

ORDINANCE NO. 2020 - 58

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 That Section 54-2 of the City Code of the City of Aurora, Colorado, is hereby repealed and replaced by a newly adopted Section 54-2 which shall read as follows:

**Sec. 54-2. - Definitions.**

The following words, terms, and phrases, when used in this chapter, will 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) *Ballot* means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on in an election.
- (c) *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 may only be voted on at general elections held each November.
- (d) *Ballot question* means any local government matter involving a citizen-initiated petition, including a petition to recall a public officeholder, or a legislatively-referred measure, other than a ballot issue.
- (e) *Ballot title* means the official, short summary of a ballot measure that appears on the ballot.
- (f) *Candidate* means any person who seeks nomination or election to any public office of the City of Aurora that is to be voted on at a municipal election. A person is a candidate if the person has publicly announced an intention to seek election to public office; has circulated, or authorized another person to circulate, nomination petitions on behalf of their candidacy for public office; or has received a contribution or made an expenditure, or authorized another person to receive a contribution or make an expenditure, to support the person's election to public office. As used in the preceding sentence, "publicly announced" means organizing a candidate committee under section 54-103 of this Code or announcing an intention to seek public office through a speech, statement, or other public communication. Unless the context clearly indicates otherwise, "candidate" includes:
  - (1) An incumbent public officeholder, an unsuccessful candidate for public office, or former public officeholder, any of whom have not filed a termination report for their candidate committee with the city clerk.

- (2) A public officeholder who is the subject of a recall election. For purposes of this provision, a public officeholder becomes the subject of a recall election when the city clerk has authorized the circulation of a petition for recall of the public officeholder under section 54-68(a) of this Code.
- (3) An agent of a candidate.
- (g) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.
- (h) *City clerk* means the city clerk or the city clerk's designated representative.
- (i) *Committee* means any the following:
- (1) *Candidate committee* means a committee organized by or on behalf of a candidate under section 54-103(a).
  - (2) *Independent expenditure committee* means a political committee that only makes independent expenditures and that 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 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. "Issue committee" includes a petition representative or other person that receives contributions or makes expenditures to support or oppose the recall of a public officeholder.
  - (4) *Political committee* means a person or a group of persons that is organized to support or oppose the nomination or election of one or more candidates and that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount exceeding four hundred dollars (\$400.00) during an election cycle.
    - a. "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) of this Code.
    - b. "Political committee" does not include a candidate committee, issue committee, or recall defense committee.
  - (5) *Small donor committee* means a political committee that accepts contributions only from natural persons who each contribute no more than fifty dollars (\$50.00) in the aggregate per calendar year.
  - (6) *Recall defense committee* means a committee organized under section 54-103(f) of this City Code to oppose the recall of a public officeholder. A recall defense committee is separate from but subject to the same limits and restrictions on contributions as a candidate committee of the public officeholder on whose behalf the recall defense committee is organized.
  - (7) Unless the context clearly indicates otherwise, "committee" includes an agent of the committee.
- (j) *Conduit* means a person who transmits a contribution from another person to a committee. "Conduit" does not include the candidate or the treasurer of the committee receiving the contribution, a volunteer fundraiser hosting an event for a committee, or a professional fundraiser if the fundraiser is compensated at the usual and normal charge.
- (k) *Contribution* means 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.

(1) "Contribution" includes:

- a. A written contract, promise, or agreement to make a contribution.
- b. Anything of value given, directly or indirectly, to a recall defense committee to oppose the recall of a public officeholder.
- c. 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.
- 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 is a contribution from the lender. A secured or guaranteed loan is 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.
- h. A coordinated expenditure.

(2) "Contribution" does not include:

- a. Services provided without compensation by individuals volunteering their time on behalf of a committee.
- b. 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) of this Code.
- c. Payment of compensation for legal and accounting services rendered to a 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.

(l) *Contribution in kind* means a contribution of goods, services, or other thing 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 any of the following :

(1) Payment for a public 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 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.

- (2) An expenditure or electioneering communication made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or 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 under any of the following conditions:
- 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 nonpublic 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 nonpublic 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 nonpublic information about the candidate's or committee's campaign needs or plans, do not result in a coordinated expenditure under this paragraph.
  - 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 met one or more of the following conditions:
    - (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.
    - (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" means a for-profit or nonprofit corporation incorporated under and subject to the laws of the State of Colorado, and "foreign corporation" means 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. "Subsidiary" means a business entity of which more than half of its stock is owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.
- (p) **Councilmember** means a duly elected member of the governing body of the municipality. Councilmember will also include the office of mayor unless specifically noted otherwise.
- (q) **Covered entity** means any of the following:
- (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.
  - (3) An organization or corporation that is tax-exempt under section 501(c) of the Internal Revenue Code of 1986.
  - (4) A political organization that is tax-exempt under section 527 of the Internal Revenue Code of 1986 and that is primarily operated for purposes other than 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.
- (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.
- (s) **Donation** means a payment, transfer, loan, pledge, gift, advance of money, or other thing of value made to an independent spender.
- (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 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 one of the following:
- (1) The period of time beginning thirty-one days following a general election for the

particular office and ending thirty days following the next general election for that office.

- (2) The period of time beginning when petitions are approved for a recall election and ending thirty days following the termination of the recall election, either by election, failure to collect sufficient signatures for recall petitions, or resignation of the incumbent who is the subject of the recall.

(v) *Electioneering communication* means a public communication that meets all of the following conditions:

- a. Refers to a clearly identified candidate, ballot issue, or ballot question.
- b. Is distributed within one hundred twenty (120) days of a municipal election in which the candidate, ballot issue, or ballot question is on the ballot.
- c. Can be received by members of the constituency eligible to vote for the candidate, ballot issue, or ballot question.

(1) "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 communication that solely promotes a candidate debate or forum made by the sponsor of such debate or forum.
- d. A membership communication.

(2) 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.

(3) 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 identity of the candidate is otherwise apparent from 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 a 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 consideration received, whichever occurs first.

(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 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 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 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-influenced corporation* means a corporation or other entity to which any of the following applies:
  - (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 five percent (5%) of total equity or outstanding voting shares in the corporation or entity.
  - (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 twenty percent (20%) of the total equity or outstanding voting shares in the corporation or entity.
  - (3) Any foreign national or foreign owner participates in any way, directly or indirectly, in the process of making decisions about the corporation's or entity's contributions, expenditures, or electioneering communications.
- (z) *Foreign national* means a foreign national as defined by 52 U.S.C. § 30121(b), or a foreign-influenced corporation.
- (aa) *Foreign owner* means a corporation or other 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 fifty percent (50%) of total equity or outstanding voting shares.
- (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 or candidate

committee.

- (dd) *Independent spender* means a person, other than a committee registered with the city clerk 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) *Membership communication* means 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.
  - (1) "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.
  - (2) 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 will be voted if it is voting stock, and has the right to receive dividends.
    - c. "Executive or administrative personnel" means an individual employed by an organization who is paid on a salary rather than an hourly basis, and who has policy-making, 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.
- (ii) **Municipal election** means a regular municipal election, special municipal election, or recall election.
- (jj) **Non-municipal political organization** means any of the following:
- (1) A candidate committee, political party, or political committee that is registered and filing reports pursuant to the Fair Campaign Practices Act, §§ 1-45-101 to 1-45-118, C.R.S., or the law of another municipality in the state of Colorado.
  - (2) A political committee or political organization organized under the law of another state.
  - (3) A federal political committee that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971, 52 U.S.C. §§ 30101 to 30146.
- (kk) **Person** means a natural person, partnership, committee, association, firm, corporation, company, labor organization, political party, or other entity or group of persons, however organized.
- (ll) **Petition representative** means the person or persons representing the proponents on all matters affecting a petition.
- (mm) **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.
- (nn) **Political advertisement** means any of the following:
- a. An expenditure or independent expenditure that is public communication.
  - b. An electioneering communication.
- (1) "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.
- (oo) **Principal owner** means a person that owns or controls ten percent (10%) or more of an entity.
- (pp) **Principal place of operations** means the primary location where the managers, officers, owners, or leadership personnel of an entity direct or control its activities and operations.
- (qq) **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.
- (rr) **Public office** means the office of mayor or city council of the city of Aurora.
- (ss) **Public officeholder** means a person who holds public office.
- (tt) **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.
- (uu) **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.
- (vv) **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.
- (ww) **Regular municipal election** means an election held on the first Tuesday in November in odd-numbered years.

- (xx) *Special municipal election* means an election 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.
- (yy) *Standalone candidate* means a candidate without a committee who does not accept contributions.
- (zz) *Support or oppose* means any of the following:
  - (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.
  - (2) To aid or promote the success or defeat of a candidate, ballot issue, or ballot question.
- (aaa) *Unexpended campaign funds* means the balance of funds on hand in the campaign account of a committee after a municipal election that is in excess of the amount necessary to pay remaining debts or financial obligations incurred by the committee with respect to the election.
- (bbb) *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.
- (ccc) *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. - Prohibited contributions.**

- (a) An issue committee or independent expenditure committee may not make a contribution to a candidate committee, recall defense committee, or political committee, other than an independent expenditure committee. A candidate committee, recall defense committee, or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from an issue committee or independent expenditure committee.
- (b) A candidate committee or recall defense committee may not make a contribution to a political committee, issue committee, or candidate committee or recall defense committee of another candidate. A political committee, issue committee, recall defense committee, or candidate committee may not solicit or accept a contribution from a candidate committee or recall defense 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.
    - b. An expenditure, independent expenditure, or electioneering communication.

- (2) A candidate, committee, or another person may not solicit or accept, directly or indirectly, a contribution or donation from a foreign national.
- (d) Regarding conduits:
  - (1) No person may 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 the contribution has been or will be reimbursed by another person.
  - (2) No committee may knowingly accept a contribution from a person acting as a conduit who has been or will be reimbursed by another person.
  - (3) No person may transfer anything of value to another person who will act as a conduit for making the contribution to a committee.
- (e) Except as provided in paragraph (2) of this subsection, a covered entity may not make a contribution to a candidate committee or political committee, other than an independent expenditure committee. A candidate committee or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from a covered entity. 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. The separate segregated fund is 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 will 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. XXVIII, section 3(4)(a), to the extent such guidelines and rules are consistent with this Article.
- (f) A committee may not solicit or accept a contribution from an anonymous source. If a committee receives a contribution from an anonymous source, it must use best efforts to identify the source of the contribution within five (5) business days of its receipt. If the committee is unable to identify the source of contribution within five (5) business days of its receipt, the committee must remit the contribution to the city clerk or donate it to a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code.
- (g) A committee may not solicit or accept a contribution of cash or other currency in excess of one hundred dollars (\$100.00).

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

- (a) Before filing a termination report with the city clerk, a committee must pay all remaining debts and financial obligations and dispose of any unexpended campaign funds in accordance with this section.
- (b) Unexpended campaign funds of a committee may be:
  - (1) Donated to a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code.
  - (2) Returned to contributors.



- (3) Retained by the committee for use in a subsequent municipal election.
- (c) Campaign funds of a committee may not be used for personal use, including but not limited to payment for a commitment, obligation, or expense that would exist irrespective of a candidate's campaign or duties as an officeholder. Personal use includes, but is not limited to, the use of funds in a campaign account to pay 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 a 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 committee 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 will count against the foregoing limit listed in this paragraph.
  - (10) A vacation.
- (d) Upon receipt of a complaint about personal use of campaign funds or upon learning of other uses of campaign funds by any means, the 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 constitutes personal use.
- (e) Notwithstanding any other provision of law, a candidate committee may expend campaign funds 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 must disclose the expenditures in accordance with section 54-104.

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

- (a) Except as provided in subsection (b) of this section, an individual must organize a candidate committee pursuant to subsection (c) upon becoming a candidate under this Article. A candidate may not organize, maintain, or control more than one candidate

committee at any time. A candidate may not organize, maintain, control, or serve as an officer or treasurer of a political committee or issue committee.

(b) A standalone candidate must, within five (5) business days of becoming a candidate, submit an affidavit to the city clerk certifying that the candidate has reviewed and is familiar with the requirements of this Chapter [Chapter 54]. If a standalone candidate subsequently accepts a contribution at any point in the election cycle, the candidate must organize a candidate committee within five (5) business days pursuant to this section.

(c) A committee must, within five (5) business days of becoming a candidate committee, issue committee, or political committee under this Article, do all of the following:

(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 vacated for any reason, the committee must promptly appoint a new treasurer, who must file the affidavit required under paragraph (7) of subsection (d) of this section with the city clerk within ten (10) business days of the vacancy by the prior treasurer.

(2) Open or designate a bank account with a financial institution in the state of Colorado to serve as its campaign account, which must 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 (d) of this section.

(d) The registration statement filed by a committee with the city clerk must 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.

(2) The full name, mailing address, telephone number, and email address of the treasurer of the committee.

(3) The full name of any other committee or a non-municipal political organization that is organized, financed, maintained, or controlled by the same person or group of persons as the committee filing the registration statement, and in the case of a non-municipal political organization registered with the Colorado Secretary of State's campaign finance system, the organization's state-assigned Committee ID number.

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

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

b. For a political committee, the description must include the full name and public office sought by each candidate the committee is supporting or opposing.

c. For an issue committee, the description must include the official title and number of the ballot issue or ballot question the committee is organized to support or oppose if known, and whether the committee supports or opposes that issue or question.

d. For a separate segregated fund sponsored by a covered entity pursuant to section 54-101(e)(2) of this Code, the description must include the full



**name and the address of the principal place of operations of the sponsoring entity.**

- (5) 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.**
- (6) An affidavit signed by the treasurer of the committee certifying that the treasurer has reviewed and is familiar with the provisions of this chapter, 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 chapter.**
- (e) The city clerk must review all submitted registration statements within five (5) business days and reject any that do not meet all of the requirements of this section. Rejected registrations may be corrected and resubmitted within five (5) business days.**
- (f) Registration statements must 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 that meet all requirements of this section.**
- (g) A public officeholder who is the subject of a recall must organize a recall defense committee in accordance with this section before soliciting or accepting a contribution or making an expenditure to oppose the recall. The public officeholder must file a registration statement for the recall defense committee with the city clerk that includes the information described in subsection (d) of this section, appoint a treasurer of the recall defense committee, and designate a bank account with a financial institution in the state of Colorado to serve as the defense committee's campaign account, which must be separate from any other account of the officeholder or the officeholder's campaign committee.**
- (h) If any of the information required in subsections (c) or (d) of this section subsequently changes, the committee must file an amendment to its registration statement within five (5) business days. A committee that has registered under this section in connection with a prior municipal election must file an amended registration statement with the city clerk for each subsequent election cycle until the committee submits a termination report.**
- (i) 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. The filings, reports, and records of the committee are subject to inspection at any hearing held under this Article.**
- (j) All contributions received by a committee must be deposited in its campaign account within ten (10) days of their receipt. 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 accounts of the person that organized the committee, and funds in the campaign account may not be commingled with the personal funds of any person.**
- (k) The treasurer of a committee and the candidate, in the case of a candidate committee, are jointly and severally responsible for all of the following:**



- (1) Filing all statements and reports required by this Article in full and accurate detail.**
- (2) Except as otherwise provided in this Article, all other actions of the committee.**

**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 its 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 last semi-annual report and ends on the closing date of the reporting period specified under subparagraph (b)(1)(a) or (b)(2)(a) of this subsection, as applicable. Each subsequent reporting period begins on the first day following the last date included in the prior period and ends five (5) 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 that are complete through the last date of each reporting period and due by the dates below. If the due date falls on a weekend or legal holiday, the report is due on the next business day.**
    - a. February 5th, complete through January 31st.**
    - b. May 5th, complete through April 30th.**
    - c. August 5th, complete through July 31st.**
    - d. September 5th, complete through August 31st.**
    - e. October 5th, complete through September 30th.**
    - f. The 14<sup>th</sup> day before the date of the election, complete through the 17<sup>th</sup> day before the election.**
    - g. The Friday preceding the date of the election, complete through the Tuesday preceding the election.**
    - h. December 5th, complete through November 30th.**
    - i. January 5th of the year after the election, complete through December 31<sup>st</sup> of the year of the election.**
  - (2) For a calendar year in which there is a special municipal election, 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 30<sup>th</sup> day after the date of the election, complete through the 27<sup>th</sup> day after the election.**
    - d. A year-end report on January 5th of the year after the election, complete through December 31<sup>st</sup> of the year of the election. This report will not be required if the 27th day after the election falls on or after December 31st.**

- (3) For each non-election year within an election cycle, each committee that has not filed a termination report must file semi-annual reports for non-election years due by July 31<sup>st</sup> and January 31<sup>st</sup>. The July 31<sup>st</sup> report must cover January 1<sup>st</sup> through June 30<sup>th</sup> of the non-election year, and the January 31<sup>st</sup> report must cover July 1<sup>st</sup> through December 31<sup>st</sup> of the non-election year.
- (c) In addition to other reports required under this section, a committee must 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 must 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 11:59 PM on the day following receipt of the contribution.
- (d) A recall defense committee or issue committee that supports or opposes the recall of a public officeholder must file reports of contributions and expenditures with the city clerk within fifteen (15) days of filing its registration statement under section 54-103 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 mailing 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; and the aggregate amount of contributions made by the person during the election cycle.
    - a. If a contributor is a natural person, the report must include the person's occupation and employer.
    - b. If a contributor is a covered entity or other organization, the report must also include the entity's principal office street address, as filed with the Secretary of State Business Division, or the street address of its principal place of operations, if different from its mailing address.
    - c. If the covered entity has filed with the Business Division of the Colorado Department of State, then the entity's business name and principal place of operations must match the information filed with that Department.
  - (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 mailing 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 loan, letter of credit, line of credit, or commercial loan; and the terms of interest and the total amount of interest, if any.
- (7) A description of any unpaid obligation of five hundred dollars (\$500.00) 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.
  - (f) All reports required by this section must 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 continue to apply to a committee with outstanding debts or a balance of campaign funds on hand. If the city clerk determines that a committee has no outstanding debts or balance of campaign funds on hand, the committee may file a termination report with the city clerk, provided the committee is not otherwise required by this Article to remain open and active.
  - (h) A standalone candidate need not register a candidate committee but must file reports in accordance with this section for all reporting periods in which the candidate makes expenditures.

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

- (a) A political advertisement must include a disclaimer, as specified in this section. The disclaimer required for a political advertisement must include:
  - (1) The full legal name of the person or committee who paid for the advertisement.
  - (2) If the political advertisement is authorized by a candidate, a statement that the advertisement is authorized by the candidate.
  - (3) If the political advertisement is not authorized by a candidate, a statement that the advertisement is not authorized by any candidate.
- (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 must clearly and conspicuously include the full names of the five (5) donors who have made the largest aggregate contributions or donations of one thousand dollars (\$1,000.00) or more during the election cycle to the person who paid for the advertisement.
  - (1) If multiple donors have made aggregate contributions or donations in identical amounts of one thousand dollars (\$1,000.00) or more to the sponsor of a political advertisement during the election cycle, the advertisement must include the full name of the donor or donors who made the contributions or donations most recently.
  - (2) If no donor has made aggregate contributions or donations of one thousand dollars (\$1,000.00) or more to the sponsor of a political advertisement during the election cycle, the advertisement may exclude the statement required by this subsection.
- (c) A political advertisement disclaimer required by this section must be presented clearly



and conspicuously. A disclaimer is not presented clearly and conspicuously 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 must 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 must be written and spoken at the beginning or end of the communication.
  - b. The written disclaimer must appear in the communication in a conspicuous size and style.
  - c. The spoken disclaimer must 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 must 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 disclaimer statement.
- (d) If the size, format, or display requirements of an online or digital political advertisement make it technologically impossible to include a disclaimer required by this section on the advertisement, the advertisement must clearly and conspicuously provide to the recipients 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. - Contribution limits.**

- (a) During an election cycle, a person or political committee, other than a small donor committee, may not make aggregate contributions to a candidate committee or recall defense committee in excess of four hundred dollars (\$400.00) to any one candidate in any one ward race or one thousand dollars (\$1000.00) to any one candidate in any at-large race or mayoral race.
- (b) During an election cycle, a small donor committee may not make aggregate contributions to a candidate committee or recall defense committee in excess of ten (10) times the limits established in subsection (a), above, based upon whether contributing to a ward race, a mayoral race, or an at-large race.
- (c) During an election cycle, a candidate committee or recall defense committee may not solicit or accept aggregate contributions from a person, political committee, or small donor committee in excess of the applicable limit in subsection (a) or (b) of this Section.
- (d) Each limit on contributions in subsections (a) and (b) must 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 must be

done by the end of the second quarter of 2023 and then every four years thereafter, by the end of the second quarter.

- (e) A non-municipal political organization may make contributions subject to the limits in subsection (a) of this section to a candidate committee or political committee if the contributions are made from an account or source that does not consist of any funds received from a covered entity or other prohibited source under this Article.
- (f) The limits in subsection (a) of this section do not apply to contributions made from a candidate's personal funds to the candidate's own candidate committee or recall defense committee, or to contributions made from a public officeholder's candidate committee to a recall defense committee organized by or on behalf of the same public officeholder.
- (g) For purposes of the limits in subsections (a) and (b) of this section, all contributions made by political committees or non-municipal political organizations that are organized, financed, maintained, or controlled by the same person or group of persons are considered to be made by a single committee or organization.

**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 (\$1,000.00) or more during an election cycle must file a report with the city clerk in accordance with this section. The report filed by an independent spender must include the following information:
  - (1) The full name, mailing address, telephone number, and email address of the independent spender.
    - a. If the independent spender is a natural person, the report must include the occupation and employer of the person.
    - b. If the independent spender is a covered entity or other organization, the report must include:
      - (i) The full name, mailing address, telephone number, email address, and title of the individual filing, and jointly responsible for the report on behalf of the entity.
      - (ii) The full name, mailing address, telephone number, email address, and title of the individual who is primarily responsible for approving the independent expenditures or electioneering communications made by the entity.
      - (iii) The full name of each principal owner of the entity, if any.
      - (iv) The URL for the website of the entity, if any.
      - (v) The business or purpose of the entity, including its tax-exempt status, if applicable.
      - (vi) The street address of the entity's principal place of operations, if different from the mailing address.
  - (2) For each independent expenditure or electioneering communication made during the period covered by the report, the report must provide:
    - a. The full name and mailing address of each person to whom payment was made in connection with the independent expenditure or electioneering communication.
    - b. The amount, date, and a description of the independent expenditure or electioneering communication. The amount of 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 must also indicate whether the expenditure supports or opposes each candidate to whom the expenditure refers or relates.
- (3) The full name and mailing 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 election cycle, along with the date and amount of each donation made by the donor in the reporting period, and the aggregate amount of donations made by the donor in the election cycle.
  - a. If the donor is a natural person, the report must include the person's occupation and employer.
  - b. If the donor is a covered entity or other organization, the report must specify the business or purpose of the entity, including its tax-exempt status, if applicable.
  - c. A donor who is identified on a report under this section need not be identified on any subsequent report filed by the independent spender unless the donor makes additional 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.
- (5) A statement signed by the individual filing the report on behalf of the independent spender affirming, under penalty of law, that the report is accurate and complete.
- (b) An independent spender must file an initial report under this section within forty-eight (48) hours of making one or more independent expenditures or electioneering communications in an aggregate amount of thousand dollars (\$1,000.00) or more during an election cycle. The initial report must cover the period that begins on the first day of the election cycle and ends on the date that the independent spender makes independent expenditures or electioneering communications in an aggregate amount of one thousand dollars (\$1,000.00) or more in the election cycle. After an independent spender files an initial report under this section, the spender must 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 report must cover the period that begins on the day after the last date included in the independent spender's previous report and ends on the date that the additional independent expenditure or electioneering communication is made.
- (c) A committee, including an independent expenditure committee, must report an independent expenditure or electioneering communication made by the committee in accordance with section 54-104.

**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 in accordance with procedures established by the city clerk's office. If the due date falls on a weekend or legal holiday, the report must be filed by the end of the next business



day.

- (b) The city clerk must review all reports for completeness within three (3) business days after their receipt. A report which is deemed to be incomplete by the city clerk will be accepted on a conditional basis, and the committee must be notified as to any deficiencies found. The committee will 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 open to inspection by the public in the office of the city clerk during regular business hours. Reports also must be publicly available online on the city clerk's page on the city of Aurora website within three (3) business days of their filing.

