



NOTICE OF COUNCIL MEETING

TELECONFERENCE/ELECTRONIC PARTICIPATION PROCEDURES

Members of the Aurora City Council will participate in the October 12, 2020 Executive Session, and Special Study Session by teleconference due to concerns surrounding the COVID-19 (coronavirus) outbreak. To keep the members of our community, employees and leaders safe, there will be no public presence at the meeting. Members of the public and media will be able to participate remotely through the options listed below:

Where to view/listen:

The meeting will be live-streamed at www.auroraTV.org, and on Cable Channels 8 and 880 in Aurora.

Those who cannot access the internet or cable TV may listen by phone by using the following call-in information:

Dial Access Number 1-720-650-7664
Enter Participant Passcode: 123 210 8425

Translation/Accessibility

The City will provide closed captioning services on Cable Channels 8 and 880. If you need any other accommodation, please contact the Office of the City Clerk at (303) 739-7094. If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521 by Monday, October 12, 2020 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el viernes anterior a la reunión del lunes.)

For other information regarding public meetings, please contact the Office of the City Clerk at (303) 739-7094 or by email at CityClerk@auroragov.org, or visit www.auroragov.org.

AGENDA

**City Council Executive Session
(TELECONFERENCE)
Monday, October 12, 2020
5:00 p.m.**

- 1. Personnel Matters – Dan Brotzman Evaluation – 45 minutes

Note: Matters subject to consideration in Executive Session may include the following:

- a. Property Transactions, to wit: *The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except for the purpose of concealing the fact that a member of the [City Council] has a personal interest in such purchase, acquisition, lease, transfer, or sale. C.R.S. §24-6-402(4)(a).*
- b. Legal Advice, to wit: *Conferences with an attorney for the [City Council] for the purposes of receiving legal advice on specific legal questions. C.R.S. §24-6-402(4)(b).*
- c. Confidential Matters, to wit: *Matters required to be kept confidential by a federal or state law, rule, or regulation. The specific statute or rule or regulation that is the basis for such confidentiality must be cited prior to the executive session. C.R.S. §24-6-402(4)(c).*
- d. Security Issues, to wit: *Specialized details of security arrangements or investigations. C.R.S. §24-6-402(d).*
- e. Negotiations, to wit: *Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators. C.R.S. §24-6-402(e).*
- f. Personnel Matters (except if the employee who is the subject of the session has requested an open meeting, or, if the personnel matter involves more than one employee, all of the employees have requested an open meeting). *C.R.S. §24-6-402(4)(f).*
- g. Confidential Documents, to wit: *Consideration of any documents protected by the mandatory nondisclosure provisions of the Open Records Act. C.R.S. §24-6-402(4)(g).*

As the Mayor (or Mayor Pro Tem) of the City of Aurora, Colorado, and the Chair of this Regular Meeting of the Aurora City Council, I hereby certify that the discussion which took place in this executive session was limited to the topic or topics that are set forth hereinabove.

Mike Coffman, Mayor

Date

As the City Attorney (or Deputy City Attorney) of the City of Aurora I was in attendance at this executive session, and it is my opinion that those portions of the discussion which were not recorded, if any, constitute privileged attorney-client communications under applicable law.

City Attorney

Date



AGENDA

Study Session of the Aurora City Council

Monday, October 12, 2020

5:00 p.m.

VIRTUAL MEETING

City of Aurora, Colorado

15151 E Alameda Parkway

Pages

1. ITEMS FROM THE MAYOR

1.a. Executive Session Update

1.b. Mayor's Update

1.c. Issue Update

2. ITEMS FOR DISCUSSION

2.a.	Youth Violence Prevention - Introduction	Angela Lawson	3
2.b.	Aurora-Denver Youth Empowerment Compact	Jason Batchelor	5
2.c.	Funding Overview and Proposal	Jason Batchelor	10
2.d.	Aurora Violence Prevention Program	Angela Lawson	23
2.e.	Keep the Lights on Program	Juan Marcano	31
2.f.	FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO REPEALING AND REPLACING SECTION 54-2 AND SECTIONS 54-101 TO 54-110 OF THE CITY CODE RELATED TO THE FINANCING OF ELECTORAL CAMPAIGNS	Nicole Johnston, Juan Marcano	35

2.g. **Proposed FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-2, 54-6, 54-101, 54-105, 54-107, 54-108, & 54-109 OF THE CITY CODE PERTAINING TO ELECTIONS AND CAMPAIGN FINANCE Campaign Finance Reform Ordinance - Mayor C**

3. **ITEMS REMOVED FROM THE AGENDA, IF ANY**



CITY OF AURORA

Council Agenda Commentary

Item Title: Youth Violence Prevention - Introduction
Item Initiator: Angela Lawson
Staff Source: Angela Lawson
Legal Source: Nancy Rodgers
Outside Speaker: none
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 10/12/2020
Regular Meeting: N/A

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item as proposed at Study Session
- Approve Item with Waiver of Reconsideration
- Approve Item and Move Forward to Regular Meeting
- Approve Item with Waiver of Reconsideration
- Approve Item as proposed at Regular Meeting
- Information Only

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A
Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

- Recommends Approval
- Does Not Recommend Approval
- Forwarded Without Recommendation
- Recommendation Report Attached
- Minutes Attached
- Minutes Not Available

HISTORY (Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)

None

ITEM SUMMARY (Brief description of item, discussion, key points, recommendations, etc.)

Council Member Lawson will provide an introduction to the Youth Violence Prevention topic for this meeting. Council Member Lawson and Mayor Coffman led discussions on Council and with the industry in order to increase the marijuana sales tax rate by 1% earlier this year. In doing so, they identified their desire to dedicate that funding to address youth violence prevention programs. The purpose of the Special Study Session tonight is to address the proposed dedication of that funding and discussion potential programs to address youth violence prevention.

QUESTIONS FOR COUNCIL

None

LEGAL COMMENTS

Type Legal Comments Here

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: None

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain: None



CITY OF AURORA

Council Agenda Commentary

Item Title: Aurora-Denver Youth Empowerment Compact
Item Initiator: Jason Batchelor, Deputy City Manager
Staff Source: Jason Batchelor, Deputy City Manager
Legal Source: Nancy Rodgers, Deputy City Attorney
Outside Speaker: Jordan Sauers, Director of Regional Affairs, Office of the Mayor, City and County of Denver
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

- Study Session:** 10/12/2020
- Regular Meeting:** 11/2/2020

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item as proposed at Study Session
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration
- Approve Item with Waiver of Reconsideration
- Information Only

PREVIOUS ACTIONS OR REVIEWS:

- Policy Committee Name:** N/A
- Policy Committee Date:** N/A

Action Taken/Follow-up: *(Check all that apply)*

- Recommends Approval
- Forwarded Without Recommendation
- Minutes Attached
- Does Not Recommend Approval
- Recommendation Report Attached
- Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Council has not previously discussed this issue.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Aurora Mayor Mike Coffman and members of the Aurora City Council have had discussions with Denver Mayor Michael Hancock and his staff to find ways to partner and address the public health crisis of youth violence. The attached Aurora-Denver Youth Empowerment Compact recognizes our shared interests in addressing this issue. It provides a framework and structure for continued discussions and future partnership opportunities.

QUESTIONS FOR COUNCIL

Does Council support the proposed compact?

LEGAL COMMENTS

Type Legal Comments Here

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: None

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain: None

DRAFT – For Discussion Purposes Only

Aurora/Denver Youth Empowerment Compact

WHEREAS, the City of Aurora and the City and County of Denver recognize that youth violence is a public health crisis that knows no borders and that continues to inflict a devastating toll on both communities;

WHEREAS, the City of Aurora and the City and County of Denver recognize that both communities have suffered profound impacts, human suffering and loss and need to work together on a regional strategy to reduce youth violence directed to not only protecting our residents from crime generally, but also to lifting youth out of the conditions resulting in youth violence;

WHEREAS, the Cities seek to develop local and regional programs focused on reducing violence in Denver and Aurora related to and adversely affecting the young people in our respective cities. The Cities are committed to building pathways to justice, increased safety, and educational and employment opportunities for our youth through city-supported, community-led, and youth-informed programming.

WHEREAS, the Cities are further committed to leveraging opportunities between them for coordination, cooperation, advocacy, and accountability in their respective communities and with their community partners. The Cities will develop a roadmap to implementing long-term action plans by sharing best practices, instituting innovative approaches, understanding how and where to direct resources, and expanding currently operating programs; and

NOW THEREFORE, we have created this Compact between the Cities to declare our mutual dedication and ask our community leaders, families, philanthropic organizations, government officials, and other stakeholders to stand with us to reduce youth violence in our communities and set forth their respective commitments through the following statements of their shared Values, Needs, Objectives and Plan of Execution.

Values

The Cities have the passion needed for establishing and maintaining healthy, equitable communities where young people can thrive. Both Cities are committed to equity and social justice, and as a result, commit to reducing youth violence as well as serving those social and economic communities disproportionately affected by youth violence.

The Cities further commit to combining and streamlining resources by continuing established efforts to address and reduce youth violence, which include Denver's Youth Violence Prevention Action Table ("YVPAT). The YVPAT was assembled in response to concerns from residents regarding youth violence. Additionally, both Aurora and Denver are planning and hosting Safe Zone events in their respective communities in response to increases in violence. The Cities' initiatives under this Compact is intended to expand Safe Zone events to include year-round pop up events, and to develop.

Local and regional governments are uniquely resourced and as a result positioned to provide the services and programs set forth in this Compact to assist youth. Aurora and Denver therefore commit to conducting outreach to and sharing information, knowledge and data with other local and regional governmental partners to address youth violence and other critical issues affecting youth.

Need

DRAFT – For Discussion Purposes Only

Through prior efforts, studies and community outreach addressing youth violence we have identified the following needs:

- A collaborative and cooperative approach among communities, which will require the commitment and support of city leadership as well as multiple organizations.
- Collaborative strategies on the deployment of resources among the Cities as well as other local and regional partners including but not limited to coordination of public or private grants to fund programming, service providers, consultants or technical assistance for the services described in this Compact.
- Identification and support of those youth most likely at risk of engaging in violence as well as most likely to be victims of violence.
- Identification of significant risk and protective factors associated with youth violence and a public health approach to addressing those.
- Identifying those neighborhoods or social or economic communities most adversely and disproportionately affected by youth violence.
- Identifying the scope of youth violence as a significant public health and mental health issue.
- Identifying and addressing issues that disproportionately affect certain social or economic groups such as systemic racism; issues of class, gender, and sexuality equity; unemployment and economic hardship; and family issues that can result in youth violence.
- Identifying barriers in policies, programs, and practices.
- Connecting community-based agencies that serve youth with each other and agencies within the respective Cities.
- Developing comprehensive services to support families affected by youth violence.
- Support for the development, growth, and success of students in systemically under-resourced schools.
- Initial and additional quantitative data analysis, and qualitative assessments of existing and proposed efforts to improve programs.

Objectives

The objectives of this regional Compact are as follows:

- Develop consistent and sustainable approaches for the success of the implemented models.
- Provide funding to selected community partners and service providers for program and technical assistance.
- Commitment from the Cities' respective agencies to provide assistance with permitting and other means of access to facilities.
- Development of evidence-based best practices for continuing programs.
- Engage with partners and stakeholders to identify potential untapped resources.
- Engage other local, regional and governmental partners to develop and implement initiatives.
- Implement and utilize a public health approach employing best practices and drawing on a full array of knowledge and experience from the Cities and its partners.

Execution

The Cities commit to:

DRAFT – For Discussion Purposes Only

- Leveraging existing resources across public, private, and non-profit sectors and philanthropic and business communities for collaboration on fundraising strategies including grant writing and partnerships.
- Developing joint or multi-party agreements between the Cities and respective agencies with other public and private service providers to implement strategies and deliver services and programs.
- Committing the Cities' own facilities and assets such as parks and recreation centers for hosting events and providing programs and services.
- Creating and implementing a mutually developed organizational structure and committees for the management of programs to include needed, including a procurement committee to assist in obtaining services and facilities.
- Hosting community-led events across both Aurora and Denver communities.
- Coordinating with selected organizations specifically committed to serving youth in neighborhoods experiencing higher levels of youth violence.
- Reporting to the Cities' respective Mayors and City Councils and agencies including specific strategies for improved, continued and expanded programming.
- Creating grant and other funding tools for programs and services.



CITY OF AURORA

Council Agenda Commentary

Item Title: Funding Overview and Proposal
Item Initiator: Jason Batchelor, Deputy City Manager
Staff Source: Jason Batchelor, Deputy City Manager
Legal Source: Hanosky Hernandez, Assistant City Attorney
Outside Speaker: none
Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

- Study Session:** 10/12/2020
- Regular Meeting:** 11/2/2020

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item as proposed at Study Session
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration
- Approve Item with Waiver of Reconsideration
- Information Only

PREVIOUS ACTIONS OR REVIEWS:

- Policy Committee Name:** N/A
- Policy Committee Date:** N/A

Action Taken/Follow-up: *(Check all that apply)*

- Recommends Approval
- Forwarded Without Recommendation
- Minutes Attached
- Does Not Recommend Approval
- Recommendation Report Attached
- Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The loss of revenue from the Photo Red Light Program has created a funding problem for the surcharge programs. Staff have presented some previous adjustments to Council and noted that additional steps would be needed in the future as fund balances were expended.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Staff is proposing to make major changes to how the surcharge is allocated among the different program, along with moving major portions of some programs to other funding sources. The goal of the proposal is to better align funding sources, ensure that the amended surcharge programs are sustainable, and allow for the full amount of the 1% marijuana sales tax increase to be dedicated for youth violence prevention programs.

QUESTIONS FOR COUNCIL

Does Council support the proposed changes to Surcharge programs?
Does Council support reserving the 1% marijuana sales tax increase for Youth Violence Prevention programs?

LEGAL COMMENTS

Type Legal Comments Here

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: If Council approves the proposed changes, it will need to consider the proposed ordinance. If approved, staff will prepare budget amendments to reflect the necessary changes.

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain: N/A

ORDINANCE NO. 2020-____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 50-37 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO MUNICIPAL COURT SURCHARGES, PROVIDING FUNDING FOR COMMUNITY SERVICE AGENCIES AND PROGRAMS, AND OTHER RELATED MATTERS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That section 50-37 of the City Code of the City of Aurora, Colorado, is hereby amended and renumbered and shall read as follows:

Sec. 50-37. - Surcharges.

(a) *Assessment.* Surcharges shall be assessed by the municipal court as set forth in this Section. Such surcharges shall be cumulatively assessed when applicable and shall be in addition to court costs and witness fees which may be assessed as described in Section 50- 36 against any defendant who pleads guilty or who after a trial to the court or by jury is found guilty or who pleads nolo contendere to any citation that includes one or more violations from the following Chapters of this Code: 14, 22, 66, 94, articles I through X of 134, and 146. A surcharge shall be added and separately reported to each fine as defined in the table below:

Program	Surcharge
Aurora for Youth	\$10.00
Community Service Agencies with a Nexus to Law Enforcement (NEXUS)	\$14.50
Public Safety Assistance Agencies	\$9.00
Court Technology	\$ 1.00
Problem Solving Courts	\$9.50 \$15.00
Victim Assistance/Law Enforcement Training (VALET)	\$15.00 \$25.00
Total	\$50.00

- (1) *Maximum charge.* In no case shall such fine and surcharge exceed the applicable maximum fine.
- (2) *Expenditures.* All surcharges assessed and collected by the municipal court shall be deposited in an appropriate account within the designated revenues fund and expended for the purposes authorized by this section.
- (3) *Inflation.* Commencing in 2019, on January 1st of each year, the surcharge fees levied and assessed pursuant to subsection (a) may be adjusted for inflation in accordance with the Denver-Boulder-Greely Consumer Price Index for All Urban Consumers.
- (4) *Administration.* The court administrator is hereby authorized to adopt rules and regulations regarding the administration and application of the fees established by this section.

Section 2. That Section 50-37 of the City Code of the City of Aurora is hereby amended by adding a Section 50-37 (b) that shall read as follows:

(b) The City Council authorizes that sales tax collections generated by increasing the marijuana sales tax rate to 8.75% from 7.75% under Section 130-161 (b) of the city code is hereby allocated to community service agencies and programs directly related to youth violence prevention.

- (1) In order to qualify for funding, the community service agencies or program shall submit to the City Manager or designee, a proposal of the intended services to be provided following a request for proposal process as directed by the City Manager or designee.**
- (2) Allocation of funding shall occur after the proposals submitted by the community agencies are evaluated, and funding shall be allocated based on the needs of the City at the time.**
- (3) This subsection does not guarantee any funding to community service agencies and it shall not be considered a multiple fiscal year obligation of the City within the meaning of Article X Section 20 of the Colorado Constitution.**
- (4) This subsection shall remain in effect for five years from the date of adoption unless repealed earlier by the City Council.**

Section 3. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the Office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this ____ day of _____, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this ____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN,
Interim City Clerk

APPROVED AS TO FORM

 RLA

HANOSKY HERNANDEZ,
Assistant City Attorney

RE – IMAGINE Surcharge Programs



Youth Violence Prevention Program Development

Budget Office
Finance

AGENDA

- Outline Surcharge Program Funding Issue
- Propose Surcharge Program Funding Solution
- Funding Source for Youth Violence Prevention



ISSUE

Ongoing Public Safety –
Community Discussions

+

Legislation

=

Declines in Ticket Issuance and
Fine Collections

⇒ Funding Shortages

Yes, We Have Said This Before...

2021 Budget Proforma Surcharge Programs

Each Program Out of Balance - Annual Deficit

Program	2021	2022	2023	2024	2025
Problem Solving Courts	223,400	214,500	228,700	242,405	256,200
Aurora for Youth	224,500	208,000	219,400	231,000	242,800
Victim Assistance	188,600	167,000	187,000	207,700	229,300
Nexus *	113,700	70,700	70,700	70,700	70,700
Court Technology	0	0	0	0	0

* Nexus budget reduced to \$500,000 from \$600,000 in 2020

RESULT: All Programs Deplete Available Funds by 2023

- 2021: Victim Assistance and Nexus
- 2022: Aurora for Youth
- 2023: Problem Solving Courts

PROPOSAL

INITIAL THOUGHT

- Use new marijuana 1% sales tax to shore up surcharge program shortages
- Re-imagine AFY as Youth Violence Prevention

OR...

Take a Hard Look at Current Surcharge Programming

- Re-think Programming
- Match to Appropriate Funding Sources

Allocate surcharge to programs that provide services to offenders and victims while assisting Law Enforcement

PROPOSAL

Problem Solving Courts will be able to add the Veteran's Court

Portions of **Aurora for Youth** will be funded out of the Police Community Resources Section in the General Fund while agencies will compete for Youth Violence Prevention funds

The **Victim Assistance** Supervisor will be moved to the General Fund

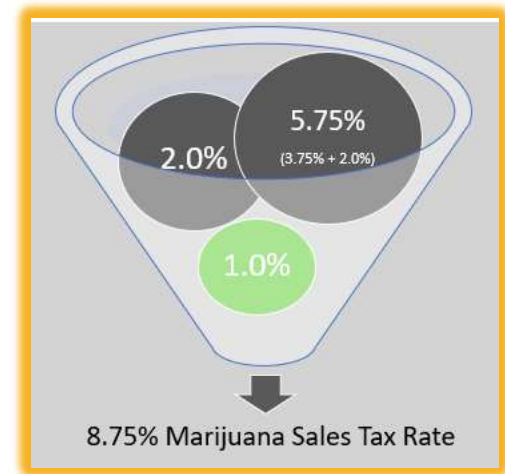
Nexus programs serving the homeless will be moved to 2% marijuana sales tax funding dedicated to homelessness

Public Safety Support Agencies (formerly funded as Nexus) will be funded by the surcharge. These agencies will be dedicated to supporting Law Enforcement

Program	Current Surcharge	Proposed Surcharge
Problem Solving Courts	\$9.50	\$15.00
AFY	\$10.00	\$0.00
Victim Assistance	\$14.50	\$23.50
Nexus / PSSA	\$15.00	\$10.50
Court Technology	\$1.00	\$1.00
Total	\$50.00	\$50.00

FUNDING

- Council approved 1.0% marijuana sales tax rate increase to help fund programs such as Youth Violence Prevention beginning July 1, 2020
- Collections of the 1% Marijuana Sales Tax is currently projected at \$625,000 for 2020 and \$1.25 million for 2021
- The 2021 budget assumes that a total of \$219,300 will be allocated to cover Nexus and Victim Assistance program expenditures for 2020



Question for Council

- Does Council support the proposed changes to Surcharge programs?
- Does Council support reserving the 1% marijuana sales tax increase for Youth Violence Prevention programs?





CITY OF AURORA

Council Agenda Commentary

Item Title: Aurora Violence Prevention Program
Item Initiator: Angela Lawson, City Council Member At-Large
Staff Source: Jason Batchelor, Deputy City Manager
Legal Source: Nancy Rodgers, Deputy City Manager
Outside Speaker: Members of the High Risk Collaboration
Council Goal: 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

COUNCIL MEETING DATES:

Study Session: 10/12/2020

Regular Meeting: N/A

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approve Item as proposed at Study Session | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting | <input type="checkbox"/> Information Only |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |
-

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Council has not previously discussed the proposed program

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Council Member Angela Lawson has worked with members of the High Risk Collaboration to develop the attached proposal for the Aurora Violence Prevention Program. The High Risk Collaborative serves the 18th Judicial District and members include:

JUDICIAL OFFICER:

- Beth Dumler- Magistrate, 18th Judicial District

ATTORNEYS:

- Sarah Ericson – Deputy District Attorney, Director of Diversion Program
- Corrie Caler – Deputy District Attorney, 18th Judicial District
- Julie Heckman-Deputy City Attorney, City of Aurora
- Angela Brandt- Public Defender, 18th Judicial District
- Marilee McWilliams- County Attorney, 18th Judicial District
- Linda M. Arnold- County Attorney, 18th Judicial District
- Danielle Newman- County Attorney, Arapahoe County Department of Human Services

SCHOOLS:

- Brandon Wright – Student Engagement Coordinator, Aurora Public Schools
- Ron Lee – Director of Mental Health, Cherry Creek School District
- Steve Nederveld- Director, Community Partnerships for Crisis Intervention in Cherry Creek Schools
- Dr. Sarah Famularo – Principal, Cherry Creek School District
- Antoinette Gifford- Criminal Justice and Law Program, Cherry Creek Schools

HUMAN SERVICES:

- Erin Coloroso- Supervisor, Arapahoe County Department of Human Services
- Marianela Turner – Intake Caseworker, Arapahoe County Department of Human Services
- Shawna Hayden- Community Development and Prevention, Family Resource Pavilion and JAC liaison Arapahoe County Department of Human Services
- Eric Hoskins – Intake Case Worker, Arapahoe County Department of Human Services

JUVENILE JUSTICE:

- Shelly Sack- Deputy Chief, 18th Judicial District
- Kimberly Howard – Probation Supervisor, 18th Judicial District
- Jeff Longmore – Probation Supervisor, 18th Judicial District
- Tiffany Garcia- Probation Supervisor, 17th Judicial District
- Yvette Duran- Probation Officer, 18th Judicial District
- Kayla Duran- Probation Officer, 18th Judicial District
- Shalese Graham – Probation Officer, 18th Judicial District
- Mario Calvillo-Escalante- Probation Officer, 18th Judicial District
- Kristin Jaramillo- Probation Officer, Aurora Court Administration
- Krista Husak – Central Region Assistant Director, Division of Youth Services
- Todd Spanier – Criminal Justice Planner, Arapahoe County
- Kally Enright – Criminal Justice Planner, Arapahoe County
- Rhonda Riley- Coordinator, Colorado Youth Detention Continuum, 18th Judicial District
- Stacy Mouw – Supervisor, 18th Judicial District Colorado Youth Detention Continuum
- Roxanne Baxter – Case Manager– 18th Judicial District Colorado Youth Detention Continuum
- Sgt. Paul Poole- Supervisor School Resource Officer, Aurora Police Department
- Eric White – Law Enforcement Officer, Aurora Police Gang Unit

COMMUNITY PROGRAMS:

- Sarah Troy – Director, Juvenile Assessment Center 18th Judicial District
- Brittany Fabrizio- Team Lead, The Juvenile Assessment Center
- Ronald Blan, Sr. – Program Coordinator, GRIP Denver (former coordinator for AGRIP)
- Amy Copley- Judicial Services Division Supervisor, Arapahoe County Government
- Tracy Durant – Owner, Step-by-Step Youth Services

- Daniel Sampson – Founder/CEO, Driven By Our Ambitions (DBOA, LLC)
- Julie DeNicola – Family Representative, Stepping Stones Advocacy, LLC
- Jennifer Taylor- Recreation Supervisor, City of Aurora Parks, Recreation & Open Space
- Christian Caldwell- President, My Brother’s & Sister’s Keeper Colorado

In addition the following representatives from the 17th Judicial District participated in the discussions.

- Brea Coronado – Probation Officer, 17th Judicial District
- Andrew Martinez – Probation Officer, 17th Judicial District

The attached program proposal is for \$700,000 and 6 FTE.

QUESTIONS FOR COUNCIL

Does Council support the proposed Aurora Violence Prevention program?

LEGAL COMMENTS

Type Legal Comments Here

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: Program funding would come from the 1% Marijuana sales tax revenue. Appropriation of the funds, but no programming was included in the 2021 Budget. If Council approves the proposed program, staff will bring forward a budget amendment to add the proposed FTE.

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain: None

Report Approval Details

Document Title:	Aurora Violence Prevention Program.docx
Attachments:	- Youth Prevention Program Proposal.pdf
Final Approval Date:	Oct 7, 2020

This report and all of its attachments were approved and signed as outlined below:

Adrian Morris

Greg Hays

No Signature - Task assigned to Roberto Venegas was completed by workflow administrator Susan Barkman

Roberto Venegas

Jim Twombly

Proposal for the Aurora Youth Violence Prevention Program

This is a proposal for consideration by the Aurora City Council to create a Youth Violence Prevention Program (Program) within the City of Aurora. Specifically, this proposal recommends 6 FTEs for this program: 4 outreach workers, 1 prevention coordinator, and 1 program manager. The Program will operate according to an evidence-based model recommended by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in the US Department of Justice. Accordingly, the Program will be supported by an inter-jurisdictional coordination committee, which will be comprised of representatives from around the juvenile justice system, the City government, and school districts which will meet periodically to ensure that juvenile system agencies, and the Program, are all coordinating efforts with regard to juveniles who are gang-involved or at risk of becoming gang involved. Embedded within this structure will be the necessary elements for a multidisciplinary team to assist the Program with staffing cases, identifying and providing resources to Program clients and families, and ensuring that intervention and prevention efforts are individually tailored and as all-encompassing as possible.

Background

In 2011, the City of Aurora secured funding from the Colorado Division of Criminal Justice (DCJ) to support the Aurora Gang Reduction Impact Program (AGRIP). The target area of this program was northwest Aurora, and it had four goals: 1) prevent youth from becoming involved with gangs, 2) intervene with gang-involved youth and their families, 3) reduce gang-related crime and violence, and 4) create an environment which inhibits gang activity. AGRIP conducted intervention efforts through the Gang Rescue and Support Project (GRASP). After the DCJ grant was exhausted, the City continued AGRIP through photo red light camera revenue. In 2018, City voters chose to eliminate the use of red light cameras and funding for AGRIP was cut. An effort was made by the Arapahoe County High Risk Juvenile Collaborative to ask Denver's Gang Intervention Program (GRID) to work with some gang-involved youth who were involved with gang activity in both Denver and Aurora, but that work was limited to only a few gang-involved youth. At the current time, there is no program to conduct gang intervention or prevention work in the City of Aurora. Meanwhile, gangs and gang membership are proliferating, and gang-related crime and violence are increasing in the City.

Gang Intervention

Gang intervention, according to the best practices recommended by the OJJDP is a specialized practice which entails outreach workers making contact with suspected gang-involved persons and working with them and their families to gradually extract them from the gangs in which they are involved. Due to the need for outreach workers to have lived experience with gangs and gang culture, and the high degree of trust which must be developed between the outreach worker and the clients, this is not work that police officers, as police officers, can do. Nor is it work that human services staff, nor juvenile probation, nor school staff can do. As such, a special program must be created, to train, staff, and manage the gang intervention specialists. With caseloads of up to 20, and ideally at 15 per outreach worker, the proposed staffing could conduct intervention work for between 60 and 80 cases.

Gang intervention outreach workers use their lived experience and working knowledge of gangs and gang culture to identify and contact prospective clients. If the client is receptive, the outreach worker then assesses the client's level of embeddedness in the gang and assesses other aspects of the client's life which pertain to gang involvement, such as whether immediate family members are also gang involved, economic security, social networks, fears, dreams and goals of the individual. The outreach worker coordinates with a multidisciplinary team to ensure that extraction from the gang can be successful. This might involve working with the city or district attorney regarding past or pending charges, juvenile probation, human services, the client's school, police officers who have been involved with the client, and other service providers. The goal is to replace the gang in the client's life with resources and other pro-social opportunities so that the client chooses to disengage with the gang and pursue other avenues.

Gang intervention must be separate from the work that the police do. Gang intervention would not work if the outreach worker shared knowledge of gang organization or activity with the police, who would act on that information to do crime investigation and interdiction. Gang intervention is about showing gang-involved persons a better way of life and encouraging them to take that alternative path. Police-gang encounters, on the other hand, are about investigating, making arrests and using the justice system to disincentivize criminal behavior through sanction. Research has shown that gang intervention, as described here, is more effective at reducing gang membership and overall community impact, than traditional police work. That said, hotspot analysis of APD data should inform the Program where to focus its efforts.

Prevention

Gang prevention activities are also an important aspect in reducing the impact of gangs on communities. Outside of the truly committed who are deeply involved in gangs, no one wants youth to become involved in gangs. This includes friends, parents, teachers, coaches, clergy, and virtually everyone who becomes involved in young people's lives. Wanting is not enough. These community members must be empowered through education to recognize what gang involvement looks like, what the early-identifiable risks to gang involvement are, and what resources are in the community to provide alternatives to the gang lifestyle. Young people become involved in gangs to help provide for their families, to feel a sense of belonging and purpose, to gain respect, to fulfill an inherent desire for structure, to expiate personal trauma, to strike back at a community from which they feel rejected, etc. The prevention aspect of this Program will be centered around educating community members on how to recognize early risk factors for gang involvement, knowing what to do, and understanding the vast array of resources currently available in the City, which provide alternatives to gang involvement. The prevention coordinator position in this program will work with schools, and the other aforementioned agencies and organizations to conduct outreach and education programs on gangs, on how to help at-risk youth avoid gang involvement for the following: parents, school staff, community organizations, police officers, social workers, and youth peers.

Local juvenile justice system stakeholders have pointed out the importance of developing a better understanding of how female youth become involved in gangs and how prevention and gang intervention can work with female clients. The GRID program in Denver does not work

with females. Yet, female involvement in gang-related crime and violence is on the rise. The prevention coordinator will work with system partners, such as the Arapahoe County Criminal Justice Planning Office, to research and help implement promising practices to serve at-risk, and gang-involved females in prevention and intervention work.

Coordination Within the Juvenile System

The juvenile justice system is highly complex, involving several agencies and organizations from the state, county, judicial district, and private providers. It is an entire ecosystem within which a successful gang intervention program must operate. As such, the Program must coordinate with the other agencies and organizations in the system. Moreover, the other agencies and organizations must receive as clients of their own, clients of the Program so that the maximum quantity of available resources can be made available to encourage gang-involved youth and families to choose a different path. Coordinated case management, through multidisciplinary teams, is an evidence-based practice for gang intervention. Establishing a coordination committee to support the Program will ensure that this kind of case management can be accomplished. For starters, the committee should include representatives from the following organizations: the City Attorney's Office, the 17th and 18th District Attorney's Offices and Probation Departments (for juvenile justice involved youth), the Juvenile Assessment Center, Adams and Arapahoe County Human Services, the Colorado Youth Detention Continuum of the 17th and 18th Judicial District, community mental health providers, school districts, community and faith-based organizations, and private and non-profit system providers. Additionally, the Program will integrate, where appropriate, with the Arapahoe County Collaborative Management Program.

Multidisciplinary Teams

The Program will not have sufficient resources to meet the needs of its clients alone. By leveraging the resources already available in the community for this purpose, the Program will be successful at its mission of extracting gang-involved youth. When a client is on boarded to the Program, the next step will be to assess needs, preferably through the use of evidence-based risk and needs assessments, and then using the outcome of the assessments, to assemble a team to provide resources to the client. Coordinating resources through the Program will streamline the provision of community resources to the client and client's family, with one coordinated meeting (rather than expecting the family to make appointments with different organizations and then going to all the required meetings). Agencies contributing to this coordination will do so through "in kind" contributions rather than funding. This kind of collaborative case management has been proven to be successful for at-risk youth, and integrating it to the operation of the Program will give the City its best chance at reducing the impact of gang-related crime and violence in our community.

Proposed Program Budget

Personnel	
Salary	\$410,000
Benefits	<u>\$150,000</u>
Personnel Subtotal	\$560,000
Supplies	\$ 20,000
Services	\$120,000
Total	\$700,000

The personnel budget reflects an initial estimate for the proposed 6 FTE with benefits. The supplies budget reflects a budget for office supplies, fuel, and other operating charges. The services budget line reflects an allowance for the Program to contract or fund any services that are needed for youth or families that are not able to be covered by committee and community partners.



CITY OF AURORA

Council Agenda Commentary

Item Title: Keep the Lights on Program
Item Initiator: Juan Marcano, City Council Member Ward IV
Staff Source: Claudine McDonald, Manager of Community Relations
Legal Source: Nancy Rodgers, Deputy City Attorney
Outside Speaker: None
Council Goal: 2012: 2.4--Work with our partners to ensure that every child and young person in Aurora have access to fundamental resources

COUNCIL MEETING DATES:

Study Session: 10/12/2020

Regular Meeting: N/A

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approve Item as proposed at Study Session | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting | <input type="checkbox"/> Information Only |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |
-

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Council has not previously discussed the proposed program

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The attached program proposal is to address the need to engage our youth on evenings and weekends to ensure they have a safe environment.

QUESTIONS FOR COUNCIL

Does Council support the proposed Keep the Lights On Program?

LEGAL COMMENTS

Type Legal Comments Here

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: Funding for this program could be available in the

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain: None

Keep the Lights On

Current Issue: Youth violence. Youth are being killed. Youth are dying. The community is collectively yelling that something needs to be done. Generally, they don't see this as a single source issue, for example, "the government needs to fix it!", rather it's multifaceted and are willing to collaborate and circle our youth to solve the issue. Over the last few years we've seen prevention funding decrease. Moreover, COVID has impacted the ability of youth to access prevention programming available in the community because it's simply not available at the level it was pre-COVID. Recreation centers in the city of Aurora are not running at full capacity, limiting the number of safe places available for youth to congregate. It's also been established that our recreation centers may not be able to handle an increase in youth participation during the summer. Although some modifications have been made to extend hours at some locations, not all recreation centers are fully operational making access to services even more challenging.

Program Overview: The concept of *Keep the Lights On* is that it's cheaper to keep the lights on in what is typically the largest building in every neighborhood, the local public school, and invite youth into the safe building versus burying another child, after losing them to violence. The *KTLO* program would create a safe-haven for youth to congregate in Aurora. Upon startup, *KTLO* would be available Friday, Saturday and Sunday evenings. The facility gymnasium would be available along with select secured areas and classrooms. The possibilities are endless as to what programming can be offered at this site, however, proven preventive programs will be implemented at launch.

Along with structured programming, *KTLO* would offer a mentoring program, food/refreshments, music, games, quiet areas, and other add-on programs as interest arises or as community support allows. For example, a cooking class could be offered if a local chef came forward with a curriculum and resources.

Program management need to be determined. Staffing for the program would include Community Relations Division, community non-profit partners, Global Village Academy staff partnership, Aurora Police Department School Resource Officers, APD Community Relations Officer, and Prevention Programming staff. Per Chief Vanessa Wilson, Aurora Police Department, Student Resource Officers would be available to staff *Keep the Lights On* to continuously stay connected with youth in our community over the summer. They would ensure a safe environment and an opportunity to build trust within the youth community.

Location: Global Village Academy (GVA) - 403 S Airport Blvd., Aurora 80017

This local charter school along with strong community leadership from their Executive Principal, Mr. Chris Denmark, is fully committed to providing a safe and secure facility in collaboration with the city of Aurora.

Structured Prevention Programming: Having a safe facility is a key component, however, having structured and proven preventive programming inside the building is what will be necessary for change to happen. Staff recommends a Request for Proposal process to identify non-profit partners to provide preventative programming. If Council wishes to proceed staff will work with Council develop a detailed RFP that seeks prevention programs having successful history in our community to provide varied services and programs for our youth.

The hours of the *KTLO* program would be established based on times that many youth find themselves without supervision for multiple reasons (e.g., families are working). The projected hours of operation are likely to be late, therefore safe transportation to a home for all participants will be paramount to ensure youth aren't released from the program right back into the community with opportunity to, once again, be put into harm's way.

After listening to multiple community advocates it was learned that many youth are experiencing food shortage and missing meals. A component of the *KTLO* program would be to offer refreshments to youth actively participating in the program. Local businesses would be contacted to support this initiative by providing food and resources and potentially offering mentoring and positive role models for youth that participate at the program.

As stated earlier, the possibilities are endless as to what additional programming can be offered at this site. The hope would be to be nimble and responsive to the needs.

Financial Need: All budgets are projected for a full year of operations, and can be adjusted depending on how long the RFP process dictates

Global Village Academy:	\$20,000 (Cleaning & Supplies)
Prevention Programming Partner 1:	\$50,000 (Programming & Supplies)
Prevention Programming Partner 2:	\$50,000 (Programming & Supplies)
Prevention Programming Partner 3:	\$50,000 (Programming & Supplies)
Transportation:	\$25,000
<u>City Program Budget:</u>	<u>\$50,000 (Resources & Supplies)</u>
Total:	\$245,000



CITY OF AURORA

Council Agenda Commentary

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

Item Initiator: Roberto Venegas, Deputy City Manager

Staff Source: Nicole Johnston and Juan Marcano

Legal Source: Dave Lathers, City Attorney’s Office

Outside Speaker: None.

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/12/2020

Regular Meeting: 10/19/2020

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- Approve Item as proposed at Study Session
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration
- Approve Item with Waiver of Reconsideration
- Information Only

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 8/25/2020

Action Taken/Follow-up: *(Check all that apply)*

- Recommends Approval
- Forwarded Without Recommendation
- Minutes Attached
- Does Not Recommend Approval
- Recommendation Report Attached
- Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

This item was presented at the August 25, 2020 Management and Finance Policy Committee.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Mayor Pro Tem Johnson and Council Member Marcano will provide an overview of the proposed Campaign Finance Reform ordinance.

QUESTIONS FOR COUNCIL

Does the Council support moving the proposed ordinance forward to a Regular Council Meeting for approval?

LEGAL COMMENTS

The council shall have all legislative powers of the city and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the city and the inhabitants thereof; to enact by ordinance provisions for fines and/or imprisonment, or other punishment, for each and every violation of ordinances or regulations duly passed by council; to provide for the granting of probation and the conditional suspension of sentences by the municipal court; and to delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions, powers and authority of the city as it deems proper and advisable. (Section 3-9 of the City Charter)(Lathers)

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: Please see the attached fiscal impact statement.

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain:

Aurora Campaign Finance Reform – Executive Summary

Establishes New Limits on Campaign Contributions & Use of Campaign Funds

- **Establishes contribution limits from individuals, committees, and parties** of \$400 per cycle to a ward candidate and \$800 per cycle to a citywide candidate.
- **Prohibits contributions to candidate committees from business entities** (profit and nonprofit corporations, Limited Liability Companies, etc.) and labor unions.
- **Creates Small Donor Committees** that pool individuals' contributions of no more than \$50 per year.
- **Prohibits contributions** between different committees and conduit contributions, so voters can better understand where campaign contributions are coming from.
- **Limits contributions or expenditures in cash to \$100 or less.**

Creates Transparency for Campaign Contributions & Expenditures

- **Requires campaign finance reports to be more detailed and accurate.** City Clerk will reject improperly prepared filings, then allow for resubmission.
- **Increases all committees' reporting schedules** in election years to 275, 180, 90, 60, 30, and 14 days before an election, the Friday before the election, and 30 days after the election. Reporting in non-election years increased from annual to semi-annual.
 - Recall committees now have more stringent reporting schedules.
 - Penalties for late filing increased.
- **Requires new disclosures by "outside" groups that pay for independent expenditures and electioneering communications**, including requirements for these groups to identify their big donors on public disclosure reports.
- **Requires disclaimers on most political advertising**, and independent expenditure and electioneering communication ads must now list the names of the top three donors to the sponsor of the advertising.

Provides for Greater Oversight & Enforcement of City Campaign Finance Law

- **Makes complaint and waiver procedures more effective**, including:
 - Public notice of complaints and advance notice of hearings;
 - Subpoena authority;
 - Testimony under oath;
 - Public records of hearings kept;
 - Complaint decisions move from Council to City Clerk hearing officer;
 - Unpaid fines to be referred to collections;
- **Imposes penalties of up to \$10,000, or three times the amount of the illegal contribution or expenditure**, for intentional campaign finance violations.

Creates Clear & Comprehensive Definitions of Key Terms

- **Clearly defines terms** to comprehensively describe the scope of the city's campaign finance law.
- **Defines "Inactive voter" in a more limited way**; means fewer inactive voters.
- **Removes "exploratory committees"** and special rules for those entities, making the code simpler and easier to understand.

A BILL

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

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

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

Sec. 54-2. - Definitions.

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

- (a) ***Active voter*** means a registered voter who has not been marked inactive by the clerk and recorder of the voter's county of residence according to §1-2-605(1)(b)(i), C.R.S. Any registered elector whose registration record is marked "inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements.
- (b) ***Ballot*** means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on in an election.
- (c) ***Ballot issue*** means a non-recall, citizen-initiated petition or legislatively-referred measure which concerns local government matters arising under section 20 of Article X of the State Constitution, i.e., matters of taxes, debt, and other financial matters. Ballot issues may only be voted on at general elections held each November.
- (d) ***Ballot question*** means any local government matter involving a citizen-initiated petition, including a petition to recall a public officeholder, or a legislatively-referred measure, other than a ballot issue.
- (e) ***Ballot title*** means the official, short summary of a ballot measure that appears on the ballot.
- (f) ***Candidate*** means any person who seeks nomination or election to any public office of the City of Aurora that is to be voted on at a municipal election. A person is a candidate if the person has publicly announced an intention to seek election to public office; has circulated, or authorized another person to circulate, nomination petitions on behalf of their candidacy for public office; or has received a contribution or made an expenditure, or authorized another person to receive a contribution or make an expenditure, to support the person's election to public office. As used in the preceding sentence, "publicly announced" means organizing a candidate committee under section 54-103 of this Code or announcing an intention to seek public office through a speech, statement, or other public communication. Unless the context clearly indicates otherwise, "candidate" includes:
 - (1) An incumbent public officeholder, an unsuccessful candidate for public office, or former public officeholder, any of whom have not filed a termination report for their candidate committee with the city clerk.

- (2) A public officeholder who is the subject of a recall election. For purposes of this provision, a public officeholder becomes the subject of a recall election when the city clerk has authorized the circulation of a petition for recall of the public officeholder under section 54-68(a) of this Code.
- (3) An agent of a candidate.
- (g) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.
- (h) *City clerk* means the city clerk or the city clerk's designated representative.
- (i) *Committee* means any the following:
 - (1) *Candidate committee* means a committee organized by or on behalf of a candidate under section 54-103(a).
 - (2) *Independent expenditure committee* means a political committee that only makes independent expenditures and that does not make contributions to any candidate committee or to another political committee that makes contributions to any candidate committee.
 - (3) *Issue committee* means a person or a group of persons that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount of one thousand dollars (\$1,000) or more during an election cycle to support or oppose the qualification or passage of a ballot issue or ballot question. "Issue committee" includes a petition representative or other person that receives contributions or makes expenditures to support or oppose the recall of a public officeholder.
 - (4) *Political committee* means a person or a group of persons that is organized to support or oppose the nomination or election of one or more candidates and that receives contributions or makes expenditures, or anticipates receiving contributions or making expenditures, in an aggregate amount exceeding four hundred dollars (\$400.00) during an election cycle.
 - a. "Political committee" includes an independent expenditure committee, small donor committee, political party, or a separate segregated fund established by a covered entity pursuant to section 54-101(e)(2) of this Code.
 - b. "Political committee" does not include a candidate committee, issue committee, or recall defense committee.
 - (5) *Small donor committee* means a political committee that accepts contributions only from natural persons who each contribute no more than fifty dollars (\$50.00) in the aggregate per calendar year.
 - (6) *Recall defense committee* means a committee organized under section 54-103(f) of this City Code to oppose the recall of a public officeholder. A recall defense committee is separate from but subject to the same limits and restrictions on contributions as a candidate committee of the public officeholder on whose behalf the recall defense committee is organized.
 - (7) Unless the context clearly indicates otherwise, "committee" includes an agent of the committee.
- (j) *Conduit* means a person who transmits a contribution from another person to a committee. "Conduit" does not include the candidate or the treasurer of the committee receiving the contribution, a volunteer fundraiser hosting an event for a committee, or a professional fundraiser if the fundraiser is compensated at the usual and normal charge.
- (k) (1) *Contribution* means a gift, subscription, transfer, loan, payment, advance, or

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

(2) "Contribution" includes:

- a. A written contract, promise, or agreement to make a contribution.
- b. Anything of value given, directly or indirectly, to a recall defense committee to oppose the recall of a public officeholder.
- c. The payment by another person for goods or services rendered to a candidate or committee without charge or at a charge that is less than the usual and normal charge.
- d. A loan, other than a commercial loan made in the ordinary course of the lender's business, to a candidate or committee, up until the time when the loan is fully paid. An unsecured loan is a contribution from the lender. A secured or guaranteed loan is a contribution from the guarantor or person whose property secures the loan.
- e. An unpaid financial obligation which is forgiven.
- f. A contribution in kind.
- g. A payment or transfer of money or other thing of value received by a committee from another committee.
- h. A coordinated expenditure.

(3) "Contribution" does not include:

- a. Services provided without compensation by individuals volunteering their time on behalf of a committee.
- b. Costs associated with the establishment, administration, and solicitation of contributions for a separate segregated fund established by a covered entity under section 54-101(e)(2) of this Code.
- c. Payment of compensation for legal and accounting services rendered to a committee if the person paying for the services is the regular employer or client of the individual rendering the services and the services are solely to ensure compliance with the provisions of Article IV of this Chapter.

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

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

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

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

(n) *Coordinated expenditure* means any of the following :

- (1) Payment for a public communication that republishes, disseminates, or

distributes, in whole or part, any video, audio, written, graphic, or other form of campaign material, created or prepared by a candidate or committee, unless the payment is made by the candidate or committee that created or prepared the material, or the republished material is used to oppose the candidate or committee that created or prepared the material.

- (2) An expenditure or electioneering communication made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or committee. An expenditure or electioneering communication is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or candidate committee under any of the following conditions:
- a. The expenditure or electioneering communication is made according to any expressed or implied agreement with, any general or particular understanding with, or according to any request by or communication with the candidate or committee.
 - b. During the election cycle in which the expenditure or electioneering communication is made, the person making the expenditure was directly or indirectly established, maintained, controlled, or principally funded by the candidate or committee, or by an immediate family member of the candidate.
 - c. During the election cycle in which the expenditure or electioneering communication is made, the candidate or committee solicited funds for, provided nonpublic fundraising information or strategy to, appeared as a speaker or featured guest at a fundraiser for, or gave permission to be featured in fundraising efforts for the person making the expenditure or communication.
 - d. The expenditure or electioneering communication is based on nonpublic information about the candidate's or committee's campaign needs or plans that the candidate or committee provided to the person making the expenditure directly or indirectly, such as information about campaign messaging, strategy, fundraising, planned expenditures, or polling data. Communications between the person and the candidate or committee only to discuss with the candidate the person's position on a policy matter or whether the person will endorse the candidate, and that include no nonpublic information about the candidate's or committee's campaign needs or plans, do not result in a coordinated expenditure under this paragraph.
 - e. During the election cycle in which the expenditure or electioneering communication is made, the person making the expenditure or communication employed or otherwise retained the services, other than accounting or legal services, of a person who at any prior point in the election cycle met one or more of the following conditions:
 - (i) Had executive or managerial authority for the candidate or committee, whether paid or unpaid.
 - (ii) Was authorized to raise or expend funds for the candidate or committee and who had nonpublic information from the candidate or committee about the campaign's plans or needs.
 - (iii) Provided the candidate or committee with professional services, other than accounting or legal services, related to campaign or fundraising strategy.

- (o) **Corporation** means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act," Articles 101 to 117 of Title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act," Articles 121 to 137 of Title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this Article, "domestic corporation" means a for-profit or nonprofit corporation incorporated under and subject to the laws of the State of Colorado, and "foreign corporation" means a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this Article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent., "Subsidiary" means a business entity of which more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.
- (p) **Councilmember** means a duly elected member of the governing body of the municipality. Councilmember will also include the office of mayor unless specifically noted otherwise.
- (q) **Covered entity** means any of the following:
- (1) An organization or enterprise operated for profit, including a corporation, association, proprietorship, firm, partnership, business trust, holding company, limited liability company, limited liability partnership, or similar legal entity through which business is conducted.
 - (2) A labor organization.
 - (3) An organization or corporation that is tax-exempt under section 501(c) of the Internal Revenue Code of 1986.
 - (4) A political organization that is tax-exempt under section 527 of the Internal Revenue Code of 1986 and that is primarily operated for purposes other than to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.
- (r) **Designated election official** means the city clerk or other person contracting for or engaged in the performance of election duties as required by this Code.
- (s) (1) **Donation** means a payment, transfer, loan, pledge, gift, advance of money, or other thing of value made to an independent spender.
- (2) "Donation" does not include:
- a. A payment received by a person in a commercial transaction in the regular course and scope of the person's business, trade, or investments.
 - b. Membership dues or fees paid to an organization by its members to the extent the dues or fees do not exceed five thousand dollars (\$5,000) per member in a calendar year.
 - c. A payment or transfer of money or other thing of value made by a person if the person prohibited the recipient of the payment or transfer from directly or indirectly using the transferred money or thing of value for independent expenditures or electioneering communications, and the recipient agreed in writing to follow the prohibition and deposited the transferred money or thing of value in an account that is segregated from other funds directly or indirectly used for independent expenditures or electioneering communications.
- (t) **Donor** means a person that makes a donation to an independent spender.
- (u) **Election cycle** means one of the following:
- (1) The period of time beginning thirty-one days following a general election for the

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

- (2) The period of time beginning when petitions are approved for a recall election and ending thirty days following the termination of the recall election, either by election, failure to collect sufficient signatures for recall petitions, or resignation of the incumbent who is the subject of the recall.
- (v) (1) *Electioneering communication* means a public communication that meets all of the following conditions:
- a. Refers to a clearly identified candidate, ballot issue, or ballot question.
 - b. Is distributed within one hundred twenty (120) days of a municipal election in which the candidate, ballot issue, or ballot question is on the ballot.
 - c. Can be received by members of the constituency eligible to vote for the candidate, ballot issue, or ballot question.
- (2) "Electioneering communication" does not include:
- a. A news story, editorial, or commentary distributed by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, newspaper, magazine, website, or other periodical publication, including an online or electronic publication, that is not owned or controlled by a candidate or committee.
 - b. A communication made by a person, other than a candidate or committee, that proposes a commercial transaction in the regular course and scope of the person's business or trade.
 - c. A communication that constitutes a candidate debate or forum, or communication that solely promotes a candidate debate or forum made by the sponsor of such debate or forum.
 - d. A membership communication.
- (3) An electioneering communication is made when the actual spending occurs or when there is a contractual agreement requiring such spending, and the amount is determined.
- (4) For purposes of this Article:
- a. "Clearly identified candidate" means the candidate's name or nickname is used in the communication; a picture, drawing, or likeness of the candidate appears in the communication, or the identity of the candidate is otherwise apparent from reference in the communication.
 - b. "Clearly identified ballot issue or ballot question" means the number, official title, or popular name of the issue or question is used in the communication; or there is a reference to the subject matter of the issue or question and the communication either states the issue or question is on the ballot or when taken as a whole and in context, makes an unambiguous reference to the issue or question.
- (w) (1) *Expenditure* means the purchase, payment, distribution, loan, advance, deposit or gift of money or other thing of value made by a person to support or oppose the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question. An expenditure occurs when the actual payment is made or when there is consideration received, whichever occurs first.
- (2) "Expenditure" includes:
- a. A purchase or payment made by a candidate or committee.
 - b. A payment, distribution, loan, or advance of any money or anything of value made by a person for the benefit of a candidate or committee that

is made with the prior knowledge and consent of the candidate or committee.

- c. A payment or transfer of money or other thing of value made by a committee to another committee.
- d. An independent expenditure.
- e. An electioneering communication made by a committee.

(3) "Expenditure" does not include:

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

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

(y) *Foreign-influenced corporation* means a corporation or other entity to which any of the following applies:

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

(z) *Foreign national* means a foreign national as defined by 52 U.S.C. § 30121(b), or a foreign-influenced corporation.

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

(bb) *General election* means the statewide election held on the Tuesday following the first Monday of November of each even-numbered year.

(cc) *Independent expenditure* means an expenditure to support or oppose one (1) or more candidates that is not controlled by or coordinated with any candidate or candidate

committee.

- (dd) *Independent spender* means a person, other than a committee registered with the city clerk under section 54-103, that makes an independent expenditure or electioneering communication.
- (ee) *Initial determination of sufficiency* means a statement issued by the city clerk or designee as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.
- (ff) *Initiative* means the right of registered electors to originate legally permissible municipal legislation by obtaining signatures on a petition resulting in the enactment of an ordinance by the city council or in a vote by the general electorate.
- (gg) *Labor organization* means an organization of any kind, or an agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.
- (hh) (1) *Membership communication* means a communication made by an organization, including a covered entity, that is limited in circulation to principal owners, members, stockholders, or executive or administrative employees of the organization, unless the organization is organized to support or oppose the nomination or election of one or more candidates or the qualification or passage of a ballot issue or ballot question.
 - (2) "Membership communication" does not include a public communication or a communication that is distributed to persons who are not principal owners, members, stockholders, or executive or administrative personnel of the organization making the communication.
 - (3) For purposes of this Article:
 - a. "Member" means a person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or officer of the organization, or on the disposition of all or substantially all of the assets of the organization, or on a merger or dissolution of the organization; or any person who is designated in the articles or bylaws of an organization as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or who pays or has paid membership dues or fees in an amount predetermined by the organization so long as the organization is tax-exempt under section 501(c) of the Internal Revenue Code of 1986. A member of a local union or labor organization is considered to be a member of any national or international union or labor organization of which the local union or labor organization is a part and of any federation with which the local, national, or international union or labor organization is affiliated.
 - b. "Stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock will be voted if it is voting stock, and has the right to receive dividends.
 - c. "Executive or administrative personnel" means an individual employed by an organization who is paid on a salary rather than an hourly basis, and who has policy-making, managerial, professional, or supervisory responsibilities. "Executive or administrative personnel" includes an individual who runs an organization's business, such as officers, executives, and plant, division, and section managers, and individuals

- following the recognized professions, such as attorneys and engineers.
- (ii) *Municipal election* means a regular municipal election, special municipal election, or recall election.
 - (jj) *Non-municipal political organization* means any of the following:
 - (1) A candidate committee, political party, or political committee that is registered and filing reports pursuant to the Fair Campaign Practices Act, §§ 1-45-101 to 1-45-118, C.R.S., or the law of another municipality in the state of Colorado.
 - (2) A political committee or political organization organized under the law of another state.
 - (3) A federal political committee that is registered and filing reports pursuant to the Federal Election Campaign Act of 1971, 52 U.S.C. §§ 30101 to 30146.
 - (kk) *Person* means a natural person, partnership, committee, association, firm, corporation, company, labor organization, political party, or other entity or group of persons, however organized.
 - (ll) *Petition representative* means the person or persons representing the proponents on all matters affecting a petition.
 - (mm) *Petition section* means the stapled or otherwise bound package of documents containing the warning, proposed summary or statement, signature pages, and affidavit of the circulator.
 - (nn) (1) *Political advertisement* means any of the following:
 - a. An expenditure or independent expenditure that is public communication.
 - b. An electioneering communication.
 (2) "Political advertisement" does not include:
 - a. Bumper stickers, pins, buttons, pens, or similar small items upon which a disclaimer statement required by section 54-104.5 cannot be conveniently printed.
 - b. Skywriting, water tower, wearing apparel, or other means of advertising of a nature such that the inclusion of a disclaimer statement required by section 54-104.5 would be impracticable.
 - (oo) *Principal owner* means a person that owns or controls ten percent (10%) or more of an entity.
 - (pp) *Principal place of operations* means the primary location where the managers, officers, owners, or leadership personnel of an entity direct or control its activities and operations.
 - (qq) *Public communication* means a communication to the general public through broadcast, cable, satellite, internet or another digital method, newspaper, magazine, outdoor advertising facility, mass mailing, telephone bank, robocall, or any other form of general public advertising or marketing regardless of medium.
 - (rr) *Public office* means the office of mayor or city council of the city of Aurora.
 - (ss) *Public officeholder* means a person who holds public office.
 - (tt) *Referendum* means the right of registered electors, within 30 days after final publication of an ordinance, and by obtaining signatures on a petition, to require the city council to reconsider the Ordinance or to submit it to the electorate for a vote.
 - (uu) *Referred measure* means a ballot issue or ballot question placed on the ballot by the city council for a vote by the eligible electors of the city.
 - (vv) *Registered elector* means a resident of the city who is qualified to vote under the constitution and the statutes of the state and who is registered to vote.
 - (ww) *Regular municipal election* means an election held on the first Tuesday in November in odd-numbered years.

