

City of Cincinnati

MSS

AWB

An Ordinance No. _____

-2021

MODIFYING Title I, “Council and Corporation Miscellany,” by enacting new Chapter 119, “Prohibition on the Solicitation or Acceptance of Campaign Contributions from Persons with a Financial Interest in City Business,” of the Cincinnati Municipal Code to restore public trust in elected officials by prohibiting the solicitation or acceptance of campaign contributions from persons having a financial interest in City business while it is pending before Council; and **MODIFYING** Section 1501-8, “Class C-1 Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code to establish penalties for certain violations of Chapter 119.

WHEREAS, recent allegations of corruption against some Members of Council have diminished public trust in elected officials; and

WHEREAS, following allegations of pay-to-play schemes, the Mayor and Council passed Ordinance No. 384-2020, which created an Economic Development Reform Panel (“EDRP”) and charged it with making recommendations regarding best practices and ways to improve the development process and better insulate it from political influence and cronyism, to help restore public trust in City elected officials; and

WHEREAS, the EDRP found that “[e]lected officials soliciting for or receiving campaign contributions from a developer while that developer has business on the City Council calendar pose great risk for corruption and undue influence”; and

WHEREAS, the EDRP also found that “allowing elected officials to solicit or receive contributions from developers during the time period that the developer’s project is officially before them increases the risk that the developer may be asked or offer to make a campaign contribution in exchange for the elected official taking that official action”; and

WHEREAS, the EDRP concluded that “[m]any economic development projects take months or years working with the City administration, the community, and other external parties to put all of the pieces together,” and that the prohibition on campaign contributions should not extend beyond the time developers have business before the Council; and

WHEREAS, the EDRP therefore recommended that the period of prohibition for elected officials accepting campaign contributions extend “from the time a matter involving the developer is transmitted to the Clerk of Council until the matter is disposed of by final action of Council and the Mayor”; and

WHEREAS, the EDRP also expressed concern that the City not create barriers to entry or unintended legal consequences for individuals who are developing their own homes, a single small

project, or small neighborhood projects, especially given the low risk of corruption that such projects pose; and

WHEREAS, making a list of persons and businesses subject to the regulations enacted herein publicly available will promote transparency in campaign finance; and

WHEREAS, prohibiting the acceptance of campaign contributions from such persons and businesses will help ensure that Council decisions regarding development projects and major contracts are not influenced by campaign contributions; and

WHEREAS, Council intends that the requirements of this new Chapter 119 shall take effect only after Council has appropriated funding for this purpose, after the City Administration has established the required enforcement structure, and after the City Manager has promulgated regulations required under this Chapter; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That new Chapter 119, "Prohibition on the Solicitation or Acceptance of Campaign Contributions from Persons with a Financial Interest in City Business," of Title I, "Council and Corporation Miscellany," of the Cincinnati Municipal Code, is hereby enacted as follows:

Sec. 119-1. - Definitions.

For purposes of this chapter, the words and phrases shall have the meanings ascribed to them in Title 35, Elections, of the Ohio Revised Code, unless another meaning is ascribed to them in this chapter.

Sec. 119-1-A. - Applicant

"Applicant" means a person or entity who requests or applies for city business.

Sec. 119-1-C1. - Campaign.

"Campaign" means the mayor, each member of council, and their agents, including their campaign committees and associated political action committees.

Sec. 119-1-C2. - City Business.

"City business" means requests or applications for the following items requiring approval by council:

- (a) development incentives, including loans and tax incentives, with an estimated potential value of \$100,000 or more per year;
- (b) sales of city property with an estimated fair market value of \$200,000 or more;
- (c) zoning changes;

Sec. 119-1-C3. - City Business List.

“City business list” means the list or data set published online by the administration specifying the names of the financially interested persons from whom campaigns may not accept campaign contributions under this chapter.

Sec. 119-1-F. - Financially Interested Person.

“Financially interested person” means a person who has a financial interest in city business as defined by this section.

- (a) If the applicant for city business is an individual, it means the applicant and the spouse of the applicant.
- (b) If the applicant for city business is an entity, such as a limited liability company, corporation, partnership, trust, or unincorporated association, it means
 - (1) the entity itself;
 - (2) the owners, members, or partners of such entity and their spouses, provided that such owner, member, or partner owns or controls twenty percent or more of the entity; and
 - (3) the directors and principal officers of such entity and their spouses.

Sec. 119-1-S. - Solicit.

“Solicit” means to ask for, request, seek, or try to obtain something of value from another, whether directly or indirectly. For the purposes of this chapter, it does not include mass communications or speeches, so long as such communications or speeches are to fifty or more people.

Sec. 119-3. - Prohibition on Solicitation or Acceptance of Campaign Contributions.

- (a) Campaigns are prohibited from accepting a campaign contribution made by a financially interested person during the period prescribed in section 119-3(c). For

purposes of this section a campaign contribution has not been accepted if it is disposed of in accordance with the requirements of section 119-5.

- (b) Campaigns are prohibited from soliciting a campaign contribution from a financially interested person during the period prescribed in section 119-3(c).
- (c) The prohibition on solicitation or acceptance of a campaign contribution from a financially interested person shall commence on the day any ordinance regarding the city business is filed with the clerk of council and shall continue until final legislative action regarding the ordinance is complete, such as by a final vote or veto.

Sec. 119-5. - Timing and Manner of Disposal of Prohibited Contributions.

- (a) A campaign shall dispose of a prohibited campaign contribution from a financially interested person within the following time period:
 - (1) If the financially interested person was on the city business list at the time the campaign received the campaign contribution, then the campaign must dispose of the prohibited contribution no later than two calendar weeks from the day on which the contribution was received, excluding the day on which it was received.
 - (2) If the financially interested person was not on the city business list at the time the campaign received the campaign contribution, then the campaign must dispose of the prohibited contribution no later than two calendar weeks, excluding the day on which it was received, from the sooner of:
 - (A) the day the financially interested person is subsequently placed on the city business list; or
 - (B) the day the campaign receives notice from the administration that the contributor is a financially interested person under this chapter.
- (b) To dispose of a prohibited campaign contribution, the campaign shall first attempt to return or refund the contribution to the financially interested person. If the financially interested person does not accept the refund or return or if the contributor does not respond to the campaign, then the campaign shall dispose of the prohibited contribution by donating an amount equal to the contribution to a corporation that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code. The campaign shall report all campaign contributions required to be disposed of under this section in its next campaign finance report that is required by Article XIII, Section 2.a of the Charter.

Sec. 119-7. - Reporting of Financially Interested Persons.

- (a) Upon application for city business, an applicant must furnish accurate, truthful, and complete information to the city administration, in a form required by the city administration, identifying the financially interested persons associated with the application or request for city business. Applicants shall promptly update such information if it changes during the period prescribed by section 119-3(c).
- (b) The city administration shall make available to the public a list of financially interested persons through publication of the city business list on the city's website, to be updated at least weekly in accordance with section 119-3(c).
- (c) The city manager is authorized to establish procedures, rules, and regulations to implement the requirements of this section.

Sec. 119-9. - Enforcement.

- (a) The Cincinnati elections commission is authorized to impose civil fines for violations of Section 119-3(a) upon prior notice to the campaign and an opportunity to be heard. The commission shall refer such civil fines to the appropriate city agency for collection.
- (b) The city administration shall notify the city solicitor of any whistleblower or other complaint received that alleges that a campaign has solicited a contribution from a financially interested person in violation of this chapter. The solicitor or the solicitor's designee shall investigate each allegation of wrongful solicitation and shall file a communication with the clerk of council setting forth the findings of the investigation.

Sec. 119-11. – Start of Implementation; Appropriations.

