



## Legislation Details (With Text)

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**Title:** To amend Chapter 2321 of the Columbus City Code by enacting new Section 2321.55 to establish prohibited uses of public funds and to create penalties for violations of the same.

**Sponsors:** Andrew Ginther

**Indexes:**

**Code sections:**

**Attachments:**

| Date      | Ver. | Action By             | Action                  | Result |
|-----------|------|-----------------------|-------------------------|--------|
| 7/30/2015 | 1    | CITY CLERK            | Attest                  |        |
| 7/29/2015 | 1    | MAYOR                 | Signed                  |        |
| 7/27/2015 | 1    | COUNCIL PRESIDENT     | Signed                  |        |
| 7/27/2015 | 1    | Columbus City Council | Approved                | Pass   |
| 7/20/2015 | 1    | Columbus City Council | Read for the First Time |        |

### BACKGROUND

The purpose of this ordinance is to amend Chapter 2321 of the Columbus City Code and to supplement Section 31 of the Charter of the City of Columbus which pertains to limitations on public expenditures and the prohibited uses of public funds.

In November 2014, Columbus voters overwhelming approved amendments to the Columbus City Charter, including revisions to Section 31, which established limitations on city expenditures and outlined prohibited uses of public funds. As amended, Section 31 also requires Columbus City Council to establish by ordinance prohibited uses of public funds and the penalties for violation of the same.

In accordance with Section 31 of the Columbus City Charter, this ordinance establishes prohibited uses of public funds, and the associated penalties, consistent with the most applicable general laws of the state outlined in Ohio Revised Code (ORC) §9.03. This section of the ORC regulates the use of public funds in three specific areas: 1) the prohibited uses of public funds by a governing body of a municipality in terms of communication; 2) prohibiting municipalities from compensating employees for political activity; and 3) the conducting of direct or indirect transactions of public funds for the benefit of a political entity.

In addition to the ORC, Sections 159, 160, and 161 of the Charter govern municipal contracts and establish multiple checks and balances to safeguard taxpayers, hold decision makers accountable and to ensure the City is a responsible steward of public dollars.

This ordinance is consistent with the both the ORC and existing Charter provisions, but further regulates the use of public funds and prohibits the use of taxpayer dollars to: 1) benefit any political entity; 2) discriminate against anyone for any reason ordained in Columbus City Code; and 3) to expressly advocate for or against any candidate for public office, or the passage or defeat of an initiated municipal ballot issue.

These additional safeguards further Council's efforts to support and uphold the Charter of the City of Columbus and will help ensure the City continues to be a responsible steward of public funds.

To amend Chapter 2321 of the Columbus City Code by enacting new Section 2321.55 to establish prohibited uses of public funds and to create penalties for violations of the same.

**WHEREAS**, Section 31 of the Charter of the City of Columbus provides that no funds of the city of Columbus, from any source whatsoever, shall be disbursed, nor shall any transaction thereof be conducted, in any manner contrary to this charter, general laws of the state, or ordinance of council; and

**WHEREAS**, the general laws of the State of Ohio, specifically Ohio Revised Code §9.03, provide guidelines for the proper expenditure of public funds and prohibit any person from knowingly conducting a transaction of public funds for the benefit of a political entity; and

**WHEREAS**, this Council has determined that it is necessary to establish a clear set of regulations regarding the appropriate use of public funds as required by Section 31 of the City Charter; and

**WHEREAS**, this ordinance is intended to supplement and effectuate Section 31 of the Charter by establishing prohibited uses of public funds as well as the penalties for violations of the same; and

**WHEREAS**, this ordinance is enacted in accordance with Section 31 of the City Charter; and

**WHEREAS**, this ordinance furthers Council's efforts to support and uphold the Charter and will help ensure the City continues to be a responsible steward of public funds; now, therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That Chapter 2321 of the Columbus City Code is hereby amended by enacting new Section 2321.55 which reads as follows:

2321.55 Prohibited use of public funds.

(A) As used in this section:

(1) "Campaign committee," "campaign fund," "candidate," "legislative campaign fund," "political action committee," "political committee," "political party," and "separate segregated fund" have the same meanings as in section 3517.01 of the Revised Code, or a successor to that section.

(2) "Expressly advocate" and "express advocacy" means unambiguously calling for the nomination, election, or defeat of a candidate for public office or the passage or defeat of a municipal ballot issue. "Unambiguously calling for" includes the use of explicit words such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," or "reject;" or use of generic phrases such as "vote pro-democracy" in conjunction with the name, photo, likeness, title, or description of a candidate for public office or a municipal ballot issue.

(3) "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, extension of credit, purchase or sale of a payment instrument, or any other acquisition or disposition of anything of value, including a benefit, privilege, claim, or right with respect to anything of value, whether real or personal property, tangible or intangible.

(B) No funds of the city shall be expended, nor shall any transaction using such funds be authorized or conducted, to do any of the following:

(1) Benefit, whether directly or indirectly, a campaign committee, campaign fund, candidate, legislative campaign fund, political action committee, political committee, political party, or separate segregated fund;

(2) Promote or conduct illegal discrimination on the basis of race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, family or military status, or any other status that is protected by federal, state, or local law or ordinance;

(3) Publish, distribute, or otherwise communicate defamatory or libelous matter; or

(4) Expressly advocate for the nomination, election, or defeat of a candidate for public office or the passage or defeat of a municipal ballot issue. Division (B)(4) of this section does not prohibit either of the following:

(a) The use of public funds to compensate an employee of a political subdivision to participate in or conduct a public forum even if an election or municipal ballot issue is discussed or debated in such forum, provided the employee's activity does not constitute express advocacy; or

(b) The utilization of any person's own time to expressly advocate, unless otherwise prohibited by law.

The prohibitions in division (B) of this section shall apply to all officers and employees of the city, and to any person expending funds that were received from the city to be used for a permitted public purpose.

(C) Nothing in this section shall be construed to limit the use of public funds to do any of the following:

(1) Produce, present or communicate information about the finances, plans, policies, activities, initiatives, operations, and governmental actions of the city;

(2) Conduct activities intended to promote, enforce and protect the fundamental right to vote in all municipal elections, including, but not limited to, the institution of legal action to protect the right to vote, the expansion of opportunities and eligibility to register and vote, and the undertaking of non-partisan measures to promote voter registration, education, and participation; or

(3) Engage in election-related communications required by applicable law.

(D) Council may declare void any city contract the proceeds of which were used, whether directly or indirectly, in furtherance of any knowing violation of this section.

(E) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be required to repay to the city any funds improperly used in addition to any other applicable penalty.

**SECTION 2.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.