

Hearing Officer's Findings, Conclusions, and Determination

Kiplund Kolkmeier vs John Frogge and Karen Miller

Date: December 10, 2025

BACKGROUND

On October 20, 2025, Kiplund Kolkmeier (Kolkmeier) filed a Campaign and Political Finance in Municipal Elections Complaint (Complaint) with the City Clerk of the City of Lakewood, Colorado. [Exhibit A] The Complaint alleges that John Frogge (Frogge) and Karen Miller (Miller), and other organized groups (collectively referred to as "Petitioners") violated **Chapter 2.54** of the City's Municipal Code (Code) governing ***Campaign and Political Finance in Municipal Elections*** (Chapter 2.54). Kolkmeier specifically alleged the Petitioners violated Section 2.54.030(B)(1) by failing to register as an "Issue Committee" within ten calendar days of having expended more than \$200.00 and circulating petitions seeking to repeal City Ordinances 2025-27, 2025-28, and 2025-29. Notably, a petition seeking to repeal a government ordinance is commonly known as a referendum and is codified as such in the Colorado Constitution, Art. V, Sec. 1, which reserves the power to propose laws (initiative) and to approve/reject laws (referendum) through petitions to the people.

In support, Kolkmeier provided exhibits that established that the Petitioners engaged in various activities that cost money, including acquiring office space, hosting meetings to solicit support for the petition efforts, creating and distributing lawn signs, and establishing a website through which donations could be made. Further, Petitioners submitted draft petition forms to the City Clerk (Clerk) for approval, which were approved on or about September 30 and October 10, 2025. The costs associated with these activities are alleged to exceed \$200.00.

Kolkmeier asserts that Section 2.54.030(B)(1) unambiguously requires Designated Representatives of *any* group circulating petitions to register. That Section provides in relevant part:

B. Issue Committees

(1) Registration. Subject to the provisions of this section, each issue committee shall register with the City Clerk within ten calendar days of accepting or making contributions or expenditures in excess of \$200.00 to support or oppose any ballot issue or ballot question, or circulate initiative petition for signature.

Kolkmeier maintains that the Petitioners may have either intentionally violated this Section of Chapter 2.54 or refused to register because of a misreading of 2.54.030(B)(2), claiming that Issue Committees are not required to fulfill requirements until after a title is set and requisite signatures filed. He notes, however, that (B)(2) does not use the word “registration” but references “disclosure, disclaimer,” and reporting.”

The specific wording of Section 2.54.030(B)(2) provides:

(2) Ballot Issue or Ballot Question Determined

- (a) Notwithstanding any other provision of law, and subject to the provisions of this section, a matter shall be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure, disclaimer, and reporting requirements of this Code:
 - (I) For a citizen-initiated petition, a title for the matter set upon determination that the requisite number of signatures have been obtained and the petition has been determined to be sufficient;
 - (II) For a measure referred to voters by the City Council rather than by initiative petition, the Council has adopted an ordinance to refer such matter to the voters of Lakewood.
- (b) Notwithstanding the provisions of this subsection, where a matter concerns a municipal annexation brought pursuant to Article 12 of Title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this Code, unless and until the first notice of the annexation election has been published in accordance with the requirements of Section 31-12-112(6), C.R.S.

In this light, Kolkmeier concludes that “Every group that is advocating for or against a ballot issue or question is governed by (B)(2), but the petition circulating groups must comply with (B)(1).”

On October 23, 2025, the Clerk responded to the Complaint by acknowledging his responsibility to determine the validity of the Complainant and concluded that the Complaint satisfied Code section 2.54.050(B)(1)(a/b). [Exhibit B] The Clerk also conveyed his belief that, because there is a possibility the Complaint encompasses Code section 2.54.050(B)(1)(c), concerning Small Donor Committees, he referred the interpretation of the referenced sections to the undersigned Hearing Officer to obtain an independent interpretation.

Although the Clerk deemed the Complaint filing timely and substantively worthy of further consideration since it alleges sufficient facts to support a factual and legal basis for the finding of

violations of law, the Clerk also disclosed that the Petitioners had, in fact, reached out to his office for the purpose of registering as an “Issue Committee” before circulating their *referendum* petitions for signatures. However, because his Office interpreted section 2.54.030(B)(1) as *only* applying to those accepting or making contributions or expenditures in excess of \$200.00 to circulate *initiative* petitions for signature, it concluded there was not a requirement to register if a person or group accepts or makes contributions or expenditures in excess of \$200.00 to circulate a *referendum* petition. He also shared that had the City required Petitioners to register before the ordinances they sought referendum upon became *ballot issues* or *ballot questions* as determined by section 2.54.030(B)(2), the City’s campaign finance registration software would have required manual modifications to allow Petitioners to do so. In this light, the Clerk provided that, given the reality of multiple interpretations of the language having emerged, the section language is unclear and requires clarification.¹

Nevertheless, the Clerk concluded by directing the undersigned Hearing Officer to render an opinion on the following questions:

- 1) Whether the registration requirements of section 2.54.030(B)(1) apply to the mere circulation of petitions as the Complaint alleges or whether it applies only when a person or group has accepted or made contributions or expenditures in excess of \$200.00 to circulate petition for signature; and**
- 2) Whether the registration requirements of section 2.54.030(B)(1) are applicable to referendum petitions at all or only apply to initiative petitions.**

PROCEDURAL BACKGROUND

The Administrative Hearing was scheduled for 10:00 a.m. on November 20, 2025, and was convened by the undersigned at approximately 10:07 a.m. Kolkmeier introduced himself as the Complainant, citing his bar registration number as 47206, and Suzanne Tahari entered her appearance as counsel to the Petitioners (bar registration #23411). Although a City Attorney for the City of Lakewood was present and requested the opportunity to speak, Kolkmeier objected on “due process” grounds, asserting that because the City chose not to prosecute his Complaint, the City Attorney should be barred from participating or opining. After some discussion, the undersigned determined that inclusion of a statement by the City Attorney would not deny Kolkmeier the ability to respond or violate his due process rights. She further determined that including the statement would provide more valuable information than harm.

¹ It is worth noting that the Clerk appears to have, therefore, dismissed any potential “non-compliance” as he is authorized to do pursuant to section 2.54.050 Duties of the City Clerk-Recordkeeping-Enforcement-Sanction.

Having been granted the ability to speak, the City Attorney said that in a “normal situation,” the City Attorney would have retained an outside lawyer to prosecute alleged violations and characterized the current hearing as “unique.” He said, “We’re in a situation where the city wanted a second legal interpretation of the City’s view of the Campaign Finance Law,” and proceeded to emphasize that the City believes there is an error in the law in Chapter 2.54. [Exhibit C] As a result, both parties, he stated, are right that the Petitioners should be registered as petitioners in the referendum, not merely as circulators. He added that the Code states there are two time frames – one for registering a valid question about an issue, but it makes no mention of referendum petitions. For that reason, he said the City did not, and does not, believe it was appropriate to prosecute the Petitioners. In other words, he said, if it had been a petition group expanding or receiving \$200, the section would have been triggered, but it was not triggered here, where they are merely circulating petitions. In support of this position, the City Attorney shared that the City is currently working on revisions to the Code to clarify this very concern.

During the Hearing, Kolkmeier introduced four exhibits, including a copy of his Complaint, which was previously identified as Exhibit A, a copy of the City of Lakewood’s response, which was previously identified as Exhibit B, a copy of the 0-2024-31 Ordinance, now marked as Exhibit D, and a video from a City Council meeting. Meanwhile, Petitioner’s counsel introduced copies of the Colorado Court of Appeals decision No. 20CA1655 and the District Court, City and County of Denver, Case Number 17CV32906, respectively marked as Exhibit E and Exhibit F.

FINDINGS AND CONCLUSIONS

Issue 1) Whether the registration requirements of section 2.54.030(B)(1) apply to the mere circulation of petitions as the Complaint alleges or whether it applies only when a person or group has accepted or made contributions or expenditures in excess of \$200.00 to circulate petition for signature.

To address the question, it is first necessary to frame the issue using the defined terms outlined in Chapter 2.54 of the Code.

Ballot Issue means a local government matter arising under Section 20 of Article X of the State Constitution, as defined in Sections 1-41-102(4) and 1-41-103(4) of the Colorado Revised Statutes.

Ballot Question means a local government matter involving a citizen petition or referred measure, other than a ballot issue.

Issue Committee means any person, other than a natural person, or any group of two or more persons, including natural persons:

- (I) That has a major purpose of supporting or opposing any ballot issue, or ballot question and
- (II) That has accepted or made contributions or expenditures in excess of \$200.00 to support or oppose any ballot issue or ballot question.

The term “Issue committee” does not include political parties, political committees, small donor committees, or candidate committees. An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

Analysis

It is critically important to understand that the Petitioners were engaging in a right codified in the Colorado Constitution, which reserves to the *people* the power to propose laws (initiatives) and to approve/reject laws (referendums) through petitions. (Colorado Constitution, Art. V, Sec. 1)² It is uncontested that the Petitioners were circulating petitions seeking to *repeal* City Ordinances 2025-27, 2025-28, and 2025-29. Legal authority is clear that initiatives *and* referenda are citizen-driven petition processes under constitutional and statutory law and that their circulation refers specifically to the act of gathering signatures to *qualify* such measures for the ballot, distinguishing them from government-referred ballot issues or questions. Such initiatives and referenda are therefore deemed citizen power, not a government referral. In contrast, Ballot Issues and Ballot Questions are *typically* placed on the ballot by the governing body (e.g., city council).

Because Petitioners were circulating a referendum to force something onto the ballot, it could not, by definition, be considered a Ballot Issue under the Code. Whether Petitioners’ circulation of a referendum petition served a major purpose of supporting or opposing a ballot question is not as easily determined because neither a *citizen petition* nor a *referred measure* is a defined term in Chapter 2.54 of the Code. Where terms are not defined, statutory construction requires that we turn to constitutional and statutory authority to supply the meaning. In practice, a citizen petition is considered an initiative or referendum petition circulated by voters, while a referred measure is

² “The legislative power of the state shall be vested in the general assembly ... but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly and also reserve power at their own option to approve or reject at the polls any act or item, section, or part of any act of the general assembly. The first power hereby reserved by the people is the initiative, and signatures by registered electors ... shall be required to propose any measure by petition.”

a council-initiated ballot issue.³ This means that Chapter 2.54 of the Code appears to have broadened the definition of “ballot question” to cover both citizen-driven and government-driven measures. It is worth noting as well that the inclusion of “or circulate initiative petition for signature” appears to be an effort by the City Council to further clarify that citizen petitions (for either initiatives or referenda) are subject to the Registration requirements outlined under 2.54.030(B)(1).

In this light, and in looking exclusively at Chapter 2.54, the registration requirements of section 2.54.030(B)(1) apply to the mere circulation of petitions as the Complaint alleges. However, a more fundamental question arises: whether the Petitioners’ activities are even subject to the regulations outlined in Chapter 2.54, which defines the Code as follows:

Code means Chapter 2.54 of the Lakewood Municipal Code regarding Campaign Regulations and Political Finance in Municipal Elections. [See Chapter 2.54.020]

Although “Campaign Regulations,” “Political Finance,” and “Municipal Elections” are capitalized, they are not defined terms under the Chapter. To understand the application of this Chapter to Petitioners, which is the gravamen of this matter, it is necessary to ask if the Petitioners’ conduct constitutes a “Campaign.” In the absence of defined terms, we look again to Constitutional and/or Statutory authorities. Importantly, the Colorado Constitution, Article XXVIII [Exhibit H], and the Fair Practices Act (C.R.S. Title 1, Article 45) [Exhibit I] define campaign activity as efforts to influence the nomination, election, or defeat of a candidate, or the passage/defeat of a ballot issue or measure. In fact, the stated purpose of Amendment 27 – Colorado Constitution – Campaign and Political Finance is:

Section 1. Purpose and findings The people of the state of Colorado hereby find and declare that large campaign *contributions to political candidates* create the potential for corruption and the appearance of corruption; that *large campaign contributions made to influence election outcomes* allow wealthy individuals, corporations, and special interest groups to exercise a disproportionate level of influence over the political process; *that the rising costs of campaigning for political office prevent qualified citizens from running for political office*; that because of the use of early voting in Colorado timely notice of independent expenditures is essential for informing the electorate; that in recent years the advent

³ Colorado Revised Statutes, Title 31, Article 11 (Municipal Initiatives, Referenda, and Referred Measures). Defines “initiative” as a petition proposing legislation and “referendum” as a petition to approve/reject legislation. Also distinguishes “referred measure” as a measure submitted to voters by the governing body itself.

of significant spending on electioneering communications, as defined herein, has frustrated the purpose of existing campaign finance requirements; that independent research has demonstrated that the vast majority of televised electioneering communications goes beyond issue discussion to express electoral advocacy; *that political contributions from corporate treasuries are not an indication of popular support for the corporation's political ideas and can unfairly influence the outcome of Colorado elections; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, providing for full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.*

It is self-evident that the letter and spirit of Colorado's Campaign Finance laws have been established to protect against corruption and the appearance of corruption in campaigns for political candidates, which Petitioners are not. Whether their activities were related to a "campaign," as the term is used in state Campaign Finance laws, is therefore unclear. This, when combined with the previously established fact that the Petitioners' conduct, by definition, does not constitute a Ballot issue under the Chapter, further calls into question whether the scope of Chapter 2.54 applies to the Petitioners' activities at all. Even if this were not the case, under these circumstances, equity requires consideration of the fact that the City has a separate Chapter, specifically Chapter 2.52, which governs "Initiative and Referendum Procedures" [Exhibit G]. Review of Chapter 2.52 reveals that it includes definitions for Ballot issue⁴ and Ballot question⁵ that are inconsistent with Chapter 2.54. What is more, that Chapter includes specific sections that govern "Referendum procedures" (Section 2.52.130) and directions related to "Receiving money to circulate petitions-Filing" (Section 2.52.210). Also of note is that Chapter 2.52 does not impose a registration requirement or even refer to one, as outlined in Chapter 2.54. Rather, Chapter 2.52 includes an express acknowledgement that nothing in the Chapter is intended to abridge "in any manner the powers reserved to the people in the initiative and referendum," but to properly "safeguard, protect and preserve inviolate for them these modern instrumentalities of democratic government." In this light, it must be noted that the construct of the Code, particularly the interplay of Chapters 2.52 and 2.54, appears to leave room for interpretation.

Issue 2) Whether the registration requirements of section 2.54.030(B)(1) are applicable to referendum petitions at all or only apply to initiative petitions.

⁴ Ballot issue means a non-recall, citizen-initiated, or citizen-referred petition or legislatively referred measure which is authorized by the State Constitution, including a proposition which is in the form of a question meeting the requirements of Section 20(3)(c) of Article X of the State Constitution.

⁵ Ballot question means a proposition which is in the form of a question other than a ballot issue.



Workplace Investigations
Expert Witness Services
HR Training and Compliance

See above.

Hearing Officer's Determination

Upon consideration of the evidence presented and review of relevant authorities, I determine that notwithstanding the clarity of the language in Section 2.54.030(B)(1) when read in a vacuum which requires initiative petitioners and referendum petitioners to register, the defined scope of Chapter 2.54 does not appear to cover the type of activity actually engaged in by Petitioners and that the overall construct of the Code, particularly the interplay between Chapters 2.54 and 2.52 further calls into question whether the Petitioners' activity violated the Code.

A handwritten signature in blue ink, appearing to read 'V. Aguilar', with a stylized, flowing script.

Victoria T. Aguilar
Contract Hearing Officer
City of Lakewood, Colorado

EXHIBIT A

RECEIVED
CITY OF LAKEWOOD, CO

2025 OCT 20 A 10:32

OFFICE OF THE
CITY CLERK



Lakewood

City Clerk's Office
Lakewood Civic Center
480 S. Allison Parkway
Lakewood, CO 80226-3127
Email: Bruce Roome
broome@lakewood.org
Phone: 303-987-7080
Fax: 303-987-7088
TDD: 303-987-7057

CAMPAIGN FINANCE COMPLAINT FORM

Your Information – Information about the person filing the complaint (complainant)

Full Name: Kiplund Kolkmeier
Address: 3933 Inca St. City: Denver State: CO Zip: 80211
Telephone number: 720-800-5145 Email address: KipKolkmeier@gmail.com

Information of the person alleged to have committed a violation:

Full Name: John Frogge, Karen Miller
Address: 1971 S. Parfet Dr. & 9490 W. 10th Ave City: Lakewood State: CO Zip: 80215
80227

Alleged violation – must include the section of the code or rule# or the alleged violation:

2.54.030(B)(1)
Full Complaint attached

[Signature]

Complainant's Signature

10/20/25

Date

Campaign and Political Finance in Municipal Elections Complaint

Submitted By:
Kiplund Kolkmeier
3933 Inca St.
Denver, CO 80211
Attorney Registration #47206

Date Filed: October 20, 2025

Basis of Complaint

Pursuant to Lakewood Municipal Code 2.54.030(B)(1), this complaint alleges that the designated representatives and other affiliated groups circulating petitions seeking to repeal City Ordinances 2025-27, 2025-28, and 2025-29 are in violation of the Lakewood Campaign Finance in Municipal Elections code.

Facts and Allegations

1. John Frogge and Karen Miller are the designated representatives of the effort to repeal City of Lakewood Ordinances 2025-27, 2025-28, and 2025-29. These designated representatives submitted draft petition forms for approval by the City Clerk for each of these ordinances.
2. The City Clerk approved the petitions forms on or about September 30, 2025 and October 10, 2025.
3. The designated representatives convened public meetings to solicit support for their petition efforts. The designated representatives have coordinated efforts to gather signatures.
4. Signs advocating signing the petitions have been purchased and distributed. It is estimated that at least 100 signs have been distributed. None of the signs contain any disclaimer stating who paid for the signs, but a reasonable estimate of cost of yard signs is \$1,000 to \$2,500. See exhibit A.
5. There is a coordinated effort among petition proponents that includes several organizations. Proponents of the circulation effort have established a website named Lakewood Rural Lifestyle and can be found at: <https://www.lakewoodrurallifestyle.com>. There are costs associated with creation and maintenance of a website. The website specifically states what action they are requesting including the solicitation of **donations** for electioneering communications. The website contains no disclaimers identifying who is paying for these electioneering communications. Proponents have also created another group known as "Lakewood is for Everyone." See Exhibit B.
6. The designated representatives have also rented office space at 820 Simms St, Suite 11. They are encouraging signers to come to this petition headquarters. See Exhibit C.

Legal Issue that is the Basis of this Complaint

The Designated Representatives and other organized groups circulating petitions have failed to register as required under the 2.54.030(B)(1). That section is unambiguous and applies to any group circulating petitions. The City Council specifically added the words "or circulate initiative petition for signature" in Ordinance 2024-31. See test of subsection below.

2.54.030

B. Issue Committees.

- (1) *Registration.* Subject to the provisions of this section, each issue committee shall register with the City Clerk within ten calendar days of accepting or making contributions or expenditures in excess of \$200.00 to support or oppose any ballot issue or ballot question, ***or circulate initiative petition for signature.*** If required to register under the requirements of this subsection, the registration of the issue committee shall include a statement containing the items listed below:
- (a) The committee's full name, spelling out any acronyms used therein;
 - (b) A natural person authorized to act as a registered agent or representative;
 - (c) A street address and telephone number for the principal place of operations;
 - (d) All affiliated committees;
 - (e) The purpose or nature of interest of the committee or party;
 - (f) The name of the financial institution where the committee has opened an account.

The designated representatives and affiliated groups may be intentionally violating this section or have refused to register because of a misreading of 2.54.030(B)(2). In stating that issue committees are not required to fulfill requirements until after a title is set and requisite signatures filled, (B)(2) does not use the word "registration". Rather it references "disclosure, disclaimer, and reporting".

Every group that is advocating for or against a ballot issue or question is governed by (B)(2), but the petition circulating groups must comply with (B)(1).

If no group is required to register until after the petition is filed with the requisite number of signatures long after having spent over \$200 and long after 10 days of beginning circulation, then (B)(1) would be completely meaningless. The most basic rule of statutory construction is that every provision must be given meaning, and (B)(1) clearly and logically applies to those circulating petitions.

The application of 2.54.030(B)(1) to the designated representatives is the legal issue that must be resolved by a hearing office through the complaint process.

Requirements of the Code for a Valid Complaint

The Lakewood Municipal Code states clearly that a complaint must be deemed valid if it meets the following criteria:

1. The complaint was filed within 120 days of alleged violations. An alleged and continuing violation occurred on October 10th, 2025, ten days after petition circulation began to repeal Ordinance 2025-27. A second alleged and continuing violation occurred ten days after petition proponents exceeded the \$200 expenditure threshold. The prevalence of

an organized electioneering effort through websites, community meetings, and yard signs demonstrate that an amount exceeding \$200 was expended in September and continues. The complaint was filed on October 20, 2025 and therefore timely filed.

2. The complaint alleges a specific identified violations. Under 2.54.030(B)(1) it is a violation to circulate petitions without registering within 10 days of circulation. It is also a violation to spend in excess of \$200 without registering within 10 days. This is a clear legal determination that a hearing officer must consider. The City Clerk may have come to a different interpretation where (B)(1) has no meaning, no effect, and no obligation imposed on circulators. But for purposes of determining if this complaint meets the requirements of the Code, the Clerk can not pre-determine a hearing officer's legal conclusions. The Clerk cannot declare a complaint "frivolous" as defined by the Code if there is "a rational argument based in law, or a legitimate attempt to establish a new theory of law, or a good-faith effort to extend, modify, or reverse existing interpretations of law." This Complaint clearly meets that standard.
3. The complaint alleges sufficient facts that could support a basis for a violation. The code does not require, nor even allow, the City Clerk to come to factual conclusions. Rather, the mere allegation of sufficient facts requires the Clerk to deem the complaint valid, notify the alleged violators, and allow the City to prosecute the violation.
4. It is not a defense that the petition proponents did not know the law. The City Clerk is prohibited from giving legal advice. Regardless of whether the City Clerk advised the petition representatives that they didn't have to file, the petition representatives are responsible for complying with the law. Indeed if the City Clerk provided advice on legal compliance that would raise other serious issues for the City.
5. Whether or not the petition proponents now attempt to cure the violations, this complaint must go to a hearing officer to determine the applicability of 2.54.030(B)(1) and determine what penalty should be imposed.

Kiplund Kolkmeier
October 20, 2025

Exhibits

A. Prevalence of Yard Signs



SAVE
SINGLE-FAMILY ZONING
Save Parking Spaces

Stop Zoning Changes


 Lakewood Is For Everyone

Don't
BULLDOZE
Our Neighborhoods

Stop Zoning Changes

 Lakewood Is For Everyone

B. On-line and Website Presence


Lakewood Is For Everyone

Intro

The City of Lakewood is one of the most beautiful Cities in Colorado. Lakewood belongs to all of its residents.

Page · Blogger


Lakewood, CO, United States, Colorado

johnshomeoffice@gmail.com


Always open

Not yet rated (0 Reviews)

Featured


Lakewood Is For Everyone
 August 24

Zoning will be voted on this Monday. Please show up, bring friends and help us stop the densification of our city.



Lakewood Is For Everyone
 August 25

After attending a ward five meeting, we believe the zoning changes will pass. Here is what to expect:


- 1) higher property taxes. Expected to increase 20% in 2026.
- 2) Massive parking congestion. The zoning adopts the State parking requirements and trashes the current Lakewood requirements.
- 3) Maximum occupancy for single family homes and for condos/apartments are removed as the Colorado regulation has no maximum....

Photos

See all photos



Posts


Lakewood Is For Everyone
 1h

COME AND SIGN the petition to get the City of Lakewood's radical zoning changes on the ballot. Petitions will be at 820 Simms Unit 11 (south side of building) at the following times

OCTOBER 14- from 3:30-6:30pm

OCTOBER 15 through 17- from 10:30am-6:00pm

Like Comment Share

Comment as Robert Adams

<https://www.lakewoodrurallifestyle.com/action-steps/>

Action Steps Lakewood Residents Can Take

Lakewood residents who would like to get involved (& we hope to find many of them) can do so in a variety of ways.

Attend City Council Meetings

NEXT MEETING Oct 13th (7pm-?)

Oct. 13th agenda item *Public Hearing- 2nd Reading Ordinance- Zoning Code- Zoning Map* is last on the agenda for the evening. This could mean the City Council won't get to it until very very late.

Sign the Petitions

Look for communication about locations where petitions can be signed (remember there will be 4 of them).



Post on Lakewood Speaks

Lakewood Speaks is open for posting. **POST NOW!** [Link](#)

- **Print & Distribute Flyers**
- **Print & Distribute Yard Signage**
- **Research Affordable Housing Projects & Funding**
- **Donate to Cover Costs Of This Endeavor**
- **CAD (or similar) Drawing Showing Comparison** (Old vs New Zoning)
- **Create Templates for Emails & Lakewood Speaks Postings**





C. Petition Headquarters Office





SIGN THE REFERENDUM



**STOP LAKEWOOD'S
RADICAL
REZONING**

**1. SIGN THE 4 PETITIONS - DON'T LET DEVELOPERS
DECIDE LAKEWOOD'S FUTURE!**

Petition Office: 820 Simms St #11

Open Monday–Saturday, 10:30 AM–6:30 PM

✓ Someone will be available every day — just stop by and sign!

1st Petition: Please sign ASAP (target Oct 23, absolute last day Oct 30); 2nd

Petition Due: Nov 3; 3rd Petition Due: Nov 10; 4th Petition Due: Nov 28

2. 🤝 WE NEED SIGNATURE GATHERERS NOW!

This week and weekend is crucial - help us gather signatures so everyone can vote! Training provided! Even if you've never done this before, you can make a difference. We need EVERYONE to help! Please join the fight to save

Lakewood and protect the community we love.

Contact John: 303-588-8360 Email: john@alphaonehc.com

EXHIBIT B

City of Lakewood

Office of the City Clerk

480 South Allison Parkway
Lakewood, Colorado 80226-3127
303-987-7080 Voice
303-987-7057 TDD
303-987-7088 FAX

October 23, 2025

Kiplund Kolkmeier
3933 Inca St.
Denver, CO 80211

Re: City Clerk's Determination of Potential Validity of Complaint against John Frogge and Karen Miller and Decision to Refer the Matter to an Independent Hearing Officer to Avoid Any Appearance of a Conflict of Interest

Mr. Kolkmeier,

This office received your Campaign and Political Finance in Municipal Elections Complaint dated October 20, 2025, alleging that John Frogge and Karen Miller, and "other organized groups" (hereinafter referred to as "Petitioners") violated Section 2.54.030(B)(1) of the Municipal Code (the "Code") by failing to register as an issue committee within ten calendar days of having expended more than \$200.00 and circulating a petition for signature. You provide numerous exhibits to prove that Petitioners have created and distributed lawn signs, have an on-line website presence, have acquired office space, and have hosted "public meetings" to solicit support for their petition efforts. Ultimately, your Complaint is focused on the argument that, because Petitioners are a "petition circulating group" they must comply with the registration requirements of 2.54.030(B)(1).

As the City Clerk, per Code section 2.54.050(B)(1), it is my responsibility at this stage to determine whether the Complaint is valid. In this case, the determination of validity depends, pursuant to Code section 2.54.050(B)(1)(a-c) on whether the Complaint you filed: (a) was timely filed under this code; (b) specifically identifies one or more violations of this Code; and (c) alleges/contains sufficient facts to support a factual and legal basis for the finding of violations of law as alleged. I have determined that your Complaint satisfies Code section 2.54.050(B)(1)(a/b). Further, I have determined that there is a possibility that the Complaint satisfies Code section 2.54.050(B)(1)(c), and am therefore referring the Complaint to an independent hearing officer to obtain an independent interpretation of the Code section at issue, as discussed in detail below.

Analysis of Code section 2.54.050(B)(1)(a): This section of Code provides: "A complaint is valid if it: (a) Was timely filed under this code;". Under number 1 of the section of the Complaint titled: "Requirements of the Code for a Valid Complaint" you argue that the Complaint was filed within 120 days of the alleged violations, and that:

An alleged and continuing violation occurred on October 10th, 2025, ten days after petition circulation began to repeal Ordinance 2025-27. A second alleged and continuing violation occurred ten days after petition proponents exceeded the \$200 expenditure threshold.

As such, you urge the Clerk to find that Code section 2.54.030(B)(1) is violated by: 1) the mere circulation of a petition without registration as an issue committee; and 2) Petitioners accepting or making contributions or expenditures in excess of \$200.00 to circulate said petition without registering as an issue committee. Regarding the first contention, the Clerk approved the referendum packets for

the ordinances in question less than 120 days ago, and therefore, if it is indeed a violation to circulate a petition without registering as an issue committee, the Complaint is timely filed. The Complaint supports the second contention by arguing that the “organized electioneering effort through websites, community meetings, and yard signs demonstrate that an amount exceeding \$200 was expended in September and continues.” Thus, assuming *arguendo* Petitioners actions were sufficient to support a violation, the Complaint is timely filed, and satisfies Code section 2.54.050(B)(1)(a).

Analysis of Code section 2.54.050(B)(1)(b): This section of Code provides: “A complaint is valid if it: (b) Specifically identifies one or more violations of this code;”. Under number 2 of the section of the Complaint titled: “Requirements of the Code for a Valid Complaint” you argue that the Complaint does indeed allege specific identified violations because:

Under 2.54.030(B)(1) it is a violation to circulate petitions without registering within 10 days. It is also a violation to spend in excess of \$200 without registering in 10 days.

Thus, the Complaint identifies two alleged violations of section 2.54.030(B)(1), thereby satisfying the requirements of section 2.54.030(B)(1)(b).

Analysis of Code section 2.54.050(B)(1)(c): This section of Code provides: “A complaint is valid if it: (c) Alleges/contains sufficient facts to support a factual and legal basis for the finding of violations of law as alleged. Under number 3 of the section of the Complaint titled: “Requirements of the Code for a Valid Complaint” you argue that that “the complaint alleges sufficient facts that could support a basis for a violation” and that the Code does not permit the City Clerk to come to factual conclusions at this stage of the proceeding and therefore, “the mere allegation of sufficient facts requires the Clerk to deem the complaint valid...”

At this stage, the Complaint alleges that Petitioners have expended more than \$200.00 for the circulation of a petition. It additionally alleges that Petitioners have circulated a petition without registering as an issue committee. The Complaint further provides: “Every group that is advocating for or against a ballot issue or questioned is governed by (B)(2), but the petition circulating groups must comply with (B)(1).” Assuming that 2.54.030(B)(1) applies to referendum petitioners, as the Complaint alleges, then the Complaint alleges sufficient facts to support a factual and legal basis for the finding of violations of law. Thus, if 2.54.030(B)(1) applies to both initiative and referendum petitions, whether for collection and expenditure of funds in excess of \$200.00 or for the mere circulation of a referendum petition, then the Complaint satisfies the requirements of Code section 2.54.050(B)(1)(c).

The Clerk’s Determination and Decision to submit the Complaint for Review by and Independent Hearing Officer: The Clerk notes that transparency in campaign finance matters is a concern of the highest order. The Clerk further notes that Petitioners previously reached out to his office desiring to register as an issue committee prior to circulating their referendum petitions for signature. However, the City, as it is authorized to do, interpreted Code section 2.54.030(B)(1) as only applying to those accepting or making contributions or expenditures in excess of \$200.00 to circulate initiative petition for signature. Under this interpretation, there is no requirement to register if a person or group accepts or makes contributions or expenditures in excess of \$200.00 to circulate a *referendum* petition. As such, the City’s campaign finance registration software would require modifications made via manual changes to allow Petitioners to register before the ordinances they seek referendum upon become ballot issues or ballot questions as determined by section 2.54.030(B)(2). The filing of this Complaint, along with the previous request by Petitioners to register as an issue committee highlight the fact that the Code may be unclear and open to multiple interpretations, that deviate from the City’s. Again, the Clerk notes the fact that transparency in campaign finance matters is a concern of the highest order.

Therefore, to remove any potential for bias and any potential conflict of interest, the Clerk will refer the following legal questions to an independent hearing officer: 1) Whether the registration requirements of section 2.54.030(B)(1) apply to the mere circulation of petitions as the Complaint alleges or whether it applies only when a person or group has accepted or made contributions or expenditures in excess of \$200.00 to circulate petition for signature; and 2) Whether the registration requirements of section 2.54.030(B)(1) are applicable to referendum petitions at all, or only apply to initiative petitions.

Further, the Clerk will instruct the hearing officer that their role is limited only to the legal questions presented, and that the Clerk does not believe the matter necessitates a hearing or prosecution by the City. However, if the hearing officer determines that a hearing is necessary, the Clerk will defer to such a decision. Submitting this to the hearing officer in a limited capacity comports with the Complaint, which provides that "[t]his is clear legal determination that a hearing officer must consider."

Finally, if the hearing officer determines that Petitioners, as circulators of referendum petitions, were required to register pursuant to Code section 2.54.030(B)(1), the City will not be seeking any penalty for such failure to register because: 1) the City did not interpret its code in a manner requiring registration; and 2) if Code section 2.54.030(B)(1) does indeed require the circulators of referendum petitions to register either for the mere act of circulating a referendum petition or for accepting/making contributions or expenditures in excess of \$200.00 to circulate a referendum petition for signature, then the Code lacks clarity and is thus open to multiple interpretations, thereby proving that a violation should not be punished.

As required by Code section 2.54.050(2)(b), the Clerk will submit the Complaint to an independent hearing officer within three days of this determination. However, as stated above, the Clerk does not anticipate setting the matter for a hearing within five days of the determination as is also contemplated by Code section 2.54.030(B)(2)(b). Instead, the Clerk will request the hearing officer provide an order, within thirty days of the date of this decision, relating solely to the legal questions discussed above. If the hearing officer determines that a hearing is necessary, the Clerk will notify the parties forthwith to facilitate the scheduling of such a hearing as soon as is feasibly possible.

Sincerely,



Jay Robb
City Clerk

EXHIBIT C

00;00;00;02 - 00;00;31;06

Unknown

Today on November 20th, 2025. It's 10:07 a.m.. My name is Victoria Aguilar. I am a, outside retained, hearing officer for the city of Lakewood. And have been asked to preside over this proceeding. The proceeding is a, issue relating to campaign finance. A question, particularly as it relates to interpretation of the city statute.

00;00;31;08 - 00;01;07;23

Unknown

And, so we're here to potentially address at least two issues that I was made aware of by the city manager. City clerk. As it relates to or interpretation of two specific provisions of the statute as it affects, the petitioners who are here today. So why don't we, begin the hearing and, introduce, the parties that are here and what, they're, here to represent our, individuals, like a character representative of the issues.

00;01;07;25 - 00;01;13;15

Unknown

I'd like to start with.

00;01;13;18 - 00;01;46;16

Unknown

Mr. Kolkmeier. Yes. Thank you. I, by our I am the citizen that filed the, protest, on this complaint. Okay. And we have another party. Yes. Thank you. Suzanne Tahari registration 23411. On behalf of the two proponents and, named parties in this matter. Okay. Thank you. And I should have added, my attorney registration number is 47206.

00;01;46;19 - 00;01;51;07

Unknown

Awesome. Thank you for that.

00;01;51;09 - 00;02;06;27

Unknown

It is my understanding we also have a representative from the city attorney's office here today, and I would like to invite him to make a statement or, designate that his presence is here.

00;02;06;29 - 00;02;27;05

Unknown

Want. Your Honor? Thank you. The same thing I. We have to leave with city attorney's office registration number 48896. And as I've spoken with the both parties, I will be seeking to enter an opinion of the city. I don't want to get into that now until your office feels it's appropriate and both sides will have the opportunity to object.