- (xx) *Special municipal election* means an election held in conjunction with the statewide general election in November of even-numbered years, except as otherwise provided under section 3-7 of the Charter relating to city council vacancies, under section 4-2 of the Charter relating to recall petitions, as provided under section 6-2 of the Charter relating to initiative petitions, and as provided under sections 14-10 and 15-10 of the Charter relating to time frames for collective bargaining issues.
- (yy) *Standalone candidate* means a candidate without a committee who does not accept contributions.
- (zz) *Support or oppose* means any of the following:
 - (1) To expressly advocate for or against the nomination or election of one (1) or more candidates, or the qualification or passage of a ballot issue or ballot question.
 - (2) To aid or promote the success or defeat of a candidate, ballot issue, or ballot question.
- (aaa) *Unexpended campaign funds* means the balance of funds on hand in the campaign account of a committee after a municipal election that is in excess of the amount necessary to pay remaining debts or financial obligations incurred by the committee with respect to the election.
- (bbb) *Volunteer* means any person who freely gives time on behalf of a candidate or a candidate, issue, political, small donor, or independent expenditure committee for purposes of municipal election matters.
- (ccc) *Usual and normal charge* means:
 - (1) For goods, the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.
 - (2) For services, the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

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

Sec. 54-101. - Prohibited contributions.

- (a) An issue committee or independent expenditure committee may not make a contribution to a candidate committee, recall defense committee, or political committee, other than an independent expenditure committee. A candidate committee, recall defense committee, or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from an issue committee or independent expenditure committee.
- (b) A candidate committee or recall defense committee may not make a contribution to a political committee, issue committee, or candidate committee or recall defense committee of another candidate. A political committee, issue committee, recall defense committee, or candidate committee may not solicit or accept a contribution from a candidate committee or recall defense committee.
- (c) Notwithstanding any other restriction in federal or state law:
 - (1) A foreign national may not, directly or indirectly, make:
 - a. A contribution or donation, or an express or implied promise to make a contribution or donation, in connection with a municipal election.
 - b. An expenditure, independent expenditure, or electioneering communication.

- (2) A candidate, committee, or another person may not solicit or accept, directly or indirectly, a contribution or donation from a foreign national.
- (d) Regarding conduits:
 - (1) No person may act as a conduit by making a contribution to a candidate committee, issue committee, or political committee with the understanding that some or all of the contribution has been or will be reimbursed by another person.
 - (2) No committee may knowingly accept a contribution from a person acting as a conduit who has been or will be reimbursed by another person.
 - (3) No person may transfer anything of value to another person who will act as a conduit for making the contribution to a committee.
- (e) (1) Except as provided in paragraph (2) of this subsection, a covered entity may not make a contribution to a candidate committee or political committee, other than an independent expenditure committee. A candidate committee or political committee, other than an independent expenditure committee, may not solicit or accept a contribution from a covered entity.
 - (2) A covered entity may establish and administer a separate, segregated fund to solicit and accept contributions or dues from its principal owners, members, shareholders, or executive and administrative personnel, subject to the following:
 - a. The covered entity must register the separate segregated fund as a political committee with the city clerk, according to section 54-103. The separate segregated fund is subject to the reporting requirements, contribution limits, and other provisions applicable to political committees under this Article.
 - b. The covered entity may make payments for the costs of establishing, administering, and soliciting contributions or dues to the separate segregated fund, and such payments will not constitute contributions to the fund by the covered entity.
 - c. In administering the separate segregated fund, the covered entity may rely on the Colorado Secretary of State's guidance and rules for political committees established by corporations or labor organizations under Colo. Const. art. XXVIII, section 3(4)(a), to the extent such guidelines and rules are consistent with this Article.
- (f) A committee may not solicit or accept a contribution from an anonymous source. If a committee receives a contribution from an anonymous source, it must use best efforts to identify the source of the contribution within five (5) business days of its receipt. If the committee is unable to identify the source of contribution within five (5) business days of its receipt, the committee must remit the contribution to the city clerk or donate it to a charitable organization that is tax-exempt under section 501(c)(3) of the Internal Revenue Code.
- (g) A committee may not solicit or accept a contribution of cash or other currency in excess of one hundred dollars (\$100.00).

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

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

- (3) Retained by the committee for use in a subsequent municipal election.
- (c) Campaign funds of a committee may not be used for personal use, including but not limited to payment for a commitment, obligation, or expense that would exist irrespective of a candidate's campaign or duties as an officeholder. Personal use includes, but is not limited to, the use of funds in a campaign account to pay for:
- (1) Household food items or supplies.
 - (2) Funeral, cremation, or burial expenses, except those incurred for a candidate or an employee or volunteer of a committee whose death arises out of, or in the course of, campaign activity.
 - (3) Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
 - (4) Tuition payments, other than those associated with training campaign staff.
 - (5) Mortgage, rent or utility payments for, or repairs or improvements upon, any part of any personal residence of the candidate or a member of the candidate's family, or for real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
 - (6) Admission to a sporting event, concert, theater, or other form of entertainment, unless part of a specific campaign or officeholder activity.
 - (7) Dues, fees, or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
 - (8) Salary payments to a member of the candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment above the fair market value of the services provided is personal use.
 - (9) Salary payments by a candidate committee to a candidate above the lesser of the prorated minimum salary paid to the officeholder of the office that the candidate seeks or the prorated earned income that the candidate received during the year before becoming a candidate. Any earned income that a candidate receives from salaries or wages from any other source will count against the foregoing limit listed in this paragraph.
 - (10) A vacation.
- (d) Upon receipt of a complaint about personal use of campaign funds or upon learning of other uses of campaign funds by any means, the city clerk will determine, on a case-by-case basis, whether other uses of funds in a campaign account fulfill a commitment, obligation or expense that constitutes personal use.
- (e) Notwithstanding any other provision of law, a candidate committee may expend campaign funds during any particular election cycle to reimburse the candidate for reasonable and necessary expenses for the care of the candidate's children or other dependents the candidate incurs directly in connection with the candidate's campaign activities during the election cycle. The candidate committee must disclose the expenditures in accordance with section 54-104.

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

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

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

- (b) A standalone candidate must, within five (5) business days of becoming a candidate, submit an affidavit to the city clerk certifying that the candidate has reviewed and is familiar with the requirements of this Chapter [Chapter 54]. If a standalone candidate subsequently accepts a contribution at any point in the election cycle, the candidate must organize a candidate committee within five (5) business days pursuant to this section.
- (c) A committee must, within five (5) business days of becoming a candidate committee, issue committee, or political committee under this Article, do all of the following:
 - (1) Appoint an individual as its treasurer. A candidate may serve as the treasurer of the candidate's own candidate committee if no other individual is appointed treasurer. In the event that the treasurer of a committee is vacated for any reason, the committee must promptly appoint a new treasurer, who must file the affidavit required under paragraph (7) of subsection (d) of this section with the city clerk within ten (10) business days of the vacancy by the prior treasurer.
 - (2) Open or designate a bank account with a financial institution in the state of Colorado to serve as its campaign account, which must include the full name of the committee in the title of the account.
 - (3) File a registration statement with the city clerk that includes the information required by subsection (d) of this section.
- (d) The registration statement filed by a committee with the city clerk must include:
 - (1) The full name and mailing address of the committee; the street address for the principal place of operations of the committee, if different from the mailing address; telephone number for the principal place of operations of the committee; an email address for the committee that is actively monitored; and the URL of the committee's official website, if any.
 - (2) The full name, mailing address, telephone number, and email address of the treasurer of the committee.
 - (3) The full name of any other committee or a non-municipal political organization that is organized, financed, maintained, or controlled by the same person or group of persons as the committee filing the registration statement, and in the case of a non-municipal political organization registered with the Colorado Secretary of State's campaign finance system, the organization's state-assigned Committee ID number.
 - (4) A description of the purpose of the committee.
 - a. For a candidate committee, the description must include the full name and public office sought by the candidate on whose behalf the committee is organized.
 - b. For a political committee, the description must include the full name and public office sought by each candidate the committee is supporting or opposing.
 - c. For an issue committee, the description must include the official title and number of the ballot issue or ballot question the committee is organized to support or oppose if known, and whether the committee supports or opposes that issue or question.
 - d. For a separate segregated fund sponsored by a covered entity pursuant to section 54-101(e)(2) of this Code, the description must include the full

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

- (5) The full name, mailing address, and telephone number of the financial institution with which the committee has opened or designated its campaign account, and the title of the campaign account.
 - (6) An affidavit signed by the treasurer of the committee certifying that the treasurer has reviewed and is familiar with the provisions of this chapter, and, in the case of a candidate committee, the registration statement must also include an affidavit from the candidate on whose behalf the committee is organized certifying that the candidate has reviewed and is familiar with the requirements of this chapter.
- (e) The city clerk must review all submitted registration statements within five (5) business days and reject any that do not meet all of the requirements of this section. Rejected registrations may be corrected and resubmitted within five (5) business days.
 - (f) Registration statements must be filed electronically with the city clerk. The city clerk must make all submitted registration statements available to the public online within three (3) business days of determining the statements that meet all requirements of this section.
 - (g) A public officeholder who is the subject of a recall must organize a recall defense committee in accordance with this section before soliciting or accepting a contribution or making an expenditure to oppose the recall. The public officeholder must file a registration statement for the recall defense committee with the city clerk that includes the information described in subsection (d) of this section, appoint a treasurer of the recall defense committee, and designate a bank account with a financial institution in the state of Colorado to serve as the defense committee's campaign account, which must be separate from any other account of the officeholder or the officeholder's campaign committee.
 - (h) If any of the information required in subsections (c) or (d) of this section subsequently changes, the committee must file an amendment to its registration statement within five (5) business days. A committee that has registered under this section in connection with a prior municipal election must file an amended registration statement with the city clerk for each subsequent election cycle until the committee submits a termination report.
 - (i) The treasurer of a committee must preserve copies of all filings and reports required by this article and complete records of all transactions of the committee's campaign account for no less than five (5) years after a termination report for the committee is submitted to the city clerk or until the final disposition of any complaint or consequent litigation involving the committee, whichever is later. The filings, reports, and records of the committee are subject to inspection at any hearing held under this Article.
 - (j) All contributions received by a committee must be deposited in its campaign account within ten (10) days of their receipt. All expenditures made by a committee must be paid from its campaign account. A committee may not deposit a contribution to or make an expenditure from its campaign account without the express authorization of its treasurer or the treasurer's designee. The campaign account must be segregated from any other funds or bank accounts of the person that organized the committee, and funds in the campaign account may not be commingled with the personal funds of any person.
 - (k) The treasurer of a committee and the candidate, in the case of a candidate committee, are jointly and severally responsible for all of the following:

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

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

- (a) The treasurer of each committee must prepare and file reports of contributions and expenditures with the city clerk pursuant to this section. The treasurer must attest to the accuracy and completeness of each report filed under this section.**
- (b) Each committee must file election-year reports with the city clerk in accordance with the filing schedule specified by this subsection. The initial election-year report due from a committee after filing its registration statement with the city clerk must cover the period that begins on the first day of the election cycle and ends on the closing date of the reporting period in which the committee filed its registration statement. In the case of a committee originally organized in a prior election cycle, the initial election-year report must cover the period that begins on the first day after the last date included in the committee's last semi-annual report and ends on the closing date of the reporting period specified under subparagraph (b)(1)(a) or (b)(2)(a) of this subsection, as applicable. Each subsequent reporting period begins on the first day following the last date included in the prior period and ends three (3) days before the filing deadline for the next report.**
 - (1) For a calendar year in which there is a regular municipal election, each committee must file reports that are complete through the last date of each reporting period and due by the dates below. If the due date falls on a weekend or legal holiday, the report is due on the next business day.**
 - a. February 3rd, complete through January 31st.**
 - b. May 3rd, complete through April 30th.**
 - c. August 3rd, complete through July 31st.**
 - d. September 3rd, complete through August 31st.**
 - e. October 3rd, complete through September 30th.**
 - f. The 14th day before the date of the election, complete through the 17th day before the election.**
 - g. The Friday preceding the date of the election, complete through the Tuesday preceding the election.**
 - h. December 3rd, complete through November 30th.**
 - i. January 3rd of the year after the election, complete through December 31st of the year of the election.**
 - (2) For a calendar year in which there is a special municipal election, each committee must file:**
 - a. A report for each month after the special election is declared, due by the fifth day of the following month and complete through the last day of the preceding month.**
 - b. A pre-election report, due on the Friday before the election and complete through the Tuesday before the election.**
 - c. A post-election report due on the 30th day after the date of the election, complete through the 27th day after the election.**
 - d. A year-end report on January 3rd of the year after the election, complete through December 31st of the year of the election. This report will not be required if the 27th day after the election falls on or after December 31st.**

- (3) For each non-election year within an election cycle, each committee that has not filed a termination report must file semi-annual reports for non-election years due by July 31st and January 31st. The July 31st report must cover January 1st through June 30th of the non-election year, and the January 31st report must cover July 1st through December 31st of the non-election year.
- (c) In addition to other reports required under this section, a committee must file a major contribution report upon receiving a contribution of one thousand dollars (\$1,000.00) or more at any time within sixty (60) days of the date of a municipal election. If the major contribution is received more than fourteen (14) days before the election, the major contribution report must be filed with the city clerk no later than five (5) days after receipt of the contribution. If the date of the receipt of the major contribution is within fourteen (14) days of the election, the major contribution report must be filed with the city clerk no later than 11:59 PM on the day following receipt of the contribution.
- (d) A recall defense committee or issue committee that supports or opposes the recall of a public officeholder must file reports of contributions and expenditures with the city clerk within fifteen (15) days of filing its registration statement under section 54-103 and every thirty (30) days thereafter until the date of the recall election has been set, and then thirty (30) days, fourteen (14) days and seven (7) days before the recall election and thirty (30) days following the recall election.
- (e) Each report required by this section must include the following information:
- (1) The amount of funds on hand at the beginning of the reporting period, including funds carried over from the current election cycle or a prior election cycle. The beginning of the reporting period is the date through which the committee's last report was complete.
 - (2) The total amount of all contributions received by the committee in the reporting period and in the election cycle to date.
 - (3) The full name and mailing address of each person who has made one or more contributions to the committee during the reporting period; the amount and date of each contribution made by the person in the reporting period; and the aggregate amount of contributions made by the person during the election cycle.
 - a. If a contributor is a natural person, the report must include the person's occupation and employer.
 - b. If a contributor is a covered entity or other organization, the report must also include the entity's principal office street address, as filed with the Secretary of State Business Division, or the street address of its principal place of operations, if different from its mailing address.
 - c. If the covered entity has filed with the Business Division of the Colorado Department of State, then the entity's business name and principal place of operations must match the information filed with that Department.
 - (4) The total amount of all expenditures made by the committee in the reporting period and in the election cycle to date.
 - (5) The full name and mailing address of each person to whom an expenditure was made in the reporting period, along with the date, amount, and description of the expenditure, including the specific type of goods or services paid for.
 - (6) A description of any loan, letter of credit, line of credit, or commercial loan made to the committee during the reporting period, including the full name and address of the lender or person extending the letter of credit, line of credit,

or commercial loan; the full name and address of any guarantor or endorsers of the loan, letter of credit, line of credit, or commercial loan; the amount guaranteed; the date and amount of the loan, letter of credit, line of credit, or commercial loan; the balance due on loan, letter of credit, line of credit, or commercial loan; and the terms of interest and the total amount of interest, if any.

- (7) A description of any unpaid obligation of five hundred dollars (\$500.00) or more that is thirty days or more overdue, which is not otherwise reported as a contribution, incurred by the committee during the reporting period, including the full name and address of the person to whom the obligation is due; the due date of the obligation; the purpose of the obligation; and the amount past due.
- (f) All reports required by this section must be filed electronically with the city clerk. The city clerk must make each report filed under this section available online to the public within three (3) business days of determining the report meets all requirements of this section.
- (g) The reporting requirements of this section continue to apply to a committee with outstanding debts or a balance of campaign funds on hand. If the city clerk determines that a committee has no outstanding debts or balance of campaign funds on hand, the committee may file a termination report with the city clerk, provided the committee is not otherwise required by this Article to remain open and active.
- (h) A standalone candidate need not register a candidate committee but must file reports in accordance with this section for all reporting periods in which the candidate makes expenditures.

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

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

and conspicuously. A disclaimer is not presented clearly and conspicuously if it is difficult to read or hear, or if its placement is easily overlooked.

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

Sec. 54-105. - Contribution limits.

- (a) During an election cycle, a person or political committee, other than a small donor committee, may not make aggregate contributions to a candidate committee or recall defense committee in excess of four hundred dollars (\$400.00) in any one ward race or eight hundred dollars (\$800.00) in any at-large race or mayoral race.
- (b) During an election cycle, a small donor committee may not make aggregate contributions to a candidate committee or recall defense committee in excess of four thousand dollars (\$4,000.00) in any one ward race or eight thousand dollars (\$8,000.00) in any one at-large or mayoral race.
- (b) During an election cycle, a candidate committee or recall defense committee may not solicit or accept aggregate contributions from a person, political committee, or small donor committee in excess of the applicable limit in subsection (a) or (b) of this Section.
- (c) Each limit on contributions in subsections (a) and (b) must be adjusted by the city clerk by an amount calculated by the Colorado Secretary of State as prescribed in the Colorado Constitution, Article XXVIII, section 3 (13). The first adjustment must be done by the end of the second quarter of 2023 and then every four years thereafter, by the end of the second quarter.

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

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

- (a) An independent spender that makes one or more independent expenditures or electioneering communications in an aggregate amount of one thousand dollars (\$1,000.00) or more during an election cycle must file a report with the city clerk in accordance with this section. The report filed by an independent spender must include the following information:
 - (1) The full name, mailing address, telephone number, and email address of the independent spender.
 - a. If the independent spender is a natural person, the report must include the occupation and employer of the person.
 - b. If the independent spender is a covered entity or other organization, the report must include:
 - (i) The full name, mailing address, telephone number, email address, and title of the individual filing, and jointly responsible for the report on behalf of the entity.
 - (ii) The full name, mailing address, telephone number, email address, and title of the individual who is primarily responsible for approving the independent expenditures or electioneering communications made by the entity.
 - (iii) The full name of each principal owner of the entity, if any.
 - (iv) The URL for the website of the entity, if any.
 - (v) The business or purpose of the entity, including its tax-exempt status, if applicable.
 - (vi) The street address of the entity's principal place of operations, if different from the mailing address.
 - (2) For each independent expenditure or electioneering communication made during the period covered by the report, the report must provide:
 - a. The full name and mailing address of each person to whom payment was made in connection with the independent expenditure or electioneering communication.
 - b. The amount, date, and a description of the independent expenditure or electioneering communication. The amount of independent expenditure or electioneering communication includes all design, production, and distribution costs.
 - c. The full name of each candidate, ballot issue, or ballot question to which

the independent expenditure or electioneering communication refers or relates. In the case of an independent expenditure, the report must also indicate whether the expenditure supports or opposes each candidate to whom the expenditure refers or relates.

- (3) The full name and mailing address of each donor who made one or more donations in an aggregate amount of one thousand dollars (\$1,000.00) or more to the independent spender during the election cycle, along with the date and amount of each donation made by the donor in the reporting period, and the aggregate amount of donations made by the donor in the election cycle.
 - a. If the donor is a natural person, the report must include the person's occupation and employer.
 - b. If the donor is a covered entity or other organization, the report must specify the business or purpose of the entity, including its tax-exempt status, if applicable.
 - c. A donor who is identified on a report under this section need not be identified on any subsequent report filed by the independent spender unless the donor makes additional donations to the spender during the election cycle.
 - (4) The aggregate amount of independent expenditures and electioneering communications made by the independent spender in the reporting period and in the election cycle to date.
 - (5) A statement signed by the individual filing the report on behalf of the independent spender affirming, under penalty of law, that the report is accurate and complete.
- (b) An independent spender must file an initial report under this section within forty-eight (48) hours of making one or more independent expenditures or electioneering communications in an aggregate amount of thousand dollars (\$1,000.00) or more during an election cycle. The initial report must cover the period that begins on the first day of the election cycle and ends on the date that the independent spender makes independent expenditures or electioneering communications in an aggregate amount of one thousand dollars (\$1,000.00) or more in the election cycle. After an independent spender files an initial report under this section, the spender must file a subsequent report within forty-eight (48) hours of making any additional independent expenditure or electioneering communication during the same election cycle in which the initial report was filed. Each subsequent report must cover the period that begins on the day after the last date included in the independent spender's previous report and ends on the date that the additional independent expenditure or electioneering communication is made.
- (c) A committee, including an independent expenditure committee, must report an independent expenditure or electioneering communication made by the committee in accordance with section 54-104.

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

- (a) Reports required to be filed by this Article are timely if received by the city clerk not later than 11:59 PM on the due date. Reports must be filed electronically in accordance with procedures established by the city clerk's office. If the due date falls on a weekend or legal holiday, the report must be filed by the end of the next business day.
- (b) The city clerk must review all reports for completeness within three (3) business days

after their receipt. A report which is deemed to be incomplete by the city clerk will be accepted on a conditional basis, and the committee must be notified as to any deficiencies found. The committee will have seven (7) business days from receipt of such notice to file an addendum that cures the deficiencies.

- (c) Reports required to be filed by this Article are public records and open to inspection by the public in the office of the city clerk during regular business hours. Reports also must be publicly available online on the city clerk's page on the city of Aurora website within three (3) business days of their filing.

Sec. 54-107. - Complaints and hearings

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

documents. Upon a failure of any witness to obey the subpoena, the city clerk may petition the appropriate district court for relief. Upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce evidence. Failure to obey the order of the court is punishable as a contempt of court.

- (h) All records of hearings under this section are public records and must be made available online on a publicly accessible website.

Sec. 54-108. - Sanctions.

- (a) In accordance with the process in section 54-107, a hearing officer must determine by a preponderance of the evidence if a violation of this Article has occurred and issued a final determination that includes all findings of fact and conclusions of law. Upon a finding against a respondent, the hearing officer must impose all necessary penalties under this section. The respondent may appeal the hearing officer's final determination to the municipal court within thirty (30) days of the decision.
- (b) The city clerk must impose a penalty of fifty dollars (\$50.00) per day for each of the first three (3) days that a statement, report, or other information required by this Article is not filed by the day due. Thereafter the penalty for late filing is one hundred dollars (\$100.00) per day until the statement, report, or other information is filed with the city clerk. The city clerk must, by the close of business on the next business day, send notice of late filing and penalty to the person who is required to file. The penalties will begin accruing immediately, regardless of whether this notice is received. A person who fails to file three (3) or more successive statements or reports required by sections 54-103, 54-104, or 54-105.5 of this Code is subject to a penalty of up to five hundred dollars (\$500.00) for each day that a statement or report is not filed by the day due. A person who knowingly fails to file three or more reports due under section 54-105.5 of this Code is subject to a penalty of up to one thousand dollars (\$1,000.00) for each day that the report is past due. All notices of late filings and penalties must be publicly posted on the city clerk's page on the city of Aurora website. If the penalty is not paid within thirty (30) days of demand, the matter must be referred to a hearing officer in accordance with the procedure specified in section 54-107 and subsection (a) of this section.
- (c) Failure to comply with the provisions of this Article will not invalidate any election.
- (d) Any individual volunteering time on behalf of a candidate or committee is exempt from any liability for a penalty imposed according to this section in any proceeding that is based on an act or omission of such volunteer if:
 - (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or committee; and
 - (2) The violation was not caused by willful and intentional misconduct by the volunteer.
- (e) Waiver.
 - (1) A person who has been assessed a late filing penalty under subsection (b) of this section may request that the city clerk grant a waiver or reduction of the penalty within ten (10) business days of the penalty's final accrual. The waiver request must include the following information:
 - a. The reason for the delinquency in filing, including all relevant information related to the delinquency
 - b. Remedial actions taken to avoid future delinquencies.
 - c. Any other information relevant to the waiver request.
 - (2) The city clerk must consider the waiver request and respond to the request

- with a written final decision within five (5) business days.
- (3) Before issuing a final decision on a waiver request, the city clerk may consider:
 - a. The requesting person's history of delinquency.
 - b. Circumstances that made complying with the deadline impractical, including whether the city clerk's electronic filing system was operational at the time of the delinquency.
 - c. Outstanding penalties owed by the requesting person.
 - d. The date when the requesting person filed the waiver request.
 - (f) Any person who disputes the clerk's assessment of a penalty against that person under subsection (b) of this section may petition the city clerk for a hearing concerning the decision no later than thirty (30) days after having been notified of any such decision. The hearing will be resolved by administrative hearings procedures according to section 50-26, with the city clerk or a hearing officer appointed by the clerk to serve as designated by and under the authority of the municipal court.
 - (g) Unpaid debts. Any unpaid debt owed to the city resulting from a penalty imposed under this section will be collected by the city in accordance with the requirements of Section 50-138 of the City Code.
 - (h) Any person who knowingly violates any provision of this Article, including the prohibitions and limits on contributions in sections 54-101 and 54-105 of this Code, or who gives or accepts any contribution or donation in such a way as to hinder or prevent identification of the true contributor or donor, in addition to any other penalties provided by law, will be subject to a penalty of ten thousand dollars (\$10,000.00) or three (3) times the amount of the contribution, donation, or expenditure that was illegally accepted or made, whichever is greater.
 - (i) The city clerk satisfies all notice requirements of this Article by sending notice to the mailing addresses provided under section 54-103(c) or 54-105.5(a) of the City Code, as applicable.
 - (j) Any penalties assessed under this Article, and any improperly attributed or non-attributed donations campaigns have to disgorge due to lack of proper documentation shall be deposited in a fund established by the city clerk for administering campaigns and for producing educational materials explaining Aurora's campaign finance provisions.

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

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

following the municipal records retention schedule.

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

- (a) No city agency, department, board, division, bureau, commission, or council may make a contribution or expenditure in connection with the nomination, retention, election, or recall of any person to any public office of the city, nor may any such entity expend any public monies from any source, or make any contributions, to urge electors to vote in favor of or against any:
 - (1) Ballot issue or ballot question;
 - (2) Measure for the recall of any elected officeholder of the city, upon the final determination of sufficiency.
- (b) However, a city agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subsection (a) if the public entity or its member or employee has not solicited the question. Members or employees of any such agency, department, board, division, bureau, commission, or council who have policy-making responsibilities may expend not more than fifty dollars (\$50.00) of public monies in the form of letters, telephone calls, or other activities incidental to expressing their opinions on any such issue described in subsection (a) of this Section.
- (c) Nothing in subsection (a) of this section may be construed as prohibiting a city agency, department, board, division, bureau, commission, or council from expending public monies to dispense a factual summary, which must include arguments both for and against the proposal, on any issue of official concern before the electorate in the city. Such a summary may not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern will be limited to issues and questions that will appear on a municipal election ballot.
- (d) Nothing in subsection (a) may be construed to prevent an elected official from expressing a personal opinion on any issue.
- (e) Nothing in subsection (a) may be construed as prohibiting a city agency, department, board, division, bureau, commission, or council from:
 - (1) Passing a resolution or taking a position of advocacy on any issue described in subsection (a); or
 - (2) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such city agency, department, board, division, bureau, commission, or council thereof is regularly provided to the public.
- (f) Nothing in subsection (a) of this section may be construed as prohibiting a member or an employee of a city agency, department, board, division, bureau, commission, or council from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subsection (a) of this section.
- (g) Any person who violates this section is subject to the sanctions authorized in section 54-108 of the City Code.

Secs. 54-111—54-120. - Reserved.

Section 3. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or

provision does not affect any of the remaining provisions of this Ordinance.

Section 4 Transition Rule for Current Election Cycle.

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

Section 5. Publication.

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

Section 6. Effective date and applicability.

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

Section 7. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2020.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

David Lathers RLA

DAVID LATHERS, Senior Assistant City Attorney

Sample Campaign Finance Guide for Aurora Municipal Candidates

This is a brief sample summary of Aurora’s proposed campaign finance ordinances as they apply to candidates. It is modeled after the Secretary of State’s campaign finance manual. The summary is not a substitute for legal advice and actual knowledge of the campaign finance laws and regulations.

BECOMING A CANDIDATE

An individual becomes a candidate when they publicly announce their intent to run for office; when they circulate a nomination petition; or when they receive a contribution or make an expenditure in support of their candidacy.

“Publicly announce” means filing a candidate committee with the city clerk, or announcing an intention to seek public office through a speech, statement, or other public communication.

Documents and Where to File

Within five days of becoming a candidate, the candidate must either organize a campaign committee and file with the city clerk, or, if the candidate is committed to not accepting contributions, file an affidavit with the city clerk as a standalone candidate.

Registering a Committee

Within five days of becoming a candidate, the candidate needs to organize a candidate committee by appointing a treasurer (candidates can double as treasurers of their own candidate committees), establishing a separate, segregated campaign bank account in Colorado, and registering the committee with the city clerk. A candidate may only organize, maintain, or control one candidate committee at a time, and may not organize, maintain, control, or serve as an officer or treasurer of a political committee or issue committee.

When registering with the city clerk, the candidate needs to provide the name and mailing address of the committee; the street address and phone number for its principal place of operations; an email address and the URL of the committee’s official website, if any; the name, address, phone number, and email address of the treasurer; a description of the purpose of the committee, including the name and public office; the name, address, and phone number of the committee’s bank and the title of the campaign account; and an affidavit by the candidate and the treasurer confirming that each has reviewed and is familiar with the relevant portions of Aurora’s municipal code. *Registration forms and affidavits will be available from the City Clerk.*

COORDINATION

Once a person becomes a candidate, they are prohibited from coordinating with independent expenditure committees. A candidate may not organize, maintain, control, or serve as an officer or treasurer of a political committee or issue committee.

CONTRIBUTIONS AND EXPENDITURES

All contributions received by a committee must be deposited in its campaign account within ten days of their receipt. All expenditures made by a committee must be paid from its campaign account. The campaign account must be segregated from any other funds or bank accounts of the person that organized the committee, and funds in the campaign account may not be commingled with the personal funds of a candidate, treasurer, or any other person.

All contributions must be itemized and reported. This includes non-monetary (in-kind) contributions, which count against contribution limits.

A candidate committee may not make a contribution to a political committee, issue committee, or candidate committee or recall defense committee of another candidate.

No person may act as a conduit for a contribution to a candidate committee, make a conduit contribution, or accept one.

Contribution Limits

Candidates and candidate committees for a City Council Ward election may accept a maximum of \$400 in the aggregate during the election cycle from any single contributor. A candidate or candidate committee for a ward office may accept \$4,000 from a Small Donor Committee.

Candidates and candidate committees for a city-wide office, including Mayor and City Council Member At-Large, may accept a maximum of \$800 in the aggregate during the election cycle from any single contributor. A candidate or candidate committee for a citywide office may accept \$8,000 from a Small Donor Committee.

Prohibited Contributions

Candidates and candidate committees may not accept contributions from issue committees or independent expenditure committees.

Candidates and candidate committees may not accept contributions from foreign nationals.

Candidate and candidate committees may not accept contributions from “covered entities,” including, 1) organizations or enterprises operated for profit, including a corporation, association, proprietorship, firm, partnership, business trust, holding

company, limited liability company, limited liability partnership, or similar legal entity through which business is conducted, 2) labor organizations, 3) tax-exempt organizations or corporations, 4) tax-exempt political organizations that are primarily operated for purposes other than to support or oppose the nomination or election of one or more candidates, or the qualification or passage of a ballot issue or ballot question.

A covered entity may establish, administer, and register a separate, segregated fund to contribute to candidate committees, subject to the reporting requirements, contribution limits, and other provisions applicable to political committees under the city ordinances.

A committee may not solicit or accept a contribution from an anonymous source.

Major Contribution Report

A candidate or candidate committee must file a major contribution report upon receiving a contribution of \$1,000.00 or more at any time within 60 days of the date of a municipal election. If the major contribution is received more than fourteen 14 days before the election, the major contribution report must be filed with the city clerk no later than five days after receipt of the contribution. If the date of the receipt of the major contribution is within 14 days of the election, the major contribution report must be filed with the city clerk no later than 11:59 p.m. on the day following receipt of the contribution.

Expenditures

Money spent by an individual or committee on anything for the purpose of expressly advocating the election or defeat of a candidate is considered an expenditure. An expenditure occurs when it is made, when funds are obligated, or when a contract is established, whichever occurs first. Committees must itemize all expenditures, with the name and address of the payee included as well as the purpose of the expenditure.

Committees should report reimbursements by the campaign to candidates, staff, and volunteers as expenditures. If a third party makes a non-reimbursed expenditure on behalf of the committee, the committee should report that as an in-kind contribution.

Campaign funds of a committee may not be used for personal use, including but not limited to payment for a commitment, obligation, or expense that would exist irrespective of a candidate's campaign or duties as an officeholder.

A candidate committee may reimburse the candidate for reasonable and necessary expenses for the care of the candidate's children or other dependents the candidate incurs directly in connection with the candidate's campaign activities.

A political advertisement authorized and paid for by a candidate or candidate committee must include a disclaimer, including 1) the full legal name of the person or committee who paid for the advertisement and 2) a statement that the advertisement is authorized by the candidate.

REPORTING

For Aurora municipal candidates, the filing office is the Aurora City Clerk.

Standalone candidates report their expenses periodically, and candidate committees report expenditures and contributions, both monetary and in-kind. In an election year with a November election, reports are due on February 3rd, May 3rd, August 3rd, September 3rd, October 3rd, 14 days before the election, the Friday before the election, December 3rd, and January 3rd of the following year. The reporting period ends three days prior to the due date.

Due dates that would fall on a weekend or holiday are due on the next business day. A committee is not responsible for filing reports for reporting periods prior to becoming a candidate, but must file a report for every reporting period beginning with the period during which they register as a candidate or committee. A committee must file a report even if they have no contributions or expenditures during the reporting period.

Filing Calendars: Dates and Deadlines

Here is the proposed ordinance's reporting schedule for candidates running for in 2021:

Period starts	Jan. 1	Feb. 1	May 1	Aug. 1	Sept. 1	Oct. 1	Oct. 17	Oct. 27	Dec. 1
Period ends	Jan. 31	April 30	July 31	Aug. 31	Sept. 30	Oct. 16	Oct. 26	Nov. 30	Dec. 31
Report due	Feb 3	May 3	Aug. 3	Sept. 3	Oct. 3	Oct. 19	Oct. 29	Dec. 3	Jan.3

A candidate who runs for a 2021 election would report on a semi-annual basis during the other three years of the four-year cycle. Non-election year schedules are as follows:

Period starts	Jan. 1	July 1
Period ends	June 30	Dec. 31
Report due	July 31	Jan. 31

Complaints and Sanctions

Anyone may file a sworn complaint about an alleged campaign finance violation within 120 days of the violation. Penalties for minor, unintended violations (i.e., missing a deadline) begin at \$50 a day. Major violations of deliberately violating the ordinance (i.e., knowingly accepting illegal contributions) may be penalized up to \$10,000 or three times the amount of the illegal contribution, whichever is greater. Candidates may cure deficiencies, request penalty waivers, and appeal any sanctions.

After the Election

Candidate committees remain open until affirmatively closed by the candidate or an agent of the committee. Failure to win the election does not automatically close the candidate committee.

Standalone candidates not elected to office are not considered candidates once the election is over.

Unexpended campaign funds may be donated to a charitable, tax-exempt organization, returned to donors, or transferred to a new committee for use by the same candidate in a subsequent municipal election.

Candidates who wish to run for a different office, or to run again for the same office if they're not term limited, may transfer funds to a committee in a subsequent election cycle.

Relevant ordinances for Candidates and Candidate Committees

- Sec. 54-2. - Definitions (i.e., candidate, committee, contribution, etc.)
- Sec. 54-101. - Prohibited contributions.
- Sec. 54-102. - Unexpended campaign funds and personal use of campaign funds.
- Sec. 54-103. - Requirements for registration, filings, recordkeeping; campaign accounts.
- Sec. 54-104. - Requirements for reporting contributions and expenditures.
- Sec. 54-104.5. – Disclaimers for political advertisements.
- Sec. 54-105. - Contribution limits.
- Sec. 54-106. - Where and when to file campaign reports.
- Sec. 54-107. - Complaints and hearings.
- Sec. 54-108. - Sanctions.



TO: Mayor & City Council

FROM: Roberto Venegas, Deputy City Manager

DATE: September 28, 2020

SUBJECT: Fiscal Impact – Proposed Campaign Finance Ordinance

At the August 25th Management & Finance Committee, Mayor Pro Tem Johnston and Councilmember Marcano proposed a campaign finance reform ordinance. The M&F committee asked that staff review the proposed ordinance and provide a fiscal impact analysis in advance of the full Council discussion at Study Session. Staff reviewed the ordinance language looking specifically for fiscal impacts to the city. As such, the analysis below does not speak to the policy merits of the ordinance itself or any particular provision.

The Clerk's Office, the City Attorney's Office, Information Technology (IT), and the Budget Office were all consulted for this fiscal analysis. In addition, staff spoke at length with the Colorado Municipal League and the Clerk's Office in both Lakewood and Boulder. Both municipalities currently have campaign finance ordinances in place with similar provisions as outlined in our proposed ordinance. CML provided extensive information on the way municipalities can enact campaign finance laws and specifically, the requirements for handling complaints and conducting hearings.

Information Technology

As drafted, the ordinance requires significant reporting on the part of the candidate or issue committee. Entities covered by the proposed ordinance can utilize the Clerk's Office website to submit reports electronically. The technology currently in use by the City Clerk's Office, and supported by the IT department, can adequately handle the type and volume of reporting compliance associated with the proposed ordinance. IT will need to adjust the system slightly in order to take data entered by the candidate/committee and migrate that information in an efficient manner (with minimal staff resources needed) in to a public facing city webpage, as required by the proposed ordinance. As we have done, the City of Boulder developed their own software to handle reporting requirements. They verified that the IT adjustment described above is possible and straightforward from a technology perspective. As such, we do not see any immediate fiscal impacts as it relates to IT. However, staff would propose reviewing in 2021 the acquisition of software to handle campaign reporting should this ordinance be adopted, moving us away from our "home grown" technology. Any procurement of third-party software would not be implemented until 2022.

Complaints

After receiving a complaint of a campaign ordinance violation, the proposed ordinance in Sec. 54-107 states, “the city clerk must complete an initial review to determine whether the complaint was timely filed and whether it alleges sufficient facts to support a factual and legal basis for each alleged violation.” While this places significant responsibility on the clerk to make a determination on a complaint’s validity, several factors are important to consider. First, in Boulder and Lakewood all complaints are public (as is the requirement in the proposed ordinance), requiring the complainant to disclose his or her name. Both cities indicated this reduces the number of frivolous complaints. Second, an individual must file a “sworn complaint” attesting to its truthfulness. And third, the complainant must cite the specific provision of the ordinance that has been violated and provide “proof” of the violation. Both Lakewood and Boulder indicated that by placing the responsibility of “proving” the violation on the complainant, the resources to investigate a complaint were minimal to none. The Clerk’s Office will undoubtedly need legal guidance when reviewing complaints and making an initial determination. As it does today, the Clerk’s Office will continue to utilize the City Attorney’s Office for legal counsel, particularly following the procedures set forth in the ordinance, should it be adopted by Council.

Hearings

Also in Sec. 54-107, if the Clerk determines a complaint has factual validity and been submitted in a timely manner, he/she “must appoint a hearing officer who may not be an officer, employee, or agent of the city, and may not have any conflict of interest with the complainant or respondent.” Identifying hearing officers and conducting those sessions will create a fiscal impact for the Clerk’s Office. In discussions with Boulder and Lakewood, it was clear that a complaint rising to the level of an independent hearing was the exception, not the rule. Hearings do occur but were described as “rare.” Having said that, staff believes budget resources should be identified in the event a hearing officer is needed. Research indicates hourly rates of between \$150 and \$250 per hour for a hearing officer. For example, in our Tax & Licensing department we currently pay an hourly rate of \$215 for hearing officers. While these hearing officers are not election/campaign related, the specific hearing officer we in fact contract with also does election related hearings for Lakewood. Lakewood includes \$5,000 in their budget annually for hearings. In our Tax & Licensing department, the total cost of a hearing is approximately \$2,000 per matter. Taking these facts in to consideration, staff believes \$10,000 will be sufficient to handle approximately 5 potential hearings should the ordinance be adopted. It is not possible with any precision to predict the number of hearings we may see under this ordinance. However, staff feels confident that this budget provides sufficient resources at the outset and can be adjusted as needed.

**Please note that this estimate only includes direct hearing costs (including the officer). It does not include the cost of outside counsel should a complaint proceed to the hearing stage. That outside counsel may be necessary to prosecute or defend a complaint and could significantly increase the fiscal impact to the City Attorney’s Office. While researching fiscal impacts, (specifically looking at the experience of Boulder and Lakewood) hearings are rare.

City Clerk Responsibility Related to Election Matters

Adoption of this ordinance will add a significant number of responsibilities beyond the current duties the Clerk must perform related to elections. Those duties are substantial, including but not limited to the following:

- coordinating with multiple counties to conduct successful municipal and general elections
- issuing and verifying candidate and initiative petitions
- ensuring compliance with all federal, state, and local laws and charters related to elections
- preparing and enforcing campaign finance forms and documents
- preparing prospective City Council candidate information packets and providing technical assistance for those candidates

Prior to introduction of this proposed ordinance, the City Manager's Office was already reviewing the Clerk's Office organizational structure and resources necessary to adequately meet election related responsibilities. However, the proposed ordinance adds the following new responsibilities:

- increased number of reporting deadlines
- compressed deadlines for making candidate/committee reports and statements available to the general public
- making determinations on the validity of complaints
- conducting hearings or designating a hearing officers when a complaint is deemed "valid"
- preparing for and participating in any formal hearings on complaints

Due to these new responsibilities and the general complexity of this proposed ordinance, staffing in the Clerk's Office will certainly need to be addressed. We currently do not have any individual with direct responsibility for elections and campaign finance compliance. Those tasks currently fall on the Clerk and other staff, as needed. But given the increased complexity and scrutiny associated with elections, we believe devoting staff resources specific to administering elections is needed. More importantly, additional staff significantly reduces our exposure to costly errors, which can be detrimental to both the city, the candidate(s), and the integrity of the election as a whole.

Should the proposed ordinance be adopted, staff recommends two potential options:

- Create a Deputy City Clerk position in the City Clerk's Office, with a significant portion of their responsibilities devoted to election administration
- Create an "election administrator" position in the City Clerk's Office entirely committed to the subject.

For a precise number, costing out these potential positions in the Clerk's Office would require market analysis by the HR department. However, for the purposes of this fiscal analysis, an approximate range for a Deputy City Clerk will be between \$70,000 and \$105,000, including

benefits. An election administrator position would have a range of between \$50,000 and \$85,000, also including benefits.

**MANAGEMENT AND FINANCE POLICY COMMITTEE
WEBEX**

Members Present: Council Member David Gruber – Chair, Council Member Marcano – Vice Chair, Council Member Gardner – Member

Others Present: Mayor Pro Tem Johnston, Council Member Coombs, Council Member Berzins, R. Venegas, N. Freed, T. Velasquez, G. Hays, D. Giordano, B. Fillinger, D. Lathers, A. Jamison, V. Irvin, BS. Neumann, H. Hernandez, K. Stuart, J. Giddings, J. Schneebeck, B. Bell, E. Watson and T. Hoyle

PROPOSED CAMPAIGN FINANCE REFORM

Summary of Issue and Discussion

Council Member Marcano presented the reasons for the proposed changes for campaign finance reform and he gave a brief overview the proposed changes in the ordinance. Those reasons include the following:

- ensure transparency and accessibility
- allow the politically unconnected more equal footing
- curb influence of money

Committee Discussion

CM Gruber: Is there a City report on the impact to the Clerk and our City Attorney that would be involved in this City report.

R. Venegas: We do not. With the transition of City Clerk Ruger and now Interim, City Clerk Susan Barkman, we're just trying to do the analysis on fiscal impact and impact on the departments. CM Marcano mentioned a public match that's separate but that's not part of this analysis but we would need to get into a little bit more detail and have a little more time to be able to understand staff impact in terms of being able to track some of the changes. So, we do not have this at this Committee meeting, but our intention was to try to have something by the time when and if this moves to a Study Session.

CM Gardner: On the enforcement piece I would like to hear from staff, but it sounds like we're still in the process of deciding that. Because obviously enforcing this would take a significant amount of resources on behalf of the City. I went through and just started listing out areas that I questioned. How we would actually monitor or review or make sure we have compliance. There's just a significant number of those types of things and so I look forward to hearing from staff when they're done with their analysis. I would suspect frankly we probably would have to hire additional staff at least during election season to enforce this just because of the sheer volume of candidates and then the requirements that are in this, so that's one. My other, really has to do with the comment that was made earlier on one of the why's. The why on this was because right now outside interest have outside influence in our elections. I'm curious because in the draft in its current iteration does not allow contributions from businesses at all, that are located in Aurora, the employer of Aurora residents that contributes to our local economy every day. However, it still allows contributions from people all over the country. It's not very hard to go back and look at campaign finance reports from

prior elections. Some of the Council Members previously got a significant amount of money from people that don't live in Aurora, so I'm just curious why. People that don't live here at all should be able to contribute and have a say in our election, but businesses that are here every day and employ our residents that contribute to our tax base have no ability to be involved in our election process. I don't know if anyone wants to answer that or it could just be a rhetorical question but that's a significant concern for me and when I go through reports and I see all the money from all over the country that was been contributed it seems a little hypocritical frankly.

CM Marcano: I think that's really an interesting idea. I guess my question would be to staff and to legal, are you able to prohibit contributions on a geographic basis? Is there existing case law on this, I'm just curious.

Dave Lathers: I haven't actually looked at that question before. Certainly, citizens united in some other cases have suggested on that rule, that particular local issues if well-articulated, can be something that they would potentially support. They were talking about that in context as you know corporate giving, but they emphasized that there should be at least an allowance for significant local control if you can articulate a reason that it should be only local. Does that welcome the opportunity to try that? I suppose maybe it does. I will say that I know of no case that actually authorizes that. Although there might be some invitation to discuss that, but some invitation may be able to say that's allowing two different things.

CM Gruber: I think that without the staff study and without a legal review and the fact that this was brought to the Committee without knowing that this was even coming to the Committee other than staff telling me. I think that this is not ready for review by Management and Finance Committee. I recommend that it come back to Management and Finance Committee once those studies are done. I understand that Council Members have the ability to bring this to Council but there has not been proper staff analysis of this, and I recommend that we can have a vote now on bringing it back to Management and Finance Committee and then we'll have a vote on moving it forward.

Mayor Pro Tem Johnston: I wanted to give a little overview of what we've been working on and ask for this next step. We obviously feel it would have been ideal to have the staff study. There's been new software that's going to be implemented that previously the City Clerk was working on. But we really don't want to have that stop this going to that next discussion and we completely acknowledge that we need that information and need to have more conversation. CM Marcano and I are flexible for some changes. I respectfully ask, that we move this to Study Session with the assurances that we will have that staffing information and the fiscal impact from the time between now and that Study Session when we convene and are able to reach out to Council Members and their concerns about limits. I've talked to the election commission and they sent a letter. I did get a copy of that at least 4 or 5 times and I continue to do that. But I think having this in a broader discussion around the table with the entire Council with that information is most important. CM Marcano and I would love to have that, but I respectfully ask that this item be moved to Study Session with that additional information and a broader discussion.

CM Gruber: Thank you. I think it's important to say that the election commission voted against this in the letter they sent, and the letter will be included in the minutes. I think it's important though from a community perspective that the first thing we should do is vote on whether or not this should come back to Management and Finance Committee and regardless to that then we'll vote to move this item

to Study Session. So as far as that, should this come back to the Management and Finance Committee?

CM Marcano: I'm fine with having the fiscal impact portion come back to the Committee.

CM Gruber: It doesn't work like that; the ordinance would have to come back.

CM Marcano: I guess with that context; I prefer it moves to Study Session.

CM Gardner: I guess my question would be before deciding would we be able to have that analysis from staff by the time it comes to Study Session?

R. Venegas: I'm assuming the Study Session that you are talking about is September 14.

Mayor Pro Tem Johnston: I would like to get CM Marcano feedback, but I know we both would like to have the information before Study Session for Council review. So, I don't want to be prescriptive with staff of the data. I know we have a couple meetings in September fortunately, but CM Marcano would you agree that the fiscal impact would be able to be provided a couple days before Study Session.

CM Marcano: Absolutely yes.

R. Venegas: Given that September 14th would be very aggressive for us to be able to provide that with the furloughs and holidays it might be a little challenging and maybe September 21st might be more realistic for us to be able to provide that, unless we know otherwise, but I'll shoot for the 21st if that's the will of the sponsors.

CM Gardner: With all that being said, I'm fine with moving it to Study Session if we have that information by then. Otherwise, I don't think we could really make an educated decision on it.

CM Gruber: My issue is that I want to make sure we're talking about a 21-page ordinance and the election commission sent us too and the review from City staff. I want to make sure that we actually have enough time to review the information as opposed to have City staff finish it on Thursday and then we vote on Monday, so that's my concern. Typically, we would have all of this information at the Committee level and then all of the information that we're talking about would be in a read ahead from the Committee discussion. So, what we're talking about is that it would come to Study Session the earliest on September 21st, however, will we have the information that's required based on City impact and legal impact at least a week in advanced and if we cannot it would then be postponed to even a later Study Session until the City staff does a thorough job in reviewing the 21 pages.

R. Venegas: I am working back in my mind to September 11th, which is a Friday to get the analysis done. I'm saying that right now in committee and I would like at least a day to make sure with the Clerk's Office that this timeline is realistic. If it is, I'll let you know in 24 hours. I feel that I need to make sure that's okay and we can provide the information a week in advance of September 21st. I wish I could say right now we can get all that done. I think we can, but I am anticipating exactly as you were mentioning that we will give you more than what we have usually done, which is a Thursday or Friday posting, but we would do a week prior to the actual Study Session instead on this

particular backup. I would say 85% yes, but just let me make sure that we have the ability to get that analysis done and to you in a week in advance of September 21st.

Mayor Pro Tem Johnston: I want to add one clarifying point with the election commission that there was not a formal vote by the election commission on the position. There were several members who were against the current draft there were others supportive of the limits and disclosures. I will also offer myself and hopefully CM Marcano can join me in presenting a more finalized version with that fiscal impact at the next election commission. To get a more updated position or more official position since there was not a vote.

CM Gruber: Again, my fundamental concern is that this is being written by an outside organization. I think Common Cause was the organization that was putting this together. It has been written outside the City and we don't have the City impact and we're asking for concurrence from this Committee. I don't think this Committee can adequately review this or adequately make the vote. I think that if we were to have a vote right now, I would vote no because the work is not done. We're voting while its in a state of flux however any Council Member has the authority to bypass the Committee and bring it to Study Session. But I just don't think its proper to say that Management and Finance Committee concurs with something that first off is not done and secondly not reviewed by the City.

CM Marcano: I just want to clarify that again, the initial draft that I read in my office in January was written by a Ward II resident from the beginning to end. It was quite the lengthy read and it looks a little different than today. It's been consolidated quite a bit. This actually originated in Aurora from folks that are very passionate about this topic. We just reached out to Common Cause and Democracy for the People, because they have such a successful track record instituting meaningful forms that are effective and generate the desire outcome. And with regards to the parts being in flux, I do agree it would have been nice to have the staff information. I think that the departure of Clerk Ruger threw a wrench in some of this stuff but I think it's important to have a discussion about the details that I alluded to with the rest of our colleagues and also discuss the fiscal impact in that context, but I respectfully support moving this forward. Thank you.

CM Gardner: I have one more question. Do the sponsors commit to not moving forward until we have the analysis from staff?

Mayor Pro Tem Johnston and CM Marcano: Unanimously said yes.

CM Gardner: I'm fine with it moving forward.

CM Gruber: I'm still not, and so we'll go forward with a vote of 2 to 1.

Election Commission Letter

Comments on the Draft Campaign Finance Reform Proposal
Carolyn Boller

At the request of Councilwoman Johnston, the Aurora Election Commission has spent a good deal of time reviewing the drafts of a proposed ordinance change on campaign finance and to provide

feedback on the proposed changes. The commission does not have a consensus on the proposal at this time. The following are my remarks and not those of the commission.

There are several issues that need attention for a clear, concise, transparent document:

The length of the ordinance is too long (currently 31 pages) and is difficult to capture its content; The layout of the document it is easy to lose track of the important points needed for accurate compliance;

Reporting requirements (Section 54-104)

The reporting periods currently proposed are too long before the election and should be shortened; The due date of the first report is 275 days before the election (9 months) before the election and the petitions to be on the ballot are 90 days before the election; I would recommend starting at 180 days which is 6 months out and still a lengthy time from the election date.

The proposal recommends 9 reporting periods based on the 275 days and the date after the election which is too many and will only cause additional work for the City Clerk when it is not needed; The dates of the closing of the reporting period and the date the report is due are not clearly defined (Section 54-104)

Contribution limits (Section 54-105)

The dollar amounts recommended are too low. These amounts were higher at one point but have since been lowered. It is suggested that higher contribution limits would be more effective and hopefully prevent limit the number of independent expenditures.

City Clerk Functions (Section 54-109)

The functions/timelines of the duties required of the City Clerk for enforcement of this proposal will require the hiring of a full-time person to assist in those functions. This is considering that the City Clerk has many other responsibilities in addition to election responsibilities including any special elections reporting requirements, petition requirements etc.

We will need a new reporting system before the next election. The current one is home grown and has served the purpose over the years but with a new campaign finance program, the system will require a major update whether or not any changes are made to campaign finance

With monitoring all campaign reports, including independent expenditures, and reporting them out, along with establishing hearing for complaints will need extra hands to do this job.

Sec 54-107 Complaints and hearings.

The timelines for filing complaints (proposed 120 days) is too long—this should be shortened to at least 30 days due to additional reports having to be filed and possible errors continuing thru one or more reports. 60 days to set a hearing date is too long. Combining the current times lines could take a error or problem out as far as 180 days or longer...which under the current proposal could leave an unresolved issues up to 30 days before the election.

Section 54-108 Sanctions

The proposal of \$50 per day is reasonable as it is under current State Campaign, but increasing to \$100 per day until the statement is filed and then if a campaign fails to report for 3 or more successive statements up to a \$1000 per day. \$50 per day can accrue rapidly without the need to increase to \$100 and is there a problem where someone has not filed for 3 successive days or are we creating a problem where one does not exist.

Other concerns:

There are some areas which are not enforceable...such as someone must cash a check within 10 days—who will monitor that? Is it necessary?

If a foreign company makes a donation, who gets the penalty? And how is that enforced with a foreign citizen or company? Who does the enforcement? If it is an IE, and the candidate is not permitted to coordinate—how is the money refunded? By whom?

Comments:

Overall this is a major undertaking to make changes to the Aurora Campaign Finance rules, and it depends on whether one is a supporter of campaign finance or not and what problem or issue the document is trying to address.

My biggest concern is the volume of work in this document...and how citizens/committees will read the document and understand its contents. I would be interested in comments from other City Council members and their concerns.

***Questions and Concerns of Draft Campaign Finance Reform
Bill McCartin for M&F committee***

I am deeply offended that after the elections commission was tasked with examining issues of the current Campaign Finance section of the election city code we have been presented with a draft ordinance created by the Democracy For The People Coalition a group of many non Aurora residents whose stated goal is according to their web site "Our campaign seeks to overturn the Citizens United decision" which was a decision of the U.S. Supreme Court 558U.S.310 (2010). This decision held in part that money is speech and protected by the first Amendment to the U.S. Constitution.

The Executive Summary starts with the statement that Aurora deserves a campaign Finance system that is transparent and fair and lays out five objectives of the new ordinance. What is missing is the identification of what problems the new system is attempting to correct and what in the old system caused or allowed the problems to arise. The new system expanded the campaign finance Article of the Municipal Code from six pages to 31. Does that expansion create more or less clarity?

These are the first two objectives of the new ordinance.

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

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

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

Objective five indicates the limiting of cash donations in excess of \$20.00. The current ordinance limits them to \$100.00 in section 54-101 (c) this places an undue burden on small contributors by requiring the people to use either a check or credit card.

Section 54-101(c) prohibits campaign contributions from any company, union, association or tax exempt organization who have very legitimate interest in the elections. This violates the spirit of Citizens United.

Section 54-104 deals with the reporting of campaign contributions but it misses why these reports are due. There is no reason to know who has contributed to a campaign 275 days before the election. If someone opposes a candidates views on issues does anything change because that candidate receives contributions from a certain person or group of contributors? No it does not, having the first report due on the same day that petitions may be circulated is sufficient this is 90 days before the election.

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

Section 54-104 (e) (3) what is the objective for the requirement of each donation verses the total of all donations during the time period?

Section 54-104(h) why must a candidate who is funding their own campaign be required to file where their expenditures are spent? If it is electioneering the material will have to have the candidates name and approval per section 54-104.5 (a). This section is an invasion of the candidates' right to spend their own money upon what they chose to spend it.

Section 54-104.5 (b) is only intended to make someone who may donate to an IEC appear to be bad or evil. It has no legitimate reason to be a requirement. This information would already be included In the IEC reporting.

Section 54-105 this section seeks to take away individual rights to freely use their own resources to support candidates or issues as they and only they see fit. It sets arbitrary limits on people freedom to express their views and opinions as they decide. Just because some cities and states set limits does not give rise to stifling freedom of expression. There should be no limit on how much anyone may contribute to any campaign since any contribution in excess of \$20.00 is reported.

Section 54-105.5 (b) (1) what is the reason for daily reports of expenditures why are the reports done on the scheduled basic not sufficient? This just causes additional workload for the City Clerk and staff?

Section 54-107(a) I would suggest to facilitate a process that does not drag out to make the reporting period within 45 days and give the clerk 15 days to set a hearing.

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

Section 54-109(a) (4) should indicate, “designate a hearing office” since 54-107(c requires the clerk to appoint a hearing officer in all cases.

Outcome

2 Committee Members, CM Gardner and CM Marcano, voted yes to move the item forward to Study Session, and CM Gruber voted no.

Follow-up Action

Staff will forward this item to Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Proposed FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-2, 54-6, 54-101, 54-105, 54-107, 54-108, & 54-109 OF THE CITY CODE PERTAINING TO ELECTIONS AND CAMPAIGN FINANCE Campaign Finance Reform Ordinance - Mayor C

Item Initiator: Roberto Venegas, Deputy Cirty Manager

Staff Source: Mike Coffman

Legal Source: Dave Lathers

Outside Speaker: None.

Council Goal: 2012: 6.0--Provide a well-managed and financially strong City

COUNCIL MEETING DATES:

Study Session: 10/12/2020

Regular Meeting: [Click or tap to enter a date or type N/A](#)

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting | <input type="checkbox"/> Information Only |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 9/22/2020

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|--|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input checked="" type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input checked="" type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The Mayor will be proposing a campaign finance reform ordinance.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The Mayor will provide an overview of his proposed campaign finance reform ordinance.

QUESTIONS FOR COUNCIL

Does the Council support moving forward the Mayor's proposed campaign finance reform ordinance to Regular Council?

LEGAL COMMENTS

The council shall have all legislative powers of the city and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property; to declare, prevent and summarily abate and remove nuisances; to preserve and enforce good government, general welfare, order and security of the city and the inhabitants thereof; to enact by ordinance provisions for fines and/or imprisonment, or other punishment, for each and every violation of ordinances or regulations duly passed by council; to provide for the granting of probation and the conditional suspension of sentences by the municipal court; and to delegate to boards and commissions, within limitations of the Constitution and this Charter, such functions, powers and authority of the city as it deems proper and advisable. (Section 3-9 of the City Charter)(Lathers)

PUBLIC FINANCIAL IMPACT

YES NO

If yes, explain: Please see the attached fiscal impact statement.

PRIVATE FISCAL IMPACT

Not Applicable Significant Nominal

If Significant or Nominal, explain:

ORDINANCE NO. 2020- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-2, 54-6, 54-101, 54-105, 54-107, 54-108, & 54-109 OF THE CITY CODE PERTAINING TO ELECTIONS AND CAMPAIGN FINANCE

WHEREAS, effective representation by elected officials requires those officials to be free appearances of impropriety or political indebtedness to any constituent or group of constituents or actual indebtedness to constituent groups; and

WHEREAS, donations to a candidate from any one constituent may raise the suspicion that a candidate may be morally indebted to that donor when the donation is unusually generous thereby hampering that elected officer's legislative effectiveness; and

WHEREAS, an informed electorate is essential to a well-functioning representative democracy; and

WHEREAS, to be well informed, the electorate needs transparency and to know which people are contributing to a candidate and in what amounts; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to subsection (i)(6) of Section 54-2 and by deleting language in subsection (h) of Section 54-2 which section shall now read as follows:

Sec. 54-2. - Definitions.

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

- (a) *Active voter* means a person who has voted in the last general election.
- (b) *Ballot* means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on at an election.
- (c) *Ballot issue* means a non-recall, citizen-initiated petition or legislatively-referred measure which concerns local government matters arising under section 20 of article X of the state Constitution, i.e., matters of taxes, debt, and other financial matters. Ballot issues can only be voted on at elections held each November.
- (d) *Ballot question* means any local government matter involving a citizen-initiated petition or legislatively-referred measure other than a ballot issue.
- (e) *Ballot title* means the official, short summary of a ballot measure that appears on the ballot.

- (f) *Candidate* means any person who seeks nomination or election to any public office of the city that is to be voted on at the regular municipal election or at any special municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office and thereafter has received a contribution in support of the candidacy. A person remains a candidate as long as the candidate maintains a registered candidate committee, whether the person is serving in office or not.
- (g) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.
- (h) *City clerk* means the city clerk or his or her designated representative. ~~The city clerk may appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with a complainant or defendant participating in the hearing.~~
- (i) *Committee* means the following, depending upon the context:
- (1) *Candidate committee* means a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one candidate committee.
 - a. An elected and serving municipal office holder may also maintain a candidate committee during such person's term of office and accept contributions, subject to the limitations set forth in article IV of this chapter.
 - b. Any candidate from a prior election shall re-register his candidate committee before running in a subsequent election.
 - (2) *Exploratory committee* means a committee which shall be formed by a potential candidate to receive contributions and make expenditures for the primary purpose of determining whether or not the potential candidate should seek election to any public office of the city. Such committee shall be closed not later than 70 days prior to the regular municipal election for the particular public office to which election is being sought, or upon establishing a candidate committee. At the time of closure, an exploratory committee shall file campaign reports in the same manner as candidate committees.
 - (3) *Issue committee* means two or more persons who are elected, appointed, or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question of the city or to support or oppose the recall of an elected city official in a recall election.
 - (4) *Political committee* means two or more persons who are elected, appointed, or chosen, or have originally associated themselves, for the purpose of making contributions to municipal candidate committees, municipal issue committees, municipal exploratory committees, or for the purpose of making independent expenditures. "Political committee" does not include exploratory committees, issue committees, or candidate committees as otherwise defined in this section.
 - (5) *Independent expenditure committee* means one or more persons that make an independent expenditure in an aggregate amount in excess of \$1,000.00 or that collect in excess of \$1,000.00 from one or more persons for the purpose of making an independent expenditure to support or oppose a candidate.

- (6) For purposes of this subsection (i) only, "person" means any natural person. **It excludes** partnerships, committees, associations, corporations, labor organizations, political parties or other organizations or group of persons.
- (j) *Contribution* means:
- (1) The payment, loan, pledge, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, or exploratory committee;
 - (2) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, or exploratory committee;
 - (3) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election;
 - (4) 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, issue committee, exploratory committee or political committee.
 - (5) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, issue committee, political party, or independent expenditure committee.
- (k) *Contribution in kind* means:
- (1) The fair market value of any item of real or personal property, other than money, made to or for any candidate committee, issue committee, exploratory committee, or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. Personal services are a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate or fair market value shall be used.
 - (2) "Contribution in kind" does not include an endorsement of a candidate or an issue by any person.
 - (3) "Contribution in kind" does not include the payment of compensation for legal and accounting services rendered to a candidate if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of article IV of this chapter.
- (l) *Coordinated election* means an election where more than one political subdivision with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the county clerk and recorder is the coordinated election official who conducts the election on behalf of the political subdivisions.
- (m) *Council member* means a duly elected member of the governing body. Council member shall also include the office of mayor, unless specifically noted otherwise.
- (n) *Designated election official* means the city clerk or other person contracting for or engaged in the performance of election duties as required by this Code.

- (o) *Expenditure* means the payment, distribution, loan, or advance of any money by any candidate committee, political committee, issue committee, or exploratory committee.
 - (1) "Expenditure" also includes the payment, distribution, loan, or advance of any money by a person for the benefit of a candidate committee, political committee, issue committee, or exploratory committee that is made with the prior knowledge and consent of an agent of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined
 - (2) For purposes of this subparagraph, the term "expenditure" does not include expenditures made by persons in the regular course and scope of their business or in connection with communications sent solely to their members. The term "expenditure" also does not include a contribution, as defined in subsection (j) of this section.
- (p) *Final determination of sufficiency* means a statement issued by the city clerk or designee following a protest hearing or the expiration of the time allowed for filing a protest, as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.
- (q) *General election* means the statewide election held on the Tuesday following the first Monday of November of each even-numbered year.
- (r) *Independent expenditure* means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate.
- (s) *Initial determination of sufficiency* means a statement issued by the city clerk or designee as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.
- (t) *Initiative* means the right of registered electors to originate legally permissible municipal legislation by obtaining signatures on a petition resulting in enactment of an ordinance by the city council or in a vote by the general electorate.
- (u) *Petition representative* means the person or persons representing the proponents on all matters affecting a petition.
- (v) *Petition section* means the stapled or otherwise bound package of documents containing the warning, proposed summary or statement, signature pages and affidavit of the circulator.
- (w) *Referendum* means the right of registered electors, within 30 days after final publication of an ordinance and by obtaining signatures on a petition, to require the city council to reconsider the ordinance or to submit it to the electorate for a vote.
- (x) *Referred measure* means a ballot issue or ballot question placed on the ballot by the city council for a vote by the eligible electors of the city.
- (y) *Registered elector* means a resident of the city who is qualified to vote under the constitution and the statutes of the state and who is registered to vote.
- (z) *Regular municipal election* means an election which shall be held on the first Tuesday in November in odd-numbered years.
- (aa) *Special municipal election* means an election which shall be held in conjunction with the statewide general election in November of even-numbered years, except as otherwise provided under section 4-2 of the Charter relating to recall petitions, as provided under section

6-2 of the Charter relating to initiative petitions, and as provided under sections 14-10 and 15-10 of the Charter relating to timeframes for collective bargaining issues.

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

(cc) *Volunteer* means any person who freely gives of his or her time on behalf of a candidate or candidate, issue, political, or exploratory committee for purposes of municipal election matters.

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-6 which section shall now read as follows:

Sec. 54-6. - Election commission.

The election commission created by Charter section 2-2, article II, and whose powers and duties are set forth in Charter section 2-3, article II, shall have staggered membership terms. All five appointees shall be appointed to four-year terms. **The powers and duties of the election commission shall include, but are not limited to, conducting hearings on complaints originating under Article IV of this Chapter 54 of the City Code and making and enforcing written rulings thereon.**

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-101, including the addition of a new subsection (e), and by deleting language in subsection (b) of Section 54-101 which section shall now read as follows:

Sec. 54-101. - Prohibited contributions **and contribution limits.**

(a) No candidate committee shall make a contribution or contribution in kind to or accept a contribution or contribution in kind from a candidate committee of another candidate for municipal office.

(b) No candidate committee, issue committee, political committee, or exploratory committee shall accept contributions from any natural person who is not a citizen of the United States, **or from a foreign government, or from any foreign corporation, partnership, business association, incorporated social association, labor organization or union.** ~~that does not have authority to transact business in this state pursuant to art. 115 of tit. 7, C.R.S.~~

(c) No candidate committee, political committee, issue committee or exploratory committee shall accept a contribution, or make an expenditure, in currency or coin exceeding \$100.00.

(d) No person shall make a contribution to a candidate committee, issue committee, political committee, or exploratory committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person.

(e) No person shall contribute more than one thousand dollars (\$1000) in the aggregate to any one mayoral candidate or any one at-large candidate during any election cycle nor shall any person contribute more than five hundred dollars (\$500) in the aggregate to any ward candidate during any election cycle. No person shall make a contribution

without supplying that person's name and residential address to the candidate or to the committee to which the contribution was made.

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-105 which section shall now read as follows:

Sec. 54-105. - Requirements for filing campaign reports.

- (a) All candidate, issue, political, and exploratory committees must file reports on the 90th day, on the 60th day, on the 30th day, on the 14th day, on the Friday before, and 30 days after the municipal election.
- (b) In years following the election for which the committee was established, all candidate, issue, political, and exploratory committees shall file such reports annually, on the first day of the month in which the anniversary of the municipal election occurs.
- (c) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total contributions received, whether monetary or in kind, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee **and the names and addresses and contribution amount of each contributor whose contribution funds were aggregated for deposit at the financial institution.**
- (d) In addition to any report required to be filed with the city clerk under this section, all candidate committees, issue committees, political committees, and exploratory committees shall file a report of any contribution or contribution in kind of more than \$1000.00 in the aggregate from any single contributor received at any time within 30 days preceding the date of a municipal election. This report shall be filed with the city clerk no later than five days after receipt of said contribution(s) or contribution(s) in kind. **Contributions from any individual contributor exceeding the limits set in Section 54-101 of this City Code shall be returned to the contributor with 72 hours and proof of that return shall be filed with this report.**
- (e) Any issue committee whose purpose is the recall of an elected official shall file a statement of organization with the city clerk within ten business days of receiving its first contribution, or contribution in kind. Reports of contributions and expenditures shall be filed with the city clerk within 15 days of the filing of the statement of organization and every 30 days thereafter until the date of the recall election has been set and then 14 days and seven days before the recall election and 30 days following the recall election.
- (f) Any issue committee supporting an incumbent in a recall election shall file reports of contributions, or contribution in kind, and expenditures with the city clerk 14 and seven days before the recall election and 30 days after the recall election.
- (g) A committee shall be considered open and active until such committee is affirmatively closed and a termination report is filed with the city clerk.

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-107 and replacing it with additional language and by adding other additional language to Section 54-107 which section shall now read as follows:

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

- (a) Any person who believes that a violation of this article has occurred may file a written complaint with the city clerk no later than 60 days after the date of the alleged violation. The city clerk shall determine if probable cause exists to take further action upon the complaint. If such a determination is made, the city clerk shall send notice to the affected party ("defendant"), **meaning the registered agent for the committee if they submit to the jurisdiction of the election commission or the candidate in those instances where the registered agent is beyond the jurisdiction of the City of Aurora**, and thereafter shall appoint a hearing officer ~~who shall not be an officer, employee, or agent of the city, and shall not have any relationship with the complainant or defendant.~~ **refer the matter within 5 days to the election commission.** The ~~city clerk~~ **election commission** shall fix a date for the hearing, which shall be concluded no later than 60 days from the date the written complaint was filed.
- (b) The defendant, **the complainant**, and the city shall present evidence to ~~such hearing officer~~ **the election commission** in the form of testimony, documents, rebuttal testimony, and opening and closing statements. There shall be no cross examination. The ~~hearing officer~~ **election commission** shall be entitled to examine any witness and request the submission of additional evidence and arguments. **The weight, relevance, and admissibility of the evidence shall be determined by the sound and sole discretion of the election commission.**

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-108 and replacing it with additional language and by adding other additional language to Section 54-108 which section shall now read as follows:

Sec. 54-108. - Sanctions.

- (a) In accordance with the process in section 54-107, ~~a hearing officer~~ **the election commission** shall determine by a preponderance of the evidence if a violation of this article has been committed. Upon a finding against a defendant, the ~~hearing officer~~ **election commission** shall then submit written findings of fact, and ~~recommendations for~~ **shall impose sanctions by order of the commission.** ~~to the mayor and city council. The city council shall then make a final determination as to any sanction that may be imposed.~~ **Sanctions may include a fine of fifty dollars (\$50) per day for each day a violation of this Code occurred or continued up until a finding of violation has been entered and then up to one hundred dollars (\$100) for each day thereafter until the violation is corrected though for good cause shown the election commission may grant a three day grace period before imposing additional fines after entry of their initial finding and order. Additionally, the election commission shall order return of any contribution amounts in excess of those allowed by this Code and may impose a fine of one hundred dollars (\$100) for each day the contribution in excess of allowed amounts is not returned following an order to return the excess contribution amount.**

- (b) The city clerk, after proper notification by accountable mail shall impose a penalty of \$50.00 per day for each day that a statement or other information required to be filed by this article is not filed by the close of business on the day due. If the penalty is not paid within 30 days of demand, the matter shall be handled in the procedure specified in section 54-107 and subsection (a) of this section.
- (c) Failure to comply with the provisions of this article shall have no effect on the validity of any election.
- (d) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be exempt from any liability for a penalty imposed pursuant to this section in any proceeding that is based on an act or omission of such volunteer if:
 - (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and
 - (2) The violation was not caused by willful and intentional misconduct by such volunteer.

Section 7. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-109 and replacing it with additional language which section shall now read as follows:

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

- (a) The city clerk shall:
 - (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this section;
 - (2) Maintain a filing and indexing system consistent with the purposes of this section;
 - (3) Make the reports and statements filed with the city clerk's office available to the public for inspection and copying no later than the end of the next business day after the date of filing. The city clerk may charge a reasonable fee for providing copies of reports in compliance with city policy. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;
 - (4) **Assist the election commission in Conduct conducting** hearings, as provided in section 54-107;
 - (5) Adopt procedures consistent with the purposes of this article;
 - (6) Keep a copy of any report or statement required to be filed by this article in accordance with the municipal records retention schedule.

