

6/14/2017

ORDINANCE NO. 30489

An ordinance amending Chapter 12A, "Code of Ethics," of the Dallas City Code by amending Sections 12A-15.2 and 12A-15.7; amending Chapter 15A, "Elections," of the Dallas City Code by amending Section 15A-4.1; amending Chapter 20A, "Housing," of the Dallas City Code by amending Section 20A-3; deleting the definition of designated zoning case; providing that a non-registrant disclosure statement must be filed in all zoning cases; restricting the time in which campaign contributions may be made to city council members by applicants in all zoning cases; renaming "designated public subsidy matter" to "public subsidy matter"; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 12A-15.2, "Definitions," of Article III-A, "Lobbyists," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"SEC. 12A-15.2. DEFINITIONS.

In this article, unless specifically provided otherwise:

- (1) CITY OFFICIAL means:
 - (A) The mayor and city council members.
 - (B) The city manager and assistant city managers.
 - (C) The city attorney and first assistant city attorney.
 - (D) The city secretary and first assistant city secretary.

- (E) The city auditor and first assistant city auditor.
- (F) Municipal judges.
- (G) All department directors.
- (H) City of Dallas appointed members to the following boards and commissions:
- members.
- (i) Board of adjustment and board of adjustment alternate members.
 - (ii) Building inspection advisory, examining, and appeals board.
 - (iii) City plan and zoning commission.
 - (iv) Civil service board and civil service board adjunct members.
 - (v) Community development commission.
 - (vi) Dallas area rapid transit board.
 - (vii) Dallas-Fort Worth international airport board.
 - (viii) Ethics advisory commission.
 - (ix) Fire code advisory and appeals board.
 - (x) Housing finance corporation board.
 - (xi) Landmark commission and landmark commission alternate members.
 - (xii) All local government corporation boards.
 - (xiii) All municipal management district boards.
 - (xiv) Park and recreation board.
 - (xv) Permit and license appeal board.
 - (xvi) All reinvestment zone boards.

(2) CLIENT.

- (A) "Client" means any person on whose behalf lobbying is conducted.

If a person engages in lobbying on that person's own behalf, whether directly or through the acts of others, the person is both a client and a lobbyist.

(B) In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(C) In the case of a limited liability company, limited partnership company, or similar entity, the client includes the managers and general partners, but does not include the non-managing members or limited partners.

(D) In the case of affiliated business entities, the client includes the parent entity and each subsidiary with a direct economic interest in a municipal question and on whose behalf the municipal question is being lobbied, but does not include any other subsidiaries or entities whose only involvement in the municipal question or lobbying activities is being under the common control or ownership structure of the parent entity.

(3) COMPENSATION.

(A) "Compensation" means any money, service, facility, or other thing of value that is received, or is to be received, in return for or in connection with lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying.

(B) "Compensation" does not include:

(i) a payment made to any individual regularly employed by a person if:

(aa) the payment ordinarily would be made regardless of whether the individual engaged in lobbying activities; and

(bb) lobbying activities are not part of the individual's regular responsibilities to the person making the payment; or

(ii) any amounts previously reported under Section 12A-15.6 of this article.

(C) If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if, for the purpose of evading the obligations imposed under this article, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities.

(D) Compensation that has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the

date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first.

(4) ~~[DESIGNATED PUBLIC SUBSIDY MATTER means any of the following:~~

- ~~(A) A tax abatement.~~
- ~~(B) A housing tax credit.~~
- ~~(C) An historic development tax abatement.~~
- ~~(D) Federal grant money administered by the city.~~
- ~~(E) Tax increment financing.~~
- ~~(F) An economic development grant or loan.~~

(5) ~~DESIGNATED ZONING CASE means a change of zoning on a specific property where:~~

- ~~(A) the property is 25 acres or more;~~
- ~~(B) the proposed floor area for retail or personal service uses is 200,000 square feet or more;~~
- ~~(C) the proposed floor area for industrial uses is one million square feet or more;~~
- ~~(D) the proposed zoning change is to a multifamily district of 10 acres or more;~~
- ~~(E) the proposed zoning change allows 60 dwelling units or more per acre; or~~
- ~~(F) the city staff recommendation and the city plan commission recommendation regarding the proposed change of zoning do not agree.~~

(6) EXPENDITURE.

(A) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or gift of money or anything of value, including a contract, promise, or agreement to make an expenditure, regardless of whether such contract, promise, or agreement is legally enforceable.