The requirements and prohibitions of this Chapter shall not take effect until Council appropriates funding for the purpose of establishing the administrative staffing and enforcement needs imposed by this Chapter. After such appropriation, and upon setting up the administrative processes necessary to implement this Chapter, the City Manager is authorized to establish the starting date for enforcement of the prohibitions established in this Chapter, which date shall be no sooner than 30 days after the city manager promulgates the procedures and rules required under section 119-7(c). A copy of the procedures and rules shall be provided to Council upon promulgation and, again, at such time as the rules may be amended.

Sec. 119-99. - Penalties.

- (a) Violation of section 119-3(a) or 119-7(a) is a Class C-1 civil offense.

Section 2. That Section 1501-8, "Class C-1 Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code is hereby amended as follows:

Sec. 1501-8. - Class C1 Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in Section 1501-99 for a Class C1 Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with Section 1501-15 that the violation has been corrected. Except that, for occupied property that is in violation of Section 731-3(a), the otherwise applicable civil fine is reduced by 100% if the owner charged shows in accordance with Section 1501-15 that the violation has been corrected and that the owner has not previously received notice of a violation under Section 731-3 at the occupied property. If the provision is listed under paragraphs (a), (b), or (c) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation. If the provision is listed under paragraph (d) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within two years, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation. If the provision is listed under paragraph (e) below, the otherwise applicable civil fine is reduced by 100% if the person charged shows in accordance with Section 1501-15 and the rules and regulations of the board of health that the violation has been corrected and that the owner has not previously received notice of a violation under Section 609-9. If the provision is listed under paragraph (e) below, and if a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within two years, that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, the amount of which fine is specified in Section 1501-99 and is not subject to reduction for correction of the violation.

(a) Class C1 Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 714-11	Duty to Keep Sidewalks Free of Litter	Class D
(2)	§ 714-35	Litter on Occupied or Unoccupied Private Property	Class C1

(3)	§ 714-37	Owner or Person in Control to Maintain Premises Free of Litter	Class C1
(4)	§ 714-39	Litter on Vacant Lots	Class C1
(5)	§ 731-3	Height Restrictions on Unoccupied Private Property (grass and weed control)	Class C1
(6)	Chapter 313	Outdoor Advertising Sign Excise Tax	Class C1
(7)	Chapter 315	Short Term Rental Excise Tax	Class C1

(b) Class C1 Civil Offenses With Civil Fines Subject to 100% Reduction for Correction of Violation and a One-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 731-3	Height Restrictions on Occupied Private Property (grass and weed control; reduction for first-time offenders only)	Class C1

(c) Class C1 Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation and a One-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 714-15	Truck and Vehicle Loads Causing Litter or Scattering Debris	Class D
(2)	§ 119-3(a)	<u>Acceptance or Retention of a Contribution from a Financially Interested Person with City Business</u>	<u>Class C-1</u>
(3)	§ 119-7(a)	<u>Failure to Report Financially Interested Persons</u>	<u>Class C-1</u>

(d) Class C1 Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation, and a Two-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 609-3	Sale of Tobacco Products to Those Under Twenty-One Years of Age Prohibited	Class E
(2)	§ 1601-57	Enforcement of Emergency Orders	Class D
(3)	§ 1601-59	Enforcement of Health Orders	Class D

(e) Class C1 Civil Offenses With Civil Fines Subject to 100% Reduction for Correction of Violation, and a Two-Year Period for a Subsequent Offense:

			Civil Fine for Subsequent Offense
(1)	§ 609-9	Tobacco Retailer Licensing (reduction for first-time offenders only)	Class E

Section 3. That existing Section 1501-8, “Class C-1 Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby repealed.

Section 4. That the City Manager is hereby authorized to take all action necessary to implement and develop regulations necessary to carry out the purposes of this ordinance.

Section 5. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 4 hereof.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law, provided, however, that the prohibitions set forth in newly ordained Chapter 119 become binding only upon satisfaction of the requirements of section 119-11, “Start of Implementation; Appropriations.”

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

New language underscored.