

**Election Commission
City of Aurora, Colorado**

**July 1, 2020
6:00 p.m.
Via Virtual**

Carolyn Boller called the meeting to Order.

Members Present:

Carolyn Boller
Scott Irvin
William McCartin
Joanna Floribus

Members Absent:

Jessica Chauvin

Staff Present; Stephen Ruger, City Clerk

Guest Present; Mayor Pro Tem Nicole Johnson

Approval of minutes May 20, 2020- Bill McCartin moved to approve, seconded by Scott Irvin to approve the minutes. Motion passed unanimously.

Old Business

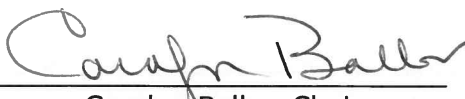
- a. Proposed Campaign Finance Revisions Ordinance
Sponsor: Mayor Pro-Tem Johnston

Mayor Pro Tem Johnston presented this item and each Election Commissioner gave feedback and discussed their concerns. Their concerns and comments are included in the draft ordinance attached to these minutes as Exhibit A.

The Commission had specific questions for the City Attorney, including:

1. Is there anything that would permit the City to impose limitations/restrictions on self-financing amounts? Assumption that there is not.
2. What happens if a committee cannot be contacted, but is in violation of campaign finance laws? Does the matter get referred to the DA?
3. Can an endorsement of a candidate be construed as an in-kind donation?
4. Does a circulator of a petition have to register a campaign finance committee before or during circulating the petition? I don't see anything in our current ordinance that requires this, but I may be missing something.
5. Are there legal issues in having a standalone (self-funded) candidate report expenditures?

Clerk Ruger will follow up with the City Attorney's Office and will provide their response to the commission.


Carolyn Boller, Chair

ELECTION COMMISSION MEETING 7-1-20

EXHIBIT A

(This is a discussion version of the Aurora Campaign Finance Coalition's draft bill. The introductions to the bill's sections, written in italics, are intended only to clarify the bill and would not be part of the finished product.)

ORDINANCE NO. 2020 _____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO REPEALING AND REPLACING SECTION 54-2 AND SECTIONS 54-101 TO 54-110 OF THE CITY CODE RELATED TO THE FINANCING OF ELECTORAL CAMPAIGNS
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That section 54-2 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by a section to read as follows:

(Sec. 54-2 defines a number of terms, more than previously, and in more detail.)

Sec. 54-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Active voter* means a registered voter who has not been marked inactive by the clerk and recorder of the voter's county of residence according to 1-2- 605(1)(b)(i), C.R.S. Any registered elector whose registration record is marked "inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements.
- (b) ~~Any registered elector whose registration record is marked "inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements.~~

New paragraph: Inactive voter: A voter whose ballot has been returned as undeliverable by the United States Postal Service. Any registered elector whose registration record is marked "inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements—when elector updates his or her registration information;

Reasoning: Inactive voter should be defined separately from Active voter....it seems to get lost in the language and should be defined under its own title.

- (c) *Ballot* means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on in an election.
- (d) *Ballot issue* means a non-recall, citizen-initiated petition or legislatively- referred measure which concerns local government matters arising under section 20 of Article X of the State Constitution, i.e., matters of taxes, debt, and other financial matters. Ballot issues can only be voted on at elections held each November.
- (e) *Ballot question* means any local government matter involving a citizen- initiated petition or legislatively-referred measure other than a ballot issue.
- (f) *Ballot title* means the official, short summary of a ballot measure that appears on the ballot.
- (g) *Candidate* means any person who seeks nomination or election to any public office of the city that

is to be voted on at the regular municipal election or at any special municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office and thereafter has received a contribution or made an expenditure in support of the candidacy. An incumbent, an unsuccessful Candidate for office, or former officeholder, who still has a cash balance of contributions or a debt or deficit or who receives contributions or contributions in-kind continues to be a candidate. For purposes of this Article, "candidate" includes an agent of the candidate, unless the context clearly indicates otherwise. *Candidate* means any person who seeks nomination or election to any public office of the city that is to be voted on at the regular municipal election or at any special municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office and or thereafter has received a contribution or made an expenditure in support of the candidacy.

I think Election law says OR...

- (h) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.
- (i) *City clerk* means the city clerk or the clerk's designated representative. The city clerk may appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with a complainant or defendant participating in the hearing.
- (j) *Committee* means the following, depending upon the context:
- (1) *Candidate committee* means a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one candidate committee.
 - a. An elected and serving municipal officeholder may also maintain a candidate committee during such person's term of office and accept contributions, subject to the limitations set forth in Article IV of this chapter.
 - b. Candidates from prior elections shall re-register their candidate committees before running in subsequent elections.
 - (2) *Independent expenditure committee* means a political committee that only makes independent expenditures, and does not make contributions to any candidate committee, or to another political committee that makes contributions to any candidate committee.
 - (3) *Issue committee* means a person, other than a natural person, or a group of persons that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount of one thousand dollars (\$1,000) or more during an election cycle to support or oppose the qualification or passage of a ballot issue or ballot question.
 - (4) *Political committee* means a person, other than a natural person, or a group of persons that:
 - a. Is organized to support or oppose the nomination or election of one or more candidates; and
 - b. Receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount exceeding four hundred dollars (\$400) during an election cycle.
 - c. "Political committee" includes an independent expenditure committee, small donor committee, political party, or a separate segregated fund established by a covered entity pursuant to section 54-101(e)(2) .
 - d. "Political committee" does not include a candidate committee or issue committee.
 - (5) *Small donor committee* means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars (\$50.00) in the aggregate per calendar year. Dues transferred by a membership organization to a small donor committee sponsored by the organization shall be treated as pro-rata contributions from individual members.

(6) For purposes of this Article, "committee" includes an agent of the committee, unless the context clearly indicates otherwise.

(k) *Conduit* means a person who transmits a contribution or contributions from another person to a candidate committee. "Conduit" does not include the candidate or campaign treasurer of the candidate committee receiving the contribution, a volunteer fundraiser hosting an event for a candidate committee, or a professional fundraiser if the fundraiser is compensated at the usual rate.

Contribution means: Is anticipatory contribution under the reasonable standard: knows or should have known or should have reasonably known?

(1) What is the contribution in kind via endorsement includes mutual promises for smthg?

(1) A gift, subscription, transfer, loan, payment, advance, or deposit of money or other thing of value made to a person to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.

(2) "Contribution" includes:

- a. A written contract, promise, or agreement to make a contribution.
- b. Anything of value given, directly or indirectly, to a candidate to oppose the candidate's recall.

The payment by another person for goods or services rendered to a candidate or committee without charge or at a charge that is less than the usual and normal charge. transfer by a person to _____ is missing .. shouldn't the recipient either be a member of a campaign/ candidate?

Under this I could see a vehicle donation not being a donation. And when they use this to drive to events it is "indirectly" being used for electioneering communications

Overall this section is problematic to be because it is unclear.

c.

d. A loan, other than a commercial loan made in the ordinary course of the lender's business, to a candidate or committee, up until the time when the loan is fully paid. An unsecured loan shall be a contribution from the lender. A secured or guaranteed loan shall be a contribution from the guarantor or person whose property secures the loan.

e. An unpaid financial obligation which is forgiven.

f. A contribution in kind.

g. A payment or transfer of money or other thing of value received by a committee from another committee.

f. A coordinated expenditure.

(3) "Contribution" does not include:

a. Services provided without compensation by individuals volunteering their time on behalf of a candidate or committee.

b. The costs associated with the establishment, administration, and solicitation of contributions for a separate segregated fund established by a covered entity under section 54-101(e)(2).

c. The payment of compensation for legal and accounting services rendered to a candidate or committee if the person paying for the services is the regular employer or client of the individual rendering the services and the services are solely to ensure compliance with the provisions of Article IV of this chapter.

(1) *Contribution in kind* means a contribution of goods, services, or other things of value provided without charge or at a charge that is less than the usual and normal charge. Examples of such goods or services include, but are not limited to: Securities, facilities, equipment, supplies, personnel,

advertising services, membership lists, and mailing lists.

(1) If goods or services are provided at less than the usual and normal charge, the amount of the contribution in kind is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount, if any, charged to the recipient.

(2) "Contribution in kind" does not include an endorsement of a candidate or an issue by any person.

(m) *Coordinated election* means an election where more than one political subdivision with overlapping boundaries or some electors in common holds an election on the same day and the eligible electors are all registered electors. The county clerk and recorder is the coordinated election official who conducts the election on behalf of the political subdivisions.

(n) *Coordinated expenditure* means:

(1) Any payment for a communication that republishes, disseminates, or distributes, in whole or part, any video, audio, written, graphic, or other form of campaign material, created or prepared by a candidate or candidate committee, unless the payment is made by the candidate or committee that created or prepared the material or the republished material is used to oppose the candidate or committee that created or prepared the material; or

(2) Any expenditure or electioneering communication made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or candidate committee. An expenditure or electioneering communication is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or candidate committee if:

a. The expenditure or electioneering communication is made according to any expressed or implied agreement with, any general or particular understanding with, or according to any request by or communication with the candidate or committee;

b. During the election cycle in which the expenditure or electioneering communication is made, the person making the expenditure was directly or indirectly established, maintained, controlled, or principally funded by the candidate or committee, or by an immediate family member of the candidate;

c. During the election cycle in which the expenditure or electioneering communication is made, the candidate or committee solicited funds for, provided non-public fundraising information or strategy to, appeared as a speaker or featured guest at a fundraiser for, or gave permission to be featured in fundraising efforts for the person making the expenditure or communication;

d. The expenditure or electioneering communication is based on non-public information about the candidate's or committee's campaign needs or plans that the candidate or committee provided to the person making the expenditure directly or indirectly, such as information about campaign messaging, strategy, fundraising, planned expenditures, or polling data.

Communications between the person and the candidate or committee only to discuss with the candidate the person's position on a policy matter or whether the person will endorse the candidate, and that include no non-public information about the candidate's or committee's campaign needs or plans, do not result in a coordinated expenditure under this paragraph; or

e. During the election cycle in which the expenditure or electioneering communication is made, the person making the expenditure or communication employed or otherwise retained the services, other than accounting or legal services, of a person who at any prior point in the election cycle: (i) had executive or managerial authority for the candidate or committee, whether paid or unpaid; (ii) was authorized to raise or expend funds for the candidate or committee and who had nonpublic information from the candidate or committee about the campaign's plans or needs; or (iii) provided the candidate or committee with professional services, other than accounting or legal services, related to campaign or fundraising strategy.

(o) *Corporation* means a domestic corporation incorporated under and subject to the "Colorado

Business Corporation Act", Articles 101 to 117 of Title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado revised nonprofit corporation act", Articles 121 to 137 of Title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this Article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of the State of Colorado, and "foreign corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this Article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable. "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(p) *Council member* means a duly elected member of the governing body of the municipality. Council member shall also include the office of mayor unless specifically noted otherwise.

(q) *Covered entity* means:

(1) An organization or enterprise operated for profit, including a corporation, association, proprietorship, firm, partnership, business trust, holding company, limited liability company, limited liability partnership, or similar legal entity through which business is conducted;

(2) A labor organization; or

(3) An organization or corporation that is described in section 501(c) of the Internal Revenue Code of 1986, including a trade or professional association, civic league, social welfare organization, or similar nonprofit entity that is primarily operated for purposes other than making contributions or expenditures.

(r) *Designated election official* means the city clerk or other person contracting for or engaged in the performance of election duties as required by this Code.

Donation means a payment, transfer, loan, pledge, gift, or advance of money or other thing of value made to a person who makes an independent expenditure or electioneering communication. [Donor - donation to an independent spender? Not a campaign?](#)

(s)

(1) Donation does not include:

a. A payment received by a person in a commercial transaction in the regular course and scope of the person's business, trade, or investments.

b. Membership dues or fees paid to an organization by its members to the extent the dues or fees do not exceed five thousand dollars (\$5,000) per member in a calendar year.

c. A payment or transfer of money or other thing of value made by a person if the person prohibited the recipient of the payment or transfer from directly or indirectly using the transferred money or thing of value for independent expenditures or electioneering communications, and the recipient agreed in writing to follow the prohibition and deposited the transferred money or thing of value in an account that is segregated from other funds that are directly or indirectly used for independent expenditures or electioneering communications.

(t) *Donor* means a person that makes a donation to an independent spender.

(u) *Election cycle* means the period beginning thirty-one (31) days following a municipal election for the particular office and ending thirty (30) days following the next municipal election for that office.

(v) *Electioneering communication* means a public communication that:

(1) Refers to a clearly identified candidate, ballot issue, or ballot question;

(2) Is distributed within one hundred twenty (120) days of an Aurora municipal election in which the candidate, ballot issue, or ballot question is on the ballot; and

(3) Can be received by members of the constituency eligible to vote for the candidate, ballot issue, or ballot question.

(4) "Electioneering communication" does not include:

- a. A news story, editorial, or commentary distributed by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, newspaper, magazine, website, or other periodical publication, including an online or electronic publication, that is not owned or controlled by a candidate or committee.
- b. A communication made by a person, other than a candidate or committee, that proposes a commercial transaction in the regular course and scope of the person's business or trade.
- c. A communication that constitutes a candidate debate or forum, or a communication that solely promotes a candidate debate or forum made by the sponsor of such debate or forum.
- d. A membership communication.

(5) An electioneering communication is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

(6) For purposes of this Article:

- a. "Clearly identified candidate" means the candidate's name or nickname is used in the communication; a picture, drawing, or likeness of the candidate appears in the communication; or the identify of the candidate is otherwise apparent by ambiguous reference in the communication.
- b. "Clearly identified ballot issue or ballot question" means the number, official title, or popular name of the issue or question is used in the communication; or there is reference to the subject matter of the issue or question and the communication either states the issue or question is on the ballot or, when taken as a whole and in context, makes an unambiguous reference to the issue or question.

(W) *Expenditure* means the purchase, payment, distribution, loan, advance, deposit or gift of money or other thing of value made by a person to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

(1) "Expenditure" includes:

- a. A purchase or payment made by a candidate or committee.
- b. A payment, distribution, loan, or advance of any money or anything of value made by a person for the benefit of a candidate or committee that is made with the prior knowledge and consent of the candidate, committee, or an agent of the candidate or committee.
- c. A payment or transfer of money or other thing of value made by a committee to another committee.
- d. An independent expenditure.
- e. An electioneering communication made by a committee.

(2) "Expenditure" does not include:

- a. A payment made by a person, other than a committee, in a commercial transaction in the regular course and scope of the person's business or trade.
- b. A news story, editorial, or commentary distributed by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, newspaper, magazine, website, or other periodical publication, including an online or electronic publication, that is not owned or controlled by a candidate or committee.
- c. A candidate debate or forum, or a communication that solely promotes a candidate debate or forum and is made by the sponsor of such debate or forum.
- d. A payment for nonpartisan voter registration or get-out-the- vote efforts made by a person other than a candidate or committee.

e. A membership communication.

(x) *Final determination of sufficiency* means a statement issued by the city clerk or designee following a protest hearing or the expiration of the time allowed for filing a protest, as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.

(y) *Foreign national* means:

- (1) A foreign national as defined by 52 U.S.C. § 30121(b); or
- (2) A foreign-influenced corporation.

(z) *Foreign owner* means an entity in which a foreign national holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares equal to or greater than 50 percent of total equity or outstanding voting shares.

(aa) *Foreign-influenced corporation* means any corporation or other entity to the extent that:

- (1) A foreign national or foreign owner holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares equal to or greater than 5 percent of total equity or outstanding voting shares;
- (2) Two or more foreign nationals or foreign owners hold, own, control, or otherwise have directly or indirectly acquired beneficial ownership of equity or voting shares in total equal to or greater than 20 percent of the total equity or outstanding voting shares; or
- (3) Any foreign national or foreign owner participates in any way, directly or indirectly, in the process of making decisions about contributions, expenditures, or electioneering communications.

(bb) *General election* means the statewide election held on the Tuesday following the first Monday of November of each even-numbered year. (cc) *Independent expenditure* means an expenditure to support or oppose

one (1) or more candidates that is not controlled by or coordinated with any candidate, candidate committee, or agent of such candidate or committee. (dd) *Independent spender* means a person, other than a committee registered under section 54-103, that makes an independent expenditure or electioneering communication.

(ee) *Initial determination of sufficiency* means a statement issued by the city clerk or designee as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.

(ff) *Initiative* means the right of registered electors to originate legally permissible municipal legislation by obtaining signatures on a petition resulting in the enactment of an ordinance by the city council or in a vote by the general electorate.

(gg) *Labor organization* means an organization of any kind, or an agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(hh) *Limited liability company* includes any form of domestic entity as defined in section 7-90-102 (13), C.R.S., or foreign entity as defined in section 7-90-102 (23), C.R.S.; except that, as used in this Chapter, "limited liability company" shall not include a domestic corporation, a domestic cooperative, a domestic nonprofit association, a domestic nonprofit corporation, a foreign corporation, a foreign cooperative, a foreign nonprofit association, a foreign nonprofit corporation, as those terms are defined in section 7-90-102, C.R.S., a nondomestic corporation as defined in section 1-45-103 (7), or a foreign corporation as defined in section 1-45-103 (10.5)

(ii) *Membership communication* means:

- (1) A communication made by an organization, including a covered entity, that is limited in circulation to principal owners, members, stockholders, or executive or administrative employees of the organization, unless the organization is organized to support or oppose the nomination or election of one or more candidates or the qualification or passage of a ballot issue or ballot question.

(2) "Membership communication" does not include a public communication or a communication that is distributed to persons who are not principal owners, members, stockholders, or executive or administrative personnel of the organization making the communication.

(3) For purposes of this Article:

- a. "Member" means a person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or officer of the organization, or on the disposition of all or substantially all of the assets of the organization, or on a merger or dissolution of the organization; or any person who is designated in the articles or bylaws of an organization as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or who pays or has paid membership dues or fees in an amount predetermined by the organization so long as the organization is tax exempt under section 501(c) of the Internal Revenue Code of 1986. A member of a local union or labor organization is considered to be a member of any national or international union or labor organization of which the local union or labor organization is a part and of any federation with which the local, national, or international union or labor organization is affiliated.
- b. "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted if it is voting stock, and has the right to receive dividends.
- c. "Executive or administrative personnel" means any individual employed by an organization who is paid on a salary, rather than hourly basis, and who has policymaking, managerial, professional, or supervisory responsibilities. "Executive or administrative personnel" includes an individual who runs an organization's business, such as officers, executives, and plant, division, and section managers, and individuals following the recognized professions, such as attorneys and engineers.

(jj) *Person* means any natural person, partnership, committee, association, corporation, labor organization, political party or other organization or group of persons. "Natural person" means a human being.

(kk) *Petition representative* means the person or persons representing the proponents on all matters affecting a petition.

(ll) *Petition section* means the stapled or otherwise bound package of documents containing the warning, proposed summary or statement, signature pages, and affidavit of the circulator.

(mm) *Political advertisement* means:

(1) An expenditure or independent expenditure that is a public communication; or

(2) An electioneering communication.

(3) "Political advertisement" does not include:

a. Bumper stickers, pins, buttons, pens, or similar small items upon which a disclaimer statement required by section 54-104.5 cannot be conveniently printed.

b. Skywriting, water tower, wearing apparel, or other means of advertising of a nature such that the inclusion of a disclaimer statement required by section 54-104.5 would be impracticable.

(nn) *Principal owner* means an individual or entity that owns or controls ten percent (10%) or more of an entity.

(oo) *Public communication* means a communication to the general public through broadcast, cable, satellite, internet or another digital method, newspaper, magazine, outdoor advertising facility, mass mailing, telephone bank, robocall, or any other form of general public advertising or marketing regardless of medium.

(pp) *Referendum* means the right of registered electors, within 30 days after final publication of an ordinance and by obtaining signatures on a petition, to require the city council to reconsider the ordinance or to submit it to the electorate for a vote.

(qq) *Referred measure* means a ballot issue or ballot question placed on the ballot by the city council for a vote by the eligible electors of the city.

(rr) *Registered elector* means a resident of the city who is qualified to vote under the constitution and the statutes of the state and who is registered to vote.

(ss) *Regular municipal election* means an election which shall be held on the first Tuesday in November in odd-numbered years.

(tt) *Special municipal election* means an election which shall be held in conjunction with the statewide general election in November of even-numbered years, except as otherwise provided under section 3-7 of the charter relating to city council vacancies, under section 4-2 of the Charter relating to recall petitions, as provided under section 6-2 of the Charter relating to initiative petitions, and as provided under sections 14-10 and 15-10 of the Charter relating to time frames for collective bargaining issues. (uu) *Standalone candidate* means a candidate without a committee who does not accept contributions.

(x) To *support* or *oppose* means:

(1) To expressly advocate for or against the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question; or

(2) To aid or promote the success or defeat of a candidate, ballot issue, or ballot question.

(ww) *Unexpended campaign contributions* means the balance of funds on hand in any committee at the end of an election, less all unpaid monetary obligations incurred before the election.

(xx) *Volunteer* means any person who freely gives time on behalf of a candidate or a candidate, issue, political, small donor, or independent expenditure committee for purposes of municipal election matters. (yy) "Usual and normal charge" means

(1) For goods, the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

(2) For services, the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

Section 2. That sections 54-101 to 54-110 of the City Code of the City of Aurora, Colorado, are hereby repealed and replaced by sections to read as follows:

(Sec. 54-101 does several things: it prohibits candidate committees from accepting contributions from certain kinds of committees; it prohibits contributions from candidate committees to certain kinds of committees; it prohibits contributions from foreign individuals, governments, or entities; it clarifies the existing ban on conduit payments; and it bans contributions from business entities to most committees, while allowing them to IECs.)

Sec. 54-101. - Prohibited contributions.

An issue committee or independent expenditure ~~may~~ (Shall) "may" give too much flexibility---would not be a violation if it's optional...should be "shall" which requires no contributions. So Sec 54-101 if a candidate drop out of a race they can't donate their funds elsewhere?

Candidate committee means receiving contributs and making expenditures UNDER THE authority of the candidate...

(a) not make a contribution to a candidate committee. A candidate committee may not solicit or accept a contribution from an issue committee or independent expenditure committee.

(b) A candidate committee may not make a contribution to a political committee, issue committee, or candidate committee of another candidate. A political committee, issue committee, or candidate committee may not solicit or accept a contribution from a candidate committee.

(c) Notwithstanding any other restriction in federal or state law:

(1) A foreign national may not, directly or indirectly, make:

- a. A contribution or donation, or an express or implied promise to make a contribution or donation, in connection with a municipal election; or
- b. An expenditure, independent expenditure, or payment for an electioneering communication.

(2) A candidate, committee, or other person may not solicit or accept, directly or indirectly, a contribution or donation from a foreign national.

(d) Regarding conduits:

(1) No person shall act as a conduit by making a contribution to a candidate committee, issue committee, or political committee with the understanding that some or all of such contributions have been or will be reimbursed by another person.

(2) No committee shall knowingly accept a contribution from a contributor acting as a conduit who has been or will be reimbursed by another person.

(3) No person shall transfer anything of value to another person who will act as a conduit to pass on the contribution to any committee.

(e) Except as provided in subparagraph (e)(2), a covered entity may not make a contribution to a candidate, candidate committee, or political committee, other than an independent expenditure committee. A candidate, candidate committee, or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from a covered entity.

(1) A covered entity may establish and administer a separate segregated fund to solicit and accept contributions or dues from its principal owners, members, shareholders, or executive and administrative personnel, subject to the following:

- a. The covered entity must register the separate segregated fund as a political committee with the city clerk according to section 54-103, and the separate segregated fund shall be subject to the reporting requirements, contribution limits, and other provisions applicable to political committees under this Article.
- b. The covered entity may make payments for the costs of establishing, administering, and soliciting contributions or dues to the separate segregated fund, and such payments shall not constitute contributions to the fund by the covered entity.

c. In administering the separate segregated fund, the covered entity may rely on the Colorado Secretary of State's guidance and rules for political committees established by corporations or labor organizations under Colo. Const. art. XVIII, section 3(4)(a), to the extent such guidance and rules are consistent with this Article.

(Sec. 54-102 expands on the existing on personal use of campaign funds; allows use of those funds for care of dependents of candidates during the election cycle; and repeats existing allowable uses of unexpended funds.)

Sec. 54-102. - Unexpended campaign contributions and personal use of campaign funds.

(1) Donated to a charitable organization recognized by the Internal Revenue Service;

(2) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent municipal campaign, including a recall election;

(3) Contributed to a candidate committee established by the same candidate for a different municipal office.

Contributed to a candidate committee established by the same candidate for a different municipal office. (can transfer to another city municipal????)

(b) In no event shall contributions to a candidate committee be used for personal use, including but not limited to purposes that would exist irrespective of the candidate's campaign or duties as an officeholder. Personal use includes but is not limited to the use of funds in a campaign account for:

- (1) Household food items or supplies.
- (2) Funeral, cremation or burial expenses, except those incurred for a candidate or an employee or volunteer of an authorized committee whose death arises out of, or in the course of, campaign activity.
- (3) Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
- (4) Tuition payments, other than those associated with training campaign staff.
- (5) Mortgage, rent or utility payments for, or repairs or improvements upon, any part of any personal residence of the candidate or a member of the candidate's family, or for real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
- (6) Admission to a sporting event, concert, theater, or other form of entertainment, unless part of a specific campaign or officeholder activity.
- (7) Dues, fees, or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
- (8) Salary payments to a member of the candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment above the fair market value of the services provided is personal use.
- (9) Salary payments by a candidate's principal campaign to a candidate above the lesser of the prorated minimum salary paid to the officeholder of the office that the candidate seeks or the prorated earned income that the candidate received during the year before becoming a candidate. Any earned income that a candidate receives from salaries or wages from any other source shall count against the foregoing limit listed above in subsection (9)
- (10) A vacation.

(c) Upon receipt of a complaint about misuse of funds or upon learning of other uses of campaign funds by any means, the office of the Aurora city clerk will determine, on a case-by-case basis, whether other uses of funds in a campaign account fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as an officeholder, and therefore are personal use.

(d) Notwithstanding any other provision of law, a candidate committee established in the name of a candidate may expend contributions received and accepted by the committee during any particular election cycle to reimburse the candidate for reasonable and necessary expenses for the care of the candidate's children or other dependents the candidate incurs directly in connection with the candidate's campaign activities during the election cycle. The candidate committee shall disclose the expenditures in the same manner as any other expenditures the committee is required to disclose.

(e) In addition to any use described in subsections (a) and (d), a person elected to a public office, while in office, may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

- (1) Voter registration;
- (2) Postsecondary educational scholarships excluding the candidate or family members of the candidate;
- (3) To defray reasonable and necessary expenses related to mailings and similar campaign communications to constituents;
- (4) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone expenses.

(f) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributors.

(Sec. 54-103 preserves and clarifies existing requirements for the registration of committees.)

Sec. 54-103. - Requirements for registration and initial filings by candidates and committees; recordkeeping; campaign accounts.

(a) Except as provided in section 54-103(a)(2), an individual shall organize a candidate committee pursuant to this section within five (5) businessdays of becoming a candidate under this Article.

In section 54-103(a) there is a reference to 54-103 (a) 2 that does not seem to exist.

(1) Within five (5) days of the initiation of their candidacy, a standalone candidate shall submit an affidavit to the city clerk certifying that the candidate has reviewed and is familiar with the requirements of this Article. If a standalone candidate subsequently accepts a contribution at any point in the election cycle, the candidate shall organize a candidate committee pursuant to this section.

(b) Within five (5) business days of becoming a candidate committee, issue committee, or political committee under this Article, a committee shall:

(1) Appoint an individual as its treasurer. A candidate may serve as the treasurer of the candidate's own candidate committee if no other individual is appointed treasurer. In the event that the treasurer of a committee is removed for any reason, the committee shall appoint a new treasurer who must file an affidavit with the city clerk within ten (10) days of being appointed.

(2) Open or designate a bank account with a financial institution in this state to serve as its campaign account, which shall include the full name of the committee in the title of the account.

(3) File a registration statement with the city clerk that includes the information required by subsection (c) of this section.

(c) The registration statement filed by a committee with the city clerk shall include:

(1) The full name and mailing address of the committee; the street address for the principal place of operations of the committee, if different from the mailing address; telephone number for the principal place of operations of the committee; an email address for the committee that is actively monitored; and the URL of the committee's official website, if any.

The full name, mailing address, telephone number, and email address of the treasurer of the committee.
Section 54-103(c)(3)(ii) when the committee is first organized will the Name and Ballot number be set or how long does it take to set these official name and number?

(2) A description of the purpose of the committee.

(i) For a candidate committee, the description must include the full name and elected office sought by the candidate on whose behalf the committee is organized.

(ii) For an issue committee, the description include official title and number of the ballot issue or ballot question the committee is organized to support or oppose, and whether the the committee supports or opposes that issue or question.

(iii) For a separate segregated fund sponsored by a covered entity pursuant to section 54-101(e), the description must include the full name and the address of principal place of operations of the sponsoring entity.

(3) The full name, mailing address, and telephone number of the financial institution with which the committee has opened or

designated its campaign account, and the title of the campaign account.

(4) An affidavit signed by the treasurer of the committee certifying that the treasurer has reviewed and is familiar with the provisions of this article, and, in the case of a candidate

committee, the registration statement must also include an affidavit from the candidate on whose behalf the committee is organized certifying that the candidate has reviewed and is familiar with the requirements of this article.

(c) The office of the city clerk shall review all submitted registration statements within five (5) business days and reject any that are found to be deficient in any of the requirements of this section. Rejected registrations may be corrected and resubmitted within five (5) business days.

(d) Registration statements shall be filed electronically with the city clerk. The city clerk must make all submitted registration statements available to the public online within three (3) business days of determining the statements meet all requirements of this section.

(e) Any issue committee whose purpose is the recall of any elected official shall register with the city clerk within five (5) days of receiving its first contribution or making its first expenditure, whichever is earlier. The registration shall include the same information described in subsection (c) of this section, as well as the name of the incumbent to be recalled.

(f) If any of the information required in subparagraphs (b) or (c) of this section subsequently changes, the committee shall file an amendment to its registration within five (5) days.

(g) The treasurer of a committee must preserve copies of all filings and reports required by this article and complete records of all transactions of the committee's campaign account for no less than five (5) years after a termination report for the committee is submitted to the city clerk or until the final disposition of any complaint or consequent litigation involving the committee, whichever is later. Such reports and records are subject to inspection at any hearing held under this Article.

All contributions received by a committee must be deposited in its campaign account within ten (10) days of receipt. 54-103 (h) All contributions received by a committee must be deposited in its campaign account within ten (10) days of receipt

How does this get monitored?

(h) All expenditures made by a committee must be paid from its campaign account. A committee may not deposit a contribution to or make an expenditure from its campaign account without the express authorization of its treasurer or the treasurer's designee. The campaign account must be segregated from any other funds or bank account of the person that organized the committee, and funds in the campaign account may not be commingled with the personal funds of a candidate, treasurer, or any other individual.

(Sec. 54-104 preserves the existing requirement of reports by committees of their contributions and expenditures, while requiring those reports to include more information and increasing their frequency. It also requires reports of major contributions. All contributions are to be reported, without an exception for those under \$20.00)

Sec. 54-104. - Requirements for reporting contributions and expenditures by committees.

(a) The treasurer of each committee must prepare and file reports of contributions and expenditures with the city clerk pursuant to this section. The treasurer must attest to the accuracy and completeness of each report filed under this section.

(b) Each committee must file election-year reports with the city clerk in accordance with the filing schedule specified by this subsection. The initial election-year report due from a committee after filing a registration statement with the city clerk must cover the period that begins on the first day of the election cycle and ends on the closing date of the reporting period in which the committee filed its registration statement. In the case of a committee originally organized in a prior election cycle, the initial election-year report must cover the period that begins on the first day after the last date included in the committee's most recent semi-annual report and ends on the closing date of the reporting period specified under paragraph (b)(1)(a) or (b)(2)(a), as applicable. Each subsequent reporting period begins on the first day following the last date included in the prior period and ends three

(3) days before the filing deadline for the next report.

(1) For a calendar year in which there is a regular municipal election, each committee must file reports, complete through the last date of each reporting period, due by the following dates:

(1) For a calendar year in which there is a regular municipal election, each committee must file reports, complete through the last date of each reporting period, due by the following dates:

a. The 275th day before the date of the election, complete through the 278th day before the election. (Delete) and start with 180th

275 is overkill in my humble opinion..

I have a hard time seeing any logical reason to start basically 8 months out to provide a report....it seems 6 months out is plenty of time to observe who is contributing money to a candidate...and I think it only adds an additional burden on the office that is accomplishes nothing.

- a. The 275th day before the date of the election, complete through the 278th day before the election.
- b. The 180th day before the date of the election, complete through the 183rd day before an election.
- c. The 90th day before the date of the election, complete through the 93rd day before the election.
- d. The 60th day before the date of the election, complete through the 63rd day before the election.
- e. The 30th day before the date of the election, complete through the 33rd day before the election.
- f. The 14th day before the date of the election, complete through the 17th day before the election.
- g. The Friday preceding the date of the election, complete through the Tuesday preceding the election.
- h. The 30th day after the date of the election, complete through the 27th day after the election.
- i. January 3rd of the year after the election, complete through December 31 of the year of the election.

Section 54-104 (b)(1) the language is not clear about the end of a reporting period and how long a committee has to file the report. On Tracer the report ending period is set and the committee has a set date when are reports must be submitted. Is this what we hope to accomplish?

The first report being due at 275 days before elections seems excessive since this would put the date in early March of most years many campaigns are not even organized.

(2) For a calendar year in which there is a special municipalelection, each committee must file:

- a. A report for each month after the special election is declared, due by the fifth day of the following month and complete through the last day of the preceding month.
- b. A pre-election report, due on the Friday before the election and complete through the Tuesday before the election.
- c. A post-election report due on the 30th day after the date of the election, complete through the 27th day after the election.
- d. A year-end report on January 3rd of the year after the election, complete through December 31st of the year of the election.

(3) For each non-election year within an election cycle, each committee that has not terminated must file semi-annual reports for non-election years due by July 31st and January 31st. The July 31st report must cover January 1st through June 30th of the non-election year, and the January

31s must cover July 1st through December 31st of the non-election year.

(c) In addition to other reports required under this section, an issue committee, independent expenditure committee, or political committees shall file a major contribution report upon receiving a contribution of one thousand dollars (\$1,000.00) or more at any time within sixty (60) days of the date of a municipal election. If the major contribution is received more than fourteen (14) days before the election, the major contribution report shall be filed with the city clerk no later than five (5) days after receipt of the contribution. If the date of the receipt of the major contribution is within fourteen (14) days of the election, the major contribution report must be filed with the city clerk no later than one (1) day after receipt of the contribution.

(d) Any issue committee whose purpose is the recall of any elected official or the support of an incumbent in a recall election shall file reports of contributions and expenditures with the city clerk within fifteen (15) days of the filing of the statement of organization and every thirty (30) days thereafter until the date of the recall election has been set, and then thirty (30) days, fourteen (14) days and seven

(7) days before the recall election and thirty (30) days following the recall election.

(e) Each report required by this section must include the following information:

(1) The amount of funds on hand at the beginning of the reporting period, including funds carried over from the current election cycle or a prior election cycle. The beginning of the reporting period is the date through which the committee's last report was complete.

(2) The total amount of all contributions received by the committee in the reporting period and in the election cycle to date.

(3) The full name and address of each person who has made one or more contributions to the committee during the reporting period; the amount and date of each contribution made by the person in the reporting period;

Section 54-104 (e)(3) what is the objective for the requirement of each donation verses the total of all donations during the time period? and the aggregate amount of contributions made by the person during the election cycle.

a. If a natural person has made aggregate contributions to a committee in excess of one hundred dollars (\$100.000) during the election cycle, the report must also include the individual's occupation and employer.

b. If a covered entity has made a contribution to an issue committee or independent expenditure committee, the report also must include the full business name and primary business address of the entity, as filed with the Business Division of the Colorado Department of State; the entity's North American Industry Classification System code, as defined by the United States Office of Management and Budget; if the entity has registered a trade name with the Department of State under which an individual or another entity is doing business, the report shall attribute the contribution to that individual or entity.

(4) The total amount of all expenditures made by the committee in the reporting period and in the election cycle to date.

(5) The full name and address of each person to whom an expenditure was made in the reporting period, along with the date, amount, and description of the expenditure, including the specific type of goods or services paid for.

(6) A description of any loan, letter of credit, line of credit, or commercial loan made to the committee during the reporting period, including the full name and address of the lender or person extending the letter of credit, line of credit, or commercial loan; the full name and address of any guarantor or endorsers of the loan, letter of credit, line of credit, or commercial loan; the amount guaranteed; the date and amount of the loan, letter of credit, line of credit, or commercial loan; the balance due on the loan, letter of credit, line of credit, or commercial loan; and the terms of interest and total amount of interest, if any.

(7) A description of any unpaid obligation of five hundred dollars (\$500.000) or more that is thirty days or more overdue, which is not otherwise reported as a contribution, incurred by the committee during the reporting period, including the full name and address of the person to whom the obligation is due; the due date of the obligation; the purpose of the obligation; and the amount past due.

(8) If the committee is registered with the Colorado Secretary of State's campaign finance system, the report must include the committee's state- assigned number.

(f) All reports required by this section shall be filed electronically with the city clerk. The city clerk must make each report filed under this section available online to the public within three (3) business days of determining the report meets all requirements of this section.

(g) The reporting requirements of this section shall continue to apply to a committee with a balance of funds on hand or an expenditure deficit. If the city clerk determines that a committee has no balance of funds on hand or an expenditure deficit, the committee may file a termination statement with the city clerk, provided the committee is not otherwise required by this Article to remain open and active.

(l) A standalone candidate need not register a candidate committee, but must file disclosure reports of expenditures for all reporting periods in which the candidate makes expenditures. **Section 54-104(g)(1) Why must a candidate who is funding their own campaign be required to file where their expenditures are spent? If it is electioneering the material will have to have the candidates name and approval per section 54-104.5 (a).**

(Sec. 54-104.5 introduces the requirement of disclaimers on political advertising declaring who paid for the advertising.)

Sec. 54-104.5. – Disclaimers for political advertisements.

(a) A political advertisement must include a clear and conspicuous disclaimer as specified in this section. The disclaimer required for a political advertisement shall include:

(1) The full legal name of the person who paid for the advertisement.

If the political advertisement is authorized by a candidate or candidate committee, a statement that the advertisement is authorized by the candidate or candidate committee. **Section 54-104.5 (a)(2) should be approved by candidate only not committee.**

(2) If the political advertisement is not authorized by a candidate or candidate committee, a statement that the advertisement is not authorized by a candidate or candidate committee.

(b) In addition to the requirements of subsection (a) of this section, the disclaimer required for a political advertisement that is an independent expenditure or electioneering communication shall clearly and conspicuously include the full names of the five (5) persons who have made the largest aggregate contributions or donations of one thousand dollars (\$1,000) or more during the election cycle to the person who paid for the advertisement.

If multiple persons have made aggregate contributions or donations in identical amounts of one thousand dollars (\$1,000) or more to the sponsor of a political advertisement during the election cycle, the advertisement shall include the full name of the person(s) who donated most recently to the sponsor. **Section 54-104.5 (b) is only intended to make someone who may donate to an IEC appear to be bad or evil. It has no legitimate reason to be a requirement. This information would already be included In the IEC reporting.**

(1)

(2) If no person has made aggregate contributions or donations of one thousand dollars (\$1,000) or more to the sponsor of a political advertisement during the election cycle, the advertisement may exclude the statement required by subparagraph (b)(1)

(c) A political advertisement disclaimer required by this section shall be presented clearly and conspicuously. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if its placement is easily overlooked.

(1) If the political advertisement is a radio, online or digital audio, telephone, or other audio communication, the disclaimer shall be spoken in a clearly audible and intelligible manner at the beginning or end of the communication.

(2) If the political advertisement is a television, online or digital video, or other video

communication:

- a. The disclaimer statement required by this section shall be written and spoken at the beginning or end of the communication.
 - b. The written disclaimer required by subparagraph (i) of this paragraph (d) shall appear in the communication in a conspicuous size and style.
 - c. The spoken disclaimer required by subparagraph (i) of this paragraph (d) shall be spoken in a clearly audible and intelligible manner.
- (3) If the political advertisement is a text or graphic communication, including an online or digital text or graphic communication, the disclaimer statement shall be:
- a. Of sufficient size to be clearly readable by the recipient of the communication.
 - b. Contained in a text box set apart from the other contents of the communication.
 - c. Displayed with a reasonable degree of color contrast between the background and the statement.
- (d) If the size, format, or display requirements of an online or digital political advertisement make it impossible to include a disclaimer required by this section on the advertisement, the advertisement shall clearly and conspicuously provide to the its recipient a direct link to immediately obtain the complete disclaimer with minimal effort and without viewing any additional information other than the required disclaimer.

(Sec. 54-105 introduces and specifies limits on contributions to candidate committees.)

Sec. 54-105. - Contribution limits. **Section 54-105 this section seeks to take away individual rights to freely use their own resources to support candidates or issues as they and only they see fit. It sets arbitrary limits on people freedom to express their views and opinions as they decide. Just because some cities and states set limits does not give rise to stifling freedom of expression.**

- (a) During an election cycle, a natural person or political committee, other than a small donor committee, may not make aggregate contributions to a candidate committee in excess of:
- (1) Four hundred dollars (\$400.00) **(\$500.00)** for a candidate for a ward seat on the city council;
 - (2) Six hundred dollars (\$600.00) **(\$1,000)** for a candidate for an at-large seat on the city council.
 - (3) Eight hundred dollars (\$800.00) **(\$1,000)** for a candidate for mayor.

I think the limits are too low and could be an incentive for IE's to get involved more.

500 for a ward would be ½ of what is permitted for at-large and for mayorial.

I see no reason to have a difference in the at-large and mayor contest as they both cover the exact same amount of territory (the entire city of Aurora).

- (b) During an election cycle, a small donor committee may not make aggregate contributions to a candidate committee in excess of:

Four thousand dollars (\$4,000.00) for a candidate for a ward seat on the city council. **Section 54-105.5**

(b)(1) what is the reason for daily reports of expenditures why are the reports done on the scheduled basic sufficient? Doesn't this just cause additional workload for the City Clerk and staff?

- (1) Six thousand dollars (\$6000.00) for a candidate for an at-large seat on the city council.

Eight thousand dollars (\$8000.00) **(\$6,000)** for a candidate for mayor. **Again the mayoral and at large races cover the exact same amount of territory...**

- (c) During an election cycle, a candidate committee may not solicit or accept aggregate contributions from a natural person, political committee, or small donor committee in excess of the applicable limit in

section 54-105(a) or (b).

(d) Each limit on contributions established in subparagraphs (a) and (b) shall be adjusted by the city clerk by an amount calculated by the Colorado Secretary of State as prescribed in the Colorado Constitution, Article XXVIII, section 3 (13) The first adjustment shall be done by the end of the second quarter of 2023 and then every four years thereafter, by the end of the second quarter.

(Sec. 54-105.5 requires the report of large independent expenditures and electioneering communications by the spenders.)

Sec. 54-105.5. - Reporting of independent expenditures and electioneering communications:

(a) An independent spender that makes one or more independent expenditures or electioneering communications in an aggregate amount of one thousand dollars (\$1000.00) or more during an election cycle shall file an independent spending report with the city clerk under this section. The independent spending report shall include the following information:

(1) The full name, address, telephone number, and email address of the independent spender.

a. If the independent spender is a natural person, the report also shall include the occupation and employer of the person.

b. If the independent spender is a covered entity or other organization, the report also shall include:

(i) The full name, address, telephone number, and email address of an individual officer or owner of the entity who is authorized to submit, and jointly responsible for, the report filed on behalf of the entity.

(ii) The full name, address, telephone number, and email address of the chief executive or principal officer of the entity.

(iii) The full name of each principal owner of the entity.

(iv) The URL for the website of the entity, if any.

(v) The type of organization. If the entity is a tax-exempt organization under § 501(c) of the Internal Revenue Code of 1986, the report shall specify which type of exempt organization under Internal Revenue Code § 501(c). If the entity has been assigned a code according to the North American Industrial Classification System, as defined by the United States Office of Management and Budget, the report shall include such code

(2) For each independent expenditure or electioneering communication made during the period covered by the report, the report shall provide:

a. The full name and address of each person to whom payment was made for the independent expenditure or electioneering communication.

b. The amount, date, and purpose of the independent expenditure or electioneering communication, including a description of the specific goods or services purchased. The amount of an independent expenditure or electioneering communication includes all design, production, and distribution costs.

c. The full name of each candidate, ballot issue, or ballot question to which the independent expenditure or electioneering communication refers or relates. In the case of an independent expenditure, the report shall also indicate whether the expenditure supports or opposes each candidate to which the expenditure refers or relates.