(B) “Expenditure” does not include:

(i) an amount paid to any individual regularly employed by a person if:

(aa) the amount paid to the individual is ordinarily paid regardless of whether the individual engages in lobbying activities; and

(bb) lobbying activities are not part of the individual's regular responsibilities to the person making the payment; or

(ii) the cost of photocopying city documents, if those costs are the only expenditures made by the person in question on lobbying activities.

(C) The date on which an expenditure is incurred is determined according to generally accepted accounting principles.

(~~5~~[7]) GIFT has the same meaning as in Section 12A-2.

(~~6~~[8]) IMMEDIATE FAMILY means a spouse, a domestic partner, and dependent children.

(~~7~~[9]) LOBBYIST means a person who engages in lobbying, whether directly or through the acts of another. If an agent or employee engages in lobbying for a principal or employer, both the agent and the principal, or the employee and the employer, are lobbyists.

(~~8~~[10]) LOBBY or LOBBYING.

(A) “Lobby or lobbying” means any oral or written communication (including an electronic communication) to a city official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question.

(B) “Lobby or lobbying” does not include a communication:

(i) merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a city official;

(ii) made by a public official or employee (including, but not limited to, an official or employee of the city of Dallas) acting in his or her official capacity;

(iii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iv) made in a speech, article, publication, or other material that

is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;

(v) made at a meeting open to the public under the Texas Open Meetings Act;

(vi) made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(vii) made in writing as a petition for official action and required to be a public record pursuant to established city procedures;

(viii) made in an oral or written response narrowly tailored to address an oral or written request by a city official for specific information;

(ix) the content of which is compelled by law;

(x) made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

(xi) made on behalf of an individual with regard to that individual's employment or benefits;

(xii) made by a fact witness or expert witness at an official proceeding; or

(xiii) made by a person solely on behalf of that individual, his or her spouse or domestic partner, or his or her minor children.

~~(9[11])~~ LOBBYING FIRM means:

(A) a self-employed lobbyist;

(B) a person who has one or more employees that are lobbyists on behalf of a client or clients other than that person; or

(C) a person who has one or more employees that are lobbyists on the person's behalf and the person is the client.

~~(10[12])~~ MUNICIPAL QUESTION means a public policy issue of a discretionary nature that is pending before, or that may be the subject of action by, the city council or any city board or commission. The term includes, but is not limited to, proposed actions or proposals for action in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term does not include the day-to-day application,

administration, and execution of city programs and policies such as permitting, platting, and design approval matters related to or in connection with a specific project or development.

(11[13]) PERSON means an individual, corporation, association, firm, partnership, committee, club, organization, or a group of persons voluntarily acting in concert.

(12) PUBLIC SUBSIDY MATTER means any of the following:

- (A) A tax abatement.
- (B) A housing tax credit.
- (C) An historic development tax abatement.
- (D) Federal grant money administered by the city.
- (E) Tax increment financing.
- (F) An economic development grant or loan.

(13[14]) REGISTRANT means a person required to register under this article.”

SECTION 2. That Section 12A-15.7, “Non-Registrant Disclosure Statements,” of Article III-A, “Lobbyists,” of Chapter 12A, “Code of Ethics,” of the Dallas City Code is amended to read as follows:

“SEC. 12A-15.7. NON-REGISTRANT DISCLOSURE STATEMENTS.

(a) Non-registrant disclosure statement required for designated persons.

(1) [Designated] Z[z]oning cases. Any applicant, property owner, or purchaser with a property under contract who lobbies a city council member or a member of the city plan commission on a municipal question relating to a [designated] zoning case that will affect the property shall file a non-registrant disclosure statement in accordance with this section. An initial non-registrant disclosure statement must be filed within five days after the applicant, property owner, or purchaser contacts a city council member or member of the city plan commission for lobbying purposes. This paragraph only applies to lobbying contacts made after the application for the [designated] zoning case is filed with the city.

(2) [Designated] P[p]ublic subsidy matters. Any applicant, property owner, or purchaser with a property under contract who lobbies a city council member on a municipal question relating to a [designated] public subsidy matter that will affect the property shall file a

non-registrant disclosure statement in accordance with this section. An initial non-registrant disclosure statement must be filed within five days after the applicant, property owner, or purchaser contacts a city council member for lobbying purposes. This paragraph only applies to lobbying contacts made after the [designated] public subsidy matter is posted on a city council committee agenda or a council agenda, whichever occurs first.

(b) Required information. A non-registrant disclosure statement must be filed with the city secretary on the form and in the manner prescribed by the city secretary. If the applicant, property owner, or purchaser with a property under contract is not an individual, an authorized officer or agent of that person shall file the non-registrant disclosure statement. The non-registrant disclosure statement must include, to the extent applicable, the following information:

(1) The full name, telephone number, permanent address, and nature of the business of:

(A) the applicant;

(B) the property owner; and

(C) the purchaser with a property under contract.