00;02;27;07 - 00;03;10;10

Unknown

This far. It strikes. I'd like to invite discourse from the parties on this, as, I know that we're here to discuss the two issues of interpretation. Specifically Elena Allen, c section 2.54. 030B1, as well as another provision, related to the resident referendum referendum petition. In that provision, if the city's council is present to offer an opinion, what might that an opinion be related to?

00;03;10;12 - 00;03;45;09

Unknown

And, just to keep it vague, it would just be related to the, the city's view of what, 2.5403 0B1 status. And whether that is fully reflective of what the city Council intended it to state. Okay, Mr. Mayor Tietmeyer. Sorry, sorry. Chip Meyer. Would you like to address any concerns you have about the city potentially offering an opinion as to that section?

00;03;45;16 - 00;04;09;07

Unknown

Yeah, thank you very much, Your Honor. This is, yet another surprise in this process. The ordinance is quite clear, and we're going to talk in detail about how the City council changed this ordinance. It is meant to be a very tough ordinance. You we are before you here. The city has made me stand alone.

00;04;09;09 - 00;04;35;03

Unknown

The ordinance says that if it gets referred to a hearing officer, the city prosecutes. It was a surprise to me when the city said they're not going to prosecute, but it was still be sent to the hearing. And then this morning, I am told that the city, whoever that is, I think it's the city attorney's office, wants to present evidence and weigh in on this matter.

00;04;35;05 - 00;04;57;06

Unknown

So there's a fundamental due process issue. We had no idea they were planning to do that. I am hoping that after my presentation, the city attorney may change their perspective. But, to have it raised at this point when they are not a party and they have declined and they've left me here alone trying to protect the ordinance.

00;04;57;08 - 00;05;24;27

Unknown

I think there's a fundamental due process issue. May I ask you, do you have information already as to what the substance of the opinion the city is offering is attempting to offer? Has. Yeah. It's just been shared with me. And I would argue that it is not a legal. It is not an appropriate legal opinion to offer.

00;05;24;29 - 00;05;59;09

Unknown

The city attorney does not have any greater, ability to interpret the statute than the hearing officer or the district court. If we get there, or frankly, any member of the city council, they are all equally able to offer an opinion about what it says. My question is,

why would this opinion be allowed? In this proceeding, when I could have brought a number of statutory experts who could look at the legislative intent and offer an opinion, can I be heard on it?

00;05;59;12 - 00;06;03;23

Unknown

Might one follow up there?

00;06;03;26 - 00;06;16;18

Unknown

Are you. I'm. I want to see if we're assessing the balance of harm to address the process. Concern. Right. So.

00;06;16;21 - 00;06;44;28

Unknown

To the extent that you are here today as it relates to this, the reference statutory section, you are here today to offer an opinion as to its verbiage. Is that correct? I will be offering evidence to support my contention that this is a valid complaint filed. The City Attorney's office had the opportunity to deny this complaint. They could have taken that position.

00;06;44;28 - 00;07;08;20

Unknown

They could have said our opinion is this is not a valid complaint. They didn't do that. They sent it to a hearing and they said they would not prosecute. They would send it here. And I alone would have to argue that before, Your Honor. So for them to appear today and offer an opinion is just fundamentally unfair. I want to drive clarity around what we're talking about.

00;07;08;20 - 00;07;46;15

Unknown

When we say that the city would indicated it wouldn't prosecute, is it prosecute or defend? So the ordinance only has one role for the city attorney to prosecute valid complaints. So this was a valid complaint. I would be here offering evidence, but the prosecution would be from the city attorney. They chose not to do that. Now they are here trying to put their thumb on the scale, and that just seems fundamentally unfair.

00;07;46;17 - 00;08;15;17

Unknown

Okay. They're they should have a fair view. Is that this is not a valid complaint, that my complaint should have been denied and I could have appealed it. We've now lost three weeks while these individuals are still out there. My complaint continues to be as valid as it ever was, and I'm hoping that that will be the order from this hearing.

00;08;15;20 - 00;08;43;15

Unknown

Thank you. Well, first of all, I think there appears to be a fundamental misunderstanding of, the due process concept and due process applies to the accused. Due process does not apply to complainants for prosecution. It is to protect the rights of those accused of either a crime or sometimes a violation of city code. Due process is to my client.

00;08;43;18 - 00;09;06;17

Unknown

Furthermore, it really depends on what the scope of this hearing is about, which we're not entirely sure. It was referred just for a couple of legal questions. If I'm hearing now that, he thinks he's going to prosecute the entire complaint and you're going to hear the entire complaint, then it becomes very necessary that the city weigh in.

00;09;06;17 - 00;09;29;08

Unknown

And I'll tell you why. Because if my clients are found to be in violation and he's going to prosecute them for that violation, they have certain rights under the city code, to defend themselves and certain rights under Colorado law. One of those is they were supposed to have an opportunity to correct the city code, and they were given no opportunity to cure a complaint.

00;09;29;11 - 00;10;02;03

Unknown

Secondly, state law provides that campaign finance. And this is just case law. I'm not talking about state codes. Constitutionally campaign finance. Obviously it's a First Amendment right to speak, and it has to be narrowly tailored to a specific interest. So in interpreting campaign finance regulations against, proponents, like mine, who are the ones who are entitled to due process.

00;10;02;05 - 00;10;27;21

Unknown

It's on a substantial compliance standard. Substantial compliance says that if my clients have made a reasonable attempt to comply with the statute, then they are not in violation of it. So if the city's interpretation of the statute, comes into play, that that's what led them to this substantial compliance in the first place. So they tried to register.

00;10;27;21 - 00;10;53;02

Unknown

They wanted to register because registration, allows them to set up a bank account and then take donations. They weren't able to register that committee, so they weren't able to ever take citizens donations. They weren't able to set up a bank account. So this was never something that they were trying to, scope the, the process or hide their donations or any of those kinds of things.

00;10;53;05 - 00;11;22;26

Unknown

This was because the city's, Your Honor. Objection. Your honor, I'm. I'm wondering if you're getting another very substantive, specific argument she's making. We thought, let's say that. With all due respect, I'd like to let her finish her point. I don't think we're into legal argument right now. She was just trying to address what you were saying. So I think let's get Grant some grace.

00;11;22;27 - 00;11;54;08

Unknown

I, I will tell you, I agree. We're in a unique situation, right here. I came into this a little bit. Contemplating scope as well. So I think with our grantees, each other. Grace, at the end of the day, we are here for a very. I came here for a very defined purpose. So in terms of scope, my scope remains the questions that were given to me.

00;11;54;11 - 00;12;26;27

Unknown

So we we may need to do some housekeeping and understanding before we really get into, adjudicating the hearing process. To make sure that we stay, focused on what we are here to do today. I, I also agree that the situation appears to have become more unique, and that the city is seeking, to have the opportunity to, participate, at least through introduction of an opinion.

00;12;26;29 - 00;12;54;03

Unknown

And so let us finish listening to this party, and I may have some follow up, and I may also have follow up with the city attorney. So, trying to pick up where I left off before I was interrupted. You're talking about the First Amendment, rights inherent in a council finances, right? So under the substantial compliance standard, if we can't register, then we've substantially complied.

00;12;54;03 - 00;13;16;20

Unknown

We've tried to comply, and I have a couple cases. One is the district court opinion out of Denver, and the other is a court of appeals opinion that talks about, petitioners who attempted to register into the campaign finance system and could not. It's very, analogous to this, but I think if we're going to get into substantial compliance and registration and penalties and all that, I would call the city.

00;13;16;23 - 00;13;40;18

Unknown

I would call the city clerk as a witness to say, you know, what the issues were, or I would call, you know, whoever and introduced this evidence anyone. So again, I think it depends on the scope of the hearing. If we're just going to be talking about legal issues, that's fine. But if those legal issues lead to some kind of an opinion that my clients have violated something, then we certainly have the right to introduce evidence that we substantially comply.

00;13;40;24 - 00;13;59;09

Unknown

And to do that, we need testimony and an opinion from the city. Okay, so if I'm hearing correctly, you are not opposed to the city participating through introduction of an opinion. We're not. Okay.

00;13;59;11 - 00;14;03;09

Unknown

Mr. Kolkmeier.

00;14;03;11 - 00;14;33;26

Unknown

If I'm hearing you correctly, you're opposition to the city introducing this opinion at this juncture is primarily embedded in your belief that your your and your your party's, due process rights would be violated by the introduction of such an opinion. Is that correct? Yes. And that that opinion, if we were to render it, should have been rendered at the point that the complaint was filed.

00;14;33;28 - 00;14;58;28

Unknown

If they believe that it wasn't a valid complaint, that's what the determination should have been. They did not do that. So in essence, the city, if they offer a different opinion today, will be contradicting themselves. And I would just add, I, I'm, I'm not familiar with any, notion of due process that says it only applies to one side.

00;14;59;01 - 00;15;33;25

Unknown

I believe due process is required for all parties in all matters. Okay. Can the city attorney please address Mister Myers concerns about due process? Should I grant you the ability to introduce your opinion? Yes. Thank you. I think where we are today is, is there's a bit of a chasm between what Mr. Comma appears to want and what the hearing process is, as was determined by the city clerk and to make a couple of corrections.

00;15;33;27 - 00;16;14;04

Unknown

The City Attorney's office did not render the decision of, complaint validity. The city clerk's office did that. Also, the city Attorney's office is the one specifically responsible for prosecution. It's supposed to be in a normal situation, and outside attorney not affiliated with the city. Admittedly, we are in a unique situation here. We're in a situation where the city court wanted a second legal interpretation of the city's view of the campaign finance law, and I think that that was made clear in his determination in saying that there could be a violation if Mr. Cormier's interpretation is correct.

00;16;14;06 - 00;16;36;10

Unknown

And that's why the city thinks it is important to let everybody know what is interpretation was or whether its interpretation is correct, were the words involved. And so I don't believe there's any due process violation to any parties here. Instead, there's one person, there's one entity that's wrapped around everything, and that's the city. And city clerk's office made this determination.

00;16;36;10 - 00;16;58;10

Unknown

The city attorney and the city council wrote the code with the assistance of the city attorney's office. And so I think it's paramount that the city is able to just briefly weigh in on where it believes there could be something in the law that isn't saying what it should be or something along those lines. And so if anything, it's just bringing the matter.

00;16;58;10 - 00;17;20;14

Unknown

It's fully fleshing the matter out to allow Your Honor to make a fully informed decision. And it's not saying that we are right. Our interpretation is correct. Mr.. Might put together his case today and show what the city did not legally and correctly interpret the law. We're not going to try to say anything other than that. I'm not going to present the facts today.

00;17;20;16 - 00;17;45;23

Unknown

I merely want to present an opinion, whether that's evidence. I'll leave that to your honor. But I consider evidence more of a factual nature. And then I have no intention to to testify to any facts as relate to what occurred to bring about this complaint. You indicated that the city clerk, opined as to the issues. And are you representing the city?

00;17;45;28 - 00;18;07;04

Unknown

The city clerk did not seek city attorney guidance in the. No, you're not opinion. I'm not. I'm not saying that at all. The city clerk's office always has the opportunity to weigh in the city attorney's office and to be clear and to put everything how they did on this instance. But the city attorney's office did not issue this determination.

00;18;07;06 - 00;18;15;27

Unknown

I understand.

00;18;15;29 - 00;18;19;17

Unknown

To the extent that.

00;18;19;19 - 00;19;01;19

Unknown

I came here under the direction and request to specifically for this hearing on two issues. The first issue I will read into the record is as was presented to me, was does Alan see section two that, 2.54.0 30B subsection one require the circulator of a referendum petition to register as an issue committee before circulating the petition, even as no contributes or expenditures in excess of \$200 are made in relation to such circulation.

00;19;01;22 - 00;19;22;11

Unknown

And the second issue is Does Alan C section 2.54. 030B, subsection one require circulators of a referendum petition to register as an issue committee at any time prior to a ballot issue or ballot question being determined?

00;19;22;14 - 00;20;03;11

Unknown

If we open this hearing, those are the two issues that we are going to be discussing. And it is my opinion that by allowing the city to introduce an opinion at this juncture, would not violate any due process. And to the extent that there is potential harm to any party, I believe the benefit of having another opinion in the record, which will receive no further weight than any other, opinions to be provided, will unduly bias any particular party.

00;20;03;13 - 00;20;17;05

Unknown

Therefore, I conclude that it would be appropriate to include the city's opinion in the record. All right.

00;20;17;07 - 00;20;20;09

Unknown

Thank you.

00;20;20;11 - 00;20;30;12

Unknown

With that said.

00;20;30;14 - 00;20;59;15

Unknown

I think I'd like to start with, you, in terms of presenting your case in point, can we first focus on the first issue? Does everyone have these issues before them? Your honor? Yes. So as the plaintiffs, I can't present, you're going to allow the and the petitioners to make their case before I have an opportunity to make it.

00;20;59;18 - 00;21;26;11

Unknown

It's okay. I will I will allow you to start, Mister Player. I, I appreciate that, but I want to clarify our our. Are you prepared to address the issues that I've outlined? And I would

like to address each of them separately. Absolutely. All right. So, maintaining the focus on the first issue, Mister COVID-19, please, present your your position.

00;21;26;14 - 00;22;01;21

Unknown

Thank you. What is before us is the campaign finance reform ordinance, which was 2024, 31, was adopted December 9th of 2024. This is the first protest, rather complaint. It has been filed for ballot question petition process under the new ordinance and the new requirements. And that's really important. So I've offered exhibit number one. Exhibit number one contains the red line version of the ordinance.

00;22;01;24 - 00;22;35;19

Unknown

So we can see exactly what city council did. City council. And you're going to see this in the video. This is the heart and soul. It you're going to see the discussion by the city council, where they insisted that there be changes to this ordinance, and they specifically debate it more than any other issue. These specific link debated the registration requirements that they wanted to have on petition circulators.

00;22;35;22 - 00;23;09;13

Unknown

Okay. So going directly to the question, page 11, exhibit one is where you find 2.54.030. But that section is entitled issue committees. And that's crucial because an issue committee is a defined term. Page six of exhibit one and Issue Committee includes committee's major purpose is to support or ballot issues. Ballot questions or any individual groups, any more than \$200.

00;23;09;15 - 00;23;41;00

Unknown

So it's a ballot issue. That's a defined term on page two. Those are things people vote on related to taxation. What's a ballot question? Also a defined term. It includes all citizen petitions other than ballot issues that are related to, to taxation. So we have defined terms. It's an issue committee, issue committee. Is anybody else circulating for either a ballot issue or a ballot question.

00;23;41;03 - 00;24;08;20

Unknown

And a ballot question? Is everything citizen petition other than one for taxation? So this effort by these individuals are without question governed by the defined terms in this particular ordinance. And then note on page 11, right below that and on to the top of page 12. What is it the City council said I'll have to provide? It's an incredibly short list.

00;24;08;22 - 00;24;34;09

Unknown

Their name, their registered agent address and phone affiliated committees, their main purpose and their bank account. That is, information that could fit on the small portion of

the page and could be handed in to the clerk at any point, including today. These petitioners are taking the packet. They're taking the position that they have no obligation to do so.

00;24;34;12 - 00;25;08;18

Unknown

This ordinance was meant to do one thing bring more transparency, and it is aimed at this particular circumstance because we are now aware, as you saw in the complaint, which I would add as, exhibit two, just so the record is complete, and let's also offer as exhibit three the clerk. But for a letter, these folks have raised money, spent money, opened office space, printed professional signs, set up websites.

00;25;08;18 - 00;25;28;08

Unknown

They're doing all kinds of different things to believe that what the city Council wanted to do was to exclude an issue committee working on a ballot question, as defined by the statute simply makes no sense. So.

00;25;28;10 - 00;25;58;07

Unknown

Let's look at where this confusion comes from. And that's why I'm particularly upset with what I think you're going to hear from the city. They're going to seize on a word, and that word they're going to seize on this initiative. All right. That's what this whole thing turns on. Here's what I think they're going to say is, oh, that's a mistake, that that word shouldn't be in there.

00;25;58;09 - 00;26;34;20

Unknown

And now that it's in there, it means everything. But the initiative is not defined in the campaign finance ordinance. That's the code we are operating under 2.54. It has defined terms. And in 2.25 four they make no distinction whatsoever between initiative and referendum circulators. It doesn't exist. It's not in the code. And you're going to see in the video that that was never an issue for the city council.

00;26;34;23 - 00;27;14;06

Unknown

Now I understand why this confusion arose, because there is a different ordinance. 2.52 now, 2.52 is not a campaign finance ordinance. It's an election law ordinance. And that election law ordinance for purposes of the state and constitutional provisions, needs to draw a distinction between initiatives and referendums. And in fact, the packet that is given to folks that want to circulate draws those distinctions and talks about process and whatnot.

00;27;14;08 - 00;27;48;07

Unknown

It doesn't speak to campaign finance because that is a separate ordinance, and that is by design, the city council, in adopting what is now an incredibly tough some might say harsh, some might say too tough, but that's not for us to decide. It is a tough campaign, trying for a finance ordinance that requires anyone circulating as an issue, committee circulating on a ballot question all defined terms.

00:27:48;09 - 00:28:21;27

Unknown

So therein lies the fundamental misunderstanding that gave rise to this. And you're going to hear, as we play the video in just a second how this was discussed. You're going to hear the city at time advising the council on what terms mean you're going to hear at the one hour, 28 minute, 34 second mark, the city attorney is going to use the term, and you're going to use it to refer to both ballot issues and ballot questions.

00:28:21;29 - 00:28:49;24

Unknown

What you will never hear is distinction drawn between initiative and referendum committees, because that's a different ordinance. They have made no changes to that separate ordinance. You're going to hear at the one hour, 17 minute, 45 second mark, the mayor will explicitly ask councilors, do you intend to require registration in circulation? You're going to hear the city manager say 11 to 0.

00:28:49;24 - 00:29:22;00

Unknown

Yeah. No discussion about exempting any issued committee, no discussion about drawing a distinction between initiative and referendum. And you're going to hear Councilor Stuart and and and getting back to the fundamental issue of how I hope you'll weigh the city opinion had I known, I would have, invited city councilors to come here and offer their opinion, which is far more, I think, persuasive than the city lawyers.

00:29:22;00 - 00:29:54;14

Unknown

A year later, they can tell you, and you're going to see them at the one hour, 19 minute mark. 40s. You'll hear Councilor Stuart suggest that the council and language to be one to explicitly require registration within ten days of circulation. And listen carefully. Councilor Stewart herself doesn't use the word initiative. Right. You hearing this from the city attorney late in the process, but you hear it referring to both ballot questions and ballot issues.

00:29:54;16 - 00:30:36;10

Unknown

So with that, I would ask for us to actually look at the discussion because what they were struggling with is the difference between B1 and B2. B1 is registration of circulators. B2 is when does a question have a title set by the state law? They were confused by this. They discussed it and they came to a conclusion. We want circulators

on this by a few committees, not issue committees with initiatives, not issue committees with referendums.

00;30;36;13 - 00;31;03;06

Unknown

Issue committees that are circulating for ballot issues and ballot questions, all defined terms in campaign finance. They wanted them registered. So with your permission, I would like that, to enter exhibit four, which is the video into the record. Okay. Let's first deal with exhibits one, two and three. Are there any objections to inclusion of exhibits one, two, and three into the record?

00;31;03;09 - 00;31;33;22

Unknown

No. And I don't object to, admitting exhibit four objected to us sitting here and watching. Okay. And on what basis do you make that objection? I object because the discussion of council would only be relevant to the extent that the plain language is ambiguous and the hearing officer hasn't made that determination. And if the hearing officer makes that termination, that the language is ambiguous and then wants to look to the record, the record will be admitted.

00;31;33;24 - 00;31;58;12

Unknown

But I don't see a purpose for us to sit here and watch it. You know, I mean, or my petitioners have not been able to set up a bank account or take contributions, and we've been brought in. They've had to have counsel come in. So, you know, somebody's paying for this. Right. And I don't think it's appropriate for us to sit here and watch a half an hour discussion or whatever.

00;31;58;15 - 00;32;40;28

Unknown

Mr. Kolkmeier. Well, I think the plain language is clear. I'm making two arguments. The first argument is I think it's clear we have to find terms. There are issue committees, issue committees that have circulators. For valid questions, define terms, have to register within ten days. The notion that something outside defined from a different statute would trump the plain language I don't think is a reasonable interpretation, but to the extent they don't find that persuasive, I think that the video is very persuasive.

00;32;41;00 - 00;33;11;21

Unknown

All right. Let me ask you a question. Then. The issue the first issue is whether the statute, 2.54.030 B1 requires the circulator of a referendum petition to register, and has an issue committed before circulating the petition, even if no contributions, etc., not before circulated within ten days of circulation is what the ordinances with which is before. Right now it would be after they started settling.

00;33;11;21 - 00;33;44;04

Unknown

Within ten days of starting to circulate, they had to register. Under this ordinance. So your position is the way that the issue is framed. Is, correct? I don't believe so. So the plain language says, right, you have to register within ten days of circulating. And the question that was referred to this hearing is who does that apply to?

00;33;44;06 - 00;34;22;20

Unknown

My argument is that it applies to all circulators of ballot questions that are issue committees. And I think those are I know those are defined terms. The petitioners are arguing that, no, there's a different concept which does not appear in this. It appears in a different code. They are saying that if you ignore the defined terms of the campaign finance and instead look at a different ordinance, that has to do with initiative and referendum, which is an election law ordinance.

00;34;22;23 - 00;34;55;07

Unknown

Borrow the term initiative and insert it into campaign finance. Then they don't have to. And the evidence, if that's their argument, the evidence from the video is that's not what was intended. There was no intention to draw the distinction between initiative and referendum for campaign finance. That is, under this ordinance. It's whether you are an issue committee circulating a ballot issue, a ballot question.

00;34;55;07 - 00;35;26;21

Unknown

There, all the fine terms. Okay. I'm going to go back to the issue is framed. I mean, we all agree that that was the issue. I understand that the statute uses the language within 10 to 10 calendar days, but the issue that I was asked to opine on was before, which is different than what the statutes are. So I read that under the record earlier, I and we all agree that that was the issue that we're here to discuss.

00;35;26;23 - 00;35;55;04

Unknown

Right. So I can as as a retained hearing officer, and we all agree that the issue that the first issue was not we're not here to discuss, but within ten calendar days, the issue is whether the statute requires the circulator of a referendum petition to register as issue committee, please, for circulating. That's the issue that we're here to discuss right now.

00;35;55;04 - 00;36;24;26

Unknown

There's another issue which we'll get to. But my I'm needing you, Mr. Clockmaker, to make your argument based on the issue that we're here to discuss. Your honor, I really don't know what. I'm not sure how to respond. I'm operating off of the ordinance, so the. I file a protest. The ordinance says I have to do three things right.

00;36;24;28 - 00;36;34;14

Unknown

I had to file it within a certain amount of time. I had the alleged violation, and I had to allege facts. I believe I've done that.

00;36;34;17 - 00;37;08;01

Unknown

Now, the question has been sent to you. Did I? Alleged violation? So the heart of that question is, do these people, have they committed a violation? I argue they have. And I argue with times on the plain language of the campaign finance ordinance. We cannot ignore the ordinance. And it is it is conceded and understood, at least by me, that the plain language of the ordinance is the plain language of the ordinance, and it is in the record.

00;37;08;04 - 00;37;41;20

Unknown

So that is not going to be ignored. It can't be ignored. But that's the plain language of the of the ordinance is not what we are here to discuss. The issue as framed is about is whether or not the circulator is required, to, register as an initiative committee before circulating. I understand that the language of the statute has different language, but we're here to discuss the legal issue of that.

00;37;41;23 - 00;38;08;21

Unknown

Okay. So. Well, my my question, I guess, Your Honor, would be what would your order be then? What are what are they asking for you to say? If you were to order that they did not have to register before circulating? I agree with that. Now where's my complaint? What is the status of my complaint then? I'm not here to opine on the status of your complaint.

00;38;08;21 - 00;38;27;29

Unknown

I'm here to opine and have a hearing on the issue as it's framed. So let me seek, in the participation from petitioner's counsel on the issue as framed.

00;38;28;02 - 00;38;57;08

Unknown

So, I mean, we're fine with the hearing officer addressing the issues as framed and, limiting their opinion to just that and not whether there was a violation of the code or anything else. Just what are these apply and in what way they apply. We are actually here to, contrary to what he is or yes, opined about our argument that he hasn't heard, we're not here to say that we don't think it applies.

00;38;57;10 - 00;39;27;03

Unknown

We're just here to say we were unable to register. Like we didn't have any way to do what he's saying he wanted us to do. We tried, we wanted to register, and it was

actually a hindrance to our committee to not register. So to the extent we're participating, we're not even quite sure why we're here. We want to just comply with whatever the law is, okay?

00;39;27;05 - 00;39;36;28

Unknown

With that, I our ask the city to introduce its opinion.

00;39;37;01 - 00;40;05;12

Unknown

Thank you. Thank you, Your Honor. Let's see, I'll keep it brief. The reason I want to introduce is that the city believes that there is an error in the law in chapter 2.54, and that essentially, both sides are right, that there should be registration of the petitioners, as, petitioners in the referendum, however, are simply not circulators.

00;40;05;12 - 00;40;26;03

Unknown

And the referendum petition acknowledges. However, the code states that there there's two different time frames here, one for the registration of, a valid question about issue. And then it goes on to say this is in 2.54 under will be one, which I don't have pulled up in front of me. So I'm going to memory if I can find the state and apologize.

00;40;26;10 - 00;40;58;22

Unknown

And so it determines the the registration of the ballot issue, ballot question, all the circulation. Initiative petitions. It makes no mention of referendum petitions. And based on that, we do not believe it was appropriate to prosecute. The petitioners in this matter because we believe there was an error in. We believe that it's when a petition group expands or receives \$200 is when it was supposed to trigger, not just merely because they're out there circulating petitions.

00;40;58;22 - 00;41;32;20

Unknown

This is a campaign finance code, after all. And then the city wants to put on the record that a revision of this code is coming as soon as possible. I can't determine right now where everything will land. But we will be looking at this code once again to make sure there is additional clarity. And again, just to point out that the city believes that there was an error in the law here.

00;41;32;22 - 00;42;02;12

Unknown

Okay. So your the city is not speaking to the legislative intent. I will try to keep my statement as limited as possible. I'm happy to answer any questions that hearing officer may have, but I would. I would prefer that the parties have the opportunity to object before I state anything. Mr. Clark, my, My understanding, you and you appear to be focusing on intent.

00:42:02;15 - 00:42:41;29

Unknown

The intent was, in your opinion, clear that registration was required. Just to be clear, the plain language, the defined terms require these individuals to register full stop. The city clerk and I believe the city attorney have mistakenly offered an opinion that we should ignore the defined terms in this statute and look to a different statute, because the word initiative is in there.

00:42:42;01 - 00:43:10;26

Unknown

And that's a big leap. I spent my career drafting statutes. I have never heard of a rule of statutory construction that says you ignore the defined terms in the ordinance and look to a different statute and take that undefined term and say that that prompted. They're saying there's a distinction between initiative and referendums, and there it is. It's just not in campaign finance.

00:43:10;28 - 00:43:39;22

Unknown

It's in a different law. Okay. May I ask counsel for petitioners to address Mr. Clerk Myers assertion that the language is clear that your your, client's violated the clear language of the statute. Yeah. So our position is that, that is not it is not the language is clear, but the language is clear that it only applies to initiatives and initiatives and referendum are very different things.

00:43:39;24 - 00:44:05;04

Unknown

And they're very different things because an initiative requires more signatures, it requires more signatures over a much longer period of time. Referendums are a very expedited process. They have to be submitted prior to the, ordinance going into effect. And so it's typically a 30 or 45 day turnaround that gets truncated by, obtaining a petition, approval.

00:44:05;04 - 00:44:24;06

Unknown

So first petitioners have to submit a petition approval, and then get that approval back from the city clerk before they can even circulate. So there's a 5 to 10 window that gets eaten up between the time that the ordinance passes and the time that they have to turn in the petitions. So they hit the ground running on a referendum and if you don't, you lose out.

00:44:24;12 - 00:44:47;27

Unknown

So it's much different than initiative, where the clock doesn't even start until you get your petition format approved. So initiative, you go to the clerk, you get your petition format approved. Then you probably have 180 or 90 or a lot of days to collect signatures and

clock starts upon approval. Not true. With referendum referendums, you have to get your petitions and prior to the ordinance going into effect.

00;44;47;29 - 00;45;10;08

Unknown

And so referendums require you still go to the clerk and get your petition approval format. You are not allowed to circulate a petition on any city, in the state or in the state without getting the petition approval format from the clerk. So the clerk sets the format, sets a description of the of what the voters are voting on, and then they take that petition out, they print it and they take it out.

00;45;10;11 - 00;45;32;20

Unknown

So you have the time taken to get the clerk, you have the time to do the printing, and then you're off collecting signatures. And all this happens in a very short period of time. So there is potentially a reason that it's treated differently, a referendum and an initiative, because you have people circulating and there's no ballot kind of question until they actually turn in their petitions.

00;45;32;20 - 00;46;04;02

Unknown

And at that point, then the city is the city council that either reconsiders it or sends it to the voters, so it might not ever reach the voters. So there would certainly be, a plausibility that there would be a reason to distinguish between this initiative and this referendum, because in fact, the city Council can reconsider the referendum, and then the voters really have no interest at all in knowing who was paying for anything behind the referendum process, because there's nothing that ever reaches the ballot.

00;46;04;05 - 00;46;23;22

Unknown

So because of the way the processes were set up, I think there is entirely a reason that you could ascribe to not including referendums within the campaign finance law. Now, whether that was their intention or not is a different question, and we have no problem with making a change to the code or whatever. The city attorney, representing.

00;46;23;25 - 00;46;46;03

Unknown

But at the time, my petitioners, as is stated in the referral to the hearing, officers tried to register and they were told, no, we don't we don't believe you have to register. So we went with that interpreter. There was nothing we could do about it. It says you must register on the form submitted by the city clerk so that to the extent that he wants to argue that we could have just brought in a piece of paper.

00;46;46;08 - 00;47;27;27

Unknown

No, you can't just bring in a piece of paper. You have to register according to this code online and pursuant to that code. And so that's why I brought these two cases, and I'm handing one to, petitioners. If I could approach. Yes, please. This is an unpublished opinion from the Court of Appeals and then the district court opinion that, so I know it's not binding, but I think it is persuasive of how the courts look at this issue, where here you had a situation in these cases where, the, committee could not register with the secretary of State because the system was not set up to take back dated, you

00;47;27;27 - 00;47;50;11

Unknown

know, registrations. The Secretary of state then instead accepted, basically a spreadsheet. So in that case, the court said that is substantial compliance with code. And they contacted Secretary of State and said, we can't report it to your system because it doesn't work correctly. And the Secretary of state said, well, you can submit a spreadsheet and we'll, we'll just take it that way.

00;47;50;13 - 00;48;06;08

Unknown

But that, you know, so, I mean, it's kind of analogous to what happened here, except here they said, we're not going to let you report at all. Like we're not going to let you bring even in that piece of paper. The code says you have to do it online. And the city clerk was saying you can't. So we're not necessarily in disagreement.

00;48;06;08 - 00;48;23;27

Unknown

Like I said at the beginning, we would love to register because then we can get a bank account and then we can start taking donations from all these wonderful people back here. But we can't do that because we can't register. And maybe that was also part of the city's, you know, that they didn't want to have people doing referendums, open big campaigns.

00;48;23;27 - 00;48;54;10

Unknown

I don't know, like whatever their reasoning was, a referendum is not in there. Plain language does not require us to register for campaign finance. If the city wants to fix that, we're happy to register. If the hearing officer wants to say we think you should register, we're happy to register, but someone needs to fix the programing in the system for us to do that.

00;48;54;12 - 00;49;25;04

Unknown

Mr. Meier, have you had a chance to read this case? Well, no, I have not. But just in response, I think that, I would agree with almost everything. Councils are set, except that she's talking about a different law. It's a different law. It's a different ordinance. And there are very significant reasons under the city code, with the city Council adopted to draw a distinction between initiatives and referendums, they just didn't do it this time.

00;49;25;04 - 00;49;56;01

Unknown

And as council just said, I don't know why they did this. Let's watch the video. The video makes clear what they were trying to do. So if council I think has argued that we don't know, then the best evidence of it is the council's actual, discussion, because this was the whole point. The whole point was making people register, even though it may never go on the ballot.

00;49;56;01 - 00;50;26;00

Unknown

It was a surrogate by council that there was no interest in the voters for disclosure. City Council disagreed, and they wrote an ordinance that required everybody to register within ten days of circulating. If you are circulating a ballot issue or ballot question, that's the plain language. It doesn't say we are drawing a distinction between initiatives and referendums, which are undefined terms in this code.

00;50;26;03 - 00;50;55;27

Unknown

Election law is an election law. Campaign finance is campaign finance. And I'll note is, as you were hearing, officer. No, they changed the definition of hearing officer in this code. They changed the definition to say that you had to have expertise in campaign finance. If you look at this ordinance, they changed all of the clerk's mails to showers.

00;50;55;29 - 00;51;26;11

Unknown

They changed all of the hearing officers made to shall you find the violation, you have to impose a penalty. There is no discretion here. This is a powerful ordinance. And here we are the very first time an issue comes up. And the explanation is, oh, a mistake has been made, you know. Oh, we think there's some confusion. This city council wanted to eliminate these loopholes.

00;51;26;14 - 00;51;48;27

Unknown

They wanted a strong and powerful ordinance that said, if you're out there sourcing money, if you're out there telling people what an initiative is, if you're collecting signatures, if you're out there doing yard signs, anything else, we want you to register that there is no way to leave this ordinance and come to the conclusion that they wanted less transparency.

00;51;49;00 - 00;52;08;26

Unknown

If you are involved in a referendum versus an initiative that is simply impossible to conclude if you watch this video and if you read the text of the ordinance, impossible to conclude. Can I respond? Please do.

00:52:08;28 - 00:52:36;04

Unknown

I mean, I think it's not impossible to conclude how this happened. And I will say that after many years of practicing election law, nothing is very clear. You know, these things, often get passed. Yeah, with a mistake. And every year the legislature goes back and cleans up the codes, the election code. There's there's an election playing a bill every single year in the legislature.

00:52:36;06 - 00:53:03;21

Unknown

And I think that's what happened here. I think the language is clear. And to the extent there's not a definition of initiative or referendum, then you refer back to the usual and ordinary meaning of those terms. And they have usual and ordinary meanings. They even have definitions in other parts of the code and in state statute, and in title 31, to the extent that's something that's not defined in 3111, I think it's 1 to 1.

00:53:03;23 - 00:53:29;13

Unknown

If it's not defined in city code, then, the statute statutes apply, certainly in title 3111, the terms initiative and referendum advantage. So if there is no definition here and we're going to say there's no definition, that doesn't mean we get to just insert whatever we think the definition is. It means we look elsewhere for definitions and the elsewhere we look as other parts of the code or in title 31.

00:53:29;15 - 00:54:00;05

Unknown

So I think that to the extent that the word referendum got left out, maybe that wasn't their intent. But the language is clear, the plain language is clear. And I think that's what the city attorney is here saying that, yes, the plain language is clear. We made a mistake and we're going to clean it up. That mistake, mistakes like that, due process, which again, only applies to those who are accused of something, by the government or by the prosecutor.

