



## **Executive Order to Ban Political Fundraising on Public Property**

**CITY OF HOBOKEN**

**No.:** 3

**EXECUTIVE ORDER**

**Date:** 2/10/11

**WHEREAS**, it is the policy of the City of Hoboken ("City") to separate political fundraising from general municipal business; and

**WHEREAS**, there presently is no ban on solicitation or acceptance of political contributions by public office holders, candidates and/or employees while in any government building in the discharge of their official duties or while using public property; and

**WHEREAS**, the solicitation and/or acceptance of political contributions in government buildings during the discharge of official municipal business or while using public property undermines the efficiency of government by taking officials and employees away from the peoples' business, and leads to the appearance of improper influence of political contributions on government functions; and

**WHEREAS**, government buildings, offices and equipment are not intended to be used to conduct fundraising activities for candidates for elective offices; and

OFFICE OF THE MAYOR

**WHEREAS**, a conflict of interest may arise between the business of political fund-raising and the business of government in and/or on government-owned premises which may cause a distraction from the business of government; and

**WHEREAS**, prohibiting such solicitation and acceptance of political contributions in government buildings occupied in the discharge of official duties or while using public equipment and property addresses these concerns without prejudicing candidates or unduly limiting alternative venues for political fundraising; and

**WHEREAS**, our laws in the City do not presently recognize the misuse of public property for political fundraising as a distinct offense;

**WHEREAS**, the City now intends to recognize the misuse of public property for political fundraising as a distinct offense; and

**WHEREAS**, the Mayor is vested with the authority to supervise and act as custodian for all municipal property pursuant to N.J.S.A. 40:69A-40;

**NOW, THEREFORE**, I, Dawn Zimmer, Mayor of the City of Hoboken, New Jersey by virtue of the authority vested in me by the Statutes of this State and the laws of the City of Hoboken, do hereby, **ORDER, DIRECT AND ISSUE THE FOLLOWING EXECUTIVE ORDER:**

**Section 1. Intent**

The intent of this Executive Order is to create an independent and efficient government workforce and workplace, and a government that is undermined by neither the fact nor appearance of improper influence of political contributions on government decisions which require the prohibition of political fundraising in rooms or buildings occupied in the discharge of official duties or through the use of public property or equipment.

**Section 2. Purpose**

The purpose of this Executive Order is to ban the use of government buildings, property and equipment for political fundraising.

**Section 3. Definitions**

- A. Candidate** – The term “Candidate” means (1) any individual seeking election to public office of the federal, state, county, or municipal government, or school

district or political party, and (2) any individual who shall have been elected or failed of election to any such office;

- B. Political Contribution** – The term “Political Contribution” means any loans and transfers of money or other things of value to any Candidate, elected Municipal Official, Employee, or Appointee or representative of any Political Organization, or other commitments or assumptions of liability to make any such transfer for the purpose of supporting a Candidate. A Political Contribution shall be deemed to have been made upon the date when such commitment is made or liability assumed.
- C. Political Organization** – the term “Political Organization” means any two or more persons acting jointly, or any corporation, partnership or other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for federal, state, county, municipal or school board office or political party office. “Political Organization” includes, but is not limited to, organizations defined in N.J.S.A. 19:44A-3 as a “political committee,” “joint candidates committee,” “continuing political committee,” “political party committee,” “candidate committee,” or “legislative leadership committee.”
- D. Municipality** - the term “Municipality” means the government of the municipality of the City of Hoboken, including any officer, department, board, commission, or agency, thereof.
- E. Municipal Official, Employee and Appointee** - the term “Municipal Official, Employee and Appointee” means any person holding elective municipal office or holding an appointed position in the municipal government, or in any agency, commission, board, or office thereof, whether the position is full time or part time, compensated or uncompensated; and any employee of municipal government or of any municipal agency, commission, board, or office thereof, whether the position is full time or part time.
- F. Solicit** – The term “Solicit” means to direct, request or ask for, by oral or written communication, a Political Contribution as that term is defined herein.
- G. Public Property** – The term “Public Property” means (1) all personal property owned, leased, or controlled by the Municipality where employees of the City of Hoboken perform their job duties and (2) all real property owned, leased, or controlled by the Municipality for use by municipal employees. Such “Public Property” includes but is not limited to vehicles, phones, fax machines, computers, stationery including municipal letterhead, postage, and other office equipment; and specifically excludes the property identified in Section 4(C)(1), (2) and (3).