(2) The full name, telephone number, permanent address, and nature of the business of the person filing the non-registrant disclosure statement, if different from the applicant, property owner, or purchaser.

(3) The address of the property that is the subject of the designated zoning case or designated public subsidy matter, whichever applies.

(4) A description of the designated zoning case or designated public subsidy matter.

(5) The name of each city council member or city plan commission member contacted by the applicant, property owner, or purchaser relating to a [designated] zoning case or the name of each city council member contacted by the applicant, property owner, or purchaser relating to a [designated] public subsidy matter, and the type of contact made (in person, telephone call, letter, or electronic mail).

(6) A statement that, by filing the non-registrant disclosure statement, the filer swears or affirms under penalty of perjury that, to the best of the filer's knowledge, all information contained in the non-registrant disclosure statement is true, correct, and complete and includes all information required to be disclosed under this section.

(c) Quarterly disclosure statements. Lobbying contacts on a [designated] zoning case or [designated] public subsidy matter made after an initial non-registrant disclosure statement is filed must be reported by the applicant, property owner, or purchaser with a property under contract in quarterly non-registrant disclosure statements. A quarterly non-registrant disclosure

statement must be filed on the form and in the manner prescribed by the city secretary and must include, with respect to the previous calendar quarter, to the extent applicable, the same information required in Subsection (b) of this section. The non-registrant disclosure statement for the preceding calendar quarter must be filed not earlier than the first day or later than the 15th day of April, July, October, or January.

(d) No fee. No fee will be charged for filing a non-registrant disclosure statement under this section.

(e) Exceptions. This section does not apply to:

(1[A]) an applicant, property owner, or purchaser with a property under contract who is currently registered with the city as a lobbyist and filing activity reports in accordance with this article; or

(2[B]) a neighborhood association, crime watch group, or homeowners association or its members when lobbying on a municipal question that affects the group or association as a whole.”

SECTION 3. That Section 15A-4.1, “Campaign Contributions by Applicants in Designated Zoning Cases and Designated Public Subsidy Matters and by Bidders and Proposers on City Contracts,” of Article I, “Campaign Contributions,” of Chapter 15A, “Elections,” of the Dallas City Code is amended to read as follows:

“SEC. 15A-4.1. CAMPAIGN CONTRIBUTIONS BY APPLICANTS IN [DESIGNATED] ZONING CASES AND [DESIGNATED] PUBLIC SUBSIDY MATTERS AND BY BIDDERS AND PROPOSERS ON CITY CONTRACTS.

(a) In this section:

(1) **AFFILIATED** means the relationship created when one business entity is the parent or subsidiary of another business entity or when multiple business entities are subsidiaries of the same parent business entity.

(2) **APPLICANT** means any person who:

(A) owns all or part of the property that is the subject of a [designated] zoning case or [designated] public subsidy matter;

(B) is a parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or the domestic partner, of:

(i) the property owner; or

(ii) any individual described in Paragraph (2)(E) of this subsection;

(C) is a representative of the property owner in connection with the [designated] zoning case or [designated] public subsidy matter, and, if the representative is an entity, includes any individual who holds with the entity any position described in Paragraph (2)(E)(i) through (vii) of this subsection;

(D) is affiliated with the property owner; or

(E) if the property owner is an entity, is an individual who holds any of the following positions with the entity or with any affiliated business entity:

(i) the chief executive officer, chief financial officer, or chief operating officer, or any person with equivalent duties, powers, and functions;

(ii) a member of the board of directors of a corporation;

(iii) a general partner of a general partnership or limited partnership;

(iv) a manager of a limited liability company that is managed by managers;

(v) a member of a limited liability company that is managed by members entitled to manage the company;

(vi) a member of the board of directors of a cooperative association; or

(vii) a trust manager of a real estate investment trust.

(3) CANDIDATE means a person who has filed an application with the city secretary for a place on the official ballot in an impending election for one or more members of the Dallas city council.

(4) ~~DESIGNATED~~ PUBLIC SUBSIDY MATTER means any of the following:

(A) A tax abatement.

(B) A housing tax credit.

(C) An historic development tax abatement.

- (D) Federal grant money administered by the city.
- (E) Tax increment financing.
- (F) An economic development grant or loan.