00:54:00;08 - 00:54:23;24

Unknown

Due process requires that, you know, the mistake goes to the accused, essentially. And so, to the extent that, you know, again, we try to comply, we want it to comply. But if a mistake was made, that mistake, can be cleaned up and fixed up, but we can't be prosecuted. Based on a mistake in language.

00:54:23;26 - 00:54:54;12

Unknown

That's not that will satisfy their due process. And they're actually, allowed to have due process. Thank you, Mr. Mayor. Am I hearing you correct in saying no? There is no mistake. I keep going back to intent. You seem to be certain that the city intended that referenda and initiatives be encompassed under the same umbrella. Yes. Okay.

00:54:54;12 - 00:55:24;21

Unknown

And in your video. Yeah, I'm a has the video has language stored where it evidences that that intent was manifested. Absolutely. That's why I'm presenting that evidence. And the evidence will demonstrate that they use terms that tied circulation registration to ballot questions and ballot issues. Correct. Is there a particular I can get us within three minutes of this section where this intent is manifested?

00:55:24;21 - 00:55:47;26

Unknown

You know, it's entirely up to you, your Honor, whether you want to limit evidence or not. I mean, to be clear, I'll watch the whole video because I need to understand the context. But you are representing, if I'm hearing you correctly, that there is intent manifested where this language reveals that, that your point. Okay. Are you saying it?

00:55:47;27 - 00:56:13;05

Unknown

That I don't even know that a three hour video. Is it a two hour visit in 20 minutes? I don't know what it is. It's 20 minutes and I have no objection to you simply watching it on your own. They appear to object to it being shown publicly. I have no objection. You watching it? If you're going to watch the video, it is about 20 minutes and you will hear that this issue on this complaint is what they were grappling with.

00:56:13;12 - 00:56:35;00

Unknown

They drew the distinction and I actually cited for you the minute markers, if you want me to give those to you again, I mean, go to the one hour and 28 minute when the city attorney uses the term initiative to reply to both ballot issues and ballot questions that I think is the most persuasive argument about what they were trying to do.

00:56:35;03 - 00:56:59;25

Unknown

But I have no objection. And I would support counsel suggestion that you simply watch the video on your own to save the public time. Except, counsel, we have no objection to it being admitted and we taking it under advisement. When you have issued your opinion, have have you yourself look the same as video? No, but to the extend, it is a recording of an official council meeting in.

00:56:59;27 - 00:57:21;24

Unknown

I guess I don't have any objection. What I'm pondering is I if you haven't seen it and I haven't seen it, we don't know if it represents what Mr. Commentary is saying. Represent. Right. But I trust the hearing officer to determine what you believe is relevant or not, and determine first whether you think there's a plain language problem.

00;57;21;24 - 00;57;49;13

Unknown

And then to the extent you do watch the video, I don't have any objection with them. Again, we don't we're not really concerned about how you rule. And, we're just concerned about getting our reports right. I understood I I'm seeing the need to address the language. And then the practical implication of what occurred as. And we're fine with that.

00;57;49;19 - 00;57;57;29

Unknown

Yeah. Important distinction.

00;57;58;02 - 00;58;20;28

Unknown

All right. Know you may be seated or remain here, I don't I, I no, no, no, I, I was just pondering whether or not I had a question for you. I'm sorry I didn't interrupt.

00;58;21;01 - 00;58;32;15

Unknown

So, city attorney, do you have a written submission of this opinion that you could submit into the record? Not at the moment.

00;58;32;18 - 00;58;40;20

Unknown

I think that would be helpful. Okay. When would you like that? By?

00;58;40;22 - 00;59;28;26

Unknown

I think I can make it clear that statement, if that would be. That would be helpful. And if I may address the video as well, which I know hasn't been reviewed, I do believe that Mr. Coleman is correct, that it shows the intent of the city to have the, circulators of both an initiative and referendum petition to register as an issue, committing within ten days of receiving or expending more than \$200 on the same, however, that there was a mistake in what was actually put into the code because it only references initiative petitions regarding the circulation of petitions, and it discusses ballot issues and ballot questions as to registration is required for

00;59;28;27 - 00;59;55;01

Unknown

issue committee when those are set, and it makes clear when those those are set. And that's when council either considers to, you know, the initiative or referendum petition just to put them on the ballot, which is not occurred here. And so the city's opinion that it is seeking to enter is that the error is in subsection 02.54030 v1.

00;59;55;03 - 01;00;17;06

Unknown

It registration it says subject to the provisions of this section, each issue of permitting shall be registered with the City Clerk within ten calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question or circulate initiative. Petition for signature.

01;00;17;08 - 01;00;29;04

Unknown

Which would say or circulate the initiative or referendum. Petition for signature to meet the intent of what the city wanted to pass.

01;00;29;06 - 01;00;32;12

Unknown

Okay.

01;00;32;14 - 01;00;43;00

Unknown

And again, that's why I'm here. Saying there was a mistake in was it was an error.

01;00;43;03 - 01;01;19;04

Unknown

Okay. I think we still need to admit into the record the, two opinions provided by petitioners counsel may be seated. Yes, please. Thank you. Sorry. Any objection to inclusion of those opinions in the record, Mr. Crocker? I have no objection. I just, I haven't had a chance to review them. But to the extent they are, what council provides them to, I don't have any objections.

01;01;19;06 - 01;01;22;11

Unknown

Okay.

01;01;22;13 - 01;01;50;10

Unknown

I would note, Your Honor, that, the the the argument that's been made is. It's not fair, right? That we tried to register. We agree we shouldn't have registered. I think they should have registered at the city Council. Thinks they should have registered. You just heard from the city attorney that the intent was for them to register. They're making an argument about whether it's fair that they didn't.

01;01;50;10 - 01;02;30;02

Unknown

And maybe that is relevant if this hearing was about sanctions and if they want to talk about sanctions, I'm prepared to talk about sanctions. But I didn't think that was the subject here. The subject is not whether they're being unduly punished or not. The question here is, what does this language say and what does this language mean? The combination of the way this campaign finance was crafted and the unique issues having

to do with campaign finance, bolstered by the clear statements of the people who actually voted on it.

01;02;30;05 - 01;02;58;29

Unknown

I think I would request that the ruling back to the city clerk is you made a mistake. You should have found that this is covered by the ordinance and that these folks should be allowed to register. Then we can go forward. But the delays are the thing the city council was so upset about. We don't know who's out there, we don't know what they're doing.

01;02;59;01 - 01;03;26;14

Unknown

And from the video, it will be abundantly clear that that's why they drafted this provision. That's why they added the language that's underlined. That's why they wanted a tough transparency. And just so we're clear, there's only one person who may be making money here. I am a citizen. I am a citizen who believes fiercely in transparency. And I am here to do that.

01;03;26;17 - 01;03;51;19

Unknown

These folks have an agenda and they are circulating petitions to support that agenda. But the voters don't know what's going on. And I know that City Council drafted this ordinance to bring sunshine to the process, and they're.

01;03;51;21 - 01;04;16;07

Unknown

Thank you. So I think what we heard today is that there is a mistake in language that doesn't mean that we are required to report. What that means is that the ordinance is currently written, doesn't cover referendums, and they were never required to report. And that was the opinion of the city clerk. That was admitted here in exhibit three, which is the notice of hearing.

01;04;16;10 - 01;04;40;01

Unknown

The city clerk said you're not required to report. And we went with that interpretation. What we heard today is that there is a mistake in law. And again, that doesn't change the plain language. The plain language did not include referendum and therefore did not include my, two proponents who are here today. They don't want to be here today.

01;04;40;03 - 01;05;05;04

Unknown

None of us wanted to be here today. We're not making money off this hearing. They're not making money off circulating their petition. It was clearly a volunteer effort. They have collected no outside contributions. These are these two proponents, because we've been unable to do so because they have no bank account. So I think to the extent

that we're being accused of running some kind of like, dark money campaign, that's just there's no evidence of that.

01;05;05;04 - 01;05;33;29

Unknown

There's nothing except just insinuation on the part of, the complainant over here. So I think that the law is clear, as it is currently written, and it will be rewritten and then it will be clear again, but that the intent does not override plain meaning. Plain meaning applies unless there is no plain meaning, and it's ambiguous, and only when there is an ambiguity do you look to the intent, of the legislative body.

01;05;33;29 - 01;06;05;14

Unknown

And here there's no ambiguity. Nobody has ever said there was ambiguity. And the city attorney has appeared today to say there's a mistake in law. That doesn't make it ambiguous that makes it a mistake. And that mistake can be fixed. But it can't be retroactively applied to my opponents. And so, we have done nothing except comply with the law and attempt to go over and beyond complying with the law by registering the committee and then not being able to do so.

01;06;05;16 - 01;06;09;05

Unknown

Mr. Cochran?

01;06;09;08 - 01;06;33;23

Unknown

I'm a little frustrated that the issue has been narrowed only for me as it relates to these other issues. Council is open the door. Do we want to talk about all of the other groups that are working and raising money? It sounded like council just made the argument that there's no evidence that they're involved in any sort of fundraising.

01;06;33;25 - 01;06;53;19

Unknown

I am prepared to talk about those issues that she has raised. Just to be fair, we're not going to talk about that. But, my recollection is it is year that open the door by indicating that there seemed to be some slightly nefarious activity or motivation. So we're not going to go there. But she didn't open the door.

01;06;53;19 - 01;07;17;00

Unknown

She was responding to comments that were made. But I think the record will reflect that. So we're not that we aren't going to go there. As it relates, I think I've received enough information from the parties as it relates to the first issue. The second issue, I think there's some overlap, but I didn't expect that we would treat them as separate issues.

01;07;17;03 - 01;07;42;08

Unknown

So Mr. Cole capire as it relates to the second issue that I was charged with, addressing. Well, I don't really you want to be helpful? If you could cite to me where in the referral letter that is. Yeah. I'm looking for now. I can. Yeah.

01;07;42;11 - 01;08;17;05

Unknown

The second issue is as follows. Does LMC section 2.54. 030B. Subsection one requires circulators of a referendum petition to register as an issue committee at any time prior to a ballot issue or ballot question being determined. You know, so again, this was the whole discussion before City council. You'll see in the video that that is clearly delineated.

01;08;17;07 - 01;08;41;12

Unknown

He one is about circulator. Registration D two is about when the city council under state law sets the title city Council made clear. I think of the plain language, and the and through the video presentation, what their intent was. If there is any ambiguity, they want those two things to be different. They want registration first pursuant to V1.

01;08;41;15 - 01;09;10;00

Unknown

And they understood that it was going to be, a subsequent determination, by city council when they formally set the title. So, again, that is something that I think will be apparent from exhibit for each the video. Yep.

01;09;10;03 - 01;09;40;14

Unknown

Thank you. And I do think they tie together. They do, because, v one is the one that would require presumably only an initiative to to register before and then B2, may, cover the referendum. I think, again, under the plain language as it exists now or not, referendum petitioners are not required to register prior to the ballot question being set.

01;09;40;16 - 01;10;04;02

Unknown

And I think there can be a purpose of subscribe to that, which I described earlier, which is that, you know, the referendum hits the ground running. It's a very fast process. And then it doesn't reach the voters unless, the council refers to the voters. That's when it's at the ballot title. So it could be the council reconsiders the whole matter, and it never reaches the voters.

01;10;04;02 - 01;10;24;14

Unknown

And there would be no informational interest in knowing what happens on something that isn't going to go before the voters. So I think from a First Amendment perspective, there's certainly, a reason that could be ascribed to doing that. And I think that's what

the plain language says. So I don't think that there was a registration requirement prior to the ballot title.

01;10;24;20 - 01;10;27;04

Unknown

So can.

01;10;27;06 - 01;11;00;06

Unknown

Mr. Clark there any other that I might. No, I, I, I think that I don't think there's really a disagreement on the plain language be one of the two. We're talking about two different things. And this complaint has been filed on B1, B2, may or may not happen. They've already filed, I think, three petitions. And that title setting process that's covered by B2, has not yet happened.

01;11;00;08 - 01;11;23;19

Unknown

You can't it's just a stretch to say that B2 would be one or the same thing, and that we ignore that difference. That difference is crucial. You know, they're trying to get registration and disclosure prior to title setting, title failing his B2, B1, his registration.

01;11;23;21 - 01;11;27;03

Unknown

Okay, okay.

01;11;27;05 - 01;11;54;07

Unknown

All right. I believe that I have, received all the information that I think I might need in order to render a decision as to the two issues that were, given to me to issue an opinion on. And, I will do so, with that, I am prepared to close the hearing unless there's any final statements from either party.

01;11;54;09 - 01;12;16;04

Unknown

No. Thank you. Just a final question. If the city attorney is going to offer some written, statement outside the hearing, I have a concern in the same way that I did when they surprised me this morning. I think that's fair. I was hoping that they had something in hand that could be distributed at this point in time.

01;12;16;06 - 01;12;27;18

Unknown

We're just going to have to rely on the oral representation that's in the record, which I will do. So I will not accept anything after the hearing closes.

01;12;27;21 - 01;12;42;04

Unknown

Thank you. All right. Thank you, Your Honor. I do have a public comment sheet, and we have some citizens that signed up. Oh, absolutely. Okay. So the first one is Natalie mentioned.

01;12;42;07 - 01;12;51;01

Unknown

I think you just signed up. Absolutely. And.

01;12;51;03 - 01;13;15;29

Unknown

I'm sorry you're asked that this this process has just been so unusual. What are we doing now? We're taking public comment and a hearing from non parties. It is a very unique hearing, I will grant you that. But I do not see any harm in allowing people to publicly comment. They are citizens, ostensibly of this community that came in to offer additional thoughts.

01;13;16;01 - 01;13;39;12

Unknown

It's are something you're going to regret and I hope you'll listen to the district court. How would the district court evaluate this thing? Laser individuals that would like to offer some commentary. I did not indicate that their commentary would influence my outcome. We already closed the hearing, so.

01;13;39;14 - 01;14;15;20

Unknown

Thank you, Your Honor. We have become a Ward two citizen of Lakewood. I am here to represent a lot of these people. The whole group of petitioners. We put our complete faith in the petitioners and their integrity, their honor to the citizens of Lakewood. And we all gathered petitions legally, none of us, none of us paid the moneys to these petitioners.

01;14;15;22 - 01;14;46;19

Unknown

And we get test to that. And I am appalled that this gentleman has bullied us into this hearing today. I want it to know to the point that I, in my opinion, Mr. Meyer, is our way through this process. And this has not been a ballot question and a ballot initiative. It isn't even on the ballot. We're trying to get in front of it.

01;14;46;21 - 01;15;13;27

Unknown

And when the city clerk says to them it is not appropriate for you to sign and formalize a community finance committee, we take her word for it. And that is coming from the city. So Mr. Miller, stop being a bully to the citizens of the Lakewood. Thank you.

01;15;14;00 - 01;15;18;24

Unknown

And of course.

01;15;18;26 - 01;15;24;29

Unknown

The hearing is closed. Would you mind if I. Oh, absolutely. Okay. Okay.

01;15;25;01 - 01;15;51;23

Unknown

Thank you. My name is management, and I'm here speaking on my own behalf. I am, involved with this case leading up to this point because, I do have experience in this city at the time the referendum passes, and they are very different creatures. So I'm glad the testimony during the hearing, but that I'm very clearly and this was brought to my attention because of my experience both at the state and the local level for each of those referendums.

01;15;51;25 - 01;16;24;10

Unknown

And when I looked at the city code, I did read it, as such that this covert investigative and that in my opinion, it actually did not require a committee. And it is a whole different argument for City Council to address that in a later council discussion. Reading it, that was not required then, my point being from that point, which would prevent the city clerk's office from actually accepting one, that's one question of requirement and one question of the voluntary.

01;16;24;13 - 01;16;55;07

Unknown

They tried both of those things, and I even at one point mentioned trying to convert a state small issue committee the making of multiple jurisdictions, because the the basis of this case, which has to do with zoning intensity, is something across the area. And maybe multi-jurisdictional committee would be better. They would do it also at that point. So as I, as a citizen with some experience in this code, I do not believe there was any error on the part.

01;16;55;10 - 01;17;11;19

Unknown

And when they went far and beyond, far and beyond, and they did need to try to do that, and there's nothing there's no wrongdoing, frankly, at the end of the day, that's my testimony. Thank you very much.

01;17;11;22 - 01;17;24;18

Unknown

Max Cameron. Okay.

01;17;24;20 - 01;17;45;22

Unknown

Thank you. Karen quarter, I live in Lakewood and I live in Ward five, and I was involved because at the time I was running for Lakewood City Council and I had access to the map light system, and kind of like that way I was like, well, I think it was maybe, but, maybe you can't create it because you don't have access.

01;17;45;24 - 01;18;23;16

Unknown

Because I had access to the actual, campaign finance finance system. I attempted to open a committee for them. However, an issues committee was not an option at the time. And so, again, I don't think there was any wrongdoing under part. So thank you. Thank you. Karen Morgan.

01;18;23;18 - 01;18;39;20

Unknown

Hi. Thank you. Karen Morgan work for. And I wasn't expecting the opportunity. So this is a public hearing, but since I can make public comment, I would like to address.

01;18;39;23 - 01;19;08;18

Unknown

The fact that I have run into issues so that people can know that this has come up before and we recognize these tactics that he has been bringing forward against members of the public. Repeatedly. I've run up against him locally and at the state. It is very hard for regular people to outgoing or a lawyer. Anyone who drafts legislation at the state level.

01;19;08;20 - 01;19;38;14

Unknown

There's a lot of work on the polls that anybody can go through, and he he does it very well. And and I admire him for his ability to be on his feet. But that does leave us in, a better state at this point, because I know Mr. Cook Meyer is almost smart about these issues. He does know the differences between advocating for a ballot issue and influencing a city council vote.

01;19;38;17 - 01;20;08;09

Unknown

And this zoning issue has been going on for months. So some of the issues that he's talking about that have been working to influence our city council, not for ballot, the city Council itself on how they're going to proceed with with things. So there was no distinction made in his complaint. And and I know he's smart enough to know those things, but they got all kind of confused.

01;20;08;09 - 01;20;17;19

Unknown

And they're,

01;20;17;21 - 01;20;51;20

Unknown

I also no, I guess I don't know. The other thing is where my understanding is Mr. Brockmire doesn't live and work with any longer, and I know anybody can be contributing to the finance case, but I'm not sure what home he has. And even if there was something wrong in legislation that I know, he has been instrumental in helping city Council them before, but I'm not sure what how he seemed to himself having a complaint anyway, so thank you.

01;20;51;22 - 01;20;54;23

Unknown

For.

01;20;54;25 - 01;21;11;05

Unknown

Randy Johnson, did you want to speak?

01;21;11;07 - 01;21;46;00

Unknown

Thank you, Your Honor, for conducting this meeting and knowing that you have I am here in support of the two petitioners. They were honorable and good people. And I can tell you categorically no one has received any money. Everybody that has been involved in this process, it has been a volunteer effort. They have accommodated everything that the city clerk asked them to do.

01;21;46;03 - 01;22;18;20

Unknown

Earlier, before you started the meeting, you mentioned Kathy Hudson and you also mentioned the city clerk. And I'm actually concerned that neither one of them decided to attend this meeting. The solution being here is 12. It is incredible to me that Mr. Coke, minor things that he can say what the intent of city Council is and go about their intent.

01;22;18;23 - 01;22;30;20

Unknown

If if our justice system was based on that, we wouldn't be a democracy and a constitutional republic.

01;22;30;23 - 01;22;53;17

Unknown

Also, I believe that we should have the address of Mr. Klein. It is incredible to me that he has standing on this issue to begin with, and I would like to know what his intentions are and his motivations.

01;22;53;19 - 01;23;26;17

Unknown

Kim stated that it was inappropriate. Was the word used for the action of all who circulated petitions. I find this extremely egregious. It is demeaning and that he would

put in with serious leaning on what we were doing. This is our First Amendment right under our Constitution to redress our government. If we believe that we would like to see something changed.

01;23;26;20 - 01;23;52;27

Unknown

Thank you for your time. You're welcome. Who came first? Thank you all for being here. It's always nice, particularly as a lawyer, to recognize that our citizenry is so excited enough to take the time to participate and attend hearings such as this. So I really do appreciate that. I was a bit surprised when I walked in. Otherwise, as I indicated, the hearing was closed.

01;23;52;29 - 01;24;06;28

Unknown

I will review the record and issue an opinion within the time allotted. Mr. cook, did you have something you wanted to say in response? Yeah, I do.

01;24;07;01 - 01;25;03;07

Unknown

Our ordinance requires ordinary citizens to raise these issues. I am here doing that. I can't imagine anybody else being willing to do that with a process that, ends with people that are not parties. Raising a citizen for bringing a complaint. They may disagree with the interpretation, but this is beyond the pale. What a citizen would try to defend an ordinance if they know that they're personally accused, and that that is allowed in what was supposed to be a public hearing of the parties.

01;25;03;10 - 01;25;19;04

Unknown

Thank you. Noted. Thank you for that.

01;25;19;06 - 01;25;24;19

Unknown

Although I.

01;25;24;22 - 01;25;24;26

Unknown

Have.

Z

EXHIBIT D

Chapter 2.54 CAMPAIGN AND POLITICAL FINANCE IN MUNICIPAL ELECTIONS

2.54.010 Declaration.

As a home rule City established under Article XX of the Colorado Constitution, the City of Lakewood and the Lakewood City Council find and declare that preserving openness and integrity in the political process is in the best interests of the health, safety and welfare of the citizens of Lakewood. It is therefore the intent of this Code to foster an open political process that emphasizes transparency and accountability to ensure candidates for municipal office that campaign donations do not result in corruption or the appearance of corruption. Further, in order to make informed decisions about the election-related materials they see, voters of the City of Lakewood need complete and timely reporting to the City Clerk by all persons and/or groups subject to disclosure responsibilities, as well as accurate disclaimers that inform voters who paid for the communications distributed.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2018-22 § 2, 2018; Ord. O-2013-22 § 1, 2013)

2.54.020 Definitions.

As used in this chapter, unless the context otherwise requires:

Ballot issue means a local government matter arising under Section 20 of Article X of the State Constitution, as defined in Sections 1-41-102(4) and 1-41-103(4) of the Colorado Revised Statutes.

Ballot question means a local government matter involving a citizen petition or referred measure, other than a ballot issue.

Candidate means any person who seeks nomination or election to any local public office that is to be voted on at any municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or thereafter has received a contribution or made an expenditure in support of their candidacy. A person remains a candidate for purposes of this Code so long as the candidate maintains a registered candidate committee. A person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle, is a candidate for purposes of this Code.

Candidate committee means a person and/or group, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the City Clerk.

Code means Chapter 2.54 of the Lakewood Municipal Code regarding Campaign Regulations and Political Finance in Municipal Elections.

Contribution means:

- (I) the payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made by any person or committee to any candidate committee, issue committee, political committee or small donor committee;
- (II) any payment made to a third party for the benefit of any candidate committee, issue committee, political committee or small donor committee;

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- (III) the fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee or small donor committee;
 - (IV) anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, election, retention, or recall or election.

The term "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

The term Contribution also includes:

- (I) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to any political organization;
- (II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or
- (III) The fair market value of any gift or loan of property made to any political organization.

The term "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee or small donor committee; a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments by a corporation or labor organization for the costs of establishing, administering and soliciting funds from its own employees or members for a political committee or small donor committee.

Coordination means one or more substantial discussions relating to the making of one or more expenditures at the request, suggestion, or direction of, or under the control of or in consultation with a candidate committee or its agent (including a consultant) acting on behalf of or with the consent of a candidate, where such expenditure relies on non-public information.

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 Code, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of the State of Colorado, and "nondomestic corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this Code, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable.

Donation means:

- (I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person and/or group for the purpose of making an independent expenditure;
- (II) Any payment made to a third party that relates to, and is made for the benefit of, any person and/or group that makes an independent expenditure;
- (III) The fair market value of any gift or loan of property that is given to any person and/or group for the purpose of making an independent expenditure; or
- (IV) Anything of value given, directly or indirectly, to any person and/or group for the purpose of making an independent expenditure.

"Donation" shall not include a transfer by a membership organization of a portion of a member's dues for an independent expenditure sponsored by such membership organization.

Earmark means a designation, instruction, or encumbrance that directs the transmission by the recipient of all or part of a donation to a third party for the purpose of making one or more independent expenditures of \$500.00 or more.

Election cycle has the same meaning as that set forth within Colorado Const. Art. XXVIII, Section 6.

Electioneering communication means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed, a website or other electronic communication transmitted by means of the internet, any signage placed in public view, or delivered by hand to personal residences or otherwise distributed that:

- (I) Unambiguously refers to any candidate without expressly advocating for that candidate; and
- (II) Is broadcast, printed, mailed, delivered or distributed during the timeframe in which a candidate is seeking election or an issue is pending decision before a municipal election.
- (III) No provisions of the definition of electioneering communication shall be construed to infringe on any rights granted by the United States Constitution or Colorado Constitution.

Expenditure means any purchase, payment, distribution, loan, advance, deposit, or gift of money by any person and/or group for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined. Expenditures may include reasonable expenses for child or adult dependent care to allow for active campaigning.

Foreign corporation means:

- (I) A parent corporation or the subsidiary of a parent corporation formed under the laws of a foreign country that is functionally equivalent to a domestic corporation;
- (II) A parent corporation or the subsidiary of a parent corporation in which one or more foreign person and/or groups hold a combined ownership interest that exceeds 50 percent;
- (III) A parent corporation or the subsidiary of a parent corporation in which one or more foreign person and/or groups hold a majority of the positions on the corporation's board of directors; or
- (IV) A parent corporation or the subsidiary of a parent corporation whose United States-based operations, or whose decision-making with respect to political activities, falls under the direction or control of a foreign entity, including the government of a foreign country.

Frivolous means a claim or defense is lacking any rational argument based in law but does not include a legitimate attempt to establish a new theory of law or a good-faith effort to extend, modify, or reverse existing interpretations of law.

Group means any entity, other than a natural person, including, but not limited to, partnership, committee, association, corporation, labor organization, lobbyist, or other organization or group of persons.

Independent expenditure means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate. Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditure, and expenditures by the candidate's committee.

Independent expenditure committee means one or more persons and/or groups that make an independent expenditure in an aggregate amount \$500.00 or more, or that collect \$500.00 or more from one or more persons and/or groups for the purpose of making an independent expenditure.

Independent Hearing Officer means an individual with an extensive knowledge of the topic of this Code who is retained by the City to hear and decide alleged violations of this Code. To encourage the expedition of hearings held pursuant to this Code, the City may retain more than a single hearing officer to create a list of hearing officers to draw from as needed or may contract with a law firm to provide an associated attorney to serve as a hearing officer when needed.

Issue committee means any person, other than a natural person, or any group of two or more persons, including natural persons:

- (I) That has a major purpose of supporting or opposing any ballot issue, or ballot question; and
- (II) That has accepted or made contributions or expenditures in excess of \$200.00 to support or oppose any ballot issue or ballot question.

The term "Issue committee" does not include political parties, political committees, small donor committees or candidate committees. An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

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 Code, "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), C.R.S. or a foreign corporation as defined in Section 1-45-103(10.5) C.R.S.

Media outlet means a publication or broadcast medium that transmits news, feature stories, entertainment, or other information to the public through various distribution channels, including, without limitation, newspapers; magazines; radio; the internet; and broadcast, cable, or satellite television.

Natural person means a human being.

Non-public information means confidential material in any form that is not available to the general public, including a non-public campaign plan, communications plan, campaign budget, specification of unmet and potentially unmet campaign needs, proposed or actual media buy, list or description of households or voters who will receive or have received materials under a mailing or other distribution program, polling or focus group results, or other proprietary material. "Nonpublic information," does not include communications dealing solely with candidate positions on legislative or policy issues or communications to or by an attorney, accountant, bookkeeper, or registered agent who provides services within the scope of their profession.

Obligating means, in connection with a named candidate, agreeing to spend \$500.00 more, for an independent expenditure or to give, pledge, loan, or purchase one or more goods, services, or other things of value that have a fair market value of \$500.00 or more, as an independent expenditure. "Obligating" shall not require that the total amount of \$500.00 or more be finally determined at the time of the agreement to spend moneys for an independent expenditure or to give, pledge, loan, or purchase anything of value.

Person means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

Political committee means any person and/or group, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200.00 to support or oppose the nomination or election of one or more candidates. "Political committee" does not include political parties, issue committees or candidate committees.

Political organization means a political organization defined in Section 527(e)(1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to Section 527 of the Internal Revenue Code.

"Political organization" shall not be construed to have the same meaning as "political organization" as defined in § 1-1-104(24), C.R.S. for purposes of the "Uniform Election Code of 1992", Articles 1 to 13 of this Title.

Political party means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. "Political party" includes affiliated party organizations at the state, county and election district levels, and all such affiliates are considered to be a single entity for the purposes of this Code.

Small donor committee means any political committee that has accepted contributions only from natural persons who each contributed no more than \$50.00 in the aggregate per year. For purposes of this Code, dues transferred by a membership organization to a small donor committee sponsored by such organization shall be treated as pro-rate contributions from individual members. "Small donor committee" does not include any entity that qualifies as a political party, political committee, issue committee, or candidate committee.

Spending means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything else of value by any political organization, a contract, promise, or agreement to expend funds made or entered into by any political organization, or any electioneering communication by any political organization.

Subsidiary means a business entity having more than half of its stock owned by another entity or person and/or group, or a business entity of which a majority interest is controlled by another person and/or group or entity.

Unexpended campaign contributions means the balance of funds on hand in any candidate committee at the end of an election cycle, less the amount of all unpaid monetary obligations incurred prior to the election in furtherance of such candidacy.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2013-22 § 1, 2013)

2.54.030 Candidates; Committees; Registration; Contribution Limits; Expenditures; Reporting.

A. *Candidates and Candidate Committees.*

- (1) *Affidavit of Candidacy.* Within ten days after an individual becomes a candidate and before circulating any petition, such individual shall certify, by affidavit filed with the City Clerk, that the candidate is familiar with the provisions of this Code. (See definition of candidate.)
- (2) *Candidate Committee Registration.* Except as otherwise provided in this Code, all candidate committees shall register with the City Clerk within ten days after accepting any contribution or making any expenditure. Registration shall include a statement listing:
 - (a) The committee's full name, spelling out any acronyms used therein;
 - (b) A natural person authorized to act as a registered agent or representative;
 - (c) A street address and telephone number for the principal place of operations;
 - (d) The purpose or nature of interest of the committee or party;
 - (e) The name of the financial institution where the committee has opened an account.
- (3) *Contribution Limits.* During an election cycle, a candidate committee may accept no more than \$400.00 from any natural person or political committee for candidates for City Council, and no more than \$800.00 from any natural person or political committee for candidates for Mayor. No candidate committee shall accept any contribution from any entity that is prohibited from contributing by this Code.
- (4) *Reports.*

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- (a) All candidate committees shall report to the City Clerk: their contributions received, including the name, address, and amount contributed of each contributor; expenditures made; and obligations entered into by the committee.
 - (b) In the case of contributions made to a candidate committee, the disclosure required by this section shall also include the occupation and employer of each person and/or group who has made contributions totaling \$100.00 or more to such committee.
- (5) *Reimbursement.* A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee.

Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

- (6) *Unexpended contributions—Candidate committees.* Unexpended campaign contributions to a candidate committee may be:
- (a) Contributed to a candidate committee established by the same candidate for a different public office, and only after the candidate committee for the original position that wishes to make such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;
 - (b) Donated to a charitable organization recognized by the internal revenue service;
 - (c) Returned to the contributors or retained by the committee for use by the candidate in a subsequent campaign;
 - (d) In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate nor shall the contributions be donated to another candidate or candidate committee. However, this provision shall not prohibit a candidate committee from donating contributions to a candidate committee for the same candidate for a different office;
 - (e) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (6), no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later;
 - (f) In addition to any use described in this subsection (6), a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:
 - (I) Voter registration;
 - (II) Political issue education, which includes obtaining information from or providing information to the electorate;
 - (III) Postsecondary educational scholarships;
 - (IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

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- (V) 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.
 - (g) Unexpended campaign contributions held by a candidate committee cannot be donated to another person's candidate committee for any office or any issue committee; and
 - (h) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions.
- (7) *Recall.* Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the City Clerk 60, 30 and seven days before the recall election and 30 days after the recall election.
- (8) *Disclaimer.*
- (a) A candidate committee making a communication that supports or opposes any candidate and that is broadcast by television or radio, printed in a newspaper or on a billboard, or printed yard sign, directly mailed, made available by means of the internet, or delivered by hand to personal residences, or otherwise distributed shall state, in the communication, that it is paid for by the candidate committee making the communication.
 - (b) The disclaimer required by subsection (a) of this section shall be printed on the communication clearly and legibly in a conspicuous manner.
 - (c) If the communication is broadcast on radio, the disclaimer shall be spoken at the beginning or end of the communication.
 - (d) (I) If the communication is broadcast on television, the disclaimer shall be written or spoken at the beginning or end of the communication. If the disclaimer is written, it shall appear for at least four seconds of any communication broadcast on television.
 - (II) The written disclaimer required by subparagraph (I) of this paragraph (d) shall appear in the communication in a conspicuous manner.
 - (e) As to communications transmitted by means of the internet, the disclaimer shall be clearly visible and placed on or adjacent to the communication.

B. *Issue Committees.*

- (1) *Registration.* Subject to the provisions of this section, each issue committee shall register with the City Clerk within ten calendar days of accepting or making contributions or expenditures in excess of \$200.00 to support or oppose any ballot issue or ballot question, or circulate initiative petition for signature. If required to register under the requirements of this subsection, the registration of the issue committee shall include a statement containing the items listed below:
- (a) The committee's full name, spelling out any acronyms used therein;
 - (b) A natural person authorized to act as a registered agent or representative;
 - (c) A street address and telephone number for the principal place of operations;
 - (d) All affiliated committees;
 - (e) The purpose or nature of interest of the committee or party;
 - (f) The name of the financial institution where the committee has opened an account.

(2) *Ballot Issue or Ballot Question Determined.*

- (a) Notwithstanding any other provision of law, and subject to the provisions of this section, a matter shall be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure, disclaimer, and reporting requirements of this Code:
 - (I) For a citizen-initiated petition, a title for the matter is set upon determination that the requisite number of signatures have been obtained and the petition has been determined to be sufficient;
 - (II) For a measure referred to voters by the City Council rather than by initiative petition, the Council has adopted an ordinance to refer such matter to the voters of Lakewood.
- (b) Notwithstanding the provisions of this subsection, where a matter concerns a municipal annexation brought pursuant to Article 12 of Title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this Code, unless and until the first notice of the annexation election has been published in accordance with the requirements of Section 31-12-112(6), C.R.S.

(3) *Recall.* Any issue committee whose purpose is the recall of any elected official shall register with the City Clerk within ten calendar days of accepting or making contributions or expenditures in excess of \$200.00 to support or oppose the recall. Reports of contributions and expenditures shall be filed with the City Clerk 60 days, 30 days and seven days before the recall election and 30 days following the recall election.

