

CITY OF LAKEWOOD

CAMPAIGN FINANCE RULES AND REGULATIONS



Lakewood

Adopted by Margy Greer, City Clerk, on October 8, 2014

**CITY OF LAKEWOOD
CAMPAIGN AND POLITICAL FINANCE IN MUNICIPAL ELECTIONS
RULES AND REGULATIONS**

TABLE OF CONTENT

RULE 1...DEFINITIONS.....PAGE 3

RULE 2...CANDIDATES AND CANDIDATE COMMITTEES.....PAGE 4

RULE 3...POLITICAL COMMITTEES AND SMALL DONOR COMMITTEES....PAGE 5

RULE 4...ISSUE COMMITTEE.....PAGE 5

**RULE 5...INDEPENDENT EXPENDITURES AND INDEPENDENT
EXPENDITURE COMMITTEES.....PAGE 6**

RULE 6...POLITICAL ORGANIZATIONS.....PAGE 7

RULE 7...REGISTERING A COMMITTEE.....PAGE 7

RULE 8...REGISTERED AGENTS.....PAGE 7

RULE 9...MANAGING CONTRIBUTIONS AND EXPENDITURES.....PAGE 8

RULE 10..ELECTIONEERING COMMUNICATIONS.....PAGE 11

RULE 11..CHANGING OR CLOSING A COMMITTEE.....PAGE 11

RULE 12..FILING CALENDARS AND REPORTING PERIODS.....PAGE 12

RULE 13..PENALTIES, VIOLATIONS AND COMPLAINTS.....PAGE 13

RULE 14..ELECTRONIC FILING.....PAGE 14

Rule 1. Definitions

1.1 “Contribution”.

1.1.1 “Contribution” does not include an endorsement of a candidate or an issue by any person. “Contribution” does not 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.

1.1.2 “Contribution” does not include services provided without compensation by individuals volunteering their time”, includes time-based services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation, if the individual receives no direct or indirect compensation for the time volunteered. Any unpaid services that create a thing of value are exempted. If volunteer services yield a thing of value, “contribution” only includes the reasonable value of the materials involved, unless the value is de minimis.

1.1.3 “Contribution” includes all contributions given directly to, or coordinated with, a candidate for a specific public office, including those to a person who maintains a candidate committee after an election cycle.

1.2 “Electioneering communication” is any communication that (1) meets the definition of electioneering communication in Section 2.54.020 of the Lakewood Municipal Code; and (2) is the functional equivalent of express advocacy. When determining whether a communication is the functional equivalent of express advocacy:

1.2.1 A communication is the functional equivalent of express advocacy only if it is subject to no reasonable interpretation other than an appeal to vote for or against a specific candidate.

1.2.2 In determining whether a communication is the functional equivalent of express advocacy, it shall be judged by its plain language, not by an “intent and effect” test, or other contextual factors.

1.2.3 A communication is not the functional equivalent of express advocacy if it:

- (a) Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public,
- (b) Does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office, and
- (c) Merely urges a candidate to take a position with respect to an issue or urges the public to adopt a position and contact a candidate with respect to an issue.

1.3 “Foreign corporation” does not apply to a corporation organized under the laws of another state.

1.4 “Issue committee”.

1.4.1 “Issue committee” does not include a married couple.

1.5 “Per day” means “per calendar day” unless otherwise indicated.

1.6 “Per year” means “per calendar year” unless otherwise indicated.

1.7 “Political committee” does not include a married couple.

1.8 “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 in a political party.

1.9 “Publicly announced” means:

1.9.1 A person has made a statement signifying an interest in a public office; and

1.9.2 The statement is made by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public; and

1.9.3 A reasonable person would expect the statement to become public.

1.9.4 The registration of a candidate committee also constitutes a public announcement of an intention to seek election.

1.10 “Registered agent or candidate”, for purposes of these rules, means any person appointed by a committee who is responsible for timely filing campaign finance reports. A registered agent or a committee treasurer, is an individual or candidate designated to receive mailings and to address concerns and questions regarding the committee.

1.11 “Signature”. For purposes of any report filed electronically with the City Clerk, “signature” means the designated representative has electronically submitted the report through the online filing system.

Rule 2. Candidates and Candidate Committees

2.1 Candidate committees

2.1.1 A candidate may serve as the candidate committee’s registered agent or appoint another person to be the registered agent. The candidate and the registered agent shall sign the candidate committee registration form. Only the registered agent, or the candidate may sign the contribution and expenditure report.