~~[(5) DESIGNATED ZONING CASE means a change of zoning on a specific property where:~~

- ~~(A) the property is 25 acres or more;~~
- ~~(B) the proposed floor area for retail or personal service uses is 200,000 square feet or more;~~
- ~~(C) the proposed floor area for industrial uses is one million square feet or more;~~
- ~~(D) the proposed zoning change is to a multifamily district of 10 acres or more;~~
- ~~(E) the proposed zoning change allows 60 dwelling units or more per acre; or~~
- ~~(F) the city staff recommendation and the city plan commission recommendation regarding the proposed change of zoning do not agree.]~~

(b) An applicant in a ~~[designated]~~ zoning case shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city council member or candidate during the period between the date the first notices of a public hearing to consider the ~~[designated]~~ zoning case by the city plan commission are mailed and the later of:

- (1) 60 days after the ~~[designated]~~ zoning case is withdrawn pursuant to Section 51A-4.701(f) of the Dallas City Code;
- (2) 60 days after the date a decision of the city plan commission on the ~~[designated]~~ zoning case becomes final and all opportunities for appeal are exhausted; or
- (3) 60 days after the date a final decision on the ~~[designated]~~ zoning case is made by the city council either granting or denying the request.

(c) Subsection (b) does not apply to a change of zoning for historic districts, conservation districts, or neighborhood stabilization overlays.

(d) An applicant in a ~~[designated]~~ public subsidy matter shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city

council member or candidate from the time the matter is posted on a council committee agenda or a council agenda, whichever occurs first, until 60 days after the date the city council votes on the [designated] public subsidy matter or the application for the [designated] public subsidy matter is withdrawn by the applicant.

(e) A person responding to a request for bids or request for proposals on a city contract shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city council member or candidate from the time the advertisement or public notification of the request for bids or request for proposals is made until 60 days after the date the contract is awarded by the city council. For purposes of this subsection, "person" includes:

- (1) any individual responding to the request for bids or proposals;
- (2) any entity responding to the request for bids or proposals and its affiliated business entities;
- (3) if the person responding to the request for bids or proposals is an entity, any individual who holds with the entity (or with any affiliated business entity) any position described in Subsection (a)(2)(E)(i) through (vii) of this section;
- (4) the parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or the domestic partner, of any individual described in Paragraph (1) or (3) of this subsection; and
- (5) a representative of the bidder or proposer in connection with the city contract, and, if the representative is an entity, includes any individual who holds with the entity any position described in Subsection (a)(2)(E)(i) through (vii) of this section.

(f) This section applies to a campaign contribution made to any specific-purpose political committee that will ultimately contribute to an identified city council member or candidate, and any campaign contribution made to the specific-purpose political committee during the time restrictions imposed by this section will be considered to have been made to that city council member or candidate. The time restrictions imposed by this section do not apply to when the specific-purpose political committee makes a campaign contribution to the identified city council member or candidate.

(g) This section applies to a campaign contribution made by any political committee established, administered, financially supported, or assisted pursuant to state or federal law by a corporation or labor organization that is an applicant in a [designated] zoning case or [designated] public subsidy matter or that is the person responding to a request for bids or proposals on a city contract. The time restrictions imposed by this section do not apply to when an individual campaign contribution is received by the political committee, but only to when the political committee actually makes the campaign contribution to the city council member or candidate.

(h) Except as provided in Subsection (g), this section does not apply to a campaign contribution made to or by any general-purpose political committee."

SECTION 4. That Paragraph (13), "Financial Award," of Section 20A-3, "Definitions," of Chapter 20A, "Housing," of the Dallas City Code is amended to read as follows:

"(13) FINANCIAL AWARD means a [~~designated~~] public subsidy matter, as that term is defined in Section 12A-15.2 of this code, as amended, or any loan, grant, tax abatement, or monies awarded by the city."

SECTION 5. That Paragraph (22), "Subsidy," of Section 20A-3, "Definitions," of Chapter 20A, "Housing," of the Dallas City Code is amended to read as follows:

"(22) SUBSIDY means a [~~designated~~] public subsidy matter, as that term is defined in Section 12A-15.2 of this code, as amended, or a density bonus, and that was approved by city council."

SECTION 6. That, unless specifically provided otherwise by this ordinance or by state law, a person violating a provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$500.

SECTION 7. That Chapters 12A, 15A, and 20A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 9. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 10. That this ordinance shall take effect immediately, and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

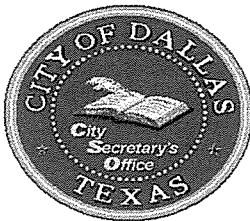
APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

By
Assistant City Attorney

JUN 14 2017

Passed _____



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 14 2017

ORDINANCE NUMBER 30489

DATE PUBLISHED JUN 17 2017

ATTESTED BY: