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Subject: Municipal Campaign Contribution Ordinances Preempted by State Law

Mayor, Vice-Mayor and Commissioners,

Several weeks ago a resident submitted a complaint to the City Clerk alleging that Commissioner Gow violated Section 26-202 of the City Code. That code provision provides:

Sec. 26-202. - Unfair campaign practice.

It shall be an unfair campaign practice for a candidate to elective city office, or an agent or authorized representative of the candidate on behalf of such candidate to:

- (1) Campaign by way of announcements, publications, or other forms of political advertising, as a registered member of any political party;
- (2) Campaign by way of announcements, publications, or other forms of political advertising in such a manner as to indicate that such candidate is not a registered member of a particular political party;
- (3) Solicit or accept contributions, or open assistance or support, from any partisan political club or association affiliated with any political party, or from any political party;
- (4) Participate in any partisan political party function; provided, however, that such candidate, or agent of a candidate, may register and vote as a member of a political party and may attend and speak at a political party function or event, provided that all candidates for city office have been invited and permitted to participate in the same manner and to the same extent; or
- (5) Any person committing an act prohibited by this section shall be guilty of an unfair campaign practice and a municipal ordinance violation punishable as provided in [section 1-15](#) of this Code.

The allegation made was that Commissioner Gow violated subsections (3)and (4) by receiving campaign contributions from the North Pinellas County Democratic Club and the Stonewall Democrats of Pinellas as well as participating in a partisan political party event. While performing some legal research on this issue we found an Attorney General Opinion that we believe addresses the campaign contributions. In 1974 the Vero City Beach City Attorney posed the following question to the Attorney General:

Does Ch. 73-128, Laws of Florida (codified as Chapter 106, Florida Statutes), preempt the field of campaign contributions so as to render ineffective a municipal ordinance which limits contributions to municipal candidates to an amount less than that provided by s.8(1)(a) of Ch. 73-128, and limits to five hundred dollars the amount which a municipal candidate may contribute to his own campaign?

The Attorney General responded by informing the Vero Beach City Attorney that Chapter 106, Florida Statute applies to candidates for elected municipal office and preempts the regulation of campaign contributions to the state. Therefore, his question was answered in the affirmative. Under Florida Statute 166.021 a municipality is without power to enact legislation on "any subject expressly preempted to state ... government by ...general law."

Based upon the [AG opinion \(74-263\)](#) I believe Section 26-202 of the City of Dunedin's Code of Ordinances is preempted, if not unconstitutional, and that it should be repealed from the code. Because I believe Section 26-202 is preempted, and possibly unconstitutional, it would not be appropriate to pursue enforcement of it. It is my intention to bring this matter to the attention of the Ordinance Review Committee for their review and recommendation. Tom