(4) *Disclaimer.*

- (a) An issue committee making an expenditure of \$200.00 or more on a communication that supports or opposes a ballot issue or ballot question and that is broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed, transmitted by means of the internet, or delivered by hand to personal residences, or posted by way of a yard sign, or otherwise distributed shall disclose, in the communication produced by the expenditure, the name of the issue committee making the expenditure.
 - (b) The disclaimer required by subsection (a) of this section shall be printed on the communication clearly and legibly in a conspicuous manner.
 - (c) If the communication is broadcast on radio, the disclaimer shall be spoken at the beginning or end of the communication.
 - (d) (I) If the communication is broadcast on television, the disclaimer shall be written or spoken at the beginning or end of the communication. If the disclaimer is written, it shall appear for at least four seconds of any communication broadcast on television.
 - (II) The written disclaimer required by subparagraph (I) of this paragraph (d) shall appear in the communication in a conspicuous manner.
 - (III) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.
 - (e) If the communication is transmitted by means of the internet, the disclaimer shall appear on or adjacent to the communication.
- (5) *Unexpended Contributions.* Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

C. *Small Donor Committees.*

- (1) *Registration.* Except as otherwise provided in this section, all small donor committees shall register with the City Clerk within ten days after accepting any contribution or making any expenditure. Registration shall include a statement listing:
 - (a) The organization's full name, spelling out any acronyms used therein;
 - (b) A natural person authorized to act as a registered agent or representative;
 - (c) A street address and telephone number for the principal place of operations;
 - (d) All affiliated candidates and committees;
 - (e) The purpose or nature of interest of the committee or party.
- (2) *Contribution limits.* During an election cycle, only natural persons may contribute to a small donor committee in an amount not more than \$50.00 to such small donor committee.
- (3) *Contributions to candidate committees.* During an election cycle, small donor committees may contribute up to \$1,600.00 to candidates for mayor and up to \$800.00 to candidates for city council.

D. *All Committees—Disclosures; Prohibited Contributions.*

- (1) *Disclosures.*
 - (a) All candidate committees shall report to the City Clerk; their contributions received, including the name; address; and amount contributed of each contributor; expenditures made; and obligations entered into by the committee. Beginning January 1, 2025, the cumulative total of all contributions from each individual contributor shall also be reported.
 - (b) *Contributions over \$100.00.* In the case of the aggregate contributions made to a political committee or issue committee during an election cycle, the disclosure required by this section shall also include the occupation and employer of each person and/or group who has made a contribution of \$100.00 or more to such committee.
- (2) *Prohibited Contributions.*
 - (a) During an election cycle, no committee may accept any contribution from:
 - (I) A political party;
 - (II) An entity formed under and subject to the laws of a foreign country;
 - (III) A natural person who is not a citizen of the United States;
 - (IV) A foreign government; or
 - (V) Any person and/or group otherwise prohibited by law from making the contribution.
 - (b) No committee may accept any contribution in currency or coin of more than \$100.00 from any contributor or fail to report each contributor of currency or coin, regardless of the amount of the contribution made in currency or coin.
 - (c) No candidate committee shall accept any contribution from any corporation or any labor organization.
 - (d) No candidate may accept any contribution without reporting the identity of the contributor. No candidate may solicit anonymous contributions including any solicitation commonly referred to as "pass the hat" or "fishbowl" solicitation. Website contributions may be accepted if the contributor is properly identified.

E. *Political Organizations.*

- (1) Any political organization shall report to the City Clerk in accordance with the requirements of this Code:
 - (a) Any contributions it receives, including the name and address of each person and/or group who has contributed more than \$20.00 or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of \$100.00 or more to the political organization; and
 - (b) Any spending by the political organization in any one reporting period.
- (2) During an election cycle, no political organization shall accept a contribution in currency or coin of more than \$100.00 from any contributor or fail to report the receipt of contributors of currency or coin.
- (3) Nothing in this section shall be construed to:
 - (a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee in a manner that satisfies the requirements of this Code; or
 - (b) Authorize the City Clerk to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of more than \$20.00 in a reporting period.

F. *Independent Expenditures/Independent Expenditure Committees.*

- (1) *Registration.*
 - (a) Any person and/or group that accepts a donation as an Independent Expenditure Committee that is given for the purpose of making an independent expenditure of \$500.00 or more or that makes an independent expenditure of \$500.00 or more shall register with the City Clerk within two business days of the date on which an aggregate amount of donations accepted or expenditures made reaches or exceeds \$500.00.
 - (b) The registration required by paragraph (a) of this subsection (1) shall include each of the items listed in Section 2.54.030(A)(2) and:
 - (I) Any individual acting as an Independent Expenditure Committee shall provide that person's full name, spelling out any acronyms used therein; and
 - (II) The aggregate ownership interest in the Independent Expenditure Committee held by foreign nationals or foreign corporations calculated as of the time the person and/or group registers as an Independent Expenditure Committee with the City Clerk under paragraph (a) of this subsection (1).
 - (c) If the person and/or group identified in subparagraph (I) of paragraph (b) of this subsection F(1) is a corporation, a subsidiary may register on behalf of its parent corporation or for other subsidiaries of the parent corporation, and the parent corporation may register on behalf of all of its subsidiaries. In each such case, the registered agent of the person and/or group registering shall serve as the registered agent for all such affiliated corporations. Registration of a subsidiary shall include the name of its parent corporation as well as any names under which the subsidiary does business.
 - (d) If the person and/or group identified in subparagraph (I) of paragraph (b) of this subsection F(1) is a labor organization, a local labor organization may register on behalf of any affiliated local, national, or international labor organization that will be making independent expenditures, and a

national or international labor organization may register on behalf of any affiliated local labor organization that will be making independent expenditures. In each such case, the registered agent of the labor organization that is registering shall serve as the registered agent for each affiliated local, national, or international labor organization.

(2) *Reporting.*

- (a) In addition to any other applicable disclosure requirements specified in this Code, any person and/or group making an independent expenditure in an aggregate amount of \$500.00 or more in any one calendar year shall report the following to the City Clerk:
 - (I) The person and/or group's full name, or, if the person and/or group is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;
 - (II) All names under which the person and/or group does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (a);
 - (III) The address of the home office of the person and/or group, or, if the person and/or group is a subsidiary of a parent corporation, the home office of the parent corporation; and
 - (IV) The name and street address in the state of its registered agent.
- (b) (I) Any person and/or group who expends an aggregate amount of \$500.00 or more per calendar year for the purpose of making an independent expenditure shall report to the City Clerk, in accordance with the requirements of this section, the name and address of any person and/or group that, for the purpose of making an independent expenditure, donates more than \$250.00 per year to the person and/or group expending \$500.00 or more on an independent expenditure.
- (II) If the person and/or group making the donation of \$250.00 or more is a natural person, the disclosure required by subparagraph (I) of this paragraph (b) shall also include the donor's occupation and employer.
- (III) If the person and/or group making the donation of \$250.00 or more is not a natural person, the disclosure required by this paragraph (b) shall also include:
 - (A) The donor's full name, or, if the donor is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;
 - (B) All names under which the donor does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (b);
 - (C) The address of the home office of the donor, or, if the donor is a subsidiary of a parent corporation, the home office of the parent corporation; and
 - (D) The name and street address in the state of the donor's registered agent.
- (c) The information required to be disclosed pursuant to paragraph (a) of this subsection (4) shall be reported in accordance with the schedule specified in this Code; except that any person and/or group making an independent expenditure of \$500.00 or more within 30 days before a municipal election shall provide such report within 48 hours after obligating moneys for the independent expenditure.

(3) *Disclaimer.*

- (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any communication that is broadcast, printed, mailed, delivered, posted, or

otherwise circulated that constitutes an independent expenditure for which the person and/or group making the independent expenditure expends of \$500.00 or more on the communication shall include in the communication a statement that:

- (I) A statement that the communication has been "paid for by (full name of the person and/or group paying for the communication)";
 - (II) A statement that that the communication is "Not authorized by any candidate"; and
 - (III) The name of a natural person who is the registered agent if the person and/or group identified in subparagraph (I) of this paragraph (a) is not a natural person.
- (b) In the case of a broadcast communication, the statement required by this section shall satisfy all applicable requirements promulgated by the Federal Communications Commission for size, duration, and placement.
 - (c) In the case of a non-broadcast communication, the City Clerk shall, by rule communicated and published by the City Clerk, establish size and placement requirements for the disclaimer.
 - (d) As to communications transmitted by means of the internet, the disclaimer shall be clearly visible and placed on or adjacent to the communication.
- (4) *Disclosure.* Any person and/or group, including a corporation that qualifies under Section 501(c)(4) of the Internal Revenue Code, that expends an aggregate amount of \$500.00 or more on an independent expenditure in any one calendar year shall deliver written notice to the City Clerk that shall list with specificity the name of the candidate whom the independent expenditure is intended to support or oppose. Where the independent expenditure is made within 30 days before an election, the notice required by subsection (3) shall be delivered within 48 hours after the person and/or group obligates moneys for the independent expenditure.
- (5) *Accounting.* Any person and/or group that accepts any donation that is given for the purpose of making an independent expenditure or expends any moneys on an independent expenditure in an aggregate amount more than \$20.00 in any one calendar year shall establish a separate account in a financial institution, and the title of the account shall indicate that it is used for such purposes. All such donations accepted by such person and/or group for the making of any such independent expenditures shall only be deposited into the account, and any moneys expended for the making of such independent expenditure shall only be withdrawn from the account. As long as the person and/or group uses a separate account for the purposes of this section, in any enforcement proceeding relating to the use of the person and/or group's account, no discovery may be made of information relating to the identity of the person and/or group's members and general donors and any discovery is limited to the sources, amounts, and uses of donations deposited into and expenditures withdrawn from the account.
- (6) *Donation.* Any person and/or group that expends moneys on an independent expenditure of \$500.00 or more, regardless of the medium of the communication produced by the expenditure, shall disclose to the City Clerk, in accordance with the schedule specified in in this Code, any donation given in that reporting period for the purpose of making an independent expenditure.
- (7) *Identification of CEO and Lobbyists.* Any person and/or group that donates \$1,000.00 or more to any person and/or group during any one calendar year for the purpose of making an independent expenditure shall, within 48 hours of making the donation, report to the City Clerk the names and addresses of:
- (a) The person and/or group's chief executive officer or, for entities that have do not have an official with that title, the person performing the largest number of duties of a chief executive officer;

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- (b) Any "professional lobbyist," as defined by C.R.S. 24-6-301(6), that has been paid by the person and/or group to communicate with one or more "covered officials," as defined by C.R.S. 24-6-301(1.7); and
 - (c) Any person and/or group paid to communicate with the Mayor or one or more City Council members concerning the passage, defeat, or amendment of City of Lakewood ordinances, resolutions, or rules.
- (8) *Source of Donation.* Any earmarked donation given for the purpose of making an independent expenditure of \$500.00 or more shall be disclosed as a donation from both the original source of the donation and the person and/or group transferring the donation.
 - (9) *Provisional Designation of FMV.* On reports it files with the City Clerk, an independent expenditure committee that obligates \$500.00 or more for an independent expenditure shall disclose a good faith estimate of the fair market value of the expenditure if the committee does not know the actual amount of the expenditure as of the date that a report is required to be filed with the City Clerk.
 - (10) *Labor Organizations.* Notwithstanding any other provision of this section, any requirement contained in this section that is applicable to a corporation shall also be applicable to a labor organization.

G. *Limited Liability Companies.*

(1) *Prohibition on Contributions.*

- (a) No limited liability company shall make any contribution to a candidate committee if one or more of the individual members of the limited liability company is:
 - (I) A natural person who is not a citizen of the United States;
 - (II) An entity formed under and subject to the laws of a foreign country;
 - (III) A foreign government; or
 - (IV) Otherwise prohibited by law from making the contribution.
- (b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:
 - (I) A natural person who is not a citizen of the United States;
 - (II) An entity formed under and subject to the laws of a foreign country;
 - (III) A foreign government; or
 - (IV) Otherwise prohibited by law from making the contribution.
- (c) Notwithstanding any other provision of this subsection (G), no limited liability company shall make any contribution to a candidate committee if the limited liability company has elected to be treated as a corporation by the Internal Revenue Service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the Internal Revenue Service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(2) *Disclosure.*

- (a) The disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

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- (b) Any limited liability company that is authorized to make a contribution and which does make a contribution of \$100.00 or more to a candidate committee shall, in writing, affirm to the candidate committee to which it has made a contribution that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (b) is provided before the contribution is deposited by the candidate committee. The candidate committee receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received. Any limited liability company that makes a contribution of less than \$100.00 shall not be required to identify the individual members of the limited liability company.
 - (c) Any limited liability company that contributes to a candidate committee shall attribute its contribution to its members by their percentage interests. No person and/or group who is a member of a limited liability company may exceed the contribution limits imposed by this Code. Contributions to candidate committees, exploratory committees, or political committees, whether contributed from a person and/or group's own funds or by the funds attributed to that person and/or group from a limited liability company, shall be aggregated for purposes of determining that person and/or group's compliance with the applicable contribution limits.

H. *Political committees.*

- (1) *Registration.* Except as otherwise provided in this section, all political committees shall register with the City Clerk within ten days after accepting any contribution or making any expenditure. Registration shall include a statement listing:
 - (a) The organization's full name, spelling out any acronyms used therein;
 - (b) A natural person authorized to act as a registered agent or representative;
 - (c) A street address and telephone number for the principal place of operations;
 - (d) All affiliated candidates and committees;
 - (e) The purpose or nature of interest of the committee or party.
- (2) *Contribution limits.* During an election cycle, a political committee may not accept contributions in excess of the limits imposed by Article XXVIII of the Constitution of Colorado under Section 3, Contribution Limits, subsection (1)(b), and as adjusted pursuant to subsection (13) of that same section.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2013-22 § 1, 2013)

2.54.040 Reporting Requirements—Where and When Filed.

- (A) (1) Except as otherwise provided in this Code, all reports that are required to be submitted shall be filed with the City Clerk pursuant to the following schedule:
 - (a) In the year of a regular municipal election, on April 15th, July 15th, September 15th, October 15th, the Wednesday immediately preceding Election Day, and 30 days after the regular municipal election.
 - (b) In addition, such reports must be filed annually, in years other than regular municipal election years, on the first day of the month in which the anniversary of the regular municipal election occurs.

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- (c) For incumbent members of city council not up for re-election in a regular municipal election year, such reports may be filed annually on the first day of the month in which the anniversary of the regular municipal election occurs.
 - (d) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.
 - (e) The reports required by this section shall also include:
 - (I) the balance of funds at the beginning of the reporting period;
 - (II) the total of contributions received during the reporting period;
 - (III) the total of expenditures made during the reporting period;
 - (IV) the total of all loans, loan repayments and loan forgiveness in the reporting period);
 - (V) the name and address of the financial institution used by the committee; and
 - (VI) the total cumulative amount from all reports for (II), (III), and (IV).
 - (f) The reports required by this section shall be filed regardless of whether the candidate committee received any contributions or made any expenditures during the reporting period. A candidate committee for a former officeholder or a person and/or group not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and enters into no obligations during a reporting period shall nevertheless be required to file a report under this section for such period.
 - (g) All reports shall be filed with the City Clerk.
 - (h) The reporting period for all reports required to be filed with the City Clerk shall close three calendar days prior to the mandated date of filing.
 - (i) After a proposed ballot question or proposed ballot issue becomes an "issue" under Section 2.54.030(B)(2)(a), issue committees shall file reports on the 90th, 60th, 30th, and 7th days before such election, as well as 30 days after such election.
 - (j) Where a special election has been scheduled, reports by committees or person and/or groups who contribute, expend, or spend moneys that are reportable must file their reports on the 60th, 30th, and 7th day before such election, as well as 30 days after such election.
- (2) Reserved.
 - (3) All committees involved in supporting or opposing a position in a recall election, including candidate, issue and political committees, or advocating the recall of any incumbent, shall file reports of contributions and expenditures with the City Clerk 90, 60, 30, and seven days before the recall election and 30 days after the recall election.
 - (4) For the purpose of meeting the filing and reporting requirements of this Code, candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates, as well as any independent expenditure committees that expressly advocate and any person and/or groups making electioneering communications that unambiguously refer to such candidates, shall file with the City Clerk.
 - (5) (a) The City Clerk shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this Code to be filed with the City Clerk's Office. The City Clerk may require any filing under this section to be made by electronic means as determined by the City Clerk. The rules for use of the electronic filing system shall be promulgated by the City Clerk. The City Clerk

shall make all filings required by this section publicly available on the City Clerk's website no later than the close of business on the third business day after the filing was received.

- (b) Any person and/or group required to file with the City Clerk's Office shall use the electronic filing system described in paragraph (a) of this subsection (5) in order to meet the filing requirements of this Code, if so required by the Clerk in accordance with paragraph (a) of this subsection (5), except insofar as an alternate method of filing may be permitted by the City Clerk. Where a person and/or group uses such electronic filing system to meet the filing requirements of this Code, the City Clerk shall acknowledge by electronic means the receipt of such filing.
- (6) Subsection (1) of this section shall not be construed to require the City Clerk to review electronically filed reports.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2019-24 § 4, 2019; Ord. O-2013-22 § 1, 2013)

2.54.050 Duties of the City Clerk—Recordkeeping—Enforcement—Sanctions.

A. *Forms—Rules—Recordkeeping.* The City Clerk shall:

- (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this Code and make such forms and instructions available to the public free of charge, and provide training sufficient to acquaint candidates and the public with all provisions of this Code;
- (2) Promulgate such rules as may be necessary to enforce and administer any provision of this Code;
- (3) Maintain a filing and indexing system consistent with the purposes of this Code;
- (4) Make the reports, complaints, and statements filed with the City Clerk's Office available immediately for public inspection and copying. The City Clerk may charge a reasonable fee for providing copies of reports. The City Clerk shall make all reports, complaints, and statements required by this section publicly available on the City Clerk's website no later than the close of business on the day after the filing was received. No information copied from such reports shall be sold or used by any person and/or group for the purpose of soliciting contributions or for any commercial purpose;
- (5) Keep a copy of any report or statement required to be filed by this Code for the period set forth in the city's records retention policy; and
- (6) Notify any person and/or group under their jurisdiction who has failed to fully comply with the provisions of this Code and notify any person and/or group if a complaint has been filed with the City Clerk alleging a violation of this Code. The Clerk shall notify, within three business days, of the person's or group's failure to complete the mandatory filing documents.

B. *Enforcement.*

- (1) Any person and/or group who believes that a violation of this Code has occurred may file a written complaint with the City Clerk no later than 120 days after the date of filing of the report containing the alleged violation. The City Clerk shall, within 24 hours, notify the person or group who/which is the subject of the allegation that a complaint alleging a violation of this section has been filed. The City Clerk shall also determine within three business days of the filing of the complaint whether or not the complaint is valid. A complaint is valid if it:
 - (a) Was timely filed under this code;
 - (b) Specifically identifies one or more violations of this code; and
 - (c) Alleges/contains sufficient facts to support a factual and legal basis for the finding of violations of law as alleged.

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- (2) Within the same three business day period the City Clerk shall notify the parties of the Clerk's determination and post a copy of the City Clerk's decision on the City Clerk's website. The City Clerk's decision shall be based on the complaint and any additional inquiry made by the City Clerk of identified interested parties, and whether the complaint meets the above stated qualifications. The City Clerk shall dismiss a complaint that doesn't meet the stated requirements of this section and shall notify the parties. Where a complaint is deemed to meet the requirements of this section the City Clerk shall so notify the parties. Additionally, the following provisions shall be applied to any complaint deemed to meet the requirements of this section.
- (a) When a person and/or group can cure its non-compliance due to an inadequate report or a failure to file a required report or item thereon, the City Clerk shall accept an amended report or reports within three business days of notifying the parties that the complaint is valid.
 - (b) Unless any non-compliance is dismissed, is cured as provided herein, or results in penalties imposed by the City Clerk as provided herein, the City Clerk shall refer a complaint to an independent hearing officer within three days of the City Clerk's determination. Within five business days of determining that the complaint is valid the City Clerk shall announce a date for a hearing. The Clerk shall prioritize holding such hearing within 30 days from the date that non-compliance is found, but such hearing date may be later due to the scheduling of the hearing officer, witnesses, and other interested parties. Any party shall be granted an extension of up to 15 days upon motion, or longer upon a showing of good cause. The City Attorney shall engage an attorney not employed by the City who is experienced in campaign finance law to represent the City in prosecuting any valid complaint referred to a hearing officer and that attorney shall present the case to the hearing officer and be allowed to present evidence, including witnesses, in support of the claims. The person against whom the complaint was filed shall be allowed to rebut the claims in the complaint and present evidence, including witnesses, in support thereof.
 - (c) The hearing officer shall render a decision within 15 days after the hearing. If the hearing officer determines that a violation has occurred, the decision shall include any appropriate order, sanction or relief authorized by this Code. The decision of the hearing officer shall be final, subject to review by the district court. The hearing officer is not a necessary party to the review. When final, the decision shall be enforced by the City Clerk. The failure of a hearing officer to render a decision within 15 days will result in the City Attorney's Office contacting the hearing officer and requesting a decision within five days. Failure to render a decision within 30 days following the conclusion of a hearing shall make such hearing officer ineligible to serve as a hearing officer for the City for two years.
 - (d) The hearing officer shall impose a fine in accordance with this Code. Where the hearing officer is given discretion to determine the appropriate fine amount such determination shall be made based upon the facts, evidence and any documents upon which the hearing officer relied in making the determination of the matter. Additionally, the hearing officer shall invite both parties to submit written arguments in support of the imposition of a specific fine amount.
- (3) Both the City Clerk, and a hearing officer are authorized to issue subpoenas.
- (4) The hearing officer shall not accept as a defense to any alleged violation that the violation was unintentional or that the alleged violator was unaware of the requirements of this code.

C. *Sanctions.*

- (1) Any person and/or group who violates any provision of this Code by making prohibited contributions to any committee shall be subject to a civil penalty of two times the amount contributed, received, or spent in violation of the applicable provision. Any candidate committee that accepts prohibited contributions shall be subject to a civil penalty in the amount of two times the amount contributed. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

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- (2) (a) Any committee that fails to file required reports or any required disclosure on such reports shall be subject to penalties imposed by this Code:
- \$10.00 per day for the first through the fifth day the information is late;
 - \$25.00 per day from the sixth day to the tenth day the information is late;
 - \$50.00 per day for eleventh through the date the required report is filed.
- (b) The City Clerk must provide notice, via email at an email address provided by the candidate or committee, of any failure to file required reports, or file complete reports, after the due date.
- (c) All fines imposed for violation of this Code shall be published on the City Clerk's website from the date of imposition until 30 days following the date upon which the fine was paid.
- (2.1) (a) As to all person and/or groups and committees other than candidate committees, a hearing officer shall impose the following penalties, in conformance with L.M.C. 2.54.050(B)(2)(d) regarding hearing officer authority to impose fines, if it is established that a disclaimer required to be used pursuant to this Code did not materially comply with the requirements of this Code:
- Up to \$1,000.00 for communications received more than 75 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication;
 - Up to \$2,500.00 for communications received more than 30 but less than 75 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication;
 - Up to \$5,000.00 for communications received up to 30 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication.
- (b) The following penalties shall be imposed on candidate committees if it is established that a disclaimer required to be used pursuant to this Code was not included on the communication distributed or did not materially comply with the requirements of this Code:
- \$100.00 for communications received more than 75 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication;
 - \$250.00 for communications received more than 30 but less than 75 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication;
 - \$500.00 for communications received up to 30 days prior to the next regular municipal election by natural persons who are qualified to vote for the office(s) referred to in the communication.
- (2.2) *Scope of Violation.* The intent of the concept of "violation" as used in this code is to recognize that a singular act, such as misprinting yard signs, shall be prosecuted as a single violation rather than counting each misprinted sign (or other item) as individual violations of this Code.
- (2.3) For all other violations of this code where a penalty is not specified, the penalty shall be \$250.00 per violation.
- (3) Upon imposition of a penalty pursuant to this subsection, the City Clerk shall send the person and/or group upon whom the penalty is being imposed proper notification by certified mail of the imposition of the penalty. If an electronic mail address is on file with the City Clerk, the City Clerk shall also provide such notification by electronic mail.

-
- (4) Any person and/or group required to file a report with the City Clerk or required to include a disclaimer on a candidate communication regulated by this Code and upon whom a penalty has been imposed pursuant to this section may appeal such penalty by filing a written appeal with the City Clerk no later than 30 days after the date on which notification of the imposition of the penalty was mailed to such person and/or group's last known address. Except as provided herein, the City Clerk shall refer the appeal to the hearing officer. Any hearing conducted by a hearing officer shall be conducted in accordance with any standardized procedures promulgated by the City Clerk pursuant to this Code. The hearing officer shall set aside or reduce the penalty upon a showing of good cause, and the person and/or group filing the appeal shall bear the burden of proof. The decision of the hearing officer shall be final and subject to review by the district court. If the hearing officer finds that the filing of an appeal brought pursuant to this section was frivolous, the hearing officer shall order the person and/or group filing the appeal to pay reasonable attorney fees and costs of the City Clerk in connection with such proceeding.
 - (5) In connection with any complaint brought to enforce any requirement of this Code, including a complaint initiated by the City Clerk, the hearing officer shall order disclosure of the source and amount of any undisclosed donations, spending, contributions, or expenditures.
 - (6) In any action brought to enforce any provision of this Code, the membership lists of a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.
 - (7) The City Clerk may reject any report if it is incomplete. The applicant shall have ten days from the date the City Clerk provides notice of the deficiency to amend the report to cure any such deficiency.
 - (8) Any unpaid debt owed to the City resulting from a penalty imposed pursuant to this Chapter 2.54, shall be collected by the City of Lakewood through such remedies as the City of Lakewood may initiate. If the City of Lakewood pursues such remedies, it shall be entitled to recover its costs incurred.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2013-22 § 1, 2013)

2.54.060 City Limitations on Contributions.

- A. (1) No agency, department, board, division, bureau, commission, or council of the City of Lakewood shall make any contribution in campaigns involving the nomination, retention, or election of any person and/or group to any public office, nor shall any such entity make any donation to any other person and/or group for the purpose of making an independent expenditure, nor shall any such entity expend any moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:
- (a) Statewide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to Section 1-40-106(1), C.R.S., or that has had a title designated and fixed pursuant to that section;
 - (b) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to Section 31-11-111, C.R.S., or that has had a title fixed pursuant to that section;
 - (c) Referred measure, as defined in Section 1-1-104(34.5), C.R.S.;
 - (d) Measure for the recall of any officer that has been certified by the appropriate election official for submission to the electors for their approval or rejection.
- (2) Nothing in this section shall be construed as prohibiting:
- (a) A member or employee of any such agency, department, board, division, bureau, commission, or council of the City of Lakewood from responding to questions about any such issue described in

subparagraph (I) of this paragraph (a) if the member, employee, or public entity has not solicited the question.

(b) (I) An agency, department, board, division, bureau, commission, or council of the City of Lakewood 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 jurisdiction. 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 that will appear on an election ballot in the jurisdiction.

(II) An elected official from expressing a personal opinion on any issue.

(III) An agency, department, board, division, bureau, commission, or council of the City of Lakewood:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1);

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the City of Lakewood is regularly provided to the public; or

(C) A member or an employee of an agency, department, board, division, bureau, commission, or council of the City of Lakewood from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (I) of paragraph (a) of this subsection (1).

B. The provisions of subsection (1) of this section shall not apply to:

(1) An official residence furnished or paid for by the City of Lakewood;

(2) Security officers who are required to accompany a candidate or the candidate's family;

(3) Publicly owned motor vehicles provided for the use of the chief executive of the City of Lakewood;

(4) Publicly owned aircraft provided for the use of the chief executive of the City of Lakewood or the executive's family for security purposes; except that, if such use is, in whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

C. A member or employee of any such agency, department, board, division, bureau, commission, or council of the City of Lakewood who has policy-making responsibilities may not expend public moneys expressing an opinion on any such issue described in subparagraph (I) of this paragraph.

D. If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after such expenditure, files with the City Clerk such information as the City Clerk may, by rule communicated and published by the City Clerk, require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the City Clerk. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the City of Lakewood for the amount of money spent on campaign expenses.

E. Any violation of this section shall be subject to any appropriate order or relief, including an order directing the person and/or group making a contribution or expenditure in violation of this section to reimburse the

fund of the City of Lakewood from which such moneys were diverted for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin the continuance of the violation.

F. Failure to comply with any provision of this Code shall have no effect on the validity of any election.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2019-24 § 4, 2019; Ord. O-2013-22 § 1, 2013)

2.54.070 Electioneering Communications.

- (1) Any person and/or group, including a corporation that qualifies under section 501(c)(4) of the Internal Revenue Code, that expends \$500.00 or more per calendar year on electioneering communications shall report to the City Clerk, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person and/or group that contributes more than \$250.00 per year to the person and/or group expending \$500.00 or more on the communications. If the person and/or group making a contribution of more than \$250.00 is a natural person, the disclosure required by this section shall also include the person's occupation and employer.
- (2) Any person and/or group, including a corporation that qualifies under Section 501(c)(4) of the Internal Revenue Code, that contributes \$500.00 or more during any one calendar year for the purpose of making an electioneering communication shall, within 48 hours of making the donation, report to the City Clerk the names and addresses of:
 - (a) The person and/or group's chief executive officer or, for entities that have do not have an official with that title, the person performing the largest number of duties of a chief executive officer;
 - (b) Any "professional lobbyist," as defined by C.R.S. 24-6-301(6), that has been paid by the person and/or group to communicate with one or more "covered officials," as defined by C.R.S. 24-6-301(1.7); and
 - (c) Any person and/or group paid to communicate with the Mayor or one or more City Council members concerning the passage, defeat, or amendment of City of Lakewood ordinances, resolutions, or rules.
- (3) Disclaimer.
 - (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any electioneering communication on which the person and/or group responsible for the communication expends \$500.00 or more shall include in the communication a statement that:
 - (I) The communication has been "paid for by (full name of the person and/or group paying for the communication)";
 - (II) The communication is "Not authorized by any candidate"; and
 - (III) The name of a natural person who is the registered agent if the person and/or group identified in subparagraph (I) of this paragraph (a) is not a natural person.
 - (b) In the case of a broadcast communication, the statement required by this section shall satisfy all applicable requirements promulgated by the Federal Communications Commission for size, duration, and placement.
 - (c) In the case of a non-broadcast communication, the City Clerk shall, by rule communicated and published by the City Clerk, establish size and placement requirements for the disclaimer.
 - (d) As to communications transmitted by means of the internet, the disclaimer shall be clearly visible and placed on or adjacent to the communication.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2013-22 § 1, 2013)

2.54.080 Miscellaneous Provisions.

- A. *Media outlets—Political records.* Any media outlet that is subject to the provisions of 47 U.S.C. § 315(e) shall maintain and make available for public inspection such records as the outlet is required to maintain to comply with federal law or rules.
- B. *Immunity from liability.*
- (1) Any individual volunteering their time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to this Code in any proceeding that is based on an act or omission of such volunteer if:
 - (a) 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
 - (b) The violation was not caused by willful and intentional misconduct by such volunteer.
 - (2) Any media outlet shall be immune from civil liability in any court where the media outlet:
 - (a) Withdraws advertising time reserved by an independent expenditure committee that fails to register in accordance with the requirements of Section 2.54.030(F); or
 - (b) Elects to void an advertising contract and the advertisement:
 - (I) Is paid for by an independent expenditure committee that fails to register under this Code;
 - (II) Is paid for by an independent expenditure committee that is registered under Section 2.54.030 but the committee fails to file a required disclosure report through the date of the most recent required report; or
 - (III) If the independent expenditure committee otherwise fails to satisfy any requirements of this Code.
 - (3) An affected media outlet may void a contract that implicates paragraph (b) of subsection (2) of this section in the sole discretion of the media outlet.
- C. *Expenditures—Political advertising—Rates and charges.*
- (1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.
 - (2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate.
 - (3) Nothing in this Code shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.
- D. *Encouraging Withdrawal from Campaign Prohibited.* No person and/or group shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

(Ord. O-2024-31 § 1, 2024; Ord. O-2023-7 § 1, 2023; Ord. O-2019-24 § 4, 2019; Ord. O-2013-22 § 1, 2013)

EXHIBIT E

20CA1655 Campaign Integrity v Colorado Pioneer 02-10-2022

COLORADO COURT OF APPEALS

DATE FILED

February 10, 2022

CASE NUMBER: 2020CA1655

Court of Appeals No. 20CA1655

City and County of Denver District Court No. 17CV32906

Honorable Martin F. Egelhoff, Judge

Campaign Integrity Watchdog LLC (CIW),

Plaintiff-Appellant,

v.

Colorado Pioneer Action (CPA),

Defendant-Appellee.

ORDER AFFIRMED

Division VI

Opinion by JUDGE HARRIS

Navarro and Freyre, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Announced February 10, 2022

Matthew Arnold, Authorized Representative, Denver, Colorado, of Campaign Integrity Watchdog, LLC

Maven Law Group, Suzanne Taheri, Denver, Colorado, for Defendant-Appellee

¶ 1 Plaintiff, Campaign Integrity Watchdog LLC (CIW), appeals the district court's order denying its motion to reopen an enforcement action against defendant, Colorado Pioneer Action (CPA), for failure to comply with various campaign finance rules. We affirm.

I. Background

¶ 2 In 2015, CPA registered as a nonprofit organization under § 501(c)(4) of the Internal Revenue Code, which provides tax-exempt status to nonprofit organizations established for the promotion of social welfare. CPA was actively involved in the 2016 primary and general elections.

¶ 3 In the fall of 2016, CIW filed a complaint with the Secretary of State (Secretary) pursuant to section 1-45-111.5(1.5)(a), C.R.S. 2021, asserting that CPA was a political committee, and, as such, it was subject to campaign finance rules requiring political committees to register with the Secretary and to report contributions and expenditures.

¶ 4 The Secretary referred the complaint to the Office of Administrative Courts, where it was assigned to an administrative law judge (ALJ). After a hearing, the ALJ issued a detailed written order, in which he agreed that CPA was a political committee as of

January 2016. The ALJ ordered CPA to register as a political committee with the Secretary; report its contributions received, expenditures made, and obligations entered into; identify spending on electioneering communications; and pay a penalty of \$17,735.

¶ 5 Several months later, CIW filed an action in district court to enforce the ALJ's order. The district court stayed the enforcement action pending CPA's appeal of the order to this court. In May 2019, a division of this court affirmed the ALJ's order and remanded the case to the ALJ to award CIW its appellate costs. *See Campaign Integrity Watchdog LLC v. Colo. Pioneer Action*, slip op. at ¶¶ 39, 57 (Colo. App. No. 17CA0833, May 30, 2019) (not published pursuant to C.A.R. 35(e)).

¶ 6 Thereafter, CPA filed a committee registration form; report of contributions and expenditures with a reporting period of July 1, 2019, to September 30, 2019, that contained a termination notice; and a profit and loss sheet containing donors' names and the amount of their contributions. A month later, CPA supplemented its disclosures with additional donor information going back to 2015.

¶ 7 Convinced that CPA's reporting was still deficient, CIW filed another complaint with the Secretary, alleging that

- CPA's registration form was invalid because it was filed by CPA's lawyer, not its registered agent (claim 1);
- CPA's termination notice was deficient because it did not list outstanding obligations, including the \$17,735 penalty and the \$986 in appellate costs awarded to CIW by the ALJ (claim 2); and
- CPA's disclosures were noncompliant because they did not accurately list contributions (claim 3), accurately list disbursements (claim 4), or list spending on electioneering communications (claim 5).

¶ 8 The Secretary resolved claims 1 and 2. She determined that CPA had substantially complied with the registration requirement by having its lawyer, who had actual authority to act on behalf of CPA, file the registration and termination forms. And she found that CPA had paid the penalty and costs and had therefore substantially complied with its termination obligations.

¶ 9 However, the Secretary dismissed claims 3-5 concerning the sufficiency of CPA's financial disclosures, concluding that those

claims related to CPA's compliance with the ALJ's order and therefore had to be raised in district court.

¶ 10 CIW then filed its motion to reopen the enforcement action that had been stayed in 2017. The motion and memorandum in support of the motion alleged that CPA had failed to

- properly register as a political committee because neither its registered agent nor designated filing agent filed its registration form;
- account for funds on hand for the reporting period from July 1 to September 30, 2019;
- report its payment of the \$17,735 penalty to the Secretary or the \$986 to CIW for its appellate costs;
- file any reports for the years 2017 through 2019;
- file its reports in a manner allowing them to be searchable through the Secretary's electronic filing system, Tracer; and
- disclose the address, employer, and occupation of donors in the profit and loss statement that covered the period from 2015 to 2017.

¶ 11 After a hearing, the district court denied the motion, determining that no further enforcement action was necessary. The

court agreed with the Secretary that CPA had substantially complied with its obligation to register as a political committee, and, after finding that CPA had attempted to, but could not, file its reports in a searchable format, it concluded that the information was not “filed in a manner contrary to law.” The court denied CIW’s request for attorney fees on the ground that it was not the prevailing party in the enforcement action but awarded CIW its reasonable fees incurred in prosecuting the agency action and the appeal of the ALJ’s order.

II. Order Denying Motion to Reopen Enforcement Action

A. Standard of Review

¶ 12 When a court enters an order or judgment following a bench trial, the order or judgment presents a mixed question of law and fact. *See Sandstead-Corona v. Sandstead*, 2018 CO 26, ¶ 37. We apply a “bifurcated standard” to such questions, *id.*: we defer to the court’s factual findings if supported by the evidence, but we review issues of law de novo, including the interpretation of statutes and rules, *McMullin v. Hauer*, 2018 CO 57, ¶ 13.

B. Filing of Registration Form

¶ 13 CIW contends that CPA did not properly register as a political committee because its lawyer signed the registration form.

¶ 14 Under the Secretary's rules, the "registered agent or a designated filing agent for any committee must sign the committee's registration form." Dep't of State Rule 9.1, 8 Code Colo. Regs. 1505-6. The Secretary and the district court both concluded that CPA had substantially complied with the rule because its lawyer had actual authority to sign and submit the form.

¶ 15 On appeal, CIW challenges both the factual and legal premises of the court's conclusion: it says, first, that there was no evidence that the lawyer had actual authority to sign the form and, second, even if she did, substantial compliance with the rule is not sufficient.

¶ 16 At the hearing, CIW expressly conceded that any deviation from the rule was a "minor issue" that "probably" needed "zero" "remedy from th[e] Court." "When a party specifically removes issues from a trial court's consideration, the party has waived those issues and we may not review them on appeal." *People v. Geisick*, 2016 COA 113, ¶ 16. But because the district court addressed this

issue in its order, we elect to resolve CIW's claim, which we conclude fails on the merits.

¶ 17 First, the record shows that on August 18, 2019, CPA's lawyer submitted a "Notice of Intent to Cure," stating that "[f]or purposes of these [campaign finance] filings . . . CPA was and is currently represented by Maven Law Group. At all times relevant to this action, Maven and its attorneys, including Suzanne Staiert, had authority to file on behalf of CPA." CIW does not explain why the court could not rely on the notice as evidence that CPA's lawyer had actual authority to file the registration form.

¶ 18 Second, the language of the relevant provisions of the Fair Campaign Practices Act (FCPA), §§ 1-45-101 to -118, C.R.S. 2021, contradicts CIW's contention that a strict compliance standard applies to campaign finance rules. Under section 1-45-111.7(4)(a), C.R.S. 2021, the Elections Division gives political committees the opportunity to cure what it determines are "curable violations" and then assesses whether the committee has "substantially complied" with its legal obligations using the factors set forth in section 1-45-111.7(4)(f)(I)-(III).

¶ 19 Relying on section 1-45-111.7(4)(b),¹ CIW says that, at most, a substantial compliance standard applies when a committee cures a violation by filing an amendment to a report. Because CPA cured a violation related to a registration form, CIW argues, strict compliance is required. But section 1-45-111.7(4)(f) expressly provides that substantial compliance is the applicable standard for evaluating a committee's compliance "with its legal obligations under article XXVIII, this article 45, or the rules." In other words, a substantial compliance standard applies to all campaign finance laws and rules, including the rule that a registration form must be filed by the committee's registered agent or designated filing agent.

C. Filing of Reports

¶ 20 CIW contends that CPA's financial reports are deficient in two ways. First, it says that CPA failed to comply with the statutory

¹ To the extent CIW relies on an unpublished decision from this court, that reliance is misplaced for two reasons. By citing the case, CIW violated this court's formal policy prohibiting parties from citing unpublished decisions of this court (with exceptions that do not apply in this case). *See Colorado Court of Appeals, Citation Policies, Policy Concerning Citation of Unpublished Opinions* (2021), <https://perma.cc/5GTB-QMA5>. And, the unpublished decision was issued in 2016, before the FCPA was amended to include section 1-45-111.7. *See* Ch. 330, sec. 1, § 1-45-111.7, 2019 Colo. Sess. Laws 3059.

requirement that reports be electronically filed in a format searchable by the public through the Secretary’s website. Second, it says that the reports omitted certain information — they did not list spending on electioneering communications or a “contribution” from an insurance company to CPA that was used to pay CIW’s appellate costs. We reject CIW’s first argument and decline to address the second because it was not preserved for review.

1. Failure to File Reports Through the Secretary’s Electronic Filing System

¶ 21 Under section 1-45-109(5) and (6), C.R.S. 2021, the Secretary must operate a website and establish an electronic filing system that allows the public to review political committees’ reports free of charge and in a searchable manner. The electronic filing system is called Tracer. Dep’t of State Rule 19.1, 8 Code Colo. Regs. 1505-6. Section 1-45-109(6)(b) requires political committees to use the electronic filing system “except insofar as an alternate method of filing may be permitted by the [S]ecretary.”

¶ 22 The district court found that after the court of appeals affirmed the ALJ’s order, CPA made “timely and good faith efforts to provide to the Secretary of State the detailed financial disclosures

required by the statute and the subsequent administrative and judicial orders.” But because CPA did not have the ability to provide the required disclosures “in a manner or format other than what it actually supplied,” CPA did not violate the electronic filing requirement.

¶ 23 On appeal, CIW contends that the district court clearly erred by determining that CPA did not have the ability to file its disclosures electronically. We disagree.

¶ 24 True, at the hearing, CIW’s representative testified that, contrary to CPA’s assertion, the electronic filing system allows a committee to file reports of activities that predate the committee’s date of registration. But according to its order, the court found that testimony not credible.

¶ 25 Instead, the court apparently credited the documentary evidence that on July 1, 2019, CPA’s lawyer contacted the Secretary’s office by email to ask for help in filing the reports electronically. According to the email, CPA’s lawyer was uncertain how to “get [the reports] into the system,” as the reports had a “starting date of January 2016.” At the hearing, CPA’s lawyer explained that, as reflected in the email, CPA could not submit its

reports through Tracer because the software does not accept disclosures that predate a committee's registration date. Therefore, it submitted all of the required disclosures to the Secretary in spreadsheets attached to an email.

¶ 26 We conclude that the court's finding that CPA lacked the ability to file electronically is not clearly erroneous and, therefore, we will not disturb that finding on appeal.

¶ 27 To the extent CIW argues that, regardless of the court's factual finding, CPA's failure to file its reports electronically violated section 1-45-109(5) and (6), we again disagree. While the statute requires committees to file their reports electronically, it also provides for alternative methods of filing if permitted by the Secretary. Though the court did not make an explicit finding that CPA fit within the statute's exception, we conclude that such a finding was implicit in the court's determination that CPA's reports, filed via email in Excel spreadsheets, were not filed "in a manner contrary to law." *See, e.g., People v. Warren*, 55 P.3d 809, 814 (Colo. App. 2002) (concluding that because the court had admitted evidence, it had implicitly determined that the evidence satisfied the criteria for admissibility); *Foster v. Phillips*, 6 P.3d 791, 796 (Colo. App. 1999)

(explaining that while it is the better practice to make express findings, certain findings may be implicit in a court's ruling).

¶ 28 The court's implicit finding is likewise supported by the record. It is undisputed that CPA submitted its disclosure reports to the Secretary by email in a series of spreadsheets. It also appears to be undisputed that the Secretary accepted the reports. (The reports contain a stamp showing that they were "RECEIVED" on a certain date.) Thus, the court could reasonably have inferred that the Secretary permitted CPA to use an alternative method of filing its reports.

¶ 29 We are not persuaded otherwise by CIW's argument that allowing CPA to file by email would mean that violations of disclosure requirements "could *never* be remedied by court orders" to file the "legally-required disclosures." CPA's own violation of the disclosure requirement was remedied by a court order requiring it to file past due disclosures. While CPA did not file through Tracer, it did not disregard its duty to file reports. It simply used an alternative method for filing, which is permitted by the plain language of section 1-45-109(6)(b).

2. Failure to Disclose Spending on Electioneering
Communications and a “Contribution” From CPA’s Insurance
Company

¶ 30 Finally, CIW argues that CPA failed to comply with the ALJ’s order because the reports did not disclose (1) spending by CPA on electioneering communications and (2) a “contribution” in the form of a payment by an insurance company to CPA in the amount of \$986, ostensibly to cover CPA’s obligation to pay CIW’s appellate costs.

¶ 31 The district court’s order did not address either of these issues. We conclude that they are not preserved for appellate review.

¶ 32 Appellate courts do not address issues that were not previously raised in or decided by a lower court. *In re Estate of Ramstetter*, 2016 COA 81, ¶ 64. Although no “talismanic language” is required to preserve an issue for appeal, the trial court must be presented with an adequate opportunity to make a ruling. *People v. Melendez*, 102 P.3d 315, 322 (Colo. 2004). A party does not preserve an issue for review by “mention[ing] a possible argument in the most skeletal way, leaving the court to do counsel’s work.” See

Phillips v. People, 2019 CO 72, ¶ 12 (quoting *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990)).

¶ 33 Moreover, “it is incumbent on the moving party to see to it that the court rules on the matter [it] urges,” and if the party fails to do so, it waives or abandons that argument on appeal. *Patterson v. James*, 2018 COA 173, ¶ 11 (quoting *Feldstein v. People*, 159 Colo. 107, 111, 410 P.2d 188, 191 (Colo. 1966)).

¶ 34 CIW did not raise in the district court its claim that CPA’s reports were noncompliant for failing to document spending on electioneering communications. Though CIW’s motion and supporting memorandum specifically listed allegations of CPA’s noncompliance, neither document mentioned an alleged failure to disclose information about electioneering communications. Nor did CIW raise this issue at the hearing or provide any evidence of a deficiency. Because the issue was never raised, the district court did not resolve it in its order.

¶ 35 Contrary to CIW’s assertion on appeal, the fact that the ALJ directed CPA to include information about electioneering communications in its reports did not somehow put the district court on notice, three years later, of a claim by CIW that CPA had

failed to comply with that aspect of the ALJ's order. Accordingly, we will not address this issue for the first time on appeal. *See Melat, Pressman & Higbie, L.L.P. v. Hannon L. Firm, L.L.C.*, 2012 CO 61, ¶ 18 ("It is axiomatic that issues not raised in or decided by a lower court will not be addressed for the first time on appeal.").

¶ 36 CIW's claim about an insurance company's "contribution" to CPA is likewise unpreserved. As we understand its argument, CIW contends that the insurance company's payment of \$986.21 (the amount of appellate costs awarded to CIW in the earlier appeal) constitutes a "contribution" that CPA was required to disclose.

¶ 37 At the hearing, CIW's representative testified that CPA's termination report from July 2019 was noncompliant because it did not disclose CPA's outstanding obligation to pay CIW's appellate costs. The representative then asserted that the obligation was ultimately satisfied "by a check issued by a third party, therefore constituting a contribution to CPA in the amount of \$986.21." But CIW did not present any evidence concerning the circumstances surrounding the insurance company's payment to CPA. As a consequence, the court made neither factual findings concerning

the payment nor a legal ruling concerning CPA's obligation to disclose it.²

¶ 38 If CIW thought it had properly raised that issue at the hearing, it could have made “a proper request for such a ruling or sought other post-order relief prior to appeal.” *Kreft v. Adolph Coors Co.*, 170 P.3d 854, 858 (Colo. App. 2007). But because CIW never requested a ruling, there is nothing for us to review. Accordingly, CIW has waived appellate review of its claim that CPA had a duty to disclose the insurance company's payment. *Id.* at 858-59; *Patterson*, ¶ 11.

D. Attorney Fees

¶ 39 CIW requests an award of attorney fees as the prevailing party in the enforcement action and on appeal. The district court previously denied CIW's request for fees on the ground that it was

² Nor did CIW's pleadings alert the district court to its “contribution” claim. In its memorandum in support of the motion to reopen the enforcement action, CIW claimed only that CPA should have disclosed “CPA's payment of CIW's cost[s] on appeal which . . . fall squarely within the reporting period.” CIW did not argue that the payment was a “contribution” to CPA from the insurance company. *See Phillips v. People*, 2019 CO 72, ¶ 12 (litigants are required to specify the grounds on which an argument rests).

not the prevailing party in the enforcement action, and we have no basis to reverse that decision. And because on appeal, CIW is neither the prevailing party nor represented by counsel, it is not entitled to appellate attorney fees. *See* Colo. Const. art. XXVIII, § 9(2)(a); *In re Marriage of Dean*, 2017 COA 51, ¶ 32.

¶ 40 We also deny CPA's request for attorney fees. To recover attorney fees on appeal, the moving party must "explain the legal and factual basis" for such an award. C.A.R. 39.1; *In re Marriage of Roth*, 2017 COA 45, ¶ 35. Because CPA does not state a legal or factual basis for recovery, it is not entitled to attorney fees.

III. Conclusion

¶ 41 The order is affirmed.

JUDGE NAVARRO and JUDGE FREYRE concur.

Court of Appeals

STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203
(720) 625-5150

PAULINE BROCK
CLERK OF THE COURT

NOTICE CONCERNING ISSUANCE OF THE MANDATE

Pursuant to C.A.R. 41(b), the mandate of the Court of Appeals may issue forty-three days after entry of the judgment. In worker's compensation and unemployment insurance cases, the mandate of the Court of Appeals may issue thirty-one days after entry of the judgment. Pursuant to C.A.R. 3.4(m), the mandate of the Court of Appeals may issue twenty-nine days after the entry of the judgment in appeals from proceedings in dependency or neglect.

Filing of a Petition for Rehearing, within the time permitted by C.A.R. 40, will stay the mandate until the court has ruled on the petition. Filing a Petition for Writ of Certiorari with the Supreme Court, within the time permitted by C.A.R. 52(b), will also stay the mandate until the Supreme Court has ruled on the Petition.

BY THE COURT: Gilbert M. Román,
Chief Judge

DATED: January 6, 2022

Notice to self-represented parties: The Colorado Bar Association provides free volunteer attorneys in a small number of appellate cases. If you are representing yourself and meet the CBA low income qualifications, you may apply to the CBA to see if your case may be chosen for a free lawyer. Self-represented parties who are interested should visit the Appellate Pro Bono Program page at <http://www.cobar.org/appellate-pro-bono>

EXHIBIT F

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO Court Address: City and County Building 1437 Bannock Street Denver, CO 80202	DATE FILED August 13, 2020 11:04 AM CASE NUMBER: 2017CV32906
Plaintiff: CAMPAIGN INTERGITY WATCHDOG, LLC. v. Defendant: COLORADO PIONEER ACTION	• COURT USE ONLY • Case Number: 17CV32906 Courtroom: 424
ORDER RE: PLAINTIFF'S MOTION TO REACTIVATE ENFORCEMENT ACTION	

The Court has considered the Plaintiff's Motion to Reactivate Enforcement Action, the Defendant's Response and the Reply thereto. The Court has also considered the attachments to the various pleadings, as well as the exhibits and arguments presented at the hearing on the motion. Upon consideration thereof, as well as the Court's file and applicable authorities, the Court finds and orders as follows.

This action was originally filed in August 2017, seeking enforcement of an agency decision finding, *inter alia*, that the defendant was a political committee and that it had failed to register as such and file the required reports. The action was stayed in October 2017, pending an appeal of the agency decision. In May 2019, the Colorado Court of Appeals affirmed the agency decision finding that the defendant was a political committee and ordered that it register as such; file the required disclosure reports regarding

the committee's campaign activity beginning from January 1, 2016; and pay penalties as ordered by the agency.¹

On July 1, 2019, following issuance of the court of appeals' opinion but before its mandate issued, counsel representing the defendant contacted the Secretary of State via email, stating in part:

I'm trying to file the report for Colorado Pioneer Action and Colorado Right Now. These organizations have been dissolved, but we'd like to comply with the original ALI order and complete the filing. I'm hoping you can help me figure out if I need to do something to get this into the system with a starting report date of January 2017 through the final committee expenditure . . . There isn't really a registered agent anymore either because the committee doesn't actually exist.

[Motions Hearing Exhibit B.] The following day, on July 2, 2019, the defendant, through counsel, registered a political committee with the Secretary of State [Motions Hearing Exhibit C]. The defendant, in a filing on August 19, 2019, clarified that "at all times relevant to this action Maven and its attorneys . . . had authority to file on behalf of CPA." [Motions Hearing Exhibit E.] On July 8, 2019, the defendant filed with the Secretary of State a Report of Contributions and Expenditures with an attached Profit and Loss Detail for the period of January 2015 through December 2017 [Motions Haring Exhibit H], which was supplemented in the August 19, 2019 filing to include the donors' names, addresses, employers and occupations. [Motions Hearing Exhibit E.]

1. Registration

The plaintiff first asserts that the defendant failed to properly register as a political committee because the registration form was not signed by the registered agent but, instead, was submitted by the defendant's attorney. The plaintiff concedes that the assertion that the registration and reports "were not filed by a person with authority has been argued here as an example of [the defendant's] general failure to comply with the legal reporting requirements but is not an essential element of this enforcement action." [Reply at 3.] In

¹ The defendant was ordered to pay a fine as part of the agency decision. The amount of the fine (\$17,735) was deposited in the court registry in November 2017. The funds were ultimately transferred to the Secretary of State upon resolution of the appeal. Payment of the fine is not at issue in the instant motion.

considering this issue following a complaint filed in July 2019, the Secretary found that the defendant

At the very least, “substantially complied” with its legal obligations. § 1-45-111.7(4)(f), C.R.S. [The defendant] provided evidence that Ms. Staiert and her firm had actual authority to act on behalf of [the defendant]. The purpose of the provisions allegedly violated were substantially achieved because the interests of the public are best served by the full and timely registration, disclosure, reporting, and termination of political committees by authorized agents. § 1-45-111.7(4)(f)(II). [The defendant] acted timely, with an authorized person to meet legal obligations related to registering, filing disclosure reports, and terminating its political committee. The alleged noncompliance, if any, was minor. § 1-45-111.7(4)(f)(II).

[Response, Exhibit D, at 4 - 5.] The Secretary went on to conclude that the defendant, at the very least, demonstrated substantial compliance with its registration and reporting requirements; that the purpose of the law was “substantially achieved,” and “there is no evidence of an intentional attempt to mislead.” [*Id.*, at 5.]

Recognizing that the Court is not bound by the Secretary’s findings and conclusions, the Court nevertheless concurs that, following the court of appeals opinion (but before its mandate issued), the defendants properly complied with its obligation to register as a political committee through an agent with actual authority to do so. The Court respectfully disagrees with the plaintiff’s characterization of the filing being indicative of the defendant’s “general failure to comply” with its legal requirements. To the contrary, and particularly in light of the fact that the defendant, as an organization, no longer existed, the circumstances demonstrate a timely and good faith effort to comply with the filing requirements required by statute and as ordered by the agency and, ultimately, the court or appeals. The Court therefore finds no basis for any further enforcement action.

2. Financial Disclosure

The plaintiff also asserts that enforcement action is necessary because the defendant did not properly disclose contributions and expenditures. It is undisputed that, following the court of appeals opinion, the defendant first

reached out to the Secretary for guidance as to how to comply with the filing requirements and, shortly thereafter, filed a Report of Contributions and Expenditures with an accompanying Profit and Loss statement that provided itemized disclosure of donors names, addresses, contributions, and expenditures. It is also undisputed that the disclosures were filed in a manner such that they do not appear in a searchable format within Colorado's Tracer system. [See Motions Hearing Exhibits F & G.]

The crux of the plaintiff's argument, as clarified at the hearing on the motion, is that the defendant's disclosures are not appropriately available and accessible to the public, contrary to requirements of C.R.S. § 1-45-109(5) and (6). However, the statute requires that the "*secretary of state* shall operate and maintain a website so as to allow any person who wishes to review reports filed with the secretary of state's office pursuant to this article electronic read-only access to such reports free of charge." C.R.S. § 1-45-109(5)(a) [emphasis supplied]; *see also* § 1-45-109(6)(a) (the *secretary of state* shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office" (emphasis supplied)).

The evidence available to the Court is that, following the court of appeals opinion, the defendant made timely and good faith efforts to provide to the Secretary of State the detailed financial disclosures required by the statute and the subsequent administrative and judicial orders. The Court received no credible evidence that the information was filed in a manner contrary to law, or was otherwise filed with any intention to mislead the public or conceal the financial life of the defendant during the applicable disclosure periods.

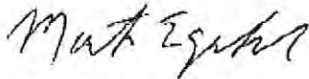
Indeed, there is no credible evidence before the Court that the defendant had the *ability* to provide the required disclosures in a manner or format other than what it actually supplied. To the extent the plaintiff has a legitimate concern that the disclosures are not available to the public in the manner prescribed by the statute, the concern is more properly addressed to the Secretary of State, who is charged with implementing and operating the system. But the Court finds no basis to order further enforcement action against the defendant under the facts and circumstances here presented.

3. Attorney Fees

Article XXVIII, section 9(2)(a) of the Colorado Constitution provides that “the prevailing party in a private enforcement action shall be entitled to reasonable attorney fees and costs.” While not prevailing on the instant motion, the Court nonetheless finds that the plaintiff was the prevailing party in both the agency action and the appeal, and is therefore entitled to recover its reasonable attorney fees in asserting the private enforcement action. *See Alliance for a Safe and Independent Woodmen Hills v. Campaign Integrity Watchdog, LLC*, 450 P.3d 282 (Colo. 2019). Accordingly, the plaintiff may submit, within 21 days of this order, an appropriate affidavit (with supporting documentation) of the fees incurred in connection with the agency action and the appeal. Any objection shall be filed 14 days thereafter. A reply may be filed 7 days after the response.

Dated this 13TH day of August, 2020.

BY THE COURT:



Martin F. Egelhoff
District Court Judge

EXHIBIT G

Chapter 2.52 INITIATIVE AND REFERENDUM PROCEDURES

2.52.010 Procedures generally.

Pursuant to Article V, Section 1 of the Colorado Constitution, and Article XIII of the home rule charter of the City of Lakewood, there are established procedures for exercising the initiative and referendum powers reserved to the registered electors of the city. The City Clerk may, from time to time, issue administrative rules and regulations not inconsistent with this Chapter 2.52 as may be necessary or desirable to accomplish the purposes of this chapter.

(Ord. O-94-3 § 1 (part), 1994).

2.52.020 Definitions.

As used in this chapter, unless the context otherwise requires:

Ballot issue means a nonrecall, citizen-initiated or citizen-referred petition or legislatively referred measure which is authorized by the State Constitution, including a proposition which is in the form of a question meeting the requirements of Section 20(3)(c) of Article X of the State Constitution.

Ballot question means a proposition which is in the form of a question other than a ballot issue.

Circulator means a natural person who circulates a petition and is 18 years of age or older at the time of petition circulation.

Draft means the proposed text of the initiative which, if passed, becomes the actual language of the ordinance.

Section means a bound compilation of initiative forms approved by the City Clerk or referendum petitions which shall include pages that contain the warning required by Sections 2.52.080 or 2.52.140, respectively; and the title, the summary, and a copy of the proposed initiative measure or the number, name and a copy of the ordinance which is the subject of the referendum petition; succeeding pages that contain said warning, the title of the initiative measure or the number and name of the referred ordinance and ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by Sections 2.52.080 or 2.52.140, respectively. Each section shall be consecutively prenumbered by the petitioner prior to circulation.

Submission clause means the language which is attached to the title to form a question which can be answered by "yes" or "no."

Summary means a condensed statement as to the intent of the initiative measure.

Title means a brief statement that fairly and accurately represents the true intent and meaning of the proposed text of the initiative measure or the number and name of the ordinance that is the subject of the referendum.

(Ord. 2004-21 § 1, 2004; Ord. O-94-3 § 1, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.030 Initiative procedures.

- A. Any initiated measure shall be in the form of an ordinance, legislative in character, the original draft of which shall be submitted to the City Clerk before the petition relating thereto is circulated to the registered electors

of the city. Proponents are encouraged to write such drafts in plain, non-technical language and in a clear and coherent manner using words with common and everyday meaning which are understandable to the average reader. Within ten days after submission, the City Clerk, with the assistance of other city officials as the Clerk deems necessary, shall designate and fix a fair title, submission clause, and summary to the proposed ordinance which shall correctly and fairly express the true intent and meaning of the proposed ordinance. Titles shall be brief, shall not conflict with titles selected for any petition previously filed for the same election, and shall be in the form of a question which may be answered "FOR THE ORDINANCE" to vote in favor of the proposed measure or "AGAINST THE ORDINANCE" to vote against the proposed measure and which shall unambiguously state the subject matter of the ordinance sought to be added, amended, or repealed.

- B. If any registered elector submitting such initiated petition is not satisfied with the title, submission clause, or summary as provided, and claims it to be unfair, or that it does not fairly express the true meaning and intent of the proposed measure, such person may file a motion for a hearing with the City Clerk within seven days after the return of the petition to the persons submitting it, which hearing shall be had within two business days thereafter. If the City Clerk rules against the registered elector submitting such initiated petition, then upon the filing of a written request, a certified copy of the petition with the title, submission clause, and summary of such proposed measure, together with a certified copy of such motion for hearing and of the ruling thereon, shall be furnished to the parties by the City Clerk and, if filed with the Clerk of the District Court for Jefferson County within five days thereafter, shall be docketed as a cause there pending and disposed of as expeditiously as circumstances permit.

(Ord. O-2004-21 § 2, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.040 Initiative petitions—Fees.

The City Clerk may charge the same fees for certifying a record of any proceedings as are provided for certified copies of other papers, which fees shall be paid by the parties desiring a review of such proceedings. The Clerk of the District Court shall receive the ordinary docket fee for docketing any such cause, which shall be paid by the parties desiring a review of such proceedings.

(Ord. O-2004-21 § 3, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.050 Initiative petitions—Circulation prerequisites.

- A. No petition for any initiative measure shall be circulated, nor any signature thereto have any force or effect whatsoever, which has been signed before the title, submission clause, and summary have been fixed and determined as provided in Section 2.52.030. No petition shall be printed, published, or otherwise circulated unless the form and the first printer's proof of the petition have been approved by the City Clerk.
- B. Any petition which has not been submitted as required in Section 2.52.030 shall not be accepted for filing by the City Clerk.

(Ord. O-94-3 § 1 (part), 1994).

2.52.060 Initiative petitions—Filing.

No petition for any initiated ordinance within the city shall be of any force or effect unless filed with the City Clerk within 180 days from the date that the title and submission clause therefor have been fixed and determined pursuant to the provisions of Section 2.52.030. The City Clerk shall not accept any petition for filing which is not timely filed under the provisions of this section.

(Ord. O-94-3 § 1 (part), 1994).

2.52.070 Initiative petitions—Signature requirements.

A petition for an initiated ordinance shall be signed by persons registered to vote in the city in a number at least equal to five percent of the total number of persons registered to vote in the city on the date of the last regular municipal election.

(Ord. O-94-3 § 1 (part), 1994).

2.52.080 Requirements of petitions—Initiative.

- A. At the top of each page, including signature pages, of every initiative petition section shall be printed the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any initiative petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A
REGISTERED ELECTOR
AND ELIGIBLE TO VOTE ON THIS MEASURE

TO BE A REGISTERED ELECTOR,
YOU MUST BE A CITIZEN OF COLORADO
AND REGISTERED TO VOTE IN
THE CITY OF LAKEWOOD

Do not sign this petition unless you have read or have had read to you the proposed initiative measure or the summary of the initiated measure in its entirety and understand its meaning.

- B. The title shall be printed on each page following the warning required in subsection (A) of this section.
- C. Any initiative petition circulated within the city shall be signed only by the registered electors by their own signature, after which the signer shall print his or her name, the address at which he or she resides, including street number and name, city, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in black ink. In the event a registered elector is physically disabled or is illiterate and wishes to sign such petition, such elector shall sign or make his or her mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required in this subsection. The person providing assistance shall sign his or her name and address and shall state that such assistance was rendered to the disabled or illiterate elector.
- D. To each such petition shall be attached a signed, notarized affidavit of the circulator, stating his or her name, address, the date the affidavit was signed, that he or she circulated the petition, that each signature thereon was affixed in his or her presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best knowledge and belief of the affiant each of the persons signing the petition was at the time of signing a registered elector of the city, and that he or she has not paid or will not in the

future pay, and that he or she believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to such petition. Each circulator and representative of the petition signers shall sign an agreement in which each agrees to submit to the subpoena authority of the City Clerk. The City Clerk shall not accept for filing any petition which does not have attached thereto an affidavit meeting the requirements of this section and the agreement submitting to the subpoena authority of the City Clerk. Any signature added to a section of a petition after said affidavit has been executed shall be invalid.

- E. All initiative petitions shall consist of a complete copy of what is proposed to be initiated including the title, submission clause, and summary as designated and fixed by the City Clerk pursuant to Section 2.52.030. Each petition shall designate by name and address two persons who shall represent the signers thereof in all matters affecting the same, and who shall be registered electors of the city. All such petitions shall be prenumbered serially, and the circulation of any petition described in this chapter by any medium other than personally by a circulator is prohibited. Any petition which fails to conform to the requirements of this chapter or is circulated in a manner other than that permitted in this section shall be invalid.
- F. Any disassembly of a section of the petition which has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.
- G. The circulation of any petition section other than personally by a circulator is prohibited. No section of a petition for any initiative measure shall be circulated by any person who is not at least 18 years of age at the time the section is circulated.

(Ord. O-2004-21 § 4, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.090 Sufficiency of petitions—Initiative.

- A. No petition for initiative shall be filed with the City Clerk unless it contains the required number of signatures. Upon filing of a petition for initiative with the City Clerk, the City Clerk shall make an initial determination of sufficiency and report the results thereof to the City Council within 20 days of the date of such filing, with a final determination of sufficiency and report to City Council to be made within 30 days following the filing. The City Clerk's determination of sufficiency shall be based upon a review of the petition to find whether signatures of individuals are insufficient in the following categories:
 - 1. Address shown by signer not located within the city limits of the City of Lakewood;
 - 2. Any signature appearing on the petition more than once, in which event all signatures of said individual shall be deleted except one;
 - 3. More than one individual signature on a signature line, in which event the line shall count as one;
 - 4. Signature lines containing incomplete information or information which was not completed by the elector or a person qualified to assist the elector shall not be counted;
 - 5. Signatures of individuals who are not registered electors in the city.
- B. The petition may not be removed and no signature may be removed or deleted by a signer, circulator, or representative of the City Clerk until the City Clerk has made an initial sufficiency determination. Any request to remove a signature shall be made in writing to the City Clerk. A signature may only be removed between the initial and final sufficiency determination by the City Clerk.
- C. After the City Clerk has completed the final sufficiency review of the petitions; the following procedures shall apply:
 - 1. For initiative petitions found to contain an insufficient number of valid signatures, and against which no protest has been filed, the City Clerk shall mail a written notice of insufficiency, summarizing the

-
- grounds for the decision, to the representatives of the petitioners. The decision of the City Clerk concerning insufficiency shall be a final decision from which an appeal may be made to the District Court of Jefferson County.
2. For initiative petitions found insufficient, and against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
 3. For initiative petitions found sufficient, and against which no protest has been filed, the provisions of Section 2.52.110 shall apply.
 4. For initiative petitions found sufficient, but against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
- D. A protest to an initiative petition may be filed in the office of the City Clerk by any registered elector of the city within 30 days after the petition is filed with the City Clerk. The protest shall set forth with particularity the grounds of such protest and the names protested. The City Clerk shall mail a copy of such protest to the petition representative, together with a notice fixing a time for hearing such protest not less than five nor more than 20 days after such notice is mailed.
- E. All records and hearings shall be public under this section and all testimony shall be under oath, and the City Clerk with whom such petition is filed shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the City Clerk may petition the District Court of Jefferson County and upon 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. At any hearing held pursuant to this section, the party protesting the finding of the City Clerk concerning the sufficiency of signatures shall have the burden of proof. Hearings before the City Clerk shall be had as soon as is conveniently possible. The result of such hearings shall be certified to the petition representatives and the protester.
- F. The decision of the City Clerk is final. Any appeal of the decision shall be to Jefferson County District Court. (Ord. O-2004-21 § 5, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.110 Initiative—Election.

- A. If the petition is found to be sufficient pursuant to Section 2.52.090, the City Clerk shall present the petition to the City Council at its next regular meeting. At that time, the City Clerk shall also determine whether the petition qualifies for a ballot issue election or a ballot question election and shall advise the City Council of such determination. Within 30 days after the petition is presented by the City Clerk, the City Council shall either adopt without alteration the initiated ordinance by a majority vote of all members of City Council, or submit the initiated ordinance to a vote of the registered electors. If the initiated ordinance is one which may be considered at a ballot question election, it shall be submitted at a special election held not less than 30 nor more than 90 days after the petition is presented to the City Council, or at a regular municipal election held within that 90-day period. If the initiated ordinance is one which may only be considered at a ballot issue election, it shall be submitted at the next ballot issue election held not less than 90 days after the petition is presented to the City Council.
- B. Alternative ordinances may be submitted at the same election, and if two or more conflicting ordinances are approved by the people, the one which receives the greatest number of affirmative votes shall be adopted in all particulars as to which there is a conflict.
- C. If a majority of the registered electors voting vote "for" the ordinance, it shall be adopted and take effect upon certification of the election results, or at such later date as may be set forth in the initiated ordinance.

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- D. Notwithstanding the above provisions, the City Council shall not be deprived of the right to enact any ordinance, resolution, or other measure.

(Ord. O-2019-5 § 2, 2019; Ord. O-2004-21 § 6, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.120 Prohibited action by City Council—Initiative.

No initiated ordinance adopted by the registered electors of the city may be amended or repealed by the City Council during a period of six months after the date of the election on the initiated ordinance.

(Ord. O-94-3 § 1 (part), 1994).

2.52.130 Referendum procedures.

- A. Except as provided in the City's Charter, all ordinances adopted by the City Council that are legislative in character shall be subject to referendum. Any ordinance necessary for the immediate preservation of the public peace, health, or safety; fixing the rate of general property taxation for any year; related to the issuance of securities; adopting the budget; making an appropriation for the ensuing fiscal year; calling for a special election; levying special assessments, or initiating improvement districts shall not be subject to referendum.
- B. No ordinance shall take effect and be in force before 30 days after adoption by the City Council and publication by title, except that no ordinance that zones, rezones, or changes any zoned district shall take effect and be in force before 45 days after adoption by the City Council and publication by title. If, prior to the effective date of an ordinance and during business hours on a business day in which the City Clerk's Office is open, a petition signed by registered electors of the city equal in number to three percent of the total number of persons registered to vote in the city on the date of the last regular municipal election is filed with the City Clerk protesting such ordinance, the City Clerk shall begin the initial determination of sufficiency as set out in Section 2.52.150.

(Ord. O-2019-24 § 4, 2019; Ord. O-94-3 § 1 (part), 1994)

2.52.140 Requirements of petitions—Referendum.

- A. At the top of each page, including signature pages, of every referendum petition section circulated within this city relating to a municipal ordinance shall be printed the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign such a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A
REGISTERED ELECTOR
AND ELIGIBLE TO VOTE ON THIS MEASURE

TO BE A REGISTERED ELECTOR,
YOU MUST BE A CITIZEN OF COLORADO
AND REGISTERED TO VOTE IN

THE CITY OF LAKEWOOD

Do not sign this petition unless you have read or have had read to you the proposed referred measure in its entirety and understand its meaning.

- B. The title shall be printed on each page following the warning required in subsection (A) of this section.
- C. Any referendum petition circulated within the city shall be signed only by registered electors by his or her own signature, after which the signer shall print his or her name, the address at which he or she resides, including street number and name, city, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in black ink. In the event a registered elector is physically disabled or is illiterate and wishes to sign such petition, such elector shall sign or make his or her mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required in this subsection. The person providing assistance shall sign his or her name and address and shall state that such assistance was rendered to the disabled or illiterate elector.
- D. To each such petition shall be attached a signed, notarized affidavit of the circulator, stating his or her name, address, the date the affidavit was signed, that he or she circulated the petition, that each signature thereon was affixed in his or her presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best knowledge and belief of the affiant each of the persons signing the petition was at the time of signing a registered elector of the city, and that he or she has not paid or will not in the future pay, and that he or she believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to such petition. Each circulator and representative of the petition signers shall sign an agreement in which each agrees to submit to the subpoena authority of the City Clerk. The City Clerk shall not accept for filing any petition which does not have attached thereto an affidavit meeting the requirements of this section and the agreement submitting to the subpoena authority of the City Clerk. Any signature added to a section of a petition after the said affidavit has been executed shall be invalid.
- E. All referendum petitions shall include a complete copy of the ordinance which is the subject of the petition. Each petition shall designate by name and address two persons who shall represent the signers thereof in all matters affecting the same, and who shall be registered electors of the city. All such petitions shall be prenumbered serially, and the circulation of any petition described in this chapter by any medium other than personally by a circulator is prohibited. Any petition which fails to conform to the requirements of this chapter or is circulated in a manner other than that permitted in this section shall be invalid.
- F. Any disassembly of a section of the petition which has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.
- G. The circulation of any petition section other than personally by a circulator is prohibited. No section of a petition for any referendum measure shall be circulated by any person who is not at least 18 years of age at the time the section is circulated.
- H. As soon as possible, but prior to filing a referendum petition, the circulators shall file with the City Clerk a notice of intent to file a referendum petition.

(Ord. O-2004-21 § 7, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.150 Sufficiency of petitions—Referendum.

- A. No petition for referendum shall be filed with the City Clerk unless it contains the required number of signatures. Upon filing of a petition for referendum with the City Clerk, the City Clerk shall make an initial

determination of sufficiency and report the results thereof to the City Council within 20 days of the date of such filing, with a final determination of sufficiency and report to City Council to be made within 30 days following the filing. The City Clerk's determination of sufficiency shall be based upon a review of the petition to find whether signatures of individuals are insufficient in the following categories:

1. Address shown by signer is not located within the city limits of the City of Lakewood;
 2. Any signature appearing on the petition more than once, in which event all signatures of said individual shall be deleted except one;
 3. More than one individual signature on a signature line, in which event the line shall count as one;
 4. Signature lines containing incomplete information or information which was not completed by the elector or a person qualified to assist the elector shall not be counted;
 5. Signatures of individuals who are not registered electors in the city.
- B. The petition may not be removed and no signature may be removed or deleted by a signer, circulator, or representative of the City Clerk until the City Clerk has made an initial sufficiency determination. Any request to remove a signature shall be made in writing to the City Clerk. A signature may only be removed between the initial and final sufficiency determination by the City Clerk.
- C. After the City Clerk has completed the final sufficiency review of the petitions; the following procedures shall apply:
1. For referendum petitions found to contain an insufficient number of valid signatures, and against which no protest has been filed, the City Clerk shall mail a written notice of insufficiency, summarizing the grounds for the decision, to the representatives of the petitioners. The decision of the City Clerk concerning insufficiency shall be final.
 2. For referendum petitions found insufficient, and against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
 3. For referendum petitions found sufficient, and against which no protest has been filed, the provisions of Section 2.52.170 shall apply.
 4. For referendum petitions found sufficient, but against which a protest has been filed, the provisions of subsection (D) of this section shall apply.
- D. A protest to a referendum petition may be filed in the City Clerk' Office by any registered elector of the city within 30 days after the petition is filed with the City Clerk. The protest shall set forth with particularity the grounds of such protest and the names protested. The City Clerk shall mail a copy of such protest to the petition representative, together with a notice fixing a time for hearing such protest not less than five nor more than 20 days after such notice is mailed.
- E. All records and hearings shall be public under this section and all testimony shall be under oath. The City Clerk with whom such petition is filed shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents. Upon failure of any witness to obey the subpoena, the City Clerk may petition the District Court of Jefferson County and upon 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. At any hearing held pursuant to this section, the party protesting the finding of the City Clerk concerning the sufficiency of signatures shall have the burden of proof. Hearings before the City Clerk shall be had as soon as is conveniently possible. The result of such hearings shall be certified to the petition representatives and the protester.
- F. The decision of the City Clerk is final. Any appeal of the decision shall be to Jefferson County District Court.
- (Ord. O-2019-24 § 4, 2019; Ord. O-2004-21 § 8, 2004; Ord. O-94-3 § 1 (part), 1994)

2.52.170 Referendum—Election.

- A. After final determination of petition sufficiency, to be made not less than 30 days after the petition is filed, the City Clerk shall present the petition to the City Council at its next regularly scheduled meeting. At that time, the City Clerk shall also determine whether the petition qualifies for a ballot issue election or a ballot question election and shall advise the City Council of such determination. Upon presentation to the City Council of such petition by the City Clerk, the ordinances shall be suspended from operation. The City Council shall upon presentation of the referendum petition immediately reconsider the ordinance. If upon reconsideration the ordinance is not repealed in its entirety by a majority of all members of the City Council, the City Council shall submit the same, without amendments or alteration, to a vote of the registered electors if the referred ordinance is one which may be considered at a ballot question election, it shall be submitted at a special election held not less than 30 nor more than 90 days after the petition is presented to the City Council, or at a regular municipal election held within that 90-day period. If the initial ordinance is one which may only be considered at a ballot issue election, it shall be submitted at the next ballot issue election held not less than 90 days after the petition is presented to the City Council.
- B. If a majority of the registered electors voting vote "FOR THE ORDINANCE", the ordinance shall be effective upon certification of the election results. If a majority of the registered electors voting vote "AGAINST THE ORDINANCE", the ordinance shall be repealed upon certification of the election results.

(Ord. O-94-3 § 1 (part), 1994).

2.52.180 Prohibited action by City Council—Referendum.

No referred ordinance repealed by the registered electors of the city may be subsequently adopted by the City Council during a period of six months after the date of the election on the referred ordinance.

(Ord. O-94-3 § 1 (part), 1994).

2.52.190 Election procedures.

Election procedures under this chapter shall comply with the Colorado Municipal Election Code, Title 31, Article 10, of the Colorado Revised Statutes.

(Ord. O-94-3 § 1 (part), 1994).

2.52.200 Ballot.

- A. Each initiative or referred measure shall appear on the official ballot by title only. All citizen-initiated or referendum matters shall be indicated on the ballot by number and all City Council referred measures shall be indicated by letter. If more than one question will appear on the same ballot, they shall appear in numerical or alphabetical order by date of receipt, and the question shall be numbered or lettered accordingly. Each title shall appear on the official ballot only once.
- B. Any initiated ordinance approved by the people of the city shall be printed with the official acts of the next City Council meeting, and such ordinance approved by the people of the city shall be published as ordinances are published after adoption.

(Ord. O-94-3 § 1 (part), 1994).

2.52.210 Receiving money to circulate petitions—Filing.

The proponents of any initiative measure or referendum petition shall file with the City Clerk the name of the proposed initiative measure or referendum petition for which petitions were circulated by paid circulators, and the total amount paid to each circulator. The filing shall be made at the same time the petition is filed with the City Clerk.

(Ord. O-2004-21 § 9, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.220 Fair Campaign Practices Act requirements.

The provisions of the Fair Campaign Practices Act of 1974, C.R.S. 1-45-101 et seq., as amended, including the penalty provisions thereof, shall apply to all initiative and referendum measures which are submitted to an election. In addition, a duplicate copy of all reports required to be filed by such act for initiative and referendum issues shall be filed at the same time with the City Clerk of the city.

(Ord. O-94-3 § 1 (part), 1994).

2.52.230 Unlawful acts.

It is unlawful:

- A. For any person willfully and knowingly to circulate or cause to be circulated, or sign or procure to be signed, any initiative or referendum petition bearing the name, device, or motto of any person, organization, association, league, or political party, purporting in any manner to be endorsed, approved, or submitted by any person, organization, association, league or political party, without the written approval and authorization of such person, organization, association, league or political party;
- B. For any person to sign any name other than his or her own to any initiative or referendum petition, or knowingly to sign his or her name more than once for the same measure at one election;
- C. For any person to sign any initiative or referendum petition who is not at the time of signing the same a registered elector of the city;
- D. For any person to sign an affidavit as circulator without knowing or reasonably believing the statements made in such affidavit are true;
- E. For any person to certify that any affidavit attached to a petition was subscribed or sworn to before him or her unless it was so subscribed and sworn to before him or her, and unless such person so certified is duly qualified under the laws of the state to administer an oath;
- F. For any election official or other person to willfully conspire or agree or confederate, with another or others, to do any act which shall hinder, delay or in any manner interfere with the calling, holding or conducting of any election permitted under the initiative and referendum powers reserved by the people in Section 1 of Article V of the Constitution of the State and this chapter, or of registering electors therefore;
- G. For any election official to do willfully any act which shall confuse or tend to confuse the issues submitted or proposed to be submitted in any election held under this chapter, or refuse to submit any petition in the form presented for submission at any election under this chapter; or
- H. For any officer or person to willfully violate any provision of this chapter.

(Ord. O-2004-21 § 10, 2004; Ord. O-94-3 § 1 (part), 1994).

2.52.240 Referral by City Council.

The City Council shall have the power to submit any proposed or adopted ordinance or any question to a vote of the registered electors without the receipt of a petition.

(Ord. O-94-3 § 1 (part), 1994).

2.52.250 Intent.

It is not the intention of this chapter to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to properly safeguard, protect and preserve inviolate for them these modern instrumentalities of democratic government.

(Ord. O-94-3 § 1 (part), 1994).

EXHIBIT H



Colorado Constitution
Article XXVIII
(Amendment 27)
Campaign and Political Finance

**Colorado Constitution
Article XXVIII
(Amendment 27)**

Section 1. Purpose and findings

The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations, and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that because of the use of early voting in Colorado timely notice of independent expenditures is essential for informing the electorate; that in recent years the advent of significant spending on electioneering communications, as defined herein, has frustrated the purpose of existing campaign finance requirements; that independent research has demonstrated that the vast majority of televised electioneering communications goes beyond issue discussion to express electoral advocacy; that political contributions from corporate treasuries are not an indication of popular support for the corporation's political ideas and can unfairly influence the outcome of Colorado elections; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, providing for full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.

Section 2. Definitions.

For the purpose of this Article and any statutory provisions pertaining to campaign finance, including provisions pertaining to disclosure:

- (1) "Appropriate officer" means the individual with whom a candidate, candidate committee, political committee, small donor committee, or issue committee must file pursuant to section 1-45-109 (1), C.R.S., or any successor section.
- (2) "Candidate" means any person who seeks nomination or election to any state or local public office that is to be voted on in this state at any primary election, general election, school district election, special district election, or municipal election. "Candidate" also includes a judge or justice of any court of record who seeks to be retained in office pursuant to the provisions of section 25 of article VI. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or retention of a judicial office and thereafter has received a contribution or made an expenditure in support of the candidacy. A person remains a candidate for purposes of this Article so long as the candidate maintains a registered candidate committee. A person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle, is a candidate for purposes of this article.
- (3) "Candidate committee" means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.
- (4) "Conduit" means a person who transmits contributions from more than one person, directly to a candidate committee. "Conduit" does not include the contributor's immediate family members, the candidate or campaign treasurer of the candidate committee receiving the contribution, a volunteer fund raiser hosting an event for a candidate committee, or a professional fund raiser if the fund raiser is compensated at the usual and customary rate.

(5) (a) "Contribution" means:

(I) The payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party;

(II) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, small donor committee, or political party;

(III) The fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee, small donor committee or political party;

(IV) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election.

(b) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, small donor committee, issue committee, or political party; a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments by a corporation or labor organization for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee or small donor committee.

(6) "Election cycle" means either:

(a) 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;

(b) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the special legislative election for that office; or

(c) The period of time beginning thirty-one days following the special legislative election for the particular office and ending thirty days following the next general election for that office.

(7) (a) "Electioneering communication" means any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

(I) Unambiguously refers to any candidate; and

(II) Is broadcasted, printed, mailed, delivered, or distributed within thirty days before a primary election or sixty days before a general election; and

(III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(b) "Electioneering communication" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(IV) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

(8) (a) "Expenditure" means any purchase, payment, distribution, loan, advance, deposit, or gift of money by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

(b) "Expenditure" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Spending by persons, other than political parties, political committees and small donor committees, in the regular course and scope of their business or payments by a membership organization for any communication solely to members and their families;

(IV) Any transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments made by a corporation or labor organization for the costs of establishing, administering, or soliciting funds from its own employees or members for a political committee or small donor committee.

(9) "Independent expenditure" means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate. Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

(10) (a) "Issue committee" means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) "Issue committee" does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

(11) "Person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

(12) (a) "Political committee" means any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates.

(b) "Political committee" does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single political committee:

(I) All political committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All political committees established, financed, maintained, or controlled by a single labor organization; except that, any political committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the political committee of the state and national unit;

(III) All political committees established, financed, maintained, or controlled by the same political party;

(IV) All political committees established, financed, maintained, or controlled by substantially the same group of persons.

(13) "Political party" means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. "Political party" includes affiliated party organizations at the state, county, and election district levels, and all such affiliates are considered to be a single entity for the purposes of this Article, except as otherwise provided in section 7.

(14) (a) "Small donor committee" means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars in the aggregate per year. For purposes of this section, dues transferred by a membership organization to a small donor committee sponsored by such organization shall be treated as pro-rata contributions from individual members.

(b) "Small donor committee" does not include political parties, political committees, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single small donor committee:

(I) All small donor committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small donor committees established, financed, maintained, or controlled by a single labor organization; except that, any small donor committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the small donor committee of the state and national unit;

(III) All small donor committees established, financed, maintained, or controlled by the same political party;

(IV) All small donor committees established, financed, maintained, or controlled by substantially the same group of persons.

(15) "Unexpended campaign contributions" means the balance of funds on hand in any candidate committee at the end of an election cycle, less the amount of all unpaid monetary obligations incurred prior to the election in furtherance of such candidacy.

Section 3. Contribution limits.

(1) Except as described in subsections (2), (3), and (4) of this section, no person, including a political committee, shall make to a candidate committee, and no candidate committee shall accept from any one person, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five hundred dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two hundred dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(2) No small donor committee shall make to a candidate committee, and no candidate committee shall accept from any one small donor committee, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five thousand dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two thousand dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(3) (a) No political party shall accept aggregate contributions from any person, other than a small donor committee as described in paragraph (b) of this subsection (3), that exceed three thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twenty-five hundred dollars per year at the state level;

(b) No political party shall accept aggregate contributions from any small donor committee that exceed fifteen thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twelve thousand, five hundred dollars at the state level;

(c) No political party shall accept contributions that are intended, or in any way designated, to be passed through the party to a specific candidate's candidate committee;

(d) In the applicable election cycle, no political party shall contribute to any candidate committee more than twenty percent of the applicable spending limit set forth in section 4 of this Article.

(e) Any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election for purposes of paragraph (d) of this subsection (3);

(4) (a) It shall be unlawful for a corporation or labor organization to make contributions to a candidate committee or a political party, and to make expenditures expressly advocating the election or defeat of a candidate; except that a corporation or labor organization may establish a political committee or small donor committee which may accept contributions or dues from employees, officeholders, shareholders, or members.

(b) The prohibition contained in paragraph (a) of this subsection (4) shall not apply to a corporation that:

(I) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(II) Has no shareholders or other persons with a claim on its assets or income; and

(III) Was not established by and does not accept contributions from business corporations or labor organizations.

(5) No political committee shall accept aggregate contributions or pro-rata dues from any person in excess of five hundred dollars per house of representatives election cycle.

(6) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(7) No person shall act as a conduit for a contribution to a candidate committee.

(8) Notwithstanding any other section of this Article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this section shall not apply to a loan as described in this subsection (8).

(9) All contributions received by a candidate committee, issue committee, political committee, small donor committee, or political party shall be deposited in a financial institution in a separate account whose title shall include the name of the committee or political party. All records pertaining to such accounts shall be maintained by the committee or political party for one-hundred eighty days following any general election in which the committee or party received contributions unless a complaint is filed, in which case they shall be maintained until final disposition of the complaint and any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this Article.

(10) No candidate committee, political committee, small donor committee, issue committee, or political party shall accept a contribution, or make an expenditure, in currency or coin exceeding one hundred dollars.

(11) No person shall make a contribution to a candidate committee, issue committee, political committee, small donor committee, or political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, political committee, small donor committee, or political party, nor shall any person make such reimbursement except as provided in subsection (8) of this section.

(12) No candidate committee, political committee, small donor committee, or political party shall knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Article 115 of title 7, C.R.S., or any successor section.

(13) Each limit on contributions described in subsections (1), (2), (3) (a), (3) (b) and (5) of this section, and subsection (14) of section 2, shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.

Section 4. Voluntary campaign spending limits.

(1) Candidates may certify to the secretary of state that the candidate's candidate committee shall not exceed the following spending limits for the applicable election cycle:

(a) Two and one-half million dollars combined for a candidate for governor and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section;

(b) Five hundred thousand dollars for a candidate for secretary of state, attorney general, or treasurer;

(c) Ninety thousand dollars for a candidate for the state senate;

(d) Sixty-five thousand dollars for a candidate for the state house of representatives, state board of education, regent of the university of Colorado, or district attorney.

(2) Candidates accepting the campaign spending limits set forth above shall also agree that their personal contributions to their own campaign shall be counted as political party contributions and subject to the aggregate limit on such contributions set forth in section 3 of this article.

(3) Each candidate who chooses to accept the applicable voluntary spending limit shall file a statement to that effect with the secretary of state at the time that the candidate files a candidate affidavit as currently set forth in section 1-45-110(1), C.R.S., or any successor section. Acceptance of the applicable voluntary spending limit shall be irrevocable except as set forth in subsection (4) of this section and shall subject the candidate to the penalties set forth in section 10 of this Article for exceeding the limit.

(4) If a candidate accepts the applicable spending limit and another candidate for the same office refuses to accept the spending limit, the accepting candidate shall have ten days in which to withdraw acceptance. The accepting candidate shall have this option of withdrawing acceptance after each additional non-accepting candidate for the same office enters the race.

(5) The applicable contribution limits set forth in section 3 of this Article shall double for any candidate who has accepted the applicable voluntary spending limit if:

(a) Another candidate in the race for the same office has not accepted the voluntary spending limit; and

(b) The non-accepting candidate has raised more than ten percent of the applicable voluntary spending limit.

(6) Only those candidates who have agreed to abide by the applicable voluntary spending limit may advertise their compliance. All other candidates are prohibited from advertising, or in any way implying, their acceptance of voluntary spending limits.

(7) Each spending limit described in subsection (1) of this section shall be adjusted by an amount based upon the percentage change over a four year period in the united states bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Article 4 of title 24, C.R.S., or any successor section.

Section 5. Independent expenditures.

(1) Any person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure in excess of one-thousand dollars shall require the delivery of a new notice. Any person making an independent expenditure within thirty days of a primary or general election shall deliver such notice within forty-eight hours after obligating funds for such expenditure.

(2) Any person making an independent expenditure in excess of one thousand dollars shall disclose, in the communication produced by the expenditure, the name of the person making the expenditure and the specific statement that the advertisement of material is not authorized by any candidate. Such disclosure shall be prominently featured in the communication.

(3) Expenditures by any person on behalf of a candidate for public office that are coordinated with or controlled by the candidate or the candidate's agent, or political party shall be considered a contribution to the candidate's candidate committee, or the political party, respectively. 7

(4) This section 5 applies only to independent expenditures made for the purpose of expressly advocating the defeat or election of any candidate.

Section 6. Electioneering communications.

(1) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall submit reports to the secretary of state in accordance with the schedule currently set forth in 1-45-108 (2), C.R.S., or any successor section. Such reports shall include spending on such electioneering communications, and the name, and address, of any person that contributes more than two hundred and fifty dollars per year to such person described in this section for an electioneering communication. In the case where the person is a natural person, such reports shall also include the occupation and employer of such natural person. The last such report shall be filed thirty days after the applicable election.

(2) Notwithstanding any section to the contrary, it shall be unlawful for a corporation or labor organization to provide funding for an electioneering communication; except that any political committee or small donor committee established by such corporation or labor organization may provide funding for an electioneering communication.

Section 7. Disclosure.

The disclosure requirements relevant to candidate committees, political committees, issue committees, and political parties, that are currently set forth in section 1-45-108, C.R.S., or any successor section, shall be extended to include small donor committees. The disclosure requirements of section 1-45-108, C.R.S., or any successor section, shall be extended to require disclosure of the occupation and employer of each person who has made a contribution of one hundred dollars or more to a candidate committee, political committee, issue committee, or political party. For purposes of this section and 1-45-108, C.R.S., or any successor section, a political party shall be treated as separate entities at the state, county, district, and local levels.

Section 8. Filing - where to file - timeliness.

The secretary of state shall promulgate rules relating to filing in accordance with article 4 of title 24, C.R.S., or any successor section. The rules promulgated pursuant to this section shall extend section 1-45-109, C.R.S., or any successor section to apply to small donor committees.

Section 9. Duties of the secretary of state - enforcement.

(1) The secretary of state shall:

(a) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this article and make such forms and instructions available to the public, municipal clerks, and county clerk and recorders free of charge;

(b) Promulgate such rules, in accordance with Article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of this Article;

(c) Prepare forms for candidates to declare their voluntary acceptance of the campaign spending limits set forth in section 4 of this Article. Such forms shall include an acknowledgment that the candidate voluntarily accepts the applicable spending limit and that the candidate swears to abide by those spending limits. These forms shall be signed by the candidate under oath, notarized, filed with the secretary of state, and available to the public upon request;

(d) Maintain a filing and indexing system consistent with the purposes of this Article;

(e) Make the reports and statements filed with the secretary of state's office available immediately for public inspection and copying. The secretary of state may charge a reasonable fee for providing copies of reports. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;

(f) Refer any complaints filed against any candidate for the office of secretary of state to the attorney general. Any administrative law judge employed pursuant to this section shall be appointed pursuant to part 10 of Article 30 of title 24, C.R.S., or any successor section. Any hearing conducted by an administrative law judge employed pursuant to subsection (2) of this section shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section.

(2) (a) Any person who believes that a violation of section 3, section 4, section 5, section 6, section 7, or section 9 (1) (e), of this Article, or of sections 1-45-108, 1-45-114, 1-45-115, or 1-45-117 C.R.S., or any successor sections, has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge within three days of the filing of the complaint. The administrative law judge shall hold a hearing within fifteen days of the referral of the complaint, and shall render a decision within

fifteen days of the hearing. The defendant shall be granted an extension of up to thirty days upon defendant's motion, or longer upon a showing of good cause. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief authorized by this Article. The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11), C.R.S., or any successor section. The secretary of state and the administrative law judge are not necessary parties to the review. The decision may be enforced by the secretary of state, or, if the secretary of state does not file an enforcement action within thirty days of the decision, in a private cause of action by the person filing the complaint. Any private action brought under this section shall be brought within one year of the date of the violation in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorney's fees and costs.

(b) The attorney general shall investigate complaints made against any candidate for the office of secretary of state using the same procedures set forth in paragraph (a) of this subsection (2). Complainant shall have the same private right of action as under paragraph (a) of this subsection (2).

(c) A subpoena issued by an administrative law judge requiring the production of documents by an issue committee shall be limited to documents pertaining to contributions to, or expenditures from, the committee's separate account established pursuant to section 3(9) of this Article to support or oppose a ballot issue or ballot question. A subpoena shall not be limited in this manner where such issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed.

Section 10. Sanctions.

(1) Any person who violates any provision of this Article relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this Article. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

(2) (a) The appropriate officer shall impose a penalty of fifty dollars per day for each day that a statement or other information required to be filed pursuant to section 5, section 6, or section 7 of this Article, or sections 1-45-108, 1-45-109 or 1-45-110, C.R.S., or any successor sections, is not filed by the close of business on the day due. Upon imposition of a penalty pursuant to this subsection (2), the appropriate officer shall send the person upon whom the penalty is being imposed proper notification by certified mail of the imposition of the penalty. If an electronic mail address is on file with the secretary of state, the secretary of state shall also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state or revenues collected in the form of payment of the secretary of state's attorney fees and costs pursuant to this Article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S., or any successor section.

(b) (i) Any person required to file a report with the secretary of state and upon whom a penalty has been imposed pursuant to this subsection (2) may appeal such penalty by filing a written appeal with the secretary of state no later than thirty days after the date on which notification of the imposition of the penalty was mailed to such person's last known address in accordance with paragraph (a) of this subsection (2). Except as provided in paragraph (c) of this subsection (2), the secretary shall refer the appeal to an administrative law judge. Any hearing conducted by an administrative law judge pursuant to this subsection (2) shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section. The administrative law judge shall set aside or reduce the penalty upon a showing of good cause, and the person filing the appeal shall bear the burden of proof. The decision of the administrative law judge shall be final and subject to review by the court of appeals pursuant to section 24-4-106 (11), C.R.S., or any successor section.

(II) If the administrative law judge finds that the filing of an appeal brought pursuant to subparagraph (I) of this paragraph (b) was frivolous, groundless, or vexatious, the administrative law judge shall order the person filing the appeal to pay reasonable attorney fees and costs of the secretary of state in connection with such proceeding.

(c) Upon receipt by the secretary of state of an appeal pursuant to paragraph (b) of this subsection (2), the secretary shall set aside or reduce the penalty upon a showing of good cause.

(d) Any unpaid debt owing to the state resulting from a penalty imposed pursuant to this subsection (2) shall be collected by the state in accordance with the requirements of section 24-30-202.4, C.R.S., or any successor section.

(3) Failure to comply with the provisions of this article shall have no effect on the validity of any election.

Section 11. Conflicting provisions declared inapplicable.

Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be inapplicable to the matters covered and provided for in this Article.

Section 12. Repeal of conflicting statutory provisions.

Sections 1-45-103, 1-45-105.3, 1-45-107, 1-45-111, and 1-45-113 are repealed.

Section 13. Applicability and effective date.

The provisions of this article shall take effect on December 6, 2002 and be applicable for all elections thereafter. Legislation may be enacted to facilitate its operations, but in no way limiting or restricting the provisions of this Article or the powers herein granted.

Section 14. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

EXHIBIT I

Colorado Secretary of State



Campaign and Political Finance [8 CCR 1505-6]

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Rule 1. Definitions

- 1.1 “Administrative complaint” means a complaint alleging that one or more violations of Colo. Const. Article XXVIII, Article 45, or Article 46 of Title 1, C.R.S., such other constitutional or statutory provisions that are incorporated or referenced therein, or the rules has occurred and that is filed by the division, or its designee, with a hearing officer.
- 1.2 “Ballot measure” means ballot issue or ballot question.
- 1.3 “Business activities” for purposes of Colo. Const. Article XXVIII:
 - 1.3.1 “Business activities” means providing goods or services that result in income or any other revenue-generating activity not expressly for political purposes.
 - 1.3.2 “Cannot engage in business activities,” means that the articles of incorporation and bylaws, either expressly or implicitly, prohibit the corporation from engaging in any business activities.
- 1.4 “Committee” as used generally in these rules includes candidate committee, political committee, small donor committee, issue committee, small-scale issue committee, independent expenditure committee, political party committee, and political organization.
- 1.5 “Contribution” has the same meaning as set forth in Colo. Const. Article XXVIII, Section 2(5)(a), and section 1-45-103(6), C.R.S.
 - 1.5.1 A contribution does not include an endorsement of a candidate or an issue by any person, or include interest earned in an interest-bearing bank account, dividend income from invested committee funds, earned income from commercially reasonable transactions, or transfers of money within a political party.
 - 1.5.2 Volunteer services
 - (a) Time-based services volunteered by an individual are not considered a contribution if the individual receives no direct or indirect compensation for the time volunteered.

- (b) If an individual volunteers only a portion of his or her time-based services, the volunteered portion is not considered a contribution.
- (c) Any unpaid services that create a thing of value are not considered a contribution. If volunteer services yield a thing of value, “contribution” only includes the reasonable value of the materials involved, unless the value is de minimis.

1.5.3 “Contribution in support of the candidacy” as outlined in Colo. Const. Article XXVIII, Section 2(2), includes all contributions given directly to, or expenditures or spending coordinated with, a candidate for a specific public office, including those to a person who maintains a candidate committee after an election cycle.

- 1.6 “Designated filing agent” means any natural person appointed by a committee who is responsible for timely filing campaign finance reports.
- 1.7 “Deputy secretary” means the person appointed by the Secretary of State as the deputy secretary of state pursuant to section 24-21-105, C.R.S., with authority under section 1-45-111.7, C.R.S., or such other person as may be designated by the deputy secretary of state as the deputy secretary’s designee under section 1-45-111.7(1)(b), C.R.S.
- 1.8 “Direct ballot measure expenditure” means a direct ballot issue expenditure or a direct ballot question expenditure.
- 1.9 “Direct spending”, as used in section 1-45-103(7.2), C.R.S., includes both a monetary and non-monetary purchase, payment, distribution, loan, advance, deposit, monetary or non-monetary gift, contract, promise, or agreement to expend funds.
- 1.10 “Division” or “elections division” has the same meaning as in section 1-45-111.7(1)(c), C.R.S., which is commonly known as the Elections Division of the Colorado Department of State.
- 1.11 “Frequent filing schedule” means:
- 1.11.1 For state and school district director candidates and committees, the filing schedule outlined in sections 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.;

- 1.11.2 For a county, municipal, and special district candidate or committee, the filing schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.;
- 1.11.3 For political committees, small donor committees, independent expenditure committees, and political organizations participating in a regular biennial school election, the filing schedule outlined in sections 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.; and
- 1.11.4 For issue committees supporting or opposing a ballot measure that attempts access to or will appear on an upcoming ballot, the filing schedule outlined in sections 1-45-108(1)(a)(I)(B), 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.
- 1.12 “Funding intermediary”, as used in section 1-45-103(12)(b)(II)(E), C.R.S., means acting as a pass-through for contributions earmarked for an issue committee. A person becomes an intermediary when they accept an earmarked contribution from one person and then make a contribution to an issue committee as directed.
- 1.13 “Independent expenditure committee” has the same meaning as set forth in section 1-45-103(11.5), C.R.S.
- 1.14 “Infrequent filing schedule” means:
- 1.14.1 For a state and school district director candidate or committee, the quarterly filing schedule outlined in section 1-45-108(2)(a)(I)(A), C.R.S.;
- 1.14.2 For a county, municipal, or special district candidate or committee, the annual filing schedule outlined in section 1-45-108(2)(a)(II), C.R.S.; and
- 1.14.3 For issue committees supporting or opposing a ballot measure that will not appear on an upcoming ballot, the filing schedule outlined in sections 1-45-108(2)(a)(I)(A) and (2)(a)(II) C.R.S.
- 1.15 “Initial complaint” means a complaint alleging that one or more violations of Colo. Const. Article XXVIII, Article 45 of Title 1, C.R.S., such other constitutional or statutory provisions that are incorporated or referenced therein, or the rules has occurred and that is filed by any person, including the division, with the division pursuant to section 1-45-111.7(2)(a) and (7), C.R.S.

- 1.16 “Issue committee” means a person or a group of people that meets both of the conditions in Colo. Const. Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II). An “issue committee” does not include a married couple.
- 1.17 “Limited liability company” or “LLC” has the same meaning as set forth in section 1-45-103.7(8), C.R.S.
- 1.18 “Member”, as used in Colo. Const. Article XXVIII, Sections 2(5)(b), 2(8)(b)(IV), and 2(14)(a) only, means a person who pays membership dues.
- 1.19 “Municipal campaign finance matter” as used in section 1-45-111.7(10), C.R.S., means any campaign finance matter exclusively related to a municipal campaign, including matters involving a candidate for a municipal office; a municipal ballot measure; and contributions or expenditures made by any person, committee, or group to support or oppose any candidate for municipal office, or municipal ballot measure. Notwithstanding home rule municipalities that have adopted their own campaign finance charter provisions, ordinances, rules or regulations, this definition applies to all municipalities.
- 1.20 “Non-public information” means confidential material in any form that is not available to the general public, including a non-public campaign plan, communications plan, campaign budget, specification of unmet and potentially unmet campaign needs, proposed or actual media buy, list or description of households or voters who will receive or have received materials under a mailing or other distribution program, polling or focus group results, or other proprietary material. “Non-public information,” does not include communications dealing solely with candidate positions on legislative or policy issues.
- 1.21 “Organization”, as used in section 1-45-103(12)(b)(II), C.R.S., means a person other than a natural person or two or more natural persons that work together with a particular purpose.
- 1.22 “Per day” means “per calendar day” unless otherwise indicated.
- 1.23 “Per year” means “per calendar year” unless otherwise indicated.
- 1.24 “Political committee” has the same meaning as set forth in Colo. Const. Article XXVIII, Section 2(12), and does not include a married couple.

- 1.25 “Principal”, as used in section 1-45-105.5, C.R.S., means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. A person serving as an officer, employee, member, shareholder, or partner of an organization or business entity that employs, retains, engages, or uses a lobbyist is not considered a principal.
- 1.26 “Public office” means any office voted for in this state at any election. “Public office” does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office within a political party.
- 1.27 “Publicly announced an intention to seek election to public office or retention of a judicial office”, as set forth in Colo. Const. Article XXVIII, Section 2(2), means:
- 1.27.1 Registering a candidate committee; or
- 1.27.2 Announcing an intention to seek public office or retention of a judicial office through:
- (a) A speech, advertisement, or other communication reported or appearing in public media; or
 - (b) A statement made in any place accessible to the public; or
 - (c) A statement made in a manner that a reasonable person would expect to become public.
- 1.28 “Registered agent”, as set forth in sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S., is a natural person or candidate designated to receive mailings, to address concerns and questions regarding a committee, and is responsible for timely filing campaign finance reports.
- 1.29 “Respondent” means a person or entity who is the subject of a campaign and political finance complaint.
- 1.30 “Standalone candidate” means a candidate without a committee who does not accept contributions.
- 1.31 “Substantial evidence”, as used in these rules, means evidence that is probative, credible, and competent and of such weight as to be adequate for the division to

accept a fact as true. This standard of proof requires a greater weight of evidence than that which is required for finding “probable cause”.