(3) The full name and address of each donor who made one or more donations in an aggregate amount of one thousand dollars (\$1,000.00) or more to the independent spender during the period covered by the report, along with the date and amount of each donation made by the donor to the spender in the reporting period, and the total amount of donations made by the donor to the spender in the election cycle.

a. If the donor is a natural person, the report shall include the person's occupation and employer.

b. If the donor is a covered entity or other organization, the report shall include the type of entity.

c. A donor who is identified on an independent spending report under this section need not be identified on any subsequent report filed by the independent spender unless the donor makes subsequent donations to the spender during the election cycle.

(4) The aggregate amount of independent expenditures and electioneering communications made by the independent spender in the reporting period and in the election cycle to date.

(b) An independent spender shall file an initial report under this section within forty-eight (48) hours of making one or more independent expenditures or electioneering in an aggregate amount of thousanddollars (\$1,000) or more during an election cycle. The initial report shall cover the period beginning on the first day of the election cycle and ending on the date that the independent spender makes independent expenditures or electioneering communications in an aggregate amount of one thousand dollars (\$1,000) or more during the election cycle.

(1) After an independent spender files an initial independent spending report under subsection (b)(1), the spender shall file a subsequent report within forty-eight (48) hours of making any additional independent expenditure or electioneering communication during the same election cycle in which the initial report was filed. Each subsequent independent spending report shall cover the period from the date following the last date included in the previous report filed by the independent spender through the date that the additional independent expenditure or electioneering communication is made.

(c) For purposes of this section, an electioneering communication or independent expenditure that is a public communication is “made” on the date when the communication is first disseminated to the public. An independent expenditure other than a public communication is “made” on the date of payment or when the independent spender first obtains the benefit of the expenditure, whichever occurs first.

(d) A committee, including an independent expenditure committee, shall report an independent expenditure or electioneering communication made by the committee pursuant to section 54-104.

(Sec. 54-106 preserves and expands the requirements for how and when reports are to be filed.)

Sec. 54-106. - Where and when to file campaign reports.

(a) Reports required to be filed by this Article are timely if received by the city clerk not later than 11:59 PM. on the due date. Reports must be filed electronically or in accordance with the rules and regulations of the city clerk's office. If the due date falls on a weekend or legal holiday, the report shall be filed by the end of the next business day.

(b) The city clerk's office shall review all reports for completeness within three (3) business days after their receipt. Any report which is deemed to be incomplete by the city clerk shall be accepted on a conditional basis and the committee shall be notified as to any deficiencies found. The committee shall have seven (7) business days from receipt of such notice to file an addendum that cures the deficiencies.

(c) Reports required to be filed by this Article are public records and shall be open to inspection by the public in the office of the city clerk during regular business hours and shall also be available online on the cityclerk's page on the city of Aurora website within three (3) business days. *(Sec. 54-107 expands on existing procedures for handling complaints of violations of campaign finance laws. Time limit for filing complaints changes from 60 days to 120 days.)* 54-106 © reports shall be on the website within 3 business days of being finalized (up to 10 business days if needs to be cured?)

Sec. 54-107. - Hearing on campaign finance violations.

(a) Any person who believes that a violation of this Article has occurred may file a written or online complaint with the city clerk no later than one hundred twenty (120) days after the date of the alleged violation. ~~one hundred twenty (120) days after the date of the alleged violation.~~ The city

clerk's office shall determine if probable cause exists to take further action

(a) upon the complaint. If such a determination is made, the city clerk shall send a notice to the affected party ("defendant"), and thereafter shall appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with the complainant or defendant. The city clerk shall fix a date for the hearing, which shall be no later than 60 days from the date the written complaint was filed. Public notice of the date, time, and location of each hearing and the nature of the complaint shall be posted by the city clerk in the office of the city clerk and online no less than 7 days before the date of the hearing. **Section 54-107(a) I would suggest to facilitate a process that does not drag out to make the reporting period within 90 days and give the clerk 30 days to set a hearing. (30 days)** The city clerk's office shall determine if probable cause exists to take further action upon the complaint. If such a determination is made, the city clerk shall send a notice to the affected party ("defendant"), and thereafter shall appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with the complainant or defendant. The city clerk shall fix a date for the hearing, which shall be no later than 60 days (10days) from the date the written complaint was filed. Public notice of the date, time, and location of each hearing and the nature of the complaint shall be posted by the city clerk in the office of the city clerk and online no less than **7 (5)** days before the date of the hearing

Challenges should be done within a reasonable time in order to resolve the issue before the next report is due...or at least not be any longer than 1 report. The proposed in the ordinance could be as much as 180 to 185 from the date of the report and the completion of the hearing...that is way too long. (as much as 5 months to resolve an issue that happened months before.) Change 120 to 60/60 days to 10 and 7 to 5 days. 54-107 no later than 120 days after date of alleged violation- why not 120 days after it was determined there had been a violation?

(b) All testimony shall be under oath. The defendant and the city shall present evidence to the hearing officer in the form of testimony, documents, rebuttal testimony, and opening and closing statements. The hearing officer shall be entitled to examine any witness and request the submission of additional evidence and arguments.

(c) The city clerk, and upon referral to a hearing officer, a hearing officer are authorized to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon a failure of any witness to obey the subpoena, the city clerk shall petition the appropriate district court. Upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the order of the court is punishable as a contempt of court.

(d) All records and hearings under this section shall be public and shall be made available online on a publicly accessible website.

(Sec. 54-108 increases the penalties for violations and makes more explicit the conditions under which penalties might be waived.)

Sec. 54-108. - Sanctions.

(a) In accordance with the process in section 54-107, a hearing officer shall determine by a preponderance of the evidence if a violation of this Article has been committed. Upon a finding against a defendant, the hearing officer shall then submit written findings of fact and recommendations for sanctions to the mayor and city council. The city council shall then make a final determination as to any sanction that may be imposed. Any council member who is a complainant or defendant, an immediate family member, employer, employee, or client of a complainant or defendant, shall recuse

themselves from any vote regarding a complaint.

(b) The city clerk shall impose a penalty of fifty dollars (\$50.00) per day for each of the first three (3) days that a statement, report, or other information required to be filed by this Article is not filed by the day due. Thereafter the penalty for late filing shall be one hundred dollars (\$100.00) per day until the statement, report, or other information is filed. The city clerk shall by the close of business on the next business day send notice of such late filing and penalty to the person so required to file, but the penalties will begin accruing immediately regardless of whether this notice is received or not. Any person who fails to file three (3) or more successive statements or reports required by sections 54-103, 54-104, or 54-105.5 shall be subject to a penalty of up to five hundred dollars (\$500.00) for each day that a statement or report is not filed by the day due. Any person who knowingly fails to file three or more reports due under section 54-105.5 shall be subject to a penalty of up to one thousand dollars (\$1,000.000) for each day that the report is not filed by the close of business on the day due. All notices of late filings and penalties shall be publicly posted on the city clerk's page on the city of Aurora website. If the penalty is not paid within 30 days of demand, the matter shall be handled in the procedure specified in section 54-107 and subsection (a) of this section.

(c) Failure to comply with the provisions of this Article shall not invalidate any election.

(d) Any individual volunteering time on behalf of a candidate or candidate committee shall be exempt from any liability for a penalty imposed according to this section in any proceeding that is based on an act or omission of such volunteer if:

- (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and
- (2) The violation was not caused by willful and intentional misconduct by the volunteer.

(e) Waiver.

(1) A fined party may request a waiver or reduction of the fine within ten (10) calendar days of the fine's final accrual. The request must include the following information:

- a. The reason for the delinquency, including all relevant factors related to it;
- b. Remedial actions the filer has taken to avoid future delinquencies; and
- c. Any other information the requester deems relevant to the request.

