

**TITLE 13**

**ELECTIONS AND CAMPAIGN DISCLOSURE**

Chapter 1	Elections.....	13-1
Chapter 2	Campaign Financing Disclosure .....	13-8
Chapter 3	Campaign Activities.....	13-19
Chapter 4	Complaints Related to Election Procedures and Regulations ....	13-20

## TABLE OF CONTENTS

### TITLE 13

#### Elections and Campaign Disclosure

##### Chapter 1 Elections

- 13-1-1 Legislative Intent
- 13-1-2 Incorporation of Uniform Election Code of 1992, as Amended, With Modifications
- 13-1-3 Responsibility of the City Manager
- 13-1-4 Absentee Ballot Cards
- 13-1-5 Duplication of Absentee Ballots for Counting
- 13-1-6 Submission of Citizen Petitions for Comment Prior to Circulation
- 13-1-7 Initiative and Referendum
- 13-1-8 Special Provisions Concerning Filling Council Vacancies by Special Election
- 13-1-9 Fixing of Ballot Title for Purposes of § 1-45-117, C.R.S.

##### Chapter 2 Campaign Financing Disclosure

- 13-2-1 Legislative Intent
- 13-2-2 Definitions
- 13-2-3 Candidate's Financial Disclosure Statement
- 13-2-4 Incumbent's Financial Disclosure Statement
- 13-2-5 Statement of Organization of Official Candidate Committee
- 13-2-6 Statement of Organization of Unofficial Candidate Committee
- 13-2-7 Statement of Organization of Issue Committee
- 13-2-8 Statement of Contributions and Expenditures of Official Candidate Committee
- 13-2-9 Statement of Contributions and Expenditures of Unofficial Candidate Committee
- 13-2-10 Independent Expenditures
- 13-2-11 Statement of Contributions and Expenditures of Issue Committee
- 13-2-12 Political Committee Filing and Reporting Requirements
- 13-2-13 Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name
- 13-2-14 Solicitation for Candidate Campaign Funds
- 13-2-15 Filing, Preservation and Public Inspection of Statements
- 13-2-16 Notice of Disclosure Requirements and Enforcement
- 13-2-17 Contribution Limitation
- 13-2-18 Anonymous Contributions
- 13-2-19 Unexpended Campaign Contributions
- 13-2-20 Public Matching Funds
- 13-2-21 Eligibility for Matching Funds
- 13-2-22 Violations and Penalty

##### Chapter 3 Campaign Activities

- 13-3-1 Legislative Intent
- 13-3-2 Campaign Advertising Requirements
- 13-3-3 Contributions by City Contractors
- 13-3-4 Contributions in Name of Another Prohibited
- 13-3-5 Limitation on Contribution of Currency
- 13-3-6 Misrepresentation of Campaign Authority

##### Chapter 4 Complaints Related to Election Procedures and Regulations

- 13-4-1 Legislative Intent
- 13-4-2 Allegation of Election Code Violation
- 13-4-3 Initial Review of Request for Action
- 13-4-4 Denial of Request for Action by City Clerk
- 13-4-5 Determination by City Clerk Final
- 13-4-6 Power of City Clerk to Hold Hearings
- 13-4-7 Hearing Procedures
- 13-4-8 Negative Determination by City Clerk
- 13-4-9 Power of City Clerk to Issue Remedial Order or Warning Letter
- 13-4-10 Referral to City Attorney for Criminal or Civil Prosecution
- 13-4-11 Remedies Not Exclusive
- 13-4-12 No Appeal to City Council

13-4-13 Confidentiality of Investigation

## TITLE 13

### Elections and Campaign Disclosure

#### Chapter 1 Elections<sup>1</sup>

##### 13-1-1. Legislative Intent.

(a) The purpose of this chapter is to establish procedures for regular and special elections of the home rule City of Boulder. Such procedures are intended to be consistent with the Uniform Election Code of 1992 as adopted by the state of Colorado, except as necessary to comply with provisions of the charter or to meet a specific need of the City as determined by the city council.

(b) The purpose of this chapter in adopting by reference §§ 1-2-228, 1-4-913, part 2 of article 1-11, and article 13 of title 1, C.R.S., which form a part of the Uniform Election Code, is to make it clear that such provisions apply to city elections. Adoption does not create a separate municipal offense or municipal court proceeding. Proceedings under such statutes, including, without limitation, contests of municipal elections and criminal prosecutions, shall be brought and heard in the district court or county court as specified by state law, and control of the criminal prosecution of the enumerated election offenses shall remain with the district attorney or the attorney general of the state.

(c) The purpose of this chapter is to set the date upon which a proposed ballot measure is final for its submission to the voters for purposes of complying with the intent and spirit of § 1-45-117, C.R.S. Such date is the final vote by city council on the final reading of the ordinance submitting the ballot measure to the voters. That date is set in order to allow for the distribution of information by the City and input by the public without limitation until the finalization and submission of the ballot measure for the ballot.

Ordinance No. 7793 (2011)

##### 13-1-2. Incorporation of Uniform Election Code of 1992, as Amended, With Modifications.

(a) The Uniform Election Code of 1992, §§ 1-1-101 through 1-13-803, C.R.S., as amended through June 6, 2006, is adopted by reference and incorporated so as to have the same force and effect as if printed in full in this code, except as specifically amended by the provisions of this chapter.

(b) The council finds that certain modifications to the Uniform Election Code of 1992, as amended, are in the best interest of the residents of the City and therefore adopts the following modifications:

(1) Section 1-1-102, C.R.S., is repealed and reenacted to read:

1-1-102. Applicability.

(1) This election code applies to all municipal general and special elections of the City, including without limitation recall elections. Except as otherwise provided in the Boulder Revised Code, 1981, or any uncodified ordinance specific to the situation, this election code also applies to general improvement district elections and to any elections required by the Constitution of the State of Colorado for which no specific provision is made by any law of the City.

(2) The Uniform Election Code of 1992 was adopted by the General Assembly of the State of Colorado to cover many elections other than municipal elections. Accordingly, many provisions of the Uniform Election Code are inapplicable to municipal elections. The sections and parts of sections which appeared most clearly to be inapplicable to municipal elections have been specifically not adopted, either by calling them not adopted, repealed or repealed and reenacted to read, in adopting by reference the Uniform Election Code of 1992. However, other provisions of the Uniform Election Code of 1992 which are also inapplicable to municipal elections

---

<sup>1</sup> Adopted by Ordinance No. 5582. Derived from Ordinance Nos. 3738, 3984, 3935, 3947, 4036, 4139, 4277, 4561, 4596, 4607, 4618, 4652, 4997, 5067, 5218, 5242, 5403, 5509.

have not been specifically called out as being inapplicable. Adoption by reference of such provisions does not mean that the city council was of the opinion that such provisions are applicable to municipal elections, and in such cases their applicability shall be determined by the intent of the Colorado General Assembly.

(3) This election code is applicable both to coordinated elections involving the participation of the county clerk and elections of other political jurisdictions and to municipal elections which the City may choose to conduct on its own, as the city council may from time to time specify in any ordinance calling a special election or otherwise.

(4) To the extent that any provision of this election code conflicts with the charter, such provision is inapplicable.

(2) Section 1-1-104(2.6), C.R.S., Definitions.

"Ballot measure" means a ballot issue or a ballot question that has been approved by the city council for submittal to the voters at an election.

(3) Section 1-1-104(8), C.R.S., is repealed and reenacted to read:

"Designated election official" means the city clerk.

(4) Section 1-1-104(17), C.R.S., is repealed and reenacted to read:

"General election" means the election specified in Charter Section 22 to be held on the first Tuesday in November of every odd-numbered year.

(5) Section 1-1-104(18), C.R.S., is repealed and reenacted to read:

"Governing body" means the city council, including without limitation the city council sitting as the board of directors of a general improvement district.

(6) Section 1-1-104(34.5), C.R.S., is repealed and reenacted to read:

"Referred measure" includes any ballot question or ballot issue submitted by the city council to the qualified electors of the city pursuant to Charter Sections 37 through 54 or § 1-41-103, C.R.S.

(7) Section 1-1-104(46), C.R.S., is repealed and reenacted to read:

"Special election" means an election other than a general election as specified in the charter, including without limitation Sections 22, 41, 47 and 58.

(8) Sections 1-1-104(1), (5), (6), (9), (9.5), (19), (20), (22), (23), (24), (25), (26), (31), (32), (39), (40), (41), (42) and (45), C.R.S., are repealed.

(9) Sections 1-1-109(1) and 1-1-110(3), C.R.S., are repealed and reenacted to read:

(1) Except as otherwise provided by this election code, by some other specific provision of the Boulder Revised Code, 1981, or by the ordinance calling a particular election, the secretary of state shall approve all the forms required by this election code, which forms shall be followed by county clerk and recorders, election judges and other election officials. Forms concerning nominations for city council, initiative, referendum and recall petitions, and any other forms governed by the charter are included among the forms which are "otherwise provided" by this election code.

(2) As the chief election official for the county, the county clerk and recorder shall be the chief designated election official for all coordinated elections. If the City or its general improvement districts request that its election be coordinated with any other election, it shall certify the ballot content to the county clerk and recorder prior to the fifty-fifth day before the election. Nothing in this section shall authorize the city clerk or the county clerk and recorder to take any action at variance with the requirements of the charter.

- (10) Section 1-1-202, C.R.S., is repealed and reenacted to read:

1-1-202. Commencement of Terms.

The terms of city councilmembers shall commence as specified in charter section 5.