- 1.32 “Support or oppose”, for the purpose of determining if a person or group of persons is a political committee as defined by Colo. Const. Article XXVIII, Section 2(12)(a), means that the person or group of persons that contributed or made an expenditure did so in coordination with the candidate or candidate committee.
- 1.33 “Transfer”, as used in section 1-45-107.5(14), C.R.S., means the disposition of or parting with funds by check, electronic transfer, or other means. It does not include payment to a vendor or payment of a contract for goods or services.

Rule 2. Candidates and Candidate Committees

2.1 Standalone candidates

- 2.1.1 A standalone candidate need not register a candidate committee.
- 2.1.2 A standalone candidate must file disclosure reports for all reporting periods in which he or she makes expenditures. [Sections 1-45-108 and 1-45-109, C.R.S.]

2.2 Candidate committees

- 2.2.1 A candidate may serve as the candidate committee’s registered agent or appoint another natural person to be the registered agent. Only the registered agent, the designated filing agent, or the candidate may file the contribution and expenditure report.
- 2.2.2 Once assigned a candidate committee must follow the frequent filing schedule for the remainder of the year, except as outlined in Rule 17.5.
- 2.2.3 A candidate committee may accept the contribution limit specified in Colo. Const. Article XXVIII, Section 3(1) and section 1-45-103.7(1.5), C.R.S. for the primary election even if the primary election is canceled under section 1-4-104.5(1), C.R.S. or the candidate is running unopposed.
- 2.2.4 Managing unexpended campaign contributions
- (a) A candidate committee’s ending balance on the report filed 35 days after the major election must reflect the committee’s unexpended

balance and that total is reported as the beginning balance on the first report due in the next election cycle. The candidate committee's beginning balance must reflect what amount is retained for use in a subsequent election cycle and what amount is retained for use as unexpended funds.

(b) Candidates seeking re-election to the same office

- (1) A candidate committee may retain contributions to use in a subsequent election cycle for the same public office, in an amount not to exceed the political party contribution limit in Colo. Const. Article XXVIII, Section 3(3) and section 1-45-103.7(1.5)(a)(III), C.R.S. (as adjusted by Rule 10.17).
- (2) If a candidate committee retains contributions to use in a subsequent election cycle for the same office, the amount retained counts toward the limit on contributions from a political party.
- (3) If a candidate committee retains contributions from a prior election cycle in excess of the political party contribution limit, the candidate committee may not use those funds for any subsequent election cycle but may retain them for use in accordance with section 1-45-106(1)(b), C.R.S., if applicable. The committee may also contribute the funds to a political party, donate the funds to a charitable organization recognized by the Internal Revenue Service, or return the funds to contributors.

(c) Candidates seeking election to a different office

- (1) A candidate committee may transfer funds to a new candidate committee established by the same candidate for a different public office, subject to the political party contribution limit for the prior office sought. [Colo. Const. Article XXVIII, Section 3, and section 1-45-103.7(12)(b), C.R.S.]

- (A) Funds held in excess of the party limit must be disbursed before the new election cycle in accordance with section 1-45-106(5), C.R.S., and cannot be rolled over.
 - (B) Funds previously designated as unexpended funds from a prior election cycle cannot be transferred to the new committee and must be disbursed as specified in section 1-45-106(1)(a) and (b), C.R.S.
- (2) Contributions from persons or committees made to the prior candidate committee do not apply toward the contribution limits for the new candidate committee.
- (3) A candidate committee transferring funds to a candidate committee for a different office must terminate within ten days of registering the new candidate committee.
- (4) A candidate seeking election to a state, county, or local office may not transfer funds from a federal candidate committee to a Colorado candidate committee that is subject to the provisions of the Fair Campaign Practices Act.
- (d) Funds rolled over, up to the political party limit of a new candidate committee, from a candidate's prior candidate committee will have the effect of offsetting how much the candidate may receive in party contributions during that election cycle by the amount of the rollover.

2.2.5 Disposition of debt in anticipation of committee termination

- (a) A candidate committee must report all contributions received during the election cycle and those contributions are subject to the contribution limit, regardless of debt carried over from a prior election cycle.
- (b) Financial obligations incurred by a candidate committee in an election cycle that are not paid within a commercially reasonable period of time, not to exceed one year after the close of that election cycle, are "contributions" from the person extending credit.

2.3 Candidate affidavits. A candidate required to file with the Secretary of State must file a candidate affidavit electronically using the Secretary of State's online campaign finance filing system. [Sections 1-45-110(1) and 24-21-111, C.R.S.]

2.4 Personal financial disclosures

2.4.1 Filing of personal financial disclosures

- (a) A candidate who is not an incumbent need not file a personal financial disclosure statement if the candidate filed a full disclosure statement less than 90 days before filing a candidate affidavit.
- (b) If a candidate withdraws their candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110(2)(a), C.R.S., the candidate need not file a disclosure statement. Any delinquent filing fines that the candidate accrued before withdrawing may be waived by the appropriate filing office.
- (c) An incumbent must file full a personal financial disclosure statement annually. Personal financial disclosure statement update forms are no longer accepted.
- (d) An incumbent seeking re-election need not file a personal financial disclosure statement if the incumbent filed a full disclosure statement less than 30 days before filing a candidate affidavit.
- (e) Any personal financial disclosure statements filed by incumbents more than 30 days before January 10th will not satisfy the requirement to file the annual disclosure statement.
- (f) Personal financial disclosure statements must be amended within 30 days of a substantial change in interest. Amended personal financial disclosure statements must be made on the form provided by the Secretary of State.
- (g) All personal financial disclosure filings required under sections 1-45-110 and 24-6-202, C.R.S., must be filed electronically by 11:59 p.m. MT on the due date and will be publicly available online.

2.4.2 Income and debt ranges for required disclosures:

(a) Ranges for income from any individual source:

- (i) Less than \$999;
- (ii) \$1,000 to \$9,999;
- (iii) \$10,000 to \$24,999;
- (iv) 25,000 to \$49,999;
- (v) \$50,000 to \$74,999;
- (vi) \$75,000 to \$99,999;
- (vii) \$100,000 to \$149,999;
- (viii) \$150,000 to \$199,999;
- (ix) \$200,000 to \$249,999;
- (x) \$250,000 to \$499,999;
- (xi) \$500,000 to \$749,999;
- (xii) \$750,000 to \$999,999;
- (xiii) \$1,000,000 to \$1,499,999;
- (xiv) \$1,500,000 to \$ 1,999,999;
- (xv) \$2,000,000 to \$4,999,999; and
- (xvi) Greater than \$5,000,000.

(b) Ranges of debt:

- (i) Less than \$1,000;
- (ii) \$1,000 to \$9,999;
- (iii) \$10,000 to \$24,999;

- (iv) 25,000 to \$49,999;
- (v) \$50,000 to \$74,999;
- (vi) \$75,000 to \$99,999;
- (vii) \$100,000 to \$149,999;
- (viii) \$150,000 to \$199,999;
- (ix) \$200,000 to \$249,999;
- (x) \$250,000 to \$499,999;
- (xi) \$500,000 to \$749,999;
- (xii) \$750,000 to \$999,999;
- (xvi) \$1,000,000 to \$1,499,000;
- (xvii) \$1,500,000 to \$1,999,999; and
- (xviii) Greater than \$2,000,000.

2.4.3 Failure to file

- (a) Any person can file a complaint under section 1-45-111.7, C.R.S., concerning the completeness, accuracy, or timeliness of a candidate's, including an incumbent who is also a candidate, personal financial disclosure filed in accordance with a candidate affidavit.
- (b) In the event a complaint concerning the completeness, accuracy, or timeliness of an incumbent's personal financial disclosure is filed with the Department when such incumbent is not a candidate, the Department will transmit the complaint to the appropriate body for considering such complaints as is designated under section 24-6-202(8), C.R.S. The Department will notify both the complainant and the incumbent of the transfer of the complaint. Upon such transfer, the Department will take no further action on the complaint unless or until the public body that received the transfer refers the matter back to the Department.

- (c) If a complaint is filed under section 1-45-111.7, C.R.S., alleging that the candidate's personal financial disclosure was inaccurate or an amended disclosure was not accurate or timely filed, the division may consider the following responses from the candidate, without limitation, in determining whether the personal financial disclosure or amendment meets statutory requirements:
 - (1) Documentation refuting the allegation of inaccuracy or incompleteness, including without limitation, for example:
 - (A) Federal tax returns;
 - (B) Banking, investment, or other financial statements;
 - (C) Deeds of trust or other property records;
 - (D) A financial manager's or auditor's certified statement of the candidate's financial holdings; or
 - (E) Other independently verifiable documentary evidence; or
 - (2) A signed affirmation under penalty of perjury from the candidate attesting that the allegation of inaccuracy or incompleteness is not true and the substance of the personal financial disclosure, including amendments, is complete and accurate.
- (d) If there is evidence of willful behavior outlined in section 24-6-202(7), C.R.S., such complaint may be referred to the applicable law enforcement without prejudice to the division's concurrent investigation of the matter and the pursuit of civil or administrative penalties independent of any criminal sanction.
- (e) If a person subject to a complaint related to a personal financial disclosure under section 1-45-110(2), C.R.S., meets the criteria of section 1-45-110(5), C.R.S., and is defeated or withdraws from the candidacy, that person will not be required to file, supplement, or correct a personal financial disclosure after the election but may still be subject to a complaint and potential monetary penalty.

- 2.5 For special district candidates and committees, election cycle means the period of time beginning thirty-one days following the special district election for the particular office and ending thirty days following the next special district election for that office.

Rule 3. Political Committees and Small Donor Committees

- 3.1 A political committee or small donor committee may not make contributions to an issue committee or small-scale issue committee, except to the extent that a contribution is for the purchase of items such as event tickets, merchandise, or services. [Colo. Const. Article XXVIII, Section 2(12)(a)]
- 3.2 A political committee may change its registration to a small donor committee without terminating the political committee if it has never accepted contributions of more than \$50 per natural person per year.
- 3.3 Only the following qualify as a contribution or expenditure made to “support or oppose” a candidate, as those terms are used in the definition of “political committee” in subsection (12) (a) of section 2 of article XXVIII of the Colorado Constitution:
- 3.3.1 Contribution to the candidate committee: must be a payment, loan, pledge, gift, or advance of money, guarantee of a loan, or the gift or loan of property, made by the political committee and given directly to the candidate committee for the purpose of promoting the candidate’s nomination, retention, recall, or election; or
- 3.3.2 Expenditure from the political committee: must be coordinated with a candidate committee or political party and be intended to:
- (a) Support that candidate’s nomination, retention, recall, or election; or
- (b) Oppose a competing candidate’s nomination, retention, recall, or election.
- 3.4 Where there is no coordination as described in Rule 3.3, and the aggregate amount of the expenditures is in excess of one thousand dollars, the entity is an independent expenditure committee rather than a political committee. If the person or group meets the registration requirements of an independent

expenditure committee, it must register as an independent expenditure committee.

Rule 4. Issue Committees

- 4.1 An issue committee may support or oppose more than one ballot measure if the committee registration form states each measure, describes each measure, and states whether the committee supports or opposes the measure.

[Colo. Const. Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]

- 4.2 If an issue committee supports or opposes a ballot measure on an upcoming ballot, the issue committee must file on a frequent filing schedule. See Rule 17.2.3.

- 4.3 A statewide issue committee must file reports of contributions and expenditures for all of the activity that qualifies it as an issue committee under section 1-45-103(12), C.R.S.

- 4.4 Major purpose standard

4.4.1 For an organization supporting or opposing a non-statewide ballot measure, a major purpose of the organization as that phrase is used in Colo. Const. Article XXVIII, Section 2(10)(a), is determined based on the consideration of:

- (a) The organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or
- (b) The organization's demonstrated pattern of conduct, as reflected through the following non-exclusive set of factors, including:
 - (1) The scope of the issues addressed in the organization's print and electronic publications;
 - (2) The length of time the organization had existed;
 - (3) The organization's original purpose;
 - (4) The organization's organizational structure;

- (5) The various issues in which the organization had been involved; and
- (6) The amount of money the organization had spent on the issue in question in relation to its annual budget.

[*Cerbo v. Protect Colo. Jobs, Inc.*, 240 P.3d 495, (Colo. App. 2010)]

4.4.2 For an organization supporting or opposing a statewide ballot measure, a major purpose as outlined in section 1-45-103(12)(b), C.R.S., is determined as follows:

- (a) The organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or
- (b) The organization's demonstrated pattern of conduct which is evidenced by its spending. Specifically,
 - (1) During the current and two preceding years, did the organization:
 - (A) Make contributions to a single statewide issue committee or make direct ballot measure expenditures in support of or opposition to one statewide ballot measure that, combined, exceeded 20% of the organization's total spending (in any location and for any reason) during the current and two preceding years; or
 - (B) Make contributions to more than one statewide issue committee or make direct ballot measure expenditures in support of more than one statewide ballot measure that combined exceeded 30% of the organization's total spending (in any location and for any reason) during the current and two preceding years; or

- (2) Does the organization have a pattern of conduct as acting as a funding intermediary by making earmarked contributions to an issue committee.

4.4.3 For campaign and political finance complaints involving whether the respondent is an organization that has a major purpose of supporting or opposing one or more ballot measures, a rebuttable presumption that the organization met the standard for having a major purpose under section 1-45-103(12)(b), C.R.S., is created if:

- (a) A campaign and political finance complaint has been filed and the division initially determines that the complaint alleges a potential violation in which the respondent may have a major purpose of supporting or opposing one or more ballot measures; and
- (b) The respondent fails to provide substantial evidence, as defined in Rule 1.31, that they have not met the major purpose standard.

4.4.4 This presumption will be considered sufficient information to support the filing of an administrative complaint with a hearing officer under section 1-45-111.7(5), C.R.S. The presumption of meeting the major purpose standard can be rebutted by the respondent during the administrative hearing process. The presumption of meeting the major purpose standard no longer applies once the respondent has appeared and answered an administrative complaint in a hearing before a hearing officer. See 8 CCR 1505-3, Rule 3, for additional information regarding the administrative hearing process.

4.5 Termination. An issue committee may file a termination report at any time if the following conditions are met:

- 4.5.1 The committee no longer has a major purpose of supporting or opposing a ballot measure and no longer intends to accept or make contributions or expenditures to support or oppose a ballot measure; and
- 4.5.2 The committee's TRACER account reflects no cash on hand and no outstanding debts, obligations, or penalties.

4.6 Small-scale issue committees

- 4.6.1 A small-scale issue committee may support or oppose more than one ballot measure if the committee registration form states each measure, describes each measure, and states whether the committee supports or opposes the measure.

[Colo. Const. Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]

- 4.6.2 The notification required by section 1-45-108(1.5)(c)(III), C.R.S. must be submitted on the form provided by the Secretary of State.
- 4.6.3 The disclosure report required by section 1-45-108(1.5)(c)(I), C.R.S., must be filed with the appropriate officer within five calendar days after notification to the appropriate officer that the small-scale issue committee qualifies as an issue committee under section 1-45-108(1.5)(c)(III), C.R.S.
- 4.6.4 Upon conversion of a small-scale issue committee to an issue committee, the issue committee's first report of contributions and expenditures must reflect the small-scale issue committee's funds on hand as a beginning balance.
- 4.6.5 A small-scale issue committee may terminate by filing an affirmation indicating the committee has no outstanding debts or obligations and wishes to terminate.
- 4.6.6 A small-scale issue committee required to register under section 1-45-108(1.5), C.R.S. may register and report as an issue committee at any time.
- 4.7 For issue committees and small-scale issue committees, the election cycle is a calendar year, beginning January 1 and ending December 31. This rule does not apply to issue committees formed to support or oppose a recall.

Rule 5. Independent Expenditures and Independent Expenditure Committees

- 5.1 An independent expenditure committee must report donations over \$20 given for the purpose of making an independent expenditure.
- 5.1.1 An independent expenditure committee must itemize donations of \$250 or more per year given for the purpose of making an independent expenditure and include the name and address of the donor.

- 5.1.2 Except for a committee exercising its right to cure under section 1-45-111.7(4), C.R.S., if the committee is unable to gather the information required by section 1-45-107.5(4)(b)(II), or (III), C.R.S., within 30 days after receipt of the donation, the committee must return the donation to the donor no later than the 31st day after receipt.
- 5.1.3 An independent expenditure committee must itemize independent expenditures made in an aggregate amount of \$1,000 in any one calendar year and include the information required by section 1-45-107.5, C.R.S.
- 5.1.4 An independent expenditure committee must list all expenditures of \$250 or more during a reporting period, including the name and address of payees. The committee may report any disbursement not defined as an expenditure to the appropriate officer.
- 5.1.5 An independent expenditure committee must list individual expenditures in amounts of less than \$250 that aggregate to total of \$250 or more to the same payee during the reporting period.
- 5.1.6 An independent expenditure committee may report all other expenditures of less than \$250 during a reporting period, in total, as non-itemized expenditures.
- 5.2 An independent expenditure committee may not coordinate its campaign-related expenditures with a candidate, candidate committee, or political party. Nothing in these rules limits joint fundraising efforts or the transfer of funds raised through joint fundraising efforts by an independent expenditure committee or other committee as long as each committee pays its allocated share of joint fundraising expenses and no committee participating in the joint fundraising activity receives more than its allocated share of funds raised in accordance with applicable contribution limits.

Rule 6. Political Parties

- 6.1 The appropriate filing officer for a state or county political party is the Secretary of State. [Section 1-45-108(1)(a)(I), C.R.S.]
- 6.2 Transfers of money within a party

6.2.1 A party may transfer money from one level of the organization to another without limit.

6.2.2 The party must disclose transfers as “other income” in accordance with Rule 10.15.

6.3 Home rule jurisdictions

6.3.1 A political party in a home rule jurisdiction that maintains a separate account in accordance with Rule 14.3 may not include contributions to, or expenditures from that separate account in reports filed with the Secretary of State.

6.3.2 If a political party receives contributions into a separate account in accordance with Rule 14.3, the party may not transfer funds from that account to other county parties or to a state party.

Rule 7. Federal PACs and 527 Political Organizations

7.1 Federal PACs

7.1.1 A Federal PAC that qualifies as a political committee under Colo. Const. Article XXVIII, section 2(12), must register with the Secretary of State’s office as a state political committee and follow all requirements for state political committees; except that a Federal PAC is not required to form a separate bank account for the state political committee so long as the funds used for the state political committee can be separately identified. Nothing in this rule requires a Federal PAC to observe Colorado requirements for contributions, expenditures, or other campaign finance activity for federal elections or elections in states other than Colorado.

7.2 Political organizations.

7.2.1 A political organization must file on the frequent filing schedule for a political committee in an even-numbered year, and on the infrequent filing schedule in an odd-numbered year, according to the filing schedules set forth in section 1-45-108(2), C.R.S.

7.2.2 A political organization that receives no contributions and spends less than \$20 during a reporting period is not required to file a disclosure report for that reporting period. [Section 1-45-108.5(1)(b), C.R.S.]

7.2.3 A political organization must file all disclosure reports required by section 1-45-108.5, C.R.S., with the appropriate filing officer. For the purposes of this rule, the appropriate filing officer is the same for political organizations as for political committees.

Rule 8. Registering a Committee

8.1 The committee registration must include the purpose or nature of interest of the committee or party.

8.1.1 A candidate committee must identify the name of the candidate.

8.1.2 A political committee, independent expenditure committee, small donor committee, or political organization must identify the types of candidates it supports or opposes, and the offices they seek and, as applicable, public policy position(s).

8.1.3 An issue committee or small-scale issue committee must identify the ballot measure it will support or oppose, if known. If particular ballot measures are not known, the issue committee or small-scale issue committee must identify the policy position it will support or oppose.

Rule 9. Registered Agents

9.1 The registered agent or a designated filing agent for any committee must sign the committee's registration form and all disclosure reports. For registration forms and reports filed by a candidate or candidate committee, the candidate must sign. For purposes of this requirement, an electronic login will fulfill the signature requirement.

9.2 Resignation of the registered agent

9.2.1 A committee may assign a new registered agent by filing an amended committee registration. For a candidate committee, upon resignation of the registered agent the candidate becomes the registered agent until a new

agent is assigned. For all other committees, the registered agent's name remains on file until the committee assigns a new registered agent.

- 9.2.2 A committee must file an amended committee registration form within ten days after the resignation of a registered agent or the appointment of a new registered agent. A committee must have an active registered agent at all times. [Section 1-45-108(3)(b), C.R.S.; Rule 12.1]

Rule 10. Managing Contributions and Expenditures

10.1 Unexpended campaign contributions.

- 10.1.1 For purposes of section 1-45-106(1), C.R.S., contributions to a candidate committee become unexpended campaign contributions at the earliest of the following:

- (a) The end of the election cycle; or
- (b) When the candidate withdraws from the political race and intends to terminate his or her candidate committee.

- 10.1.2 For purposes of section 1-45-106(3), C.R.S., contributions to an issue committee become unexpended contributions at the end of the election cycle in which the committee supported or opposed a ballot measure, or one that attempted access to the ballot. Funds do not become unexpended contributions if the issue committee supports or opposes, or intends to support or oppose, another ballot measure or measures.

- 10.1.3 Unexpended contributions may not be used for personal purposes except to reimburse a candidate or incumbent for reasonable and necessary expenses for the care of a child or a dependent as allowed under sections 1-45-103.7(6.5) and 1-45-106(1)(b)(VI), C.R.S.

10.2 Except for independent expenditure committees and small-scale issue committees, committees must report contributions as follows:

- 10.2.1 Committees must individually list all contributions of \$20 or more received during a reporting period, including names and addresses of the contributors. If a contributor gives \$20 or more in the aggregate during the reporting period, the committee must individually list the contributor on the

report, regardless of the amount of each contribution. [Section 1-45-108(1), C.R.S.]

10.2.2 A committee may report all other receipts and contributions less than \$20 in total as non-itemized contributions for the reporting period, except for contributions from an LLC. A committee must itemize all contributions from an LLC, regardless of amount. [Section 1-45-103.7(5)(d), C.R.S.]

10.2.3 Disclosure of occupation and employer

- (a) The requirement to disclose a contributor's or donor's occupation and employer applies only to any one-time contribution or donation, and not to the person's aggregate contributions or donations.
- (b) Except for a committee exercising its right to cure under section 1-45-111.7(4), C.R.S., if a committee does not report required occupation and employer information, and the committee is unable to gather the information within 30 days after receipt of the contribution, the committee must return the contribution to the contributor no later than the 31st day after receipt.
- (c) The requirement under section 1-45-108, C.R.S., to disclose a contributor's or donor's occupation and employer applies only to a contributor who is a natural person.

10.3 Except for independent expenditure committees and small-scale issue committees, committees must report expenditures as follows:

10.3.1 A committee must list all expenditures of \$20 or more during a reporting period, including the name and address of payees. The committee may report any disbursement not defined as an expenditure to the appropriate officer.

10.3.2 A committee must list individual expenditures in amounts less than \$20 that aggregate to total \$20 or more to the same payee during the reporting period.

10.3.3 A committee may report all other expenditures less than \$20 during a reporting period in total as non-itemized expenditures.

[Section 1-45-108(1), C.R.S.]

10.4 Date of a contribution or donation.

10.4.1 A contribution or donation by check or money order is accepted, at the earliest on the date that it is received or at the latest, on the date that the contribution or donation is deposited into the committee account. If a committee receives a donation by check or money order at least five business days before the end of a reporting period, the committee must deposit the check or money order or return to the contributor before that reporting period closes.

10.4.2 A cash contribution or donation is accepted the date the cash is in the committee's possession.

10.4.3 A contribution or donation made by credit card, PayPal, or other payment intermediary service is accepted on the date the contributor or donor authorizes the payment, or if unknown, on the date the payment intermediary service electronically transfers the contribution or donation.

10.4.4 A non-monetary or in-kind contribution or donation is accepted on the date the committee takes possession of the item, or has the right to possess or use the item.

10.4.5 For purposes of section 1-45-105.5, C.R.S., concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is accepted when the pledge is made or possession of the check is transferred to any person not under the control of the issuer, whichever is sooner.

10.4.6 If a committee accepts a contribution or donation from a joint account and the contributor or donor is not specified, the committee may apportion the entire amount to the joint account who signed the check or determine how to apportion the contribution or donation between joint account holders. If the committee apportions a contribution or donation between joint account holders, the committee must notify each joint account holder of the apportionment.

10.4.7 Any other contribution or donation is accepted on the date its received.

- 10.5 A committee must maintain all financial records for 180 days after any general election cycle in which the committee received contributions. If a complaint is filed against the committee, the committee must maintain financial records until final disposition of the complaint and any consequent litigation. The committee must maintain covered organization and LLC affirmations for one year after the end of the election cycle.
- 10.6 If a committee receives a contribution in excess of the contribution limit, the committee must return the excess to the contributor within ten days of receipt or within three days after receiving notification from the appropriate filing office, whichever is sooner, and will not be held liable.
- 10.7 A committee may accept contributions in cryptocurrency, up to the acceptable limit for a cash or coin contribution. The amount of the contribution is the value of the cryptocurrency at the time of the contribution. The committee must report any gain or loss after the contribution as other income or receipts.
- 10.8 Contributions by anonymous contributor
- 10.8.1 A committee may not keep anonymous contributions of \$20 or more.
- 10.8.2 Anonymous contributions are contributions where the identity of the contributor or other required reporting information is unknown.
- 10.8.3 A committee must donate an anonymous contribution of \$20 or more to a charitable organization recognized by the Internal Revenue Service, or transmit the contribution to the State Treasurer within 30 days after receipt.
- 10.9 Reporting contributions and loans:
- 10.9.1 If a candidate does not accept voluntary spending limits, the candidate may make unlimited contributions from his or her personal funds to his or her candidate committee.
- 10.9.2 A candidate who accepts voluntary spending limits may make a loan to his or her candidate committee in any amount, so long as the unpaid balance of any loan does not exceed the contribution limit in Colo. Const. Article XXVIII, Sections 3 and 4(2) at any time.

10.10 If all candidates who declined voluntary spending limits have withdrawn from the race or lost in the primary election, a candidate who accepted voluntary spending limits may not continue to accept contributions double the standard limits.

10.11 Cost-sharing by candidates

10.11.1 Each candidate, standalone candidate, and candidate committee that shares any cost or expense including brochures, communications, advertisements, office space, or other overhead must pay its proportionate share of the cost within 30 days of the date the cost was incurred. The committee or candidate that made the expense must report the entire amount as an expenditure. The committee or candidate reimbursing for the expense must reimburse within 30 days and report their portion of the expense as an expenditure, and the reimbursed committee or candidate must report reimbursement payments as a returned expenditure.

10.11.2 A committee nor candidate need not report discounts resulting from shared expenses as contributions given by a vendor or others on a purchase solely because more than one committee is cost-sharing with another committee.

10.11.3 If a “paid for by” disclaimer is needed for any shared communication, the names of all of the committees or candidates must be included on the communication.

10.12 Reimbursement of expenditures – payments by credit card or payment intermediary service

10.12.1 A committee must report a reimbursement of \$20 or more and include the purpose, payee, and amount of the reimbursement.

10.12.2 For the purpose of reporting, simply disclosing that a payment was made to a credit card company or a payment intermediary service such as PayPal is not adequate. The committee must itemize all payments of \$20 or more made with a credit card or through a payment intermediary service, including the name and address of the original payee, amount, original date of expenditure, and purpose of the expenditure.

10.12.3 An immediate reimbursement for committee expenses is not a contribution.

[Section 1-45-108(1)(e), C.R.S.]

10.13 Loans to a candidate committee

10.13.1 Financial institution loans to a candidate committee under Colo. Const. Article XXVIII, Section 3(8) may not be forgiven.

10.13.2 Candidate loans to his or her committee

- (a) A candidate may make an interest-free loan to his or her candidate committee. Any foregone interest is not a contribution to the committee.
- (b) A committee must report the interest repaid for a loan made under Colo. Const. Article XXVIII, Section 3(8) as an expenditure.
- (c) A candidate may forgive a loan he or she loaned to his or her own committee. The amount of unpaid debt forgiven by the candidate remains a contribution and is not considered a returned contribution.

10.14 A committee may deposit committee money in more than one financial institution.
[Colo. Const. Article XXVIII, Section 3(9)]

10.15 Other income

10.15.1 A committee may invest its funds in any type of account or instrument of a government regulated financial institution.

10.15.2 A committee must disclose all interest or dividends earned on its bank account, earned income from a commercially reasonable transaction, or transfers of money within a political party as other income on the committee's reports. These other receipts are not subject to contribution limits.

10.16 Disclosure of contributions by limited liability companies (LLCs) [Section 1-45-103.7(5), (6), (7), and (8), C.R.S.]

10.16.1 The affirmation must include the occupation and employer of any member attributed with contributing \$100 or more.

- 10.16.2 The affirmation provided by an LLC under section 1-45-103.7, C.R.S., must include the name and address of each LLC member, the amount attributed to each member, and, if more than \$100 is attributed to a member, the occupation and employer of that member. When reporting the contribution, the committee must select the “LLC” contributor type and include the name and address of the LLC, the name and address of each member, and the amount attributed to each member. Attribution is determined by the pro-rata share of ownership.
- 10.16.3 A committee must return any contribution received from an LLC that does not comply with the affirmation requirements in section 1-45-103.7, C.R.S., and this rule to the contributor within 30 days.
- 10.16.4 A committee must itemize each contribution received from an LLC on disclosure reports, regardless of the dollar amount.
- 10.16.5 Any contribution from an LLC counts against contribution limits for both the individual members to whom the contribution is attributed and the LLC itself. [Colo. Const. Article XXVIII, Section 3(9)]. An LLC may not make a contribution that exceeds the limit for a “person” established in Colo. Const. Article XXVIII, Section 3, as adjusted by Rule 10, regardless of the amount attributed to each individual member.

10.17 Current adjusted limits

- 10.17.1 Adjusted limits made in the first quarter of 2023 and effective until the next adjustment is made in 2027:
- (a) There is no adjustment to the contribution limits on individual donations to small donor committees outlined in Colo. Const. Article XXVIII, Section 2(14).
 - (b) The aggregate limits on contributions from any person for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(1), are adjusted as follows:
 - (1) \$725 to any one:
 - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor

- candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
- (B) Secretary of State, State Treasurer, or Attorney General candidate committee.
- (2) \$225 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (c) The aggregate limits on contributions from a small donor committee for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(2), are adjusted as follows:
 - (1) \$7,825 to any one:
 - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - (B) Secretary of State, State Treasurer, or Attorney General candidate committee; and
 - (2) \$3,100 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (d) The aggregate limits on contributions from any person to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(a), are adjusted as follows:
 - (1) \$4,675 per year at the state, county, district, and local level combined; and
 - (2) Of such, no more than \$3,875 at the state level.

- (e) The aggregate limits on contributions from a small donor committee to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(b), are adjusted as follows:
 - (1) \$23,600 per year at the state, county, district, and local level combined; and
 - (2) Of such, no more than \$19,650 at the state level.
- (f) The aggregate limits on pro-rata contributions or dues made to political committees, described in Colo. Const. Article XXVIII, Section 3(5), are adjusted to \$725 per house of representatives election cycle.
- (g) The aggregate limits on contributions to a county candidate as defined in section 1-45-103.7(1.5)(a)(I), C.R.S. are as follows:
 - (1) \$1,425 for a primary or a general election from any person other than a small donor committee or a political party;
 - (2) \$14,400 for a primary or a general election from any small donor committee; and
 - (3) \$25,475 for the election cycle from a political party.
- (h) The aggregate limits on contributions to candidates for school district director are as follows:
 - (1) \$2,500 per election cycle from any person other than a small donor committee; and
 - (2) \$25,000 per election cycle from any small donor committee.
- (i) This table contains the contribution limits listed in subsections (a)-(h).

Recipient:	Contributor:				
	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle
Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$725 per election cycle*	\$725 per election cycle*	\$725 per election cycle*	\$7,825 per election cycle*	\$789,060 per election cycle
Secretary of state, state treasurer, attorney general	\$725 per election cycle*	\$725 per election cycle*	\$725 per election cycle*	\$7,825 per election cycle*	\$157,805 per election cycle
State senate	\$225 per election cycle*	\$225 per election cycle*	\$225 per election cycle*	\$3,100 per election cycle*	\$28,395 per election cycle
State house of representatives, state board of education, regent of the University of Colorado, district attorney	\$225 per election cycle*	\$225 per election cycle*	\$225 per election cycle*	\$3,100 per election cycle*	\$20,500 per election cycle

Recipient:	Contributor:				
	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political party	\$4,675 (\$3,875 at the state level) per year	\$4,675 (\$3,875 at the state level) per year	\$4,675 (\$3,875 at the state level) per year	\$23,600 (\$19,650 at the state level) per year	Transfers within a party may be made without limitation.
County candidate	\$1,425 per election cycle*	\$1,425 per election cycle*	\$1,425 per election cycle*	\$14,400 per election cycle*	\$25,475 per election cycle
School district director	\$2,500 per election cycle	\$2,500 per election cycle	\$2,500 per election cycle	\$25,000 per election cycle	\$2,500 per election cycle

* A candidate may accept the contribution limit for both the primary election and the general election.

- (j) The voluntary spending limits for a candidate described in Colo. Const. Article XXVIII, Section 4(1), are adjusted as follows:
 - (1) The spending limit for Governor, and Governor and Lieutenant Governor as joint candidates under section 1-1-104, C.R.S., or any successor section is adjusted to \$3,945,300.
 - (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer is adjusted to \$789,025.

- (3) The spending limit for a candidate for State Senate is adjusted to \$141,975.
- (4) The spending limit for a candidate for State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney is adjusted to \$102,500.

Candidate	Voluntary Spending Limit
Governor, and Governor and Lieutenant Governor as joint candidates	\$3,945,300
Secretary of State, Attorney General, or State Treasurer	\$789,025
State Senate	\$141,975
State House of Representatives, State Board of Education, Regent of the University of Colorado, or District Attorney	\$102,500

10.18 Major Contributor Reports.

10.18.1 Municipal committees required to file major contributor reports under section 1-45-108(2.5), C.R.S. must file with the municipal clerk.

10.18.2 Small-scale issue committees are not required to file major contributor reports under section 1-45-108(2.5), C.R.S.

10.19 Reporting a direct ballot measure expenditure

10.19.1 The disclosure report required by section 1-45-108(1)(a)(VI), C.R.S.

- (a) The aggregate of \$5,000 in direct ballot measure expenditures can be met with expenditures of any amount.
- (b) Once a person makes \$5,000 in direct ballot measure expenditures in the aggregate within a calendar year, each additional expenditure of \$1,000 or more must be reported.

- (c) A single direct ballot measure expenditure of less than \$1,000 does not need to be reported.
- (d) Direct ballot measure expenditure disclosure reports must be filed within 48 hours of when the direct spending occurs or when a contractual agreement is made.
- (e) Expenditures by an issue committee are not direct ballot measure expenditures and should be reported in accordance with Rule 10.3 and section 1-45-108(1), C.R.S.