2.1.2 Managing unexpended campaign contributions

(a) The unexpended balance shall be reported as the ending balance throughout the election cycle. Unexpended balances from the final report filed 30 days after the applicable election shall be reported as the beginning balance in the next election cycle.

(b) Candidates seeking re-election to the same office

(1) Campaign contributions may be retained by the candidate committee for use in a subsequent election cycle for the same public office.

(c) Candidates seeking election to a new office

(1) If a candidate committee transfers money to a new candidate committee for a new office, the existing candidate committee shall be affirmatively closed by the candidate within ten days of transferring the money to the new candidate committee.

2.1.3 Disposition of debt in anticipation of committee termination

(a) Any 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 six months after the close of that election cycle, shall be treated as “contributions” from the service provider or vendor extending credit.

Rule 3. Political Committees and Small Donor Committees

3.1 Political committees and small donor committees shall not make contributions to issue committees.

3.2 A political committee may change status 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 A committee that raises money solely for the purpose of making independent expenditures, and which does not make contributions to candidates for any office, shall be an independent expenditure committee and shall not be considered a political committee.

Rule 4. Issue Committee

4.1 An issue committee shall not be subject to any of the requirements of Section 2.54.030 (B) of the Lakewood Municipal Code, until the issue committee has accepted in excess of \$200 in contributions or made expenditures in excess of \$200 during an election cycle. An issue committee that accepts \$200 or more in contributions or makes expenditures of \$200 or more during an election cycle shall register with the City Clerk within ten calendar days of accepting or making such contributions and expenditures.

4.1.1 Contributions received and expenditures made before reaching the \$201 threshold are not required to be reported. Contributions received and expenditures made after reaching the \$201 threshold shall be reported in accordance with the reporting schedule specified in Section 2.54.030(B) of the Lakewood Municipal Code.

4.1.2 An issue committee shall provide the committee’s balance on the date of committee registration as a “beginning balance” on the committee’s initial Report of Contributions and Expenditures.

4.2 An issue committee may support or oppose more than one issue if the following conditions are met:

4.2.1 The specific issues are included on the committee registration form when each issue meets the requirements of Section 2.54.030 of the Lakewood Municipal Code;

4.2.2 Each issue is described on the committee registration form; and

4.2.3 The registration form states whether the committee will be supporting or opposing those issues.

4.3 Disclosure.

4.3.1 An issue committee is required to report those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing ballot issues or ballot questions.

4.3.2 Contributions accepted for the purpose of supporting or opposing ballot issues or ballot questions shall establish a separate account in a financial institution, and the title of the account shall indicate that it is used for such purposes.

4.4 Termination. An issue committee may terminate by filing a termination report with the City Clerk. A termination report may be filed at any time if the following conditions are met:

4.4.1 The committee no longer has a major purpose of supporting or opposing any ballot issue or ballot question and no longer intends to accept or make contributions or expenditures to support or oppose a ballot issue or ballot question; and

4.4.2 The committee's separate account maintained in accordance with Rule 9.1.1 has no cash on hand and no outstanding debts or obligations.

Rule 5. Independent Expenditures and Independent Expenditure Committees

5.1 Disclaimer requirement for nonbroadcast independent expenditure communications.

5.1.1 Any nonbroadcast communication that constitutes an independent expenditure and is subject to the requirements of Section 2.54.030(F) of the Lakewood Municipal Code shall contain a clear and conspicuous disclaimer including:

- (a) The name of the person that paid for the communication; and
- (b) The specific statement that the communication is not authorized by any candidate.

The disclaimer shall be clearly readable, and shall be printed in text that is no less than fifteen percent of the size of the largest font used in the communication, or at least eight-point font.

5.1.2 These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.

5.2 A committee that raises money solely for the purpose of making independent expenditures, and which does not make contributions to candidates, shall be an independent expenditure committee and shall not be considered a political committee.

Rule 6. Political Organizations

6.1 Political organizations. In the case of political organizations as defined in Section 2.54.020 of the Lakewood Municipal Code:

6.1.1 An entity is considered a political organization only if it:

- (a) Has as its major purpose influencing or attempting to influence elections; and
- (b) Is exempt, or intends to seek exemption, from taxation by the Internal Revenue Service.

Rule 7. Registering a Committee

7.1 The purpose or nature of interest of the committee or party shall be included in the committee registration.

7.1.1 A candidate committee shall identify the name of the candidate and the specific office sought.

7.1.2 A political committee, independent expenditure committee, small donor committee, or political organization shall identify the types of candidates being supported or opposed, including office(s) sought or public policy position(s).