- (11) Section 1-2-104, C.R.S., is repealed and reenacted to read:

1-2-104. Additional Qualifications.

Qualifications for voting in elections concerning general improvement districts of the City shall be as specified in Chapter 8-4, "General Improvement Districts," B.R.C. 1981, and in the ordinance establishing the specific district.

- (12) Section 1-4-501, C.R.S., is repealed and reenacted to read:

1-4-501. Electors Eligible to Hold Municipal Office.

Qualifications of electors eligible to hold municipal office are those set forth in charter section 4.

- (13) Section 1-4-805, C.R.S., is repealed and reenacted to read:

1-4-805. Nomination of Municipal Officers.

Nomination of municipal officers is governed by charter sections 23 through 28 and 30.

- (14) Section 1-4-901, C.R.S., is repealed and reenacted to read:

1-4-901. Recall.

Recall elections shall be conducted when required and under the procedures specified in charter sections 55 through 62. The conduct of such elections shall be in accordance with those provisions of this election code not inconsistent with the charter.

- (15) Repealed.

- (16) Section 1-4-1001, C.R.S., is repealed and reenacted to read:

1-4-1001. Withdrawal from candidacy.

Withdrawal from nomination shall be governed by charter section 29.

- (17) Section 1-5-203, C.R.S., is amended to add a new subsection (4) to read:

(4) Certification of Ballot for Elections Which Are Not Coordinated.

To the extent not inconsistent with the charter, the city clerk shall certify the ballot at least fifty days before any election which is not a coordinated election. The ballot certified shall comply with Charter Section 31, and shall also include any ballot issues or ballot questions to be submitted to the eligible voters.

- (18) Section 1-5-205, C.R.S., is amended by the addition of a sentence to read:

With respect to the election of a member or members of the city council, the city clerk shall also publish the notice required by and containing the information contained in charter section 31.

- (19) Repealed.

- (20) Section 1-5-208, C.R.S., is repealed and reenacted to read:

1-5-208. Election May be Canceled or Ballot Questions Withdrawn.

(1) Except for initiative, initiated referendum and recall elections, if the only matter before the electors is the consideration of ballot issues or ballot questions, no later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other election, the city council may by resolution cancel the election or withdraw one or more such issues or questions from the ballot. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the city council.

(2) If the electors are to consider the election of persons to the city council and ballot issues or ballot questions, the city council may remove any or all of the ballot issues or questions by following the procedures set forth in subsection (1) of this section.

(3) Unless otherwise provided by an intergovernmental agreement pursuant to § 1-7-116, C.R.S., upon receipt of an invoice, the City shall within thirty days pay all costs accrued by the county clerk and recorder and any coordinating political subdivision attributable to the canceled election and any removed ballot questions or issues.

(4) The designated election official shall provide notice by publication of the cancellation of an election and a copy of the notice shall be posted at each polling place of the City, in the city clerk's office and in the office of the county clerk and recorder.

(21) Section 1-5-406, C.R.S., is repealed and reenacted to read:

1-5-406. Content of Ballots.

The designated election official shall provide printed ballots for every election. The official ballots shall be printed and in the possession of the designated election official at least thirty days before the election. Every ballot shall contain the names of all duly nominated candidates for city council, except those who have died or withdrawn, and the ballot shall contain no other names. The names of the candidates shall be printed upon the ballot in alphabetical order by surname as provided in charter section 34.

(22) Section 1-5-407, C.R.S., "Form of Ballots" is amended and reenacted to include a new subsection (10) to read as follows:

Mail ballots shall be considered ballots on demand for purposes of subsection (1.6) so that ballot stubs shall not be required.

(23) Sections 1-6-105 and 106, C.R.S., are repealed and reenacted to read:

1-6-105. Appointment of Election Judges for Nonpartisan Elections.

(1) For coordinated elections, election judges shall be appointed by the county clerk as provided by state law. For other elections, no later than fifteen days before the election, the city clerk shall appoint election judges for the City or the district for which the election is to be held. The term of office for such judges shall end with the end of the judge's duties with respect to the election for which appointed.

(2) For coordinated elections, any person who has been appointed by a county clerk and recorder, who has filed an acceptance, and who has attended a class of instruction may be appointed as an election judge for nonpartisan elections. For other elections, any person who has been appointed by the city clerk, who has filed an acceptance, and who has attended a class of instruction may be appointed as an election judge for such election.

1-6-106. Certification of Appointment

For coordinated elections, thirty days before the election the county clerk and recorder shall certify the list appointing the election judges and shall mail one acceptance form to each person appointed. For other elections, fifteen days before the election the city clerk shall certify the list appointing the election judges and shall mail one acceptance form to each person appointed.

- (24) Section 1-7-902, C.R.S., is repealed and reenacted to read:

1-7-902. Preparation of Fiscal Information.

The city manager shall be responsible for providing to the designated election official the fiscal information which must be included in the