10.19.2 Each direct ballot measure expenditure disclosure must include:

- (a) The name and address of the payor;
- (b) The name and address of payee;
- (c) The name of the original source of the funds, if the direct ballot measure expenditure was paid with earmarked funds;
- (d) The amount of the direct ballot measure expenditure;
- (e) The date of the direct ballot measure expenditure;
- (f) The purpose for which the direct ballot measure expenditure was made, including the ballot measure and whether the direct ballot measure expenditure was in support or opposition of the ballot measure; and
- (g) An affirmation signed by an authorized representative on a form provided by the Department or appropriate officer that the filer does not meet the definition of an issue committee and only used permissible sources for the expenditure.

10.20 Earmarked contributions

- 10.20.1 A contribution will be considered earmarked if it includes or is accompanied by a direction or instruction which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a candidate, committee, or ballot measure.

10.20.2 Disclosure reports of earmarked contributions must include the original source of the funds as well as conduits, funding intermediaries, or other persons involved in the transaction.

10.20.3 Recipients of earmarked contributions must disclose the original source of the contribution and the person who made the contribution.

Rule 11. Electioneering Communications

- 11.1 Any person who expends \$1,000 or more per calendar year on electioneering communication or regular biennial school electioneering communication must include the method of communication on the electioneering report.
- 11.2 Persons making electioneering communications or regular biennial school electioneering communications must maintain all financial records for 180 days after the general election or regular biennial school election, as applicable. If a complaint is filed against the person making electioneering communications or regular biennial school electioneering communications, the person must maintain financial records until final disposition of the complaint and any resulting litigation.
- 11.3 Electioneering communication reports must include the name of the candidate(s) unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. [Colo. Const. Article XXVIII, Section 2(7)(a)(I)]
- 11.4 A committee need not file electioneering communication reports separate from regularly filed disclosure reports if the expenditure or spending subject to Colo. Const. Article XXVIII, Section 6 is identified as an electioneering communication or regular biennial school electioneering communication. The disclosure of electioneering communication expenditures or spending on a regularly filed report must include the name of the candidate(s) referred to in the communication.

Rule 12. Changing or Closing a Committee

- 12.1 A committee must report any change to its committee registration statement to the appropriate filing officer within ten days. [Section 1-45-108(3), C.R.S.]

- 12.2 A candidate seeking a different public office must terminate his or her existing candidate committee and register a new candidate committee within ten days. See Rule 2.2.
- 12.3 A committee may file a termination report terminating the committee if the following conditions are met:
- 12.3.1 The committee no longer intends to receive contributions or make expenditures;
 - 12.3.2 The committee's TRACER account has a zero balance, indicating it has no cash or assets on hand and there are no outstanding debts, penalties, or obligations;
 - 12.3.3 A committee may dispose of assets remaining in its possession before termination in the same manner as allowed for unexpended contributions;
 - 12.3.4 The committee has no pending campaign and political finance complaints or related proceedings pending before the elections division or any court; and
 - 12.3.5 In addition to the requirements outlined in this Rule 12.3, candidate committees must terminate within:
 - (a) One year after the election, if the candidate was not elected; or
 - (b) One year after an elected candidate leaves office.
- [Sections 1-45-103.7(12)(a)(I) and (II), C.R.S.]
- 12.4 Administrative committee terminations. The appropriate officer may terminate a standalone candidate or committee if the standalone candidate or committee fails to file any required reports for six consecutive reporting periods or 18 months, whichever is shorter, or files "zero" reports or reports with no activity for the same time period in accordance with the procedures set out in the State Administrative Procedure Act. [Colo. Const. Article XXVIII, Section 2(3), and section 24-4-105, C.R.S.]
- 12.5 If the appropriate filing office receives verifiable information in writing that the candidate is deceased, the appropriate filing office may immediately terminate the candidate's candidate committee.

Rule 13. Corporations and Membership Organizations

13.1 A corporation or labor organization may establish a political committee, an independent expenditure committee, and a small donor committee. Each committee is subject to the applicable individual contribution and expenditure limits for that committee. A corporation or labor organization may pay for the costs of establishing, administering, and soliciting funds from its own employees or members. [Colo. Const. Article XXVIII, Sections 2(5)(b) and 2(14)(b)]

13.2 Transferring membership dues to a small donor committee, independent expenditure committee, and political committee.

13.2.1 A membership organization transferring a portion of a member's dues to a small donor committee, independent expenditure committee, or political committee must provide the respective committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.

13.2.2 Each small donor committee, independent expenditure committee, and political committee must keep records of all contributions or donations received in the form of membership dues including the name, address, and amount of the dues transferred. [Section 1-45-108(1)(a)(I), C.R.S.]

13.2.3 Each small donor committee and political committee must itemize and report the name and address of each person contributing \$20 or more in a reporting period, including but not limited to contributions in the form of membership dues transferred by a membership organization to the committee. [Colo. Const. Article XXVIII, Section 2(14)(a); section 1-45-108(1)(a), C.R.S.]

13.2.4 On each disclosure report, the candidate or registered agent of a committee must certify and declare, under penalty of perjury, that to the best of his or her knowledge or belief all contributions or donations received in a reporting period, including contributions or donations received in the form of membership dues transferred by a membership organization, are from permissible sources. [Colo. Const. Article XXVIII, Section 3]

Rule 14. Local Offices and Home Rule

- 14.1 The requirements of Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., do not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Colo. Const. Article XXVIII or Article 45 of Title 1. Nothing precludes a home rule municipality from adopting or using Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., for their compliance and enforcement.
- 14.2 During the legislative session, a lobbyist may not contribute to a member of the General Assembly who is a candidate for any state or local office, including any office in a home rule municipality that has adopted charters, ordinances, or resolutions that address any of the matters covered by Colo. Const. Article XXVIII or Article 45 of Title 1.
- 14.3 A political party may establish a separate account for contributions and expenditures made by the party, for the purpose of supporting the party's home rule county or municipal candidates. Contributions to and expenditures from such account do not count against party limits or reported under Colo. Const. Article XXVIII or Article 45 of Title 1, C.R.S.

Rule 15. Recall Elections

- 15.1 The recall election cycle begins on the date the recall petition is approved for circulation by the designated election official and ends on the last day of the final reporting period following the date of the recall election as defined in Rule 15.2.2.
- 15.1.1 If a recall petition is determined to be insufficient, the recall election cycle ends 25 days after the time for protest and final disposition of any protest or appeal of such determination.
- 15.1.2 If a recall election is canceled for any other reason, the recall election cycle ends 25 days after the deadline for filing the recall election petition, or 25 days after the event that caused the designated election official to cancel the election, whichever is later.
- 15.1.3 If a recall election is canceled, all committees that were participating in the recall election except small-scale issue committees must file a report five days after the end of the recall election cycle. The reporting period begins on the first day following the last day of the reporting period for the previous report. If there was no previous report, the reporting period

begins on the date the committee registered. The reporting period ends on the last day of the election cycle.

- 15.2 Except for issue committees and small-scale issue committees, committees participating in a recall election must file reports on the fifth day of every month until disclosure under section 1-45-108(2.7), C.R.S. and Rule 15.5 begins.

15.2.1 The initial reporting period for committees formed for the purpose of the recall election begins on the date the committee registers with the appropriate filing office.

15.2.2 Subsequent reporting periods for a committee participating in the recall election begin on the first day of each month and end on the last day of that month, except that the final reporting period ends 25 days following the date the recall election was held.

15.2.3 All other committees whose original formation was not for the purpose of supporting or opposing a recall measure must notify the appropriate officer within ten days after deciding to support or oppose a recall or support or oppose a successor candidate. Once notified, the appropriate officer will place the committee on the recall filing calendar until the end of the recall election cycle.

- 15.3 The incumbent in a recall election is not a candidate for the successor election and may open an issue committee or small-scale issue committee to oppose the recall. The incumbent may not use his or her candidate committee to oppose the recall.

- 15.4 The aggregate contribution limits specified for a general election in Colo. Const. Article XXVIII, Section 3, as adjusted by these Rules, apply to the recall election with respect to each successor candidate.

- 15.5 A committee supporting or opposing a candidate in a recall election must file disclosure reports:

15.5.1 14 days before the recall election;

15.5.2 Seven days before the recall election; and

15.5.3 30 days after the recall election.

[Section 1-45-108 (2.7), C.R.S.]

- 15.6 Under Colo. Const. Article XXVIII, Section 2(3), a successor candidate must terminate any other active candidate committee for the candidate and open a new candidate committee for the purpose of running in the recall election. Transfer of funds from a previously active candidate committee are subject to Rule 2.2.4.
- 15.7 An issue committee remaining open at the end of the recall election cycle must file reports according to the infrequent filing schedule in Rule 17.2.3(b).

Rule 16. Special Districts

- 16.1 A special district designated election official or director candidate must file a copy of the self-nomination and acceptance form described in Rule 16.2 with the Secretary of State no later than 60 days before the special district election. This rule does not apply if the special district cancels the election.
- 16.2 Self-nomination and acceptance forms and affidavits of intent to be a write-in candidate.
- 16.2.1 The self-nomination and acceptance form and letter, and affidavits of intent to be a write-in candidate must include the following information:
- (a) The candidate's full name;
 - (b) The name of the special district and the special district director office sought;
 - (c) The date of the election;
 - (d) The county in which the district court that authorized the creation of the special district is located;
 - (e) The candidate's residence and mailing addresses;
 - (f) The candidate's telephone number;
 - (g) The candidate's email address;
 - (h) The date on which the form, letter, or affidavit was filed by the candidate;

- (i) The candidate's signature; and
- (j) The signature of a registered elector acting as a witness.

[Sections 1-45-110, 1-13.5-303, C.R.S.]

16.3 A special district candidate is not required to file disclosure reports if:

16.3.1 The special district candidate affidavit, the self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate contains a statement substantially stating, "I will not, in my campaign for this office, receive contributions or make expenditures exceeding \$200 in the aggregate during the election cycle, however, if I do so, I will thereafter register and file all disclosure reports required under the Fair Campaign Practices Act;" and

16.3.2 The candidate does not accept contributions or make expenditures exceeding \$200 in the aggregate during the election cycle.

[Colo. Const. Article XXVIII, Section 2(2) and section 1-45-108(1), C.R.S.]

Rule 17. Filing Calendars and Reporting periods

17.1 A committee other than a political organization or small-scale issue committee must file a disclosure report for every reporting period, even if the committee has no activity to report during the reporting period.

17.2 Filing schedules.

17.2.1 A candidate committee files on:

- (a) A frequent filing schedule during the year in which the office to which candidate seeks to be elected is up for election.
- (b) An infrequent filing schedule during any year in which the office to which candidate seeks to be elected is not up for election.
- (c) For purposes of this rule, the office to which the candidate seeks to be elected is the office named in the candidate's most recent candidate affidavit.

17.2.2 A political committee, small donor committee, political party, independent expenditure committee, or political organization files on:

- (a) A frequent filing schedule during any year in which a general election occurs and, if participating in a regular biennial school election, in any year in which a biennial school election occurs.
- (b) An infrequent filing schedule during any year in which no general election occurs, except if the committee is participating in a regular biennial school election.

17.2.3 An issue committee files on:

- (a) A frequent filing schedule during any year in which an issue that the committee supports or opposes appears on, or seeks access to, the ballot.
- (b) An infrequent filing schedule during any year in which the committee does not support or oppose any issues appearing on, or which seek access to, any ballot.

17.2.4 An issue committee must notify the appropriate filing office within ten days after deciding that it will support or oppose a ballot measure on an upcoming ballot.

- (a) Once an issue committee notifies the appropriate filing office of its active status under this Rule, the appropriate filing office will place the committee on a frequent filing schedule.
- (b) Once an issue committee has declared its committee filing status as frequent or infrequent in a particular year, the committee must follow the appropriate filing schedule for the remainder of that election cycle, except that an inactive committee may change its status to active at any time.

17.3 Report periods

17.3.1 The reporting period for any report begins on the first day following the last day of the reporting period for the previous report. The reporting period for

any report, except a quarterly report or post-election report, closes five calendar days before the date that the report is due.

17.3.2 Quarterly reporting periods close on the last day of the month. The report is due on or before April 15th, July 15th, October 15th, and January 15th following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a), C.R.S.]

17.3.3 Monthly reports are due on the first calendar day of the following month. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. When the filing deadline for a monthly report approximates the filing deadline for a biweekly report, no separate monthly report must be filed, and the biweekly report serves as the monthly report. [Section 1-45-108(2)(a) and (c), C.R.S.]

17.4 Reports for former officeholders, persons not elected to office, and term-limited office holders

17.4.1 Annual reporting

- (a) A candidate committee for a candidate not elected to office, who was formerly in office, or who is term-limited may submit a written request to file only an annual report for each calendar year.
 - (1) Statewide and school district candidate committees must file an annual report not later than January 15th of the following year.
 - (2) All other candidate committees must file an annual report on the first day of the month in which the anniversary of the major election occurs, in accordance with section 1-45-108(2)(a)(II), C.R.S.
- (b) A change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject a candidate committee to the reporting requirements of section 1-45-108, C.R.S. At a minimum, a candidate committee must file an annual report as set forth in subsection (a) of this Rule.

[Sections 1-45-108(2)(c) and (2)(d), C.R.S.]

17.4.2 The exemption in section 1-45-108(2)(d), C.R.S., applies only to reports where the entire reporting period occurs after the election in which the candidate's name appeared on the ballot.

17.5 Any filing related to a municipal campaign finance matter must be filed with the municipal clerk.

Rule 18. Late Filing Penalties and Waiver Process

18.1 Requests for waiver or reduction of campaign finance penalties

18.1.1 Requests for waiver or reduction of campaign finance penalties due to late or missing filing penalties imposed under Colo. Const. Article xxviii, Section 10(2):

- (a) The filer should provide an explanation that includes all relevant factors relating to the delinquency and any mitigating circumstances, including measures taken to avoid future delinquencies.
- (b) Before the appropriate officer will consider a request, the report must be filed, and a request including the required information must be submitted.
- (c) The appropriate filing office will not consider a waiver request after a penalty has been paid.

18.1.2 Requests for waiver or reduction of campaign finance penalties due to late or missing filings imposed under Colo. Const. Article XXVIII, Section 10(2) must be considered by the appropriate officer according to the following rules:

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
#1	A waiver is requested and establishes good cause that made timely filing impracticable (For example, was in the hospital, got in a car accident, was stranded by a blizzard, etc.). The event or events that made timely filing impracticable must occur within a reasonable time of the date on which the report was filed.	Waive penalty in full. A waiver will be granted without consideration of previous delinquencies.
#2	A waiver is requested but does not present circumstances that made timely filing impracticable (For example, forgot, was out of town, electronic calendar crashed), and:	

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
	(a) Filer had contributions and/or expenditures during the reporting period. The penalty imposed is \$100 or more.	<p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%.</p> <p>Third (or subsequent) delinquency in 24 months: A reduction in penalty will not be granted.</p> <p>Penalties imposed under this Section are capped at the higher of the contributions or expenditures made during the reporting period. If a delinquency is found to be willful, the penalty cap may be increased to two to five times the higher of the contributions or expenditures made during the reporting period.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p>
	(b) Filer has no activity (contributions OR expenditures) during the reporting period and the committee balance is zero. The penalty imposed is \$100 or more.	The penalty will be reduced to \$50.

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
	(c) Filer has a fund balance greater than zero and filer has no activity (contributions OR expenditures) during the reporting period. The penalty imposed is \$100 or more.	<p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%, subject to a cap of 10% of the fund balance (but not less than \$100).</p> <p>Third (or subsequent) delinquency in 24 months: The penalty is capped at 10% of the fund balance, and a minimum penalty of \$100 will be imposed.</p> <p>If a delinquency is found to be willful, the penalty cap may be increased to 20% to 50% of the fund balance.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p>
	(d) Filer seeks to terminate active status, has a fund balance of \$1,000 or less, and has no activity (contributions OR expenditures) during the reporting period(s) in question.	Penalties are subject to a cap equal to the total amount of the filer's fund balance as of the date on which the delinquent report was filed, if the committee is promptly terminated.

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
#3	A waiver is requested, but submitted more than 30 days after the date of penalty imposition. For purposes of this analysis, a filer has 30 days after the date on which the final notice of penalty imposition is issued following the filing of the delinquent report. Until an outstanding report is filed, penalties continue to accrue at a rate of \$50 per day and no request for waiver will be considered.	A request will not be considered unless good cause has been shown for failure to meet the 30-day waiver filing requirement.

18.1.3 The appropriate officer may consider any additional factors that establish good cause or may otherwise be relevant to the request for waiver or reduction of campaign finance penalties for late or missing filings. In considering a request, the appropriate officer may request additional information, including but not limited to financial or other records maintained by the filer.

18.1.4 Filers may request that the appropriate officer reconsider a request for waiver or reduction of campaign finance penalties. A filer must submit, in writing any request for reconsideration within 30 days of the date on which the waiver decision was mailed. The filer must present additional material facts that are significantly different than those presented in the original request for reduction or waiver.

18.1.5 The appropriate officer will respond to requests for waiver or reduction of campaign finance penalties within 60 days. Failure to respond within 60 days, however, will not constitute an approval of the request.

18.1.6 When reduced, penalties are rounded to the highest \$25. The appropriate officer will not reduce a penalty to an amount less than \$25, unless a full waiver has been granted.

18.1.7 When applying Rule 18.1.2(2)(d), all outstanding penalties must be considered.

Rule 19. Electronic Filing

19.1 All disclosure reports filed with the Secretary of State under Colo. Const. Article XXVIII and Article 45 of Title 1, C.R.S., must be filed electronically on the Secretary of State's TRACER system, except as provided in Rule 19.2. Paper reports will not be accepted.

19.2 In accordance with section 24-21-111, C.R.S., reports are not required to be filed electronically in either of the following circumstances:

19.2.1 The Secretary of State has granted an exception to the electronic filing requirement after written application based on hardship or other good cause shown.

- (a) All applications for an exception must include a brief statement of the hardship or good cause. The Secretary of State must receive the application at least 15 calendar days before the applicable filing deadline, unless the exception is based on emergency circumstance. For applications made under emergency circumstances after the deadline, the nature of the emergency must be described in the application.
- (b) The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines. If a penalty is imposed for failure to file a report on the date due, the penalty may be set aside or reduced in accordance with Colo. Const. Article XXVIII, Section 10(2).
- (c) The Secretary of State will review and respond in writing to all applications for an exception within three business days.

19.2.2 The report is filed using the Secretary of State's Electronic Data Interface (EDI) upon approval of the Secretary of State.

19.3 For the purpose of section 1-45-109(2)(a), C.R.S., "close of business" for electronic filing means 11:59 p.m. MT.

- 19.4 If the electronic filing system is unavailable for a total of more than one hour on the due date for filing a report, the Secretary of State may extend the due date for an additional day. [Sections 1-45-108(2.3) and 1-45-109(6), C.R.S.]

Rule 20. Redaction of Sensitive Information

- 20.1 Any person who believes their safety or the safety of an immediate family member may be in jeopardy as a result of information disclosed on any campaign finance registration or report, personal financial disclosure, or gift and honoraria report filed with the Secretary of State, may apply to the Secretary of State to redact sensitive personal information from the online versions of such report(s).
- 20.1.1 The Secretary of State, upon a finding of good cause, may redact the minimum amount of sensitive information necessary to protect the safety of such person or his or her immediate family.
- 20.1.2 If the Secretary of State redacts sensitive information disclosed on a campaign finance report, the original unredacted report remains a public record under Article 72 of Title 24 C.R.S.
- 20.2 Applications for redaction of sensitive information must be submitted in writing and include the requestor's name, the identified entry(s) of concern, a justification for the application, and the committee to whom the contribution(s) was made or expenditure(s) received.
- 20.3 Applications for redaction of sensitive personal information are not subject to disclosure under the Colorado Open Records Act. [Section 24-72-201 et. seq., C.R.S.]

Rule 21. Coordination

- 21.1 "Coordination". Expenditures or spending are coordinated with a candidate committee or political party if:
- 21.1.1 A person makes an expenditure or engages in spending at the request, suggestion, or direction of, in consultation with, or under the control of that candidate committee or political party; or
- 21.1.2 An independent expenditure or electioneering communication is created, produced, or distributed:

- (a) After one or more substantial discussion(s) between the candidate or political party and the person making the expenditure or engaging in the spending,
 - (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
 - (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication; or
- (b) By a common consultant who provides, or has provided during the election cycle, professional services to the candidate committee or political party as well as to the person making the expenditure or engaging in the spending; and
 - (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
 - (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication.

21.1.3 This rule does not apply to an attorney, accountant, bookkeeper, or registered agent who provides services within the scope of his or her profession.

21.1.4 If a candidate committee or political party and the person making the expenditure or engaging in spending use a common consultant, an independent expenditure or electioneering communication is not coordinated if the consultant places effective barriers (i.e., "firewalls") to the transmission of non-public information between:

- (a) The candidate committee or political party; and

- (b) The person making an independent expenditure or engaging in spending. Physical or technological barriers include appropriate security measures, and must be set forth in a written policy that is distributed to all affected agents, employees, board members, directors, officers, and consultants. A firewall is not effective if non-public material information is nonetheless directly or indirectly transmitted to the person making an expenditure or engaging in spending.

21.1.5 For purposes of this Rule:

- (a) Candidate committee or political party includes any agent, employee, board member, director, or officer of that candidate committee or political party.
- (b) The person making the expenditure or engaging in the spending includes any agent, employee, board member, director, or officer of the person making the expenditure or engaging in the spending.

21.2 Pre-candidacy coordination

21.2.1 For purposes of section 1-45-103.7(11)(a), C.R.S., a person actively solicits funds for an independent expenditure committee with the intent of benefitting his or her future candidacy when the person:

- (a) Organizes, directs, or plans a fundraising event for the independent expenditure committee; or asks for, encourages, or suggests a donation to the independent expenditure committee; and
- (b) Knows or reasonably should know that the independent expenditure committee will support the person's future candidacy.

Rule 22. "Paid for by" Disclaimer Statements

22.1 Disclaimer requirement for nonbroadcast communications, including online communications.

22.1.1 Under section 1-45-107.5(5)(c), C.R.S., nonbroadcast communications must contain a clear and conspicuous "paid for by" disclaimer that is clearly readable, printed in text that is no less than 15 percent of the size

of the largest font used in the communication, or at least eight-point font, and includes:

- (a) The name of the person that paid for the communication;
- (b) In the case of an independent expenditure, a statement that the communication is not authorized by any candidate; and
- (c) A natural person who is the registered agent if the person identified in subsection (a) above is not a natural person.

22.1.2 These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the “paid for by” disclaimer cannot be reasonably printed.

22.1.3 If the size, format, or display requirements of an electronic or online communication make it impracticable to include a “paid for by” disclaimer statement on the communication, the disclaimer statement must be available by means of a direct link from the communication to the web page or application screen containing the statement.

- (a) The information provided in the direct link are subject to all of the size and content requirements in Rule 22.1.1.
- (b) The information provided in the direct link must be clearly and conspicuously displayed, and must be immediately apparent on the screen without receiving or viewing any additional material.
- (c) If the communication is a direct or indirect electronic message to a person, including but not limited to a text message, only the initial communication must contain the direct link.
- (d) For purposes of this Rule, it is impracticable to include a disclaimer statement if it would severely interfere with the ability to convey the intended message.

Rule 23. Complaints filed under section 1-45-111.7, C.R.S.

23.1 Filing initial complaints

23.1.1 Campaign and political finance complaints must be filed in writing and can be submitted by hardcopy or electronically. Electronic signatures are permitted for any complaint documentation that requires a signature by complaint, respondent, or the elections division.

23.1.2 A complaint must identify both a respondent and a complainant. Anonymous complaints or complaints that fail to identify a complainant and respondent may be rejected and not reviewed by the elections division.

23.1.3 Complaints must meet the plausibility pleadings standard by presenting a plausible basis, based on concrete, non-conclusory allegations of particularized facts, to support the allegations that a potential campaign and political finance violation occurred. The plausibility of an allegation is determined while accepting as true the concrete, non-conclusory assertions of fact upon which the allegation is based.

23.1.4 Complaints that stem from a common set of operative facts as a pending complaint will be consolidated when practicable. When consolidation is not practicable and the outcome of the initial case will be determinative of the later case, a complaint will be stayed until a final agency decision issues on the initial complaint and any appeals are resolved.

23.1.5 Violations stemming from late or missing filings that have had a late filing penalty assigned or the assigned penalty has been waived under Rule 18 are not subject to additional monetary penalties under Rule 23.4 for the late filing violation.

23.1.6 A respondent that fails to preserve potentially relevant information or records concerning its contributions or expenditures or otherwise reportable activity upon receipt of a complaint may be subject to an adverse inference establishing that the information or records that were not preserved after receipt of a complaint would otherwise establish the disputed fact. This adverse inference is subject to the equitable principles applicable under the common law spoliation doctrine.

23.2 Referral of municipal complaints

23.2.1 A municipal complaint may not be directly filed with the division and must be reviewed by the municipal clerk as required by section 1-46-111.7(10)(a)-(b), C.R.S., before being referred to the division.

23.2.2 A municipal complaint may be referred to the division to process and investigate if the complaint meets all of the following conditions:

- (a) A complaint meets the grounds for referral:
 - (1) For statutory and home rule municipalities, the complaint involves an actual or potential conflict for the municipal clerk or the clerk's staff; or
 - (2) For statutory municipalities, the municipality has not adopted a campaign and political finance complaint and hearing process;
- (b) A local ordinance meeting the conditions in section 1-45-111.7(10)(d), C.R.S., and this rule's subsection (c) specifically allows complaints to be referred to the division due to a conflict or because there is no local enforcement process; and
- (c) The municipality has adopted the ordinance and provided a copy to the Department 180 days or more prior to the municipal election at issue in the complaint. Once a copy of the ordinance has been provided to the Department, another copy does not need to be provided for additional complaints unless amended or updated.

23.2.3 A municipal complaint referred to the division must include:

- (a) The underlying complaint and any documents attached to the complaint;
- (b) A municipal complaint cover sheet, available on the Secretary of State's website, with all the required information provided;
- (c) The name and contact information for a person within the municipal clerk's office who will assist the division with any questions during the processing of the complaint;
- (d) A copy of the local ordinance that allows referral; and

- (e) Any relevant campaign and political finance filings, documents, copies of applicable local law, communications with complainant or respondent related to the complaint, determination of the conflict, evidence of the initial review conducted under section 1-45-111.7(10), C.R.S., or other documents relevant to the complaint.

23.2.4 Timeliness

- (a) A municipal complaint must be referred to the division within 14 business days of receipt by the municipality and will be processed and reviewed according to the provisions of subsections 1-45-111.7(3)-(10), C.R.S.
- (b) For processing deadlines under section 1-45-111.7, C.R.S., the division will process the complaint based on the date the complaint was received by the division from the municipal clerk.
- (c) Unless local law provides for a different date, a municipal complaint must be filed no later than 180 days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation. The determination of timeliness is calculated from the date the complaint is filed with the municipality.

23.2.5 The division may reject a referral of a municipal complaint if the clerk did not conduct an initial review as provided in section 1-45-111.7, C.R.S., the complaint was not referred to the division within 14 business days, or the municipality did not have an ordinance in place that allowed referral or otherwise met referral requirements.

23.2.6 The division has no jurisdiction to consider an allegation against a municipality or a municipal clerk that the municipality or clerk improperly failed to refer a municipal campaign finance complaint to the Department. Such claims, if any, may be pursued against the municipality or the clerk in the District Court where the municipality is located pursuant to Rule 106(4) of the Colorado Rules of Civil Procedure. The Department has no liability to a complainant or any other person for the failure of a municipality or a municipal clerk to refer a municipal campaign finance complaint to the Department.

23.3 Documents related to complaints.

23.3.1 The original complaint, notice of initial review, motion to dismiss, an order issued by the Secretary of State's Office, final agency decision, and any administrative complaint filed by the elections division with a hearing officer will be publicly available at the time the document is provided to the respondent.

23.3.2 The elections division may redact any document that it will otherwise make available pursuant to this rule if such redaction is necessary to protect any personal private information or personally identifiable information, is not relevant or material to the determination, or is otherwise required under the Colorado Open Records Act.

23.3.3 Any document the elections division receives under section 1-45-111.7(5)(a)(III), C.R.S., will not be retained after the time necessary to review, investigate, or prosecute a complaint, including any appeal, as applicable.

23.4 Settlement of complaints and fine structure for violations

23.4.1 After an administrative complaint has been filed with a hearing officer, under 8 CCR 1505-3, Rule 3, the elections division may enter into a settlement agreement with the respondent.

23.4.2 In assessing a fine amount or approving a settlement, the deputy secretary of state or a hearing officer, as applicable, will consider all of the following factors:

- (a) Specific fine amounts outlined in Rule 23.4.3;
- (b) Any appropriate specific action in Rule 23.4.4;
- (c) Whether Rule 18 late filing penalties have been issued and if a waiver was granted;
- (d) Sanctions available under section 1-45-111.5, C.R.S.; and
- (e) The mitigating and aggravating factors, including those listed in Rule 23.4.5, to increase or decrease the monetary fine or terms.

23.4.3 Fine amounts

- (a) Failure to register a committee
 - (1) Amount of contributions or donations accepted or expenditures made while out of compliance, outlined below:
 - (A) Less than \$1,000 fine is at least \$150;
 - (B) Between \$1,001 and up to \$5,000 fine is at least \$300; or
 - (C) Greater than \$5,000 the fine of at least \$300 plus at least 10 percent of total amount of the contributions and expenditures made.
- (b) Failure to file complete and accurate affidavits, disclosures, contributions, expenditures, or other finance reports
 - (1) Failure to file complete and accurate reports is a \$100 fine per report plus 5 percent of the activity not accurately or completely reported.
 - (2) Failure to file an accurate candidate affidavit
 - (A) If the affidavit is submitted within 14 days of registration deadline, the fine is at least \$50; or
 - (B) If the affidavit is submitted after 14 days post deadline, the fine is at least \$100.
 - (3) Failure to file an accurate or complete initial, updated, or amended personal financial disclosure as required under section 1-45-110, C.R.S., which includes content required by section 24-6-202(2), C.R.S.
 - (A) If the personal financial disclosure is filed or corrected within 14 days of the applicable filing due date, the fine is at least \$50;

- (B) If the personal financial disclosure is filed or corrected prior to the filing of any complaint alleging an insufficient filing of a personal financial disclosure, so long as the disclosure is submitted at least 30 days prior to the first election in which the candidate is running, the fine is at least \$100;
 - (C) If the personal financial disclosure is filed or corrected after the filing of any complaint alleging an insufficient filing of a personal financial disclosure, so long as the disclosure is submitted at least 30 days prior to the first election in which the candidate is running, the fine is at least \$250;
 - (D) If the personal financial disclosure is filed or corrected fewer than 30 days before the election in which the candidate is running, the fine is at least \$500;
 - (E) If the candidate or incumbent is defeated or withdraws and the personal financial disclosure was not corrected, the fine will be at least \$500; or
 - (F) If the personal financial disclosure is corrected after the election, and the respondent was not defeated or did not withdraw, the fine is at least \$1,000.
- (4) Failure to file an initial disclosure report or an annual update as required under section 24-6-202, C.R.S.
- (A) If the disclosure report is filed within 14 days of due date, the fine is at least \$50;
 - (B) If the disclosure report is filed within 28 days of due date, the fine is at least \$100;
 - (C) If the disclosure report is filed more than 28 days late but at least 30 days prior to an election in which the official is running, the fine is at least \$500; or

- (D) If the disclosure report is filed after an election in which the official is running, the fine is at least \$1,000.
- (5) Filing an inaccurate or incomplete personal financial disclosure or failure to correct an inaccurate or incomplete personal financial disclosure could result in criminal and civil penalties under section 24-6-202(7), C.R.S.
- (c) Prohibited contributions, donations, and expenditures
 - (1) For accepting a prohibited contribution including accepting an amount that exceeds a contribution limit or making prohibited expenditures, the fine is at least \$100 and 10 percent of the prohibited activity:
 - (2) Prohibited use of unspent campaign funds and exceeding voluntary contribution limits
 - (A) A fine of at least \$250 per violation; and
 - (B) A fine that is up to 25 percent of the amount of the prohibited activity.
- (d) Disclaimer and electioneering communications
 - (1) If noncompliant communication is mitigated prior to the election: a fine of at least 5 percent cost of the noncompliant communication including cost to broadcast;
 - (2) If noncompliant communication is not mitigated prior to the election: a fine of at least 10 percent of the cost of the communication including cost to broadcast; or
 - (3) For failure to include a compliant disclosure statement for a deepfake communication, the penalties are outlined under section 1-45-111.5(1.5)(c.5), C.R.S.
- (e) Violations by the state or a political subdivision under section 1-45-117, C.R.S.

- (1) If the violation is cured before the election but there was no substantial compliance, the fine will be at least \$500;
 - (2) If the violation is not cured before the election, the fine will be at least \$1,000; or
 - (3) If the amount of funds improperly used is ascertainable, the fine will be at least three times the amount of the improperly used funds.
- (f) Other violations of campaign and political finance rules and regulations will be assessed penalties based on the circumstances of the violations and factors outlined in Rule 23.4.4.

23.4.4 Specific action(s)

- (a) In addition to monetary fines the deputy secretary of state or assignee may seek a specific action(s) from the respondent. Specific actions may include:
- (1) Registering as a committee or candidate in TRACER;
 - (2) Return or donation of prohibited contribution or disgorgement of the value of the improper conduct;
 - (3) Filing or amending disclosure reports;
 - (4) Inclusion or correction of disclaimer on the communication; or
 - (5) Other specific performance or terms that may be warranted.

23.4.5 The elections division may also consider the follow mitigating and aggravating factors:

- (a) Nature and extent of the violation;
- (b) Timing of the violation (including proximity to the election);
- (c) Ability or effort to mitigate the violation;

- (d) Evidence of an intentional act or a pattern or practice of misconduct;
- (e) Extent to which the harm caused by the violation or the value of the violation cannot be reasonably calculated; or
- (f) Other aggravating or mitigating factors may be taken into consideration in reaching a just and equitable outcome.

Rule 24. Procedural Rules for Hearings under section 1-45-111.7, C.R.S.

[Reserved.]

Rule 25. Deepfake Communications

25.1 Deepfake communications

25.1.1 Deepfakes must involve a candidate as that term is defined in section 1-46-102(2), C.R.S., which includes current federal, state, and local officeholders in Colorado, and candidates for federal, state, and local offices on the ballot in Colorado, and must be disseminated to an audience that includes Colorado electors.

25.1.2 There is a rebuttable presumption that the alleged deepfake communication was created, edited, or modified using generative A.I. if:

- (a) A campaign and political finance complaint has been filed and the division initially determines under section 1-45-111.7(3), C.R.S., that the complaint alleges a potential violation of section 1-46-103(1), C.R.S.; and
- (b) The respondent fails to provide substantial evidence, as defined in Rule 1.31, regarding how the communication was created or modified.

25.1.3 This presumption will be considered sufficient information to support the filing of an administrative complaint with a hearing officer under section 1-45-111.7(5), C.R.S. The presumption that a communication was created, edited, or modified using generative A.I. can be rebutted by the respondent during the administrative complaint process. The presumption

no longer applies once the respondent has appeared and answered an administrative complaint in a hearing before a hearing officer.

25.2 Disclosure statements

25.2.1 A deepfake communication must include a disclosure statement that meets the requirements of subsections 1-46-103(2), (3)(b) and (3)(d), C.R.S. Substantial compliance with these statutory provisions may be found to be compliant.

25.2.2 If a communication is required to have a “paid for by” disclaimer under section 1-45-108.3, C.R.S., the communication must include both a “paid for by” disclaimer and a deepfake disclosure statement.