election cycle for the 1992 election.
- d. December 31, 1992, ended the election cycle for the 1992 election.

**2. Example 2.**

1994 Election Cycle - Four Council Seats and City Attorney: January 1, 1991 - December 31, 1994.

- a. The “last election” was November 1990.
- b. December 31, 1990, was the last or final date for receipt of campaign contributions for the 1990 election.
- c. January 1, 1991, began the election cycle for the 1994 election.
- d. December 31, 1994, ends the election cycle for the 1994 election.

**3. Example 3.**

1996 Election Cycle - Three Council Seats and City Clerk and City Treasurer: January 1, 1993 - December 31, 1996.

- a. The “last election” was November 1992.

- b. December 31, 1992, was the last or final date for receipt of campaign contributions for the 1992 election.
- c. January 1, 1993, began the election cycle for the 1996 election.
- d. December 31, 1996, ends the election cycle for the 1996 election.

**C. Recalls.** For purposes of the limits of this chapter, campaign contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election or after the City Clerk has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

- 1. The recall proponents fail to return signed petitions to the City Clerk within the time limits set forth in the California Elections Code.
- 2. All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.
- 3. Ten days after a recall election has been held. (3220-1/94, 3749-9/06, 3830-5/09)

### **2.07.080 Prohibition on Multiple Campaign Committees**

A City candidate or an elective City officer shall have no more than one campaign committee which shall have only one bank account out of which all qualified campaign and office holder expenses related to that City office shall be made. This section does not prevent a City candidate or an elective City officer from establishing another campaign committee solely for the purpose of running for a state, federal, local, or other City office. This section also does not prevent an elective City officer from establishing another campaign committee solely for the purpose of opposing his or her own recall. (3220-1/94)

### **2.07.090 Prohibition on Transfers**

- A. No funds may be transferred into any City candidate or elective City officer's campaign committee from any other campaign committee controlled by a candidate (including said City candidate) or by an elective City officer (including said elective City officer).
- B. No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office.

The provision of this section shall not apply to the candidate or elected officer who forms a new committee for purposes of reelection to the same office and, to close out the prior committee, transfers the money or debt from the prior committee to the new committee and, in so doing, complies with all regulations of the Political Reform Act of 1974, and as amended. (3220-1/94)

### **2.07.100 Loans to City Candidates and Elective City Officers and Their Controlled Committee**

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this chapter.
- B. Every loan to a City candidate or elective City officer or their controlled committees shall be by written agreement which shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.
- C. The proceeds of a loan made to a City candidate or elective City officer by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this chapter if the loan is made directly to the City candidate or elective City officer or his

or her controlled committee. The guarantors of such a loan shall remain subject to the contribution limits of this chapter.

D. Extensions of credit (other than loans pursuant to subsection C of this section) for a period of more than 30 days are subject to the contribution limitations of this chapter.

E. This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

F. The monetary limitations or provisions of this section shall not apply to a candidate's loan of his or her personal funds to his or her own campaign committee.

G. No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office. (3220-1/94)

### **2.07.130 Transmittal of Campaign Contributions in City Office Buildings**

A. No person shall receive or personally deliver or attempt to deliver a contribution in any office which the City owns or for which the City pays the majority of the rent where the business of the City is conducted.

B. For purposes of this section:

1. "Personally deliver" means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States mail.
2. "Receive" includes the receipt of a campaign contribution delivered in person. (3220-1/94, 3803-6/08)

### **2.07.140 Disclosure of Occupation and Employer**

No campaign contribution shall be deposited into a campaign bank account of a City candidate or elective City officer unless the disclosure information required by the Political Reform Act, including the name, address, occupation and employer of the contributor, or, if self-employed, name of business, is on file in the records of the recipient of the contribution. This information is to be reported on each campaign statement required to be filed by the Political Reform Act. (3220-1/94)

### **2.07.150 Reporting of Cumulative Contributions**

A cumulative contribution for each contributor shall be based on an election cycle and shall be reported on each campaign statement required to be filed by the Political Reform Act. (3220-1/94)

### **2.07.155 Requirement to File Statements and Reports Electronically**

A. An elective City officer, City candidate, committee, or other person required to file campaign statements or reports under this chapter and Title 9, Chapter 14 of the California Government Code (commencing with Section 84100), who receives contributions totaling \$1,000.00 or more, or makes expenditures totaling \$1,000.00 or more, in a calendar year must submit all campaign statements and reports as an electronic filing. Once an elective City officer, City candidate, committee or other person is required to submit campaign statements or reports as an electronic filing, that elective City officer, City candidate, committee or other person shall continue to use electronic filing until the committee has officially terminated or the elective City officer, City candidate or other person has no further filing obligations.

1. An elective City officer, City candidate, committee, or other person that must file pursuant to this chapter, but has not met the \$1,000.00 threshold, may submit required statements or reports as an electronic filing or in paper format.

2. In any instance in which the original campaign statement, report, or other document is required to be filed with the Secretary of State and a copy of that campaign statement, report or other document is required to be filed with the City of Huntington Beach, the copy may be submitted as an electronic filing. (4009-4/14)

#### **2.07.165 Filing Procedures**

A. Electronic filing procedures shall be administered in accordance with Government Code Section 84615 as may be amended from time to time.