Section 8. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 10. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2020.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

David Lathers ^{RLA}

DAVID LATHERS, Senior Assistant City Attorney



TO: Mayor & City Council

FROM: Roberto Venegas, Deputy City Manager

DATE: September 28, 2020

SUBJECT: Fiscal Impact – Mayor Coffman, Proposed Campaign Finance Ordinance

At the September 22nd Management & Finance Committee, Mayor Coffman proposed a campaign finance reform ordinance. The M&F committee moved that item forward to the October 5th Study Session. The Mayor requested that staff review the proposed ordinance and provide a fiscal impact analysis. Staff reviewed the ordinance language looking specifically for fiscal impacts to the city. As such, the analysis below does not speak to the policy merits of the ordinance itself or any particular provision.

In reviewing fiscal impacts to the city, staff consulted with the Clerk's Office, the City Attorney's Office, Information Technology (IT), and the Budget Office. To further understand the implementation of campaign finance law within a municipality, staff spoke at length with the Colorado Municipal League and the Clerk's Office in both Lakewood and Boulder. Both municipalities currently have campaign finance ordinances in place. CML provided extensive information on the way municipalities can enact campaign finance laws and specifically, the requirements for handling complaints and conducting hearings.

Information Technology

As drafted, the ordinance does not significantly change the current reporting requirements for candidates or issue committees. Entities covered by the proposed ordinance can utilize the Clerk's Office website to submit reports electronically. As is the case today, the technology in use by the City Clerk's Office, and supported by the IT department, can adequately handle the type and volume of reporting compliance associated with the proposed ordinance. As such, we do not see any immediate fiscal impacts as it relates to IT.

Complaints

The proposed ordinance does not change the current responsibility of the City Clerk to process and make a determination on all campaign finance complaints. As they do now, the Clerk's Office utilizes the City Attorney's Office for legal counsel in making these determinations and would continue to do so if this ordinance becomes law.

Hearings

Under the proposed ordinance, once the Clerk determines that probable cause exists to take further action on a complaint, he/she must refer the matter within 5 days to the Election Commission. Under the proposed ordinance, the Election Commission would have authority to adjudicate these matters rather than a hearing officer appointed by the Clerk, as is the current

process. As such, the Clerk's Office will not incur any costs associated with retaining a hearing officer.

**Please note that the Election Commission is comprised of volunteers. Should the need for a hearing arise, increased staff and legal counsel for the Commission may be required as they take on the new responsibility in the ordinance to adjudicate complaints. In addition, outside counsel may be necessary to prosecute or defend a complaint and could significantly increase the fiscal impact to the City Attorney's Office.

City Clerk Responsibility Related to Election Matters

The responsibilities in the Clerk's Office related to campaign finance will not change significantly should this ordinance be adopted. In general, they conform with the current duties performed by the Clerk related to elections. As a result, staff does not recommend additional resources are necessary specific to this proposed ordinance.

**MANAGEMENT AND FINANCE POLICY COMMITTEE MEETING
SEPTEMBER 22, 2020**

PROPOSED CAMPAIGN FINANCE REFORM ORDINANCE

Summary of Issue and Discussion

The Mayor, Mike Coffman express thanks to the Committee for allowing him to present his proposal. He stated he asked Steve Ruger before he resigned what he thought a campaign finance reform ought to look like. He recommended that it be simple and not to try and do everything at once and he was concerned about enforceability. The Mayor stated that he had his proposed ordinance structured around those lines and what the public would most want out of campaign finance reform. The Mayor's proposed campaign finance reform ordinance was drafted by the City Attorney office and brought before the elections commission.

Committee Discussion

Council Member (CM) Marcano: I have a lot of heart burn with the elections commission dealing with complaints as they are basically appointed by Council. I really would rather see that be a third party rather than have folks that are so close. I think the initial draft of the other ordinance adjudicated that to the City Clerk's office, which while not a direct counsel appointee, I know there were some concerns around them being City employees. So, if this were to move forward, I think this needs to be someone outside of the City or at the very least someone in the City Clerk's office.

Mayor Coffman: One thing Steve mentioned is the concern about the weight of the responsibility on the City Clerk; him or herself. And so that's certainly a consideration and I'm open, as long as it doesn't go directly to some type of legal proceeding. Because a lot of the things are fairly clear, unless it depends on how you write it and if you write a mind-numbing complex campaign finance reform who knows where it needs to go. It probably would need to be lawyered up from day one. But if it's simple and clear and a violation is either you have a contribution that's too much and you have to give it back, or if you have a contribution from a source that's not authorized. Those are the two basic things and also submitting your reports on a timely basis that's basically the crux of it. So it depends on where you go in terms of how you write and in terms of who ought to be the initial oversight authority. I clearly want it to be administrative in nature and then certainly one has the ability to appeal then you have to decide to lawyer up. All administrative decisions are subject to appeal.

CM Marcano: So, with regards to complexity here, could you summarize this one in a one pager? Because I think that it will be something very useful to have both of these broken down in that way. Because I don't think that folks currently read our existing code cover to cover. I think it's just a matter of summarizing the intent in a way that folks can pretty easily while making sure that the language is as airtight as possible. I think that's why the other proposal is long because this was written in conjunction and drafted by a former employee at the Secretary of State (SOS) office, which I think might have been there when you were at SOS. We worked with professionals who are experienced with Colorado's election law. So, I don't think length is necessarily a detriment, in fact I think that it's good when we're trying to make something airtight. That is actually one of the concerns I have with this because it doesn't go into detail of outlining all those processes. But again it could be summarized in a one pager to actually make these things less likely to become legal battles I think need to be clearly defined.

Mayor Coffman: You have to remember as we historically go up in terms of different echelons in government, the campaign finance laws tend to be more complex or more complex at the federal level than they are at the state level and should be easier at the local level. These are not historically high cost campaigns but certainly become that and also unfortunately they become driven by outside groups. So I think it's important again in being realistic in terms of the contribution levels.

CM Gruber: My point on that, I'm a little bit concerned about taking a multiple page document and turning it into a one page because if the law is violated it probably won't be something on the one page. The violation could be somewhere in the other pages that aren't captured in the synopsis. Even though there's a one-page synopsis, the candidate is responsible for the entire law not just that one-page synopsis and so that's my thought on that.

Mayor Coffman: A lot of the language in the proposed ordinance is existing law. Most of the language is existing law. You can obviously see what is struck and the bold is obviously the new language and so it does largely comport with the existing law.

CM Gardner: One of my questions has to do with allowable contributions that it doesn't allow contributions from anything but an individual. I guess I'm just curious regarding the thought process there and to be clear, what my concern is what that's going to allow is an individual, a wealthy individual, to self-fund their campaign because of course we can't place any restrictions on self-funding.

Mayor Coffman: I think those are pretty decent limits, but I think that's always a danger in campaign finance reform. The more you ratchet down an individual's ability to raise funds contributions the more you empower outside organizations and the more you empower wealthy candidates. Under the Valeo decision in the 1970's, I think the interpretation of that supreme court decision is that you cannot restrict an individual's ability that gives to a wrong campaign. Unless you go to a total public funding of a campaign. I think that's been tried in different areas on more of a voluntary basis, however that's a very hard and very difficult issue too because not to venture off the subject, but because the fact incumbents inherently have earned media and you can't always place a dollar value on that, and there's an inherent advantage for an incumbent over a challenger. Nevertheless, I think your point is well taken. There are things like some of the traditional donors in municipal elections that are called limited liability corporations' and partnerships. I can't remember where they are in state law right now and in the federal law, but they have been historically significant contributors to local elections, and they would be barred. However, certainly those individuals could write a personal check, but they couldn't write a corporate check or a check from their business.

CM Gardner: I think in general my opinion on this topic is it needs to provide as much transparency and disclosure as possible. I would be interested in maybe doing our initial disclosure earlier, currently I think it's 90 days and maybe pushing up to 180 days. I think in general, I prefer a simpler approach and for the good of everyone the biggest reason why that is and why I don't think comparing us to state candidates for example is apples to apples. They have county and state party election lawyers that can help manage and navigate election law and nonpartisan candidates on council. We don't have that and so that's why my preference would be to do as simple campaign finance ordinance as possible. This is just a general comment.

CM Marcano: With regards to the limits I do have an issue there. I think that they're too high and I really dislike treating larger or in terms of constituent races differently than ward races because the emphasis should be on the candidate to be able to grow their base and contact more people and find more sources of funding rather than basically empower those races to be influenced by extremely wealthy donors. I think there's a large difference between having a cap of \$1,000 versus a cap of \$500, and even \$500 is too high, when you look at 40% of Americans that don't have more than \$400 for an emergency situation. So, who are we really empowering here? I think that operating off of the state limits if folks don't want to go any lower, then that is something that's been proven to yield better results and it combats the influence of extremely wealthy contributors. The dark money concerns are well taken and that's going to happen anyway. We've seen that growing in Aurora over the last couple of cycles especially as the state delegates more local control to us over things like surface use for oil and gas and minimum wage. So who knows what else they might delegate to us in the future. I think that we're seeing is kind of a natural progression of that local control attitude, so our races are going to draw more money. So, I am concerned about having higher limits because I don't want our races to look like federal races where you have folks who maxed out and then makes smaller contributions much less influential. And there was something that you brought up Mayor that I would actually like to explore further and that's the public financing component as a potential limit to stop even a wealthy individual from basically self-funding their whole campaign. I didn't like seeing that happen for our gubernatorial race and I don't imagine any of us really would like to see that happen for a city Council race. But the democracy vouchers model out of Seattle has been very successful in allowing grass roots candidates to actually perform very well, and even combat Amazon which is no small feat and still come out on top. So, I think that's something worth exploring as well, especially if we continue to grow.

Mayor Coffman: CM Marcano the proposal that you are supporting which my understanding is does not engage in public funded campaigns. I don't know what the level support would be among people of Aurora to have taxpayers' dollars going to political candidates. This has always been a controversial issue and it's been going on for a long time.

CM Marcano: Yes, it's definitely been a controversial issue, but I think the results do speak for themselves you get a more diverse base of candidates in terms of ideology and also personal levels connection with money interests, so I think that's positive. And really basically I think it boils down to what's the acceptable cost of a functioning representative democracy. But I do have something if you want to talk about after this that's not directly related, I'm happy to spend some time chatting about.

Mayor Coffman: Sure. But the problem is you're making an assumption by pushing down the limits. You want public funded campaigns, but we don't have that. Your pushing down the limits and so what you're doing or accomplishing in that regard since the limits are reasonable is that you're empowering outside groups and independent contributors that you call dark money and you're empowering wealthy candidates in the reality of the situation that we have today.

CM Marcano: In terms of likely funding sources that may happen. I would like to see a candidate defund them being beneficiaries of outside money and basically not being able to meaningfully garner any grass roots support especially from folks that actually reside in Aurora. That kind of

ties into a campaign scenario, right. However, if we want to go down the road to discuss strategy, we can but the fact of the matter is our last election cycle I think was the most expensive in the city's history and continuing to leave higher limits in place is just going to perpetuate that trend. So that's why I think the limits need to be lower.

Mayor Coffman: What do you think they should be?

CM Marcano: I would honestly have it be the same as in the other proposal, 80% of what the state legislature currently can raise because that's the average size of our wards. Senate districts are larger, but they have the same limits, so \$320 I think is where I would like to see it. I know that can be an issue to negotiate, but \$500 and \$1,000 again I don't think that makes sense since that's higher than the state.

Mayor Coffman: And what for a Mayor and Council at Large?

CM Marcano: The same limit. You want to represent a larger constituency it should be your job to garner more support and to fund raise a broader base.

CM Bergan: I don't agree with a \$500 limit for a ward Council Member. I actually do agree it should be the same. I don't agree with the amount. I think it should be \$2,000 personally, right now, it's unlimited so I don't even agree with the amounts. I have a question on constitutional rights. I don't know if there's an attorney on the line, but is it illegal to tell an individual what they can contribute to their candidate?

Mayor Coffman: Let me defer it to legal but let me take a stab at it first. It's my understanding that you cannot restrict an individual to give but you can restrict a candidate from receiving. I don't know if there's somebody from the City Attorney that would like to weigh in on that.

H. Hernandez: My knowledge on that one is basic, but I believe that the Mayor is correct however we can take it to Dave Lathers and have him get back to you if need be.

CM Bergan: You mentioned Mayor that they could still bundle contributions as long as they list the individuals and the addresses. This happens all the time for example with school unions and other unions where it's not coming directly from the union it's basically are called an action out on websites and social media for the members to the union to then make those contributions so that would still be allowed. To me that's almost a corporation, it's just getting around the law by saying we can't give it, but you each give \$50 bucks which is what happens.

Mayor Coffman: I think what the difference would be in the current law if you look at the small donor committees. They don't have to list the dollars that it's from small donor XYZ. Under this you could say whatever entity can collect checks and forward the checks on but you as a candidate have to report each individual. It can't be that, I received this amount from whatever entity labor union or whatever small donor committee XYZ, or political action committee XYZ. You can only receive it from individuals, and we have to note the personal information for each individual as we do now, but now we can take it from anyone which under this if this becomes the law it can only come from individuals.

CM Bergan: So, an LLC can be partnership but it's not a corporation and you're saying the LLC could not contribute but the two partners could for example.

Mayor Coffman: The partners individually could contribute to the limits but the LLC you couldn't accept a contribution because it's not from an individual.

CM Bergan: And apparently that's constitutional.

Mayor Coffman: No, I think your referring to Citizens United but that's the ability for an individual to contribute. But again, you're going into this situation that an individual can spend so, as a candidate I can spend my own money without limitation. A corporation could spin money in terms of through an independent expenditure, but they can't receive it under this proposal and that is consistent with Citizens United. I think it simply states that corporations as entities can but just making politics but then changed the ability to regulate contributions.

CM Berzins: I just want to comment that I don't agree with the limits either and let me state this, I'm not running anymore. I've run five campaigns and each one has gotten a little bit more expensive because postage has gone up, paper has gone up, and printing has gone up. Its reality. Campaigns cost more every time. I'll be honest if you think that because you're going to set a low limit that campaigns are going to get cheaper, they're not. Because people are not going to cut back what they do to campaign. Are you going to cut back your yard signs? They've gone up, the wires for yard signs have gone up. Its reality! People will find a way to get money in their campaign. If you only want it from individuals, then you're really not solving the problem. You're just creating more problems because this is reality. The first time I ran I talked to an advisor and the first thing he asked me was how much money do you think you can raise because campaigns are expensive. And if you don't have the people and you don't have the backing then don't waste your time. It's just the reality and this is not a perfect world. I wish it was but it's not. It takes money to run a campaign. If you think that the limits are lower the campaign is going to be cheaper its not that's the world. Let me ask Mayor Coffman where does these online companies like Emily's list, Planned Parenthood, WinRed and ActBlue, where does that fit in your new proposal?

Mayor Coffman: In order to receive a contribution from a group like that you would have to have a breakdown of every individual that contributed to that and it may need some clarifying language. It's an interesting question, I think it needs clarifying language and I'll have to think about that. Could they give as an individual reported every contributor and certainly that's my intent but what happens if you receive a check from ActBlue. Can you cash that check and list every individual with all the required reporting information but the way it's written right now you could not and so that's something I'll have to think about. Because you can only receive checks from individuals, and you can't receive checks from a non-individual.

CM Berzins: If you go back and look at some of our campaign finance reports you'll see \$25 and \$50 checks from all over the country. So that tells me that they're coming in somehow and some way and so I'm concern with that if we limit to individuals. What are we going to do with these online giving groups and the limit can only come from individuals?

Mayor Coffman: That's a good question but the way it's written now unless the checks came from individuals the candidate couldn't cash them and use those resources. So that's something I would

have to think about, but it would require clarifying language in order to do that. I think the fundamental issue is transparency.

CM Coombs: So, I again want to raise the concern of the election commission having this on their plate. I know that certainly the City Clerk's office having it on their plates it would require additional staff. It's just not clear to me the current frequency the election commission meetings and the composition of the election commission it's something that could be quickly adjudicated, and they be able to adjudicate everything that came forward. I don't think having them do it makes it impossible to have frivolous complaints. I think it just means if we have a frivolous complaint come forward it just puts more on their plate and it could potentially make it harder for them to assess the difference between the frivolous ones and the genuine ones.

Mayor Coffman: So, I am waiting from the response of the election commission which I did present to them last week.

CM Coombs: Okay, I have one other question, and have you evaluated if this had been in place when you were running for mayor how much you would have raised?

Mayor Coffman: Considerably less, I haven't calculated at a mayoral.

CM Gruber: You had talked earlier about the fact that the City cannot restrict from giving but the City can restrict a candidate from receiving. We had an issue that's been raised a couple times now about money coming in outside the city. People who don't have an interest in the city. I can see where a business owner or a resident or someone that owns property in the city should have the say on how the city is governed. I struggle a little bit on how somebody from San Diego or why that person would be able to influence an election. Is there a way within the ordinance to restrict that and tell candidates that they could only receive money from people within the city or people with business located within the city?

Mayor Coffman: I think you could probably write that, but I think it gets fairly complicated as to what an interest in the city constituted. But I suppose that would be a good question for the City Attorney's office. I think that you're starting to get fairly complicated, but it probably would be easier if you say residents in the city or I guess you could say property owners. There might be a question in terms of constitutionality of allowing property owners and residents, but not other individuals that may feel an interest in the city but don't reside in the city. Again, the central theme is simplicity and something that's easy to enforce.

GM Gruber: My second question has to do with contributions in kind. You described those within the ordinance. My concern in the last election we had organizations in Denver send canvassers to the city and if those were paid by a candidate obviously resulted in an expense. What are your thoughts on outside groups canvassing within the city?

Mayor Coffman: I think you have constitutional case law regarding that in terms of freedom of speech and I do think that we do have that within our law now. It's a requirement to report contributions in kind and so I believe that exist. But again, we're not proposing to move to publicly funded election and there's all kind of challenges there. So, you can't limit a wealthy person and I don't think in any circumstances you can limit an outside group and so you're transferring the

influence or ability for a candidate to have his or her own message. It can control his or her campaign to outside forces and so I think we realize there's no perfect world as CM Berzins said but I think it's important to strike an appropriate balance.

CM Gruber: I would like to remind everyone the other proposed campaign finance reform ordinance that came forward to committee went with a split vote. I would like to vote on moving this one forward and with this report both of them will have to be adjudicated and one or the other will win.

CM Marcano: I'm a no on this because there's a lot of unsettled issues as we discussed. So, I would like to see this come back.

CM Gardner: I'm fine with it. I moved the other one forward. I think having the full Council to discuss them both is appropriate.

CM Gruber: I also recommend moving this forward and like the other proposal there were many questions that will need to be resolved at Study Session as opposed to the Management and Finance Policy Committee.

Outcome

Council Member Gruber and Council Member Gardner voted yes and Council Member Marcano voted no. Based on the vote the Committee recommended that this item be forwarded to Study Session.

Follow-up Action

Staff will forward this item to Study Session.