7.1.3 An issue committee must identify the ballot measures to be supported or opposed, if known. If particular ballot measures are not known, an issue committee must identify policy positions to be supported or opposed.

Rule 8. Registered Agents

8.1 For a candidate committee, the candidate may serve as the registered agent, or the candidate may appoint another person.

8.2 Resignation of registered agent

8.2.1 A committee may assign a new registered agent by filing an amended committee registration using the online campaign finance filing system. The City Clerk's office will maintain a registered agent's name on file until the committee assigns a new registered agent.

8.2.2 The committee shall file an amended committee registration form within five days after the resignation of a registered agent or the appointment of a new registered agent. The committee must have an active registered agent at all times.

Rule 9. Managing Contributions and Expenditures

9.1 Contributions – how reported

9.1.1 All contributions received by a candidate committee, issue committee, political committee or small donor committee shall be deposited in a financial institution in a separate account whose title shall include the name of the committee.

9.1.2 All contributions received over \$20 during a reporting period shall be listed individually on the contribution and expenditure report, including names and addresses of the contributors. If a contributor gives \$20 or more in the aggregate during the reporting period, the contributor must be listed individually on the report, regardless of the amount of each contribution.

9.1.3 All other receipts and contributions of \$20 or less may be reported in total as non-itemized contributions for the reporting period.

9.1.4 Disclosure of occupation and employer

- (a) The requirement to disclose the occupation and employer of a contributor, applies to any one-time contribution of \$100 or more, and not to aggregate contributions totaling \$100 or more, except for contributions from an LLC.
- (b) If occupation and employer information is not provided for contributions of \$100 or more, and the committee is unable to gather the information within 30 days after receipt from the contribution, the contribution shall be returned to the contributor no later than the 31st day after receipt.

9.2 Expenditures – how reported

9.2.1 All expenditures made by a committee of more than \$20.00 during a reporting period shall be listed individually on the contribution and expenditure report, including names and addresses of payees.

9.2.2 Individual expenditures that aggregate to a total of more than \$20 to the same payee during the reporting period shall be listed individually on the contribution and expenditure report.

9.2.3 All other expenditures \$20 or less during a reporting period may be reported in total as non-itemized expenditures.

9.3 Contributions and donations – when counted.

9.3.1 A contribution or donation is considered made or received as of the date that it is accepted by the committee.

- (a) A contribution or donation by check is considered accepted, at the latest, on the

date that the contribution or donation is deposited by the committee into its account. Any contribution or donation in the form of a check received by a committee at least five business days before the end of a reporting period must be deposited or returned to the contributor by the close of that reporting period.

- (b) A cash contribution or donation is received as of the date the cash is transferred to the committee's possession.
- (c) A contribution or donation made by credit card, PayPal, or other payment intermediary service is received as of the date the contributor or donor authorizes the payment to be made.
- (d) A non-monetary (in-kind) contribution or donation is received as of the date on which the committee takes possession of the item, or has the right to possess or use the item.

9.4 All committees shall maintain all financial records for 120 days after any election cycle in which the committee received contributions. If a complaint is filed against the committee, the committee shall maintain financial records until final disposition of the complaint and any consequent litigation. LLC affirmations must be maintained for one year after the end of the election cycle.

9.5 For any contribution received in excess of contribution limits, neither the contributor nor the receiving committee shall be liable for exceeding the contribution limit if the excess amount is returned to the contributor within ten days of receipt or within three days after receiving notification from the City Clerk that the contribution violates the limits, whichever is sooner.

9.6 Contributions where the identity of the contributor is unknown (anonymous contributions or donations)

9.6.1 Committees cannot keep anonymous contributions or donations of more than \$20. An anonymous contribution or donation is one where the identity of the contributor or donor is unknown. Anonymous contributions or donations of \$20 or more must be donated to any charitable organization recognized by the Internal Revenue Service.

9.7 Contributions by candidate – loans.

9.7.1 Contributions and loans may be made by a candidate to that candidate committee. Loans shall be at a zero interest rate.

9.7.2 Contributions and loans from a candidate to his/her own committee are unlimited.

9.8 Cost-sharing by candidates

9.8.1 Candidate committees may share the cost of brochures, offices, office equipment, etc. that are produced or used jointly if each candidate committee pays for its proportionate share of the expense.

9.8.2 Any reimbursement by one candidate committee to another for shared costs must be made within 30 days of the original expenditure. Reimbursement is not a "contribution" from

one committee to the other; it shall be reported as an expenditure by the reimbursing committee and as a returned expenditure by the reimbursed committee. If sharing expenditures results in a price discount based on volume or quantity, the discount is not considered a “contribution” from the vendor.