**Section 4. General Regulations**

**A. Prohibition Against Soliciting or Accepting Political Contribution While In or Utilizing Public Property.**

No Municipal Official, Employee and/or Appointee may solicit, or receive payment of or a commitment to pay any Political Contribution for any candidate, elected official or political organization while in or utilizing any Public Property. This Section shall include solicitation or acceptance of Political Contributions made over a private cell phone or by use of a private computer, if the person soliciting or accepting the Political Contribution, or using the cell phone or computer for purposes of soliciting or accepting the Political Contribution, is in or utilizing any Public Property.

**B. Prohibition Against Use of Public Property for Political Fundraising**

No Municipal Official, Employee, and/or Appointee may solicit or receive payment of or a commitment to pay any Political Contribution for any candidate, elected official or political organization, while utilizing public property.

**C. Prohibited Forms of Fund-Raising. Prohibited Forms of Fund-Raising Shall Include but Are Not Limited to:**

- (1) Soliciting or accepting contributions using municipal telephones, fax machines or computers.
- (2) Soliciting or accepting contributions using personal telephones while on the property of the municipality.
- (3) Soliciting or accepting contributions through the use of publicly owned computers or privately owned personal computers while on the property of the municipality.
- (4) Using municipal letterhead to solicit or accept contributions.
- (5) Sending correspondence from municipal buildings or by the use of municipal services, equipment or postage.
- (6) Face-to-face soliciting of an individual or an owner or representative of a business entity while on the property of the municipality.
- (7) Use of automobiles owned or leased by the municipality to accept or solicit contributions.

**D. Reporting Requirements**

It shall be the responsibility of any employee, appointee or elected official who observes any prohibited forms of fund-raising to report such conduct to the Business Administrator or the Corporation Counsel who shall report same to the Mayor and the Governing Body.

**E. Whistleblower Provision**

It shall be unlawful for any employee, elected official or appointee to be dismissed, reprimanded, retaliated against or otherwise intimidated for complying with the reporting requirements mandated by this chapter.

**F. Exceptions**

The prohibition contained in paragraphs (A) and (B) above shall not apply to:

- (1) Public facilities which are made available to any group for use as a meeting facility or gathering place, such as a park. Fundraising among members of such groups during the time such groups have reserved exclusive use of the meeting facility or gathering place is not prohibited.
- (2) Residents of a public housing authority who engage in Fundraising in their residences.
- (3) Library materials available for public use.

**G. Violation**

A violation of any provision of this Executive Order shall be considered a violation of the City Code of Ethics and may subject the Municipal Official, Employee or Appointee to disciplinary action.

**Section 5. Severability and Effectiveness**

If any sentence, paragraph or section of this Executive Order, or the application thereof to any persons or circumstance shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Executive Order shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Executive Order.

**Section 6: Repeal of All Inconsistent Executive Orders**

All Executive Orders and parts of Executive Orders inconsistent herewith are hereby repealed.

**Section 7: Compliance**

All Departments are hereby directed to comply with the terms of this Executive Order.

**Section 8. Effective Date**

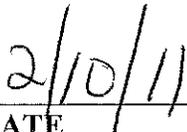
This Executive Order shall take effect immediately.

[Signature Page Follows]

OFFICE OF THE MAYOR

**APPROVED:**

  
\_\_\_\_\_  
DAWN ZIMMER  
MAYOR

  
\_\_\_\_\_  
DATE

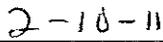
**AS TO FORM:**

  
\_\_\_\_\_  
MARK A. TABAKIN  
CORPORATION COUNSEL

  
\_\_\_\_\_  
DATE

**ATTESTED TO AND RECORDED BY:**

  
\_\_\_\_\_  
JAMES J. FARINA  
CITY CLERK

  
\_\_\_\_\_  
DATE

This Executive Order shall remain in the custody of the City Clerk. Certified copies are available upon request.