

Chapter 2.54

CAMPAIGN AND POLITICAL FINANCE IN MUNICIPAL ELECTIONS

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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 Chapter to foster an open political process that allows incumbents and challengers alike to compete in the marketplace of ideas on a fair and equitable basis. (Ord. O-2013-22 § 1, 2013).

2.54.020 Definitions.

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

"Appropriate officer" means the City Clerk of the City of Lakewood. The City Clerk is the individual with whom a candidate, candidate committee, political committee, small donor committee, or issue committee must file pursuant to this Chapter.

"Ballot issue" means a state or 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 state or 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 has received a contribution or made an expenditure in support of the candidacy. A person remains a candidate for purposes of this Chapter 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 Chapter.

"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 City Clerk.

"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 funder raiser is compensated at the usual and customary rate.

"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 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;
- (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, retention, recall or election.

"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. "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.

"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.

"Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of the state of Colorado, and "nondomestic corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable.

"Donation" means:

- (I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person 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 that makes an independent expenditure;
- (III) The fair market value of any gift or loan of property that is given to any person for the purpose of making an independent expenditure; or
- (IV) Anything of value given, directly or indirectly, to any person 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 in excess of one thousand dollars.

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

"Electioneering communication" means any communication broadcast 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 broadcast, printed, mailed, delivered or distributed within sixty (60) days before a municipal election; and

(III) is broadcast to, printed in a newspaper distributed to, mailed to, delivered by hand or electronically transmitted to any communication by persons made in the regular course and scope of their business or any to an audience that includes members of the electorate for such public office.

"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.

"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 persons hold a combined ownership interest that exceeds fifty percent;

(III) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons 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.

"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 candidates' committee.

"Independent expenditure committee" means one or more persons that make an independent expenditure in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.

"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.

"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 Chapter, "limited liability company" shall not include a domestic corporation, a domestic cooperative, a domestic nonprofit association, a domestic nonprofit corporation, a foreign corporation, a foreign cooperative, a foreign nonprofit association, a foreign nonprofit corporation, as those terms are defined in section 7-90-102, C.R.S., a nondomestic corporation as defined in section 1-45-103 (7), or a foreign corporation as defined in section 1-45-103 (10.5).

"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.

"Obligating" means, in connection with a named candidate, agreeing to spend in excess of one thousand dollars 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 in excess of one thousand dollars as an independent expenditure. "Obligating" shall not require that the total amount in excess of one thousand dollars 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, lobbyist, or other organization or group of persons.

"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 two hundred dollars 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 section 1-1-104 (24) 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 Chapter.

"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 Chapter, 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 political parties, political committees, issue committees or candidate committees.

"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, or a business entity of which a majority interest is controlled by another person 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-2013-22 § 1, 2013).

2.54.030 Candidates – Committees – Registration – Contribution Limits – Expenditures - Reporting

A. Candidates and Candidate Committees

(1) Affidavit. 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 Chapter.

(2) Candidate Committee Registration. Except as otherwise provided in this Chapter, 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 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;
- (f) The name of the financial institution where the committee has opened an account.

(3) Contribution Limits. A candidate committee may accept no more than Two Thousand Five Hundred Dollars (\$2,500.00) from any person for candidates for City Council, and no more than Five Thousand Dollars (\$5,000) from any person for candidates for Mayor.

(4) Reports.

(a) All candidate committees shall report to the City Clerk their contributions received, including the name and address of each person who has contributed more than twenty dollars; expenditures made, and obligations entered into by the committee or party.

(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 who has made contributions totalling one hundred dollars (\$100) 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. 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, if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;

(b) Donated to a charitable organization recognized by the internal revenue service; or

(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.

(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 Section 6, no later than nine (9) 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 Section 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:

- (1) Voter registration;
- (2) Political issue education, which includes obtaining information from or providing information to the electorate;
- (3) Postsecondary educational scholarships;
- (4) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;
- (5) 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 and pager expenses.

(g) 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 fourteen and seven days before the recall election and thirty (30) days after the recall election.

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 two hundred dollars to support or oppose any ballot issue or ballot question. If required to register under the requirements of this subsection, the registration of the issue committee shall include a statement containing the items listed in paragraphs (a) to (f) of Section A-2 of this Chapter in connection with other committees.

(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 and reporting requirements of this Chapter, at the earliest of the following:

- (I) A title for the matter has been designated and fixed in accordance with law;
- (II) The matter has been referred to the voters by the City Council;
- (III) In the case of a citizen-initiated petition, the matter has been submitted for format approval in accordance with law;
- (IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for

purposes of this Chapter until one such person knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the City Clerk in accordance with law.

(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 Chapter, 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 appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose the recall. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty (30) days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty (30) days following the recall election.

(4) Disclosure.

(a) An issue committee making an expenditure in excess of one thousand dollars (\$1,000) 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 or delivered by hand to personal residences, 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.

(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.

D. All Committees – Disclosures/Prohibited Contributions**(1) Disclosures**

(a) Contributions Over \$20. All political committees, issue committees, and small donor committees shall report to the City Clerk their contributions received, including the name and address of each person who has contributed more than twenty dollars (\$20.00); expenditures made, and obligations entered into by the committee or party.