9.9 Reimbursement of expenditures – payments by credit card or payment intermediary service

9.9.1 When reporting a reimbursement to a candidate or to any other person, the committee or party shall separately disclose each expenditure over \$20 including the purpose, payee and amount of each expenditure as of the date of the expenditure, regardless of the date of reimbursement.

9.9.2 For the purpose of reporting an expenditure, simply disclosing that a payment was made to a credit card company or a payment intermediary service such as PayPal is not adequate. All expenditures over \$20 made by credit card or payment intermediary service must be itemized, including the name and address of the original payee, amount, original date of expenditure, and purpose of the expenditure.

9.10 Loans received by a candidate committee

9.10.1 All loans received by a candidate committee must be reported continuously until repaid.

9.10.2 Loans made from a financial institution to a candidate committee shall not be forgiven.

9.10.3 Loans made by a candidate to his or her committee

(a) A candidate may make an interest-free loan to his or her candidate committee. Any forgiven interest is not a contribution to the committee.

(b) Any repayment of a loan shall be considered a loan payment, except that interest repaid for a loan shall be reported as an expenditure by the committee.

(c) A loan made by a candidate to the candidate’s own committee may be forgiven by the candidate. The amount of unpaid debt forgiven by the candidate remains a contribution and is not considered a returned contribution.

9.11 The requirement that committee funds be deposited into “a financial institution” does not require that all committee funds must be deposited in one single bank, credit union, or other commercial financial institution.

9.12 Other income

9.12.1 A committee’s funds may be invested in any type of account or instrument of a government regulated financial institution.

9.13 Disclosure of contributions by limited liability companies (LLCs)

9.13.1 The written affirmation provided by an LLC for contributions, shall include the names and addresses of all LLC members for contributions of \$100 or more to a candidate committee, and shall, in writing, affirm to a candidate committee to which it has made a contribution that it is authorized to make a contribution.

9.13.2 Any contribution from an LLC is counted against contribution limits for the LLC itself; not the individual members of the LLC.

(a) No LLC shall be permitted to make a contribution that exceeds the limit for a “person.”

Rule 10. Electioneering Communications

10.1 All contributions of more than \$250 received for electioneering communications during a reporting period, including non-monetary contributions, shall be listed individually on the electioneering report, including the person’s occupation and employer where the person making the contribution of more than \$250 is a natural person.

10.2 All spending of \$1,000 or more per calendar year shall be listed individually on the electioneering report, including name, address, and method of communication.

10.3 Entities making electioneering communications shall maintain all financial records for 120 days after any election in which the entity received contributions. If a complaint is filed against the entity making electioneering communications, the entity shall maintain financial records until final disposition of the complaint and any consequent litigation.

10.4 The name of the candidate(s) unambiguously referred to in the electioneering communication shall be included in the electioneering report.

10.5 Submission of electioneering communication disclosure reports

10.5.1 Committees are not required to file electioneering communication reports separate from regularly filed independent expenditure disclosure reports so long as any expenditure or spending is identified as an electioneering communication. The disclosure of electioneering expenditures or spending on a regularly filed report shall include the name of the candidate referred to in the electioneering communication.

Rule 11. Changing or Closing a Committee

11.1 Changes to any information disclosed on the committee registration statement must be reported to the City Clerk within ten days.

11.2 A candidate that changes office sought shall terminate his or her existing candidate committee and register a new candidate committee within ten days of the change.

11.3 A committee may terminate if the following conditions are met:

11.3.1 The committee no longer intends to receive contributions or make expenditures;

11.3.2 The committee has a zero balance because it has no cash or assets on hand and no outstanding debts or obligations; and

11.3.3 The candidate or committee files a termination report of contributions and expenditures.

11.3.4 A committee may dispose of assets remaining in its possession before termination in the same manner as allowed for unexpended contributions. A termination report may be filed at any time.

11.4 Administrative termination of committee

11.4.1 A committee shall be deemed inactive for the purpose of this rule after failing to file any reports with the City Clerk's office for six consecutive reporting periods or 18 months, whichever is shorter.

Rule 12. Filing Calendars and Reporting periods

12.1 Until terminated in accordance with these rules, committees shall file a disclosure report for every reporting period, even if the committee has no activity (contributions, donations, or expenditures) to report during the reporting period.