(2) The city clerk's office will consider the waiver request and respond to the requester with a written final decision within five (5) business days.

(3) before issuing a final decision, the clerk's office may consider:

- a. The restorer's history of delinquency;
- b. Circumstances that made complying with the deadline an impracticality;
- c. Outstanding penalties;
- d. whether the city's database was unavailable to the committee; and
- e. The date when the requester filed the waiver request.

(f) Any person who disputes the final amount of a penalty imposed against that person or committee may petition the city clerk for a hearing concerning such determination no later than thirty days after having been notified of any such decision. The hearing will be resolved by administrative hearings procedures according to section 50-26, with the city clerk or a hearing officer appointed by the clerk to serve as designated by and under the authority of the municipal court.

(g) Unpaid debts. Any unpaid debt owing to the city resulting from a penalty imposed under this section shall be collected by the city in accordance with the requirements of section 50-138.

(h) Any person who knowingly violates any provision of this Article, including the prohibitions and limits on contributions in sections 54-101 and 54-105, or who gives or accepts any contribution or donation in such a way as to hinder or prevent identification of the true contributor or donor, in addition to any other penalties provided by law, shall be subject to a penalty of ten thousand dollars (\$10,000.000) or three (3) times the amount of the contribution, donation, or expenditure that was illegally accepted or made, whichever is greater.

Section 54-108(h) does the fine for knowingly apply to the candidate, Donor, or both?

(Sec. 54-109 preserves unchanged a section about the enforcement duties of the city clerk.)

Sec. 54-109. - Duties of the city clerk—Enforcement.

(a) The city clerk shall:

- (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this section;
- (2) Maintain a filing and indexing system consistent with the purposes of this section;

Make the reports and statements filed with the city clerk's office available to the public for inspection and copying no later than the end of the next business day after the date of filing. **Make the reports and statements filed with the city clerk's office available to the public for inspection and copying no later than the end of the next business day (48 hours) after the date of filing. 48 hours provides more time for the city clerk's office to complete their work in a timely manner...** The city clerk may charge a reasonable fee for providing copies of reports in compliance with city policy. No information copied from such reports shall be sold or used by any person to solicit contributions or for any commercial purpose; Conduct hearings or designate a hearing officer, as provided in section 54-107; **Section 54-109(a)(4) should indicate, "designate a hearing office" since 54-107 requires the clerk to appoint a hearing officer in all cases.**

- (3) Adopt procedures consistent with the purposes of this Article;
- (4) Keep a copy of any report or statement required to be filed by this Article following the municipal records retention schedule.

(Sec. 54-110 preserves, mostly unchanged, existing limitations on municipal officers and elected officials.)

Sec. 54-110. - Municipal elections activity. Limitations on municipal officers and elected officials.

(a) No city agency, department, board, division, bureau, commission, or council shall make any contribution in campaigns involving the nomination, retention, election, or recall of any person to any public office, nor shall any such entity expend any public moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

- (1) Municipal ballot issue or ballot question that has been submitted and has had a title fixed;
- (2) Referred measure; or
- (3) Measure for the recall of any elected officer, upon the final determination of sufficiency.

(b) However, a city agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subsection (a) if the member, employee, or public entity has not solicited the question. Members or employees of any such agency, department, board, division, bureau, commission, or council who have policy-making responsibilities may expend not more than fifty dollars (\$50.00) of public moneys in the form of letters, telephone calls, or other activities incidental to expressing their opinions on any such issue described in subsection (a)

(c) Nothing in subsection (a) shall be construed as prohibiting a city agency, department, board, division, bureau, commission, or council from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the city. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues and questions that will appear on a municipal election ballot.

(d) Nothing in subsection (a) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(e) Nothing in subsection (a) shall be construed as prohibiting a city agency, department, board, division, bureau, commission, or council from:

(1) Passing a resolution or taking a position of advocacy on any issue described in subsection (a); or

(2) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such city agency, department, board, division, bureau, commission, or council thereof is regularly provided to the public.

(f) Nothing in subsection (a) shall be construed as prohibiting a member or an employee of a city agency, department, board, division, bureau, commission, or council from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subsection (a)

(g) Any violation of this section shall be subject to the sanctions authorized in section 54-108.

Secs. 54-111—54-120. - Reserved.

Section 3. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Repealer. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 5. Publication. Pursuant to section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

Section 6. Effectiveness. This Ordinance shall become effective immediately upon final passage by the City Council and inclusion of necessary signatures.

General Comments from Election Commission:

William McCartin Comments in Red;

Many people spend a great deal of time and energy to create this draft and I appreciate their efforts. I do believe however that there are some problems with this draft.

The Executive Summary starts with the statement that Aurora deserves a campaign Finance system that is transparent and fair. What is missing is the identification of what problems the new system is attempting to correct and what in the old system caused or allowed the problems to arise. The new system expanded the campaign finance Article of the Municipal Code from six pages to 30. Does that expansion create more or less clarity?

By making a limit on amounts of contributions from individuals and any contributions from business entities or labor unions the new proposed ordinance places a label on those contributions as bad or even evil. I think this is an unjustified opinion that is unfair and bias. These are the first two objectives of the new ordinance.

The third objective is to create small donor committees which is unnecessary since state statutes already has a mechanism for creating small donor and when they contribute to a candidate committee it will be recorded as any other contribution.

The prohibition on contributions from other committees and conduit contributions as per objective four are already prohibited in current ordinance Article IV Sec 54-101 (a) and (d).

Objective five indicates the elimination of cash donations and expenditure. This is actually not in the draft and the elimination of all cash transactions is too excessive. The current ordinance limits them to \$100.00 in section 54-101 (c) which seems fair.

Carolyn Bollers comments are in green

A couple of issues in this are concerning or at least need discussion:

1. What is the level of authority of the clerk? To make rules?
2. Does city council really want to vote on sanctions of a peer?
3. Failure to file reports???what happens if the person is unable to be contacted to file the reports? Would it be better to suspend the committee until a response is received?
4. Paper copies? Who pays for it?

Joanna Floribus comments are in Blue:

Under definitions:

Is anticipatory contribution under the reasonable standard: knows or should have known or should have reasonably known?

- (1) What is the contribution in kind via endorsement includes mutual promises for smthg?

Page 5: why isn't non-public defined. What does this mean non-public information? Is it information that MAY not be disseminated publicly or just hasn't been?

Donation:

- (1) (c) transfer by a person to _____ is missing .. shouldn't the recipient either be a member of a campaign/ candidate?

Under this I could see a vehicle donation not being a donation. And when they use this to drive to events it is "indirectly" being used for electioneering communications

Overall this section is problematic to be because it is unclear.

Donor - donation to an independent spender? Not a campaign?

Page 8 : news story, editorial- what if it was paid for by the campaign?

Page 12 (xx) shouldn't we include so long as not professional services related to the campaign are not provided (because then they are providing an in kind donation)

Page 12 by this logic no cosignor on a loan to be paid back by candidate/

Page 18: when is it due? 3(a) confusing

Pg 19- way more clear

Pg 20: this seems a little harsh why do you need the occupation and employer for \$100?

Pg 24 – an independent spender shall file an initial report within 48 hours?? That seems very fast it also doesn't say if it is business days or what.

This is onerous- is it going to be an electronic submission.

Pg 26- (b) shouldn't there be some notice of delinquency first? Before the fees start accruing.

filed. The city clerk shall by the close of business on the next business day send notice of such late filing and penalty to the person so required to file, but the penalties will begin accruing immediately regardless of whether this notice is received or not.

This sentence seems out of place...

Jessica Chauvin comments are in Orange;

But my one thought is is there anything on limiting SELF-financing? And if not, can there be?