(b) Contributions Over \$100. In the case of contributions made to a political committee or issue committee, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars (\$100) or more to such committee or party.

(2) Prohibited Contributions

No committee may accept any contribution from a political party or a foreign corporation.

E. Political Organizations

(1) Any political organization shall report to the City Clerk in accordance with the requirements of this Chapter:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars (\$20) 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 one hundred dollars (\$100) or more to the political organization; and

(b) Any spending by the political organization in any one reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars (\$100).

(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 Chapter; 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 twenty dollars (\$20) or more in a reporting period.

F. Independent Expenditures/Independent Expenditure Committees**(1) Registration.**

(a) Any person that accepts a donation as an Independent Expenditure Committee that is given for the purpose of making an independent expenditure in excess of one thousand dollars (\$1,000) or that makes an independent expenditure in excess of one thousand dollars (\$1,000) 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 one thousand dollars (\$1,000).

(b) The registration required by paragraph (a) of this subsection (1) shall include each of the items listed in Section 2.54.030:

(I) The person's full name, spelling out any acronyms used therein;

(II) A natural person authorized to act as a registered agent;

(III) A street address and telephone number for the principal place of operations; and

(IV) The aggregate ownership interest in the person held by foreign persons calculated as of the time the person registers with the City Clerk under paragraph (a) of this subsection (1).

(c) If the person identified in subparagraph (I) of paragraph (b) of this subsection (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 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 identified in subparagraph (l) of paragraph (b) of this subsection (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 article, any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall report the following to the City Clerk:

(I) The person's full name, or, if the person 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 does business in the state if such names are different from the name identified pursuant to subparagraph (l) of this paragraph (a);

(III) The address of the home office of the person, or, if the person 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 who expends an aggregate amount in excess of one thousand dollars 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 that, for the purpose of making an independent expenditure, donates more than two hundred fifty dollars per year to the person expending one thousand dollars or more on an independent expenditure.

(II) If the person making the donation of two hundred fifty dollars or more is a natural person, the disclosure required by subparagraph (l) of this paragraph (b) shall also include the donor's occupation and employer.

(III) If the person making the donation of two hundred fifty dollars 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 (l) 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 Chapter; except that any person making an independent expenditure in excess of one thousand dollars within thirty (30) days before a municipal election shall provide such report within forty-eight hours after obligating moneys for the independent expenditure.

(3) Disclosure.

(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, or otherwise circulated that constitutes an independent expenditure for which the person making the independent expenditure expends in excess of one thousand dollars on the communication shall include in the communication a statement that:

(I) The communication has been "paid for by (full name of the person paying for the communication)"; and

(II) Identifies a natural person who is the registered agent if the person 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 nonbroadcast communication, the City Clerk shall, by rule, establish size and placement requirements for the disclaimer.

(4) Additional Disclosure. Any person that expends an aggregate amount in excess of one thousand dollars 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 thirty (30) days before an election, the notice required by subsection (3) shall be delivered within forty-eight hours after the person obligates moneys for the independent expenditure.

(5) Accounting. Any person 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 in excess of twenty dollars (\$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 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 uses a separate account for the purposes of this Section, in any complaint relating to the use of the person's account, no discovery may be made of information relating to the identity of the person'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) Any person that expends moneys on an independent expenditure in excess of one thousand dollars, regardless of the medium of the communication produced by the expenditure, shall disclose to the City Clerk, in accordance with the schedule specified in this Chapter, any donation given in that reporting period for the purpose of making an independent expenditure.

(7) Any person that donates one thousand dollars or more to any person during any one calendar year for the purpose of making an independent expenditure shall report the donation in accordance with the schedule specified in this Chapter.

(8) Any earmarked donation given for the purpose of making an independent expenditure in excess of one thousand dollars shall be disclosed as a donation from both the original source of the donation and the person transferring the donation.

(9) On reports it files with the City Clerk, an independent expenditure committee that obligates in excess of one thousand dollars 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) 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) A foreign government; or
- (III) 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) An entity formed under and subject to the laws of a foreign country;
- (II) A natural person who is not a citizen of the United States; or
- (III) A foreign government.

(c) Notwithstanding any other provision of this subsection (G), no limited liability company shall make any contribution to a candidate committee if either 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.

(b) Any limited liability company that is authorized to make a contribution and which does make a contribution of \$100 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 shall not be required to identify the individual members of the limited liability company. (Ord. O-2013-22 § 1, 2013).

2.54.040 Reporting Requirements – Where and When Filed

(1)(a) (I) Except as otherwise provided in this Chapter, all reports that are required to be submitted shall be filed with the City Clerk pursuant to the following schedule:

- (A) On the 64th day before the regular municipal election;
- (B) On the 22nd day before the regular municipal election; and
- (C) Thirty (30) days after the regular municipal election.

(II) 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.

(III) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee.

(c) 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 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.

(d) All reports filed with the City Clerk pursuant to this subsection (1) shall be for the reporting periods established pursuant to rules promulgated by the City Clerk.

(e) 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.

(2) In addition to any report required to be filed with the City Clerk under this section, all candidate committees, issue committees shall file a report with the City Clerk of any contribution of one thousand dollars (\$1,000) or more at any time within thirty (30) days preceding the date of the municipal election. This report shall be filed with the City Clerk no later than twenty-four hours after receipt of said contribution.

(3) 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 fourteen and seven days before the recall election and thirty (30) days after the recall election.

(4) For the purpose of meeting the filing and reporting requirements of this article, 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 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 article to be filed with the City Clerk's office. The Clerk may require any filing under this section to be made by electronic means as determined by the Clerk. The rules for use of the electronic filing system shall be promulgated by the Clerk.

(b) Any person 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 article, 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 Clerk. Where a person uses such electronic filing system to meet the filing requirements of this article, 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-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 Chapter and make such forms and instructions available to the public free of charge;

(2) Promulgate such rules as may be necessary to enforce and administer any provision of this Chapter;

(3) Maintain a filing and indexing system consistent with the purposes of this Chapter;

(4) Make the reports and statements filed with the Clerk's Office available immediately for

public inspection and copying. The City Clerk 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;

(5) Keep a copy of any report or statement required to be filed by this Chapter for the period set forth in the City's records retention policy; and

(6) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this Chapter and notify any person if a complaint has been filed with the Clerk alleging a violation of this Chapter.

B. Enforcement

(1) Any person who believes that a violation of this Chapter has occurred may file a written complaint with the City Clerk no later than one hundred twenty (120) days after the date of filing of the report containing the alleged violation. The City Clerk shall refer the complaint to an independent hearing officer within three days of the filing of the complaint. The hearing officer shall hold a hearing within fifteen days of the referral of the complaint, but any party shall be granted an extension of up to thirty (30) days upon motion, or longer upon a showing of good cause. The hearing officer shall render a decision within fifteen 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 Chapter. The decision of the hearing officer shall be final and subject to review by the district court. The City Clerk and the hearing officer are not necessary parties to the review. The decision may be enforced by the City Clerk or, if the City Clerk does not file an enforcement action within thirty (30) days of the decision, in a private cause of action by the person filing the complaint. Any private action brought pursuant to this section shall be brought within one year of the date of the hearing officer's order in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorneys' fees and costs.

(2) The City Clerk shall have the authority to issue subpoenas. A subpoena issued by the City Clerk requiring the production of documents by an issue committee shall be limited to documents pertaining to contributions to, or expenditures from, the committees' separate account established pursuant to this Chapter to support or propose a ballot issue or ballot question. If the issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed, the subpoena shall not be subject to the foregoing limitation.

C. Sanctions

(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.

(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:

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

\$25 per day for sixth through tenth day late

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

Thereafter, City Clerk has discretion to refer matter to hearing officer

(3) Upon imposition of a penalty pursuant to this subsection, the City Clerk 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 City Clerk, the Clerk shall also provide such notification by electronic mail.

(4) Any person required to file a report with the City Clerk 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 thirty (30) days after the date on which notification of the imposition of the penalty was mailed to such person'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 rules and regulations promulgated by the City Clerk pursuant to this Chapter. The hearing officer 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 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, groundless, or vexatious, the hearing officer shall order the person filing the appeal to pay reasonable attorney fees and costs of the City Clerk in connection with such proceeding.

(5) In connection with a complaint brought to enforce any requirement of this Chapter, the hearing officer may order disclosure of the source and amount of any undisclosed donations or expenditures.

(6) In any action brought to enforce any provision of this Chapter, 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 or contains any inaccurate information. 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.

(Ord. O-2013-22 § 1, 2013).

2.54.060 City - Limitations on Contributions

(1) (a) (I) 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 to any public office, nor shall any such entity make any donation to any other person 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) 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 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5);

(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.

(II) 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 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. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) an agency, department, board, division, bureau, commission, or council of the City 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:

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

(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 is regularly provided to the public.

(C) a member or an employee of an agency, department, board, division, bureau, commission, or council of the City 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).

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

(a) An official residence furnished or paid for by the City;

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

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

(d) Publicly owned aircraft provided for the use of the chief executive of the City 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.

(3) 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 the such expenditure, files with the City Clerk such information as the Clerk may by rule 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 for the amount of money spent on campaign expenses.

(4) Any violation of this section shall be subject to any appropriate order or relief, including an order directing the person making a contribution or expenditure in violation of this section to reimburse the fund of the City 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.

(5) Failure to comply with any provision of this Chapter shall have no effect on the validity of any election. (Ord. O-2013-22 § 1, 2013).

2.54.070 Electioneering

Any person who expends one thousand dollars (\$1,000) 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 that contributes more than two hundred fifty dollars (\$250) per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars (\$250) is a natural person, the disclosure required by this section shall also include the person's occupation and employer. (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. sec. 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 his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to this Chapter 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 Chapter;

(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 Chapter.

(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 article 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 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-2013-22 § 1, 2013).