12.2 Filing schedules.

12.2.1 All reports that are required to be submitted shall be filed with the City Clerk pursuant to the following schedule:

- (a) No later than the 64th day before the regular municipal election;
- (b) No later than the 22nd day before the regular municipal election; and
- (c) No later than thirty (30) days after the regular municipal election.

12.2.2 All reports required to be submitted for a recall election shall be filed with the City Clerk pursuant to the following schedule:

- (a) No later than fourteen (14) days prior to the recall election;
- (b) No later than seven (7) days prior to the recall election;
- (c) No later than thirty (30) days after the recall election.

12.2.3 In addition, such reports must be filed annually in off-election years on the first day of the month in which the anniversary of the regular municipal election occurs.

12.2.4 The reporting period for all reports required to be filed with the City Clerk shall close five calendar days prior to the effective date of filing.

Rule 13. Penalties, Violations, and Complaints

13.1 Any person who violates any provision of this Chapter relating to contributions 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. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

13.2 The City Clerk shall impose the following penalties when a statement or other information required to be filed pursuant to this Chapter is not filed by the close of business on the day due:

13.2.1 \$10 per day for the first through fifth day the information is late.

13.2.2 \$25 per day for sixth through tenth day late.

13.2.3 \$50 per day for 11th through 15th day late.

13.2.4 Thereafter, City Clerk has discretion to refer the matter to a hearing officer.

13.3 Requests for waiver or reduction of campaign finance penalties

13.3.1 The City Clerk or Hearing 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. In considering a request, the City Clerk or Hearing Officer may request additional information, including but not limited to financial or other records maintained by the filer.

13.3.2 For waiver requests that apply to more than one penalty, the guidelines will be applied separately to each penalty in chronological order using the single request as the basis for each.

13.3.3 Filers may request that the City Clerk reconsider a request for waiver or reduction of campaign finance penalties. Any request for reconsideration must present additional material facts that are significantly different than those alleged in the original request for reduction or waiver, and must be submitted to the City Clerk, in writing, within 30 days of the date on which the waiver decision was mailed.

13.3.4 The City Clerk will respond to requests for waiver or reduction of campaign finance penalties within 60 days of receipt of request. Failure to respond within 60 days, however, will not constitute an approval of the request.

13.4 If, within the time allotted under Rule 13.2, the person fails to correct the violation or to offer a satisfactory explanation, then the City Clerk may file a complaint and refer the matter to the Hearing Officer.

13.5 Written complaints.

13.5.1 A written complaint filed with the City Clerk shall include the City Clerk's complaint cover sheet, which must include the following information:

- (a) The name, address, and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, and signature along with the name, address, and signature of the complainant);
- (b) The name and address of each person alleged to have committed a violation; and
- (c) The complaint must include the section of the code or rule # or the alleged violation.
- (d) The particulars of the violation.

13.5.2 If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within ten days of notification from the City Clerk that the complaint was incomplete.

13.5.3 A complaint may be submitted by fax or electronic mail if a signed original is received by the City Clerk no later than five calendar days thereafter. If the complaint is complete, the City Clerk will promptly transmit the complaint to the Hearing Officer for consideration. The City Clerk will notify the respondents of the filing of the complaint and will issue all other appropriate notices to the parties.

13.6 Payments for penalties imposed by the City Clerk or Hearing Officer shall be remitted to the City Clerk's office, payable to the City of Lakewood.

Rule 14. Electronic Filing

14.1 All disclosure reports filed with the City Clerk per Chapter 54 of Title 2 of the Lakewood Municipal Code and these rules shall be filed electronically, except as authorized by the City Clerk. Reports required to be filed electronically with the City Clerk under this rule that are presented for manual filing shall not be accepted.

14.2 In accordance with Section 2.54.040 of the Lakewood Municipal Code, reports are not required to be filed electronically in the following circumstances:

14.2.1 The City Clerk 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 shall include a brief statement of the hardship or

good cause. Applications must be received by the City Clerk at least 15 calendar days before the applicable filing deadline, unless the exception is based on emergency circumstances. For applications made under emergency circumstances after the deadline, the nature of the emergency shall be described in the application.

(b) The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines.

(c) The City Clerk shall review and respond in writing to all applications for an exception within three business days.

14.3 For the purposes of this Rule 14, “electronic filing” is defined as the filing of reports required by Chapter 54 of Title 2 of the Lakewood Municipal Code and these rules, using the internet filing system created by the City of Lakewood.

14.4 “Close of business” for electronic filing means 5:00 p.m.

14.5 If the electronic filing system is unavailable for a total of more than one hour on the due date for filing a report, the City Clerk may extend the due date for an additional day for electronically filed reports.