B. Notwithstanding any other provision of law, any campaign statement, report or other document submitted as an electronic filing shall serve as the filing of record and shall not be required to be filed with the City Clerk in paper format. (4009-4/14)

#### **2.07.175 Statements and Reports—Signature and Verification Requirements**

Campaign statements and reports filed under this chapter shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation,

and that to the best of his or her knowledge, it is true and complete. A campaign statement or report filed by a committee shall be signed and verified by a responsible officer of the organization or by an attorney or a certified public accountant. Every person who signs or verifies any campaign statement or report required to be filed under this chapter which contains material which he or she knows to be false is guilty of perjury. For a campaign statement or report submitted as an electronic filing, a secure electronic signature shall meet the requirements of this section. (4009-4/14)

#### **2.07.220 Applicability of Other Laws**

Nothing in this chapter shall exempt any person from applicable provisions of any other laws of this state or jurisdiction. (3220-1/94)

#### **2.07.230 Severability**

If any provisions of this chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this chapter are severable. (3220-1/94)

#### **2.07.240 Interpretation of Chapter**

This chapter should be liberally construed to accomplish its purposes. (3220-1/94)

#### **2.07.260 Effective Date**

The provisions of this chapter shall become effective upon adoption, pursuant to Huntington Beach City Charter Section 500(e)(1). (3220-1/94)

## GOVERNMENT CODE - GOV



**TITLE 9. POLITICAL REFORM [81000 - 91014]** (*Title 9 added June 4, 1974, by initiative Proposition 9.*)

**CHAPTER 9.5. Ethics [89500 - 89522]** (*Chapter 9.5 added by Stats. 1990, Ch. 84, Sec. 13.*)

**ARTICLE 2. Gifts [89503- 89503.]** (*Article 2 added by Stats. 1990, Ch. 84, Sec. 13.*)

<sup>89503.</sup> (a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).

(b) (1) No candidate for elective state office, for judicial office, or for elective office in a local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250). A person shall be deemed a candidate for purposes of this subdivision when the person has filed a statement of organization as a committee for election to a state or local office, a declaration of intent, or a declaration of candidacy, whichever occurs first. A person shall not be deemed a candidate for purposes of this subdivision after he or she is sworn into the elective office, or, if the person lost the election, after the person has terminated his or her campaign statement filing obligations for that office pursuant to Section 84214 or after certification of the election results, whichever is earlier.

(2) Paragraph (1) shall not apply to any person who is a candidate as described in paragraph (1) for judicial office on or before December 31, 1996.

(c) No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(d) This section shall not apply to a person in his or her capacity as judge. This section shall not apply to a person in his or her capacity as a part-time member of the governing board of any public institution of higher education unless that position is an elective office.

(e) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506.

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(f) Beginning on January 1, 1993, the commission shall adjust the gift limitation in this section on January 1 of each odd-numbered year to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10).

(g) The limitations in this section are in addition to the limitations on gifts in Section 86203.

(*Amended by Stats. 1996, Ch. 1056, Sec. 2. Effective January 1, 1997.*)



## Gifts and Honoraria

All the issues summarized below are discussed in detail in Fact Sheets available on the **Important Publications Page**.

Gifts, honoraria, and loans received by public officials and employees are restricted in several ways:

**\$10 Lobbyist Gift Limit:** Elected state officials (including members of the legislature), and legislative employees may not accept a gift or gifts totaling more than \$10 in a calendar month from any individual who is registered as a lobbyist under state law. The \$10 limit also applies to gifts received by officials and employees of state agencies if their agency is listed on the registration statement of the lobbyist's employer or firm. (Gov. Code Section 86203.)

**\$440 Gift Limit (Effective January 1, 2013 - December 31, 2014):** State and local officials and employees are prohibited from receiving a gift or gifts totaling more than \$440 in a calendar year from certain sources. For elected state officials and many others, the prohibition is applicable to gifts from any source, although there are exceptions (for example, gifts from family members). For state and local officials and employees who file statements of economic interests (Form 700) under an agency's conflict of interest code, the gift limit is applicable only to individuals and entities that would have to be disclosed on the Form 700. This gift limit is adjusted every odd-numbered year. (Note: Judges are not subject to the Act's gift prohibitions, but are covered by the Code of Civil Procedure.) (Gov. Code Section 89503.)

**Honoraria:** An honorarium is a payment received for making a speech, publishing an article, or attending any public or private conference, convention, meeting, social event, meal or similar gathering. State and local elected officers and candidates for those offices and all officials holding positions listed in Government Code Section 87200 are prohibited from receiving honoraria payments. Likewise, an employee designated under a state or local government agency's conflict of interest code is prohibited from receiving honoraria payments from any source of gifts or income the employee is required to report on his or her statement of economic interests. Some limited exceptions apply, such as income earned from a bona fide business or profession. (Section 89502.)

**Exceptions for Travel:** Certain payments for travel are excluded from the gift limits and honoraria prohibition.

**Loan Restrictions:** Public officials who are required to file statements of economic interest or who are exempt employees may not receive any personal loan aggregating more than \$250 from an official, employee, or consultant of, or from anyone who contracts with, their governmental agencies. In addition, elected officials may not receive any personal loan aggregating more than \$500 from a single lender unless certain terms of the loan are specified in writing. Under certain circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it. (Gov. Code Sections 87460-87462.)

(Revised 01-12-2012)