**Sec. 54-107. - Complaints and hearings**

- (a) Any duty required of the city clerk under this section may also be carried out by an individual formally designated by the clerk.
- (b) Any person who believes that a violation of this Article has occurred may file a sworn complaint, in written or online form, with the city clerk no later than one hundred twenty (120) days after the date of the alleged violation. The city clerk must notify the respondent and provide them with a copy of the complaint within two (2) business days of receiving the complaint. Within ten (10) business days of receiving a complaint, the city clerk must complete an initial review to determine whether the complaint was timely filed and whether it alleges sufficient facts to support a factual and legal basis for each alleged violation.
- (c) If the clerk determines that the complaint was untimely filed or that it lacks sufficient facts to support a factual and legal basis for each alleged violation, the clerk must dismiss the complaint and send notice of dismissal and an explanation of the complaint's deficiencies to the complainant and respondent.
- (d) If the clerk determines that a complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the clerk must notify the respondent, within two business days of completing the initial review under subsection (b) of this section, of the opportunity to cure. The respondent must cure and provide any additional documentation required by the clerk no later than five business days after receiving the cure notice from the clerk.
- (e) If the city clerk determines that the complaint is timely and that it alleges sufficient facts to support a factual and legal basis for one or more of the alleged violations, which have not been cured under subsection (c) of this section, the city clerk must send a notice to the complainant and respondent, and thereafter must appoint a hearing officer who may not be an officer, employee, or agent of the city, and may not have any conflict of interest with the complainant or respondent. The city clerk must set a date for the hearing, which shall be no later than sixty (60) days from the date the complaint was filed. Public notice of the date, time, and location of each hearing, and the nature of the complaint must be posted in the office of the city clerk and made available online no less than seven (7) business days before the date of the hearing.
- (f) A complainant is not a party to the city clerk's initial review or any proceedings before a hearing officer, as described in this section.
- (g) All testimony must be under oath. The respondent and the city clerk may present evidence to the hearing officer in the form of testimony, documents, rebuttal testimony, and opening and closing statements. The hearing officer is entitled to examine any witness and request the submission of additional evidence and arguments.

- (i) 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 may petition the appropriate district court for relief. Upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce evidence. Failure to obey the order of the court is punishable as a contempt of court.
- (h) All records of hearings under this section are public records and must be made available online on a publicly accessible website.

**Sec. 54-108. - Sanctions.**

- (a) In accordance with the process in section 54-107, a hearing officer must determine by a preponderance of the evidence if a violation of this Article has occurred and issued a final determination that includes all findings of fact and conclusions of law. Upon a finding against a respondent, the hearing officer must impose all necessary penalties under this section. The respondent may appeal the hearing officer's final determination to the municipal court within thirty (30) days of the decision.
- (b) The city clerk must 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 by this Article is not filed by the day due. Thereafter the penalty for late filing is one hundred dollars (\$100.00) per day until the statement, report, or other information is filed with the city clerk. The city clerk must, by the close of business on the next business day, send notice of late filing and penalty to the person who is required to file. The penalties will begin accruing immediately, regardless of whether this notice is received. A person who fails to file three (3) or more successive statements or reports required by sections 54-103, 54-104, or 54-105.5 of this Code is 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. A person who knowingly fails to file three or more reports due under section 54-105.5 of this Code is subject to a penalty of up to one thousand dollars (\$1,000.00) for each day that the report is past due. All notices of late filings and penalties must be publicly posted on the city clerk's page on the city of Aurora website. If the penalty is not paid within thirty (30) days of demand, the matter must be referred to a hearing officer in accordance with the procedure specified in section 54-107 and subsection (a) of this section.
- (c) Failure to comply with the provisions of this Article will not invalidate any election.
- (d) Any individual volunteering time on behalf of a candidate or committee is 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 committee; and
  - (2) The violation was not caused by willful and intentional misconduct by the volunteer.
- (e) Waiver.
  - (1) A person who has been assessed a late filing penalty under subsection (b) of this section may request that the city clerk grant a waiver or reduction of the penalty within ten (10) business days of the penalty's final accrual. The waiver request must include the following information:
    - a. The reason for the delinquency in filing, including all relevant information related to the delinquency
    - b. Remedial actions taken to avoid future delinquencies.

- c. Any other information relevant to the waiver request.
- (2) The city clerk must consider the waiver request and respond to the request with a written final decision within five (5) business days.
- (3) Before issuing a final decision on a waiver request, the city clerk may consider:
  - a. The requesting person's history of delinquency.
  - b. Circumstances that made complying with the deadline impractical, including whether the city clerk's electronic filing system was operational at the time of the delinquency.
  - c. Outstanding penalties owed by the requesting person.
  - d. The date when the requesting person filed the waiver request.
- (f) Any person who disputes the clerk's assessment of a penalty against that person under subsection (b) of this section may petition the city clerk for a hearing concerning the decision no later than thirty (30) 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 owed to the city resulting from a penalty imposed under this section will be collected by the city in accordance with the requirements of Section 50-138 of the City Code.
- (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 of this Code, 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, will be subject to a penalty of ten thousand dollars (\$10,000.00) or three (3) times the amount of the contribution, donation, or expenditure that was illegally accepted or made, whichever is greater.
- (i) The city clerk satisfies all notice requirements of this Article by sending notice to the mailing addresses provided under section 54-103(c) or 54-105.5(a) of the City Code, as applicable.
- (j) Any penalties assessed under this Article, and any improperly attributed or non-attributed donations campaigns have to disgorge due to lack of proper documentation shall be deposited in a fund established by the city clerk for administering campaigns and for producing educational materials explaining Aurora's campaign finance provisions.

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

- (a) The city clerk must do all of the following:
  - (1) Prepare forms and instructions to assist candidates, committees, and members of the public in complying with the requirements of this Article.
  - (2) Maintain a filing and indexing system consistent with the purposes of this Article.
  - (3) Make the reports and statements filed with the city clerk's office available to the public on the clerk's pages within the city website within three (3) business days of their filing. The city clerk may charge a reasonable fee for printing copies of reports and statements in compliance with city policy. No information copied from such reports may be sold or used by any person to solicit contributions or for any commercial purpose.
  - (4) Conduct hearings or designate a hearing officer, as provided in section 54-107 of the City Code.



- (5) Adopt procedures to carry out the purposes of this Article.**
- (6) Keep a copy of any report or statement required to be filed by this Article following the municipal records retention schedule.**

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

- (a) No city agency, department, board, division, bureau, commission, or council may make a contribution or expenditure in connection with the nomination, retention, election, or recall of any person to any public office of the city, nor may any such entity expend any public monies from any source, or make any contributions, to urge electors to vote in favor of or against any:
  - (1) Ballot issue or ballot question;**
  - (2) Measure for the recall of any elected officeholder of the city, 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 public entity or its member or employee 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 monies in the form of letters, telephone calls, or other activities incidental to expressing their opinions on any such issue described in subsection (a) of this Section.**
- (c) Nothing in subsection (a) of this section may be construed as prohibiting a city agency, department, board, division, bureau, commission, or council from expending public monies to dispense a factual summary, which must include arguments both for and against the proposal, on any issue of official concern before the electorate in the city. Such a summary may not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern will be limited to issues and questions that will appear on a municipal election ballot.**
- (d) Nothing in subsection (a) may be construed to prevent an elected official from expressing a personal opinion on any issue.**
- (e) Nothing in subsection (a) may 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) of this section may 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) of this section.**
- (g) Any person who violates this section is subject to the sanctions authorized in section 54-108 of the City Code.**

**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 is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision does not affect any of the remaining provisions of this Ordinance.

**Section 4** Transition Rule for Current Election Cycle.

A candidate may be considered to be in compliance with this Ordinance's limits and restrictions on campaign contributions, notwithstanding the acceptance of contributions before the date of enactment that would, absent this section, make the candidate out of compliance, provided that the candidate complies with all requirements in this Act beginning on the effective date.

**Section 5.** Publication.

Pursuant to Section 5-5 of the City Charter, the second publication of this Ordinance will be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the office of the city clerk.

**Section 6.** Effective date and applicability.

This Ordinance becomes effective on the first day of the campaign finance reporting period for Aurora candidates for municipal office that follows the end of the campaign finance reporting period for Aurora candidates for municipal office that is current during final passage by the Aurora City Council or Aurora voters.

**Section 7.** 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.

INTRODUCED, READ AND ORDERED PUBLISHED this 2nd day of November, 2020.


PASSED AND ORDERED PUBLISHED this 16th day of November, 2020.

  
MIKE COFFMAN, Mayor

ATTEST:

  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

 <sup>RLA</sup>  
DAVID LATHERS, Senior Assistant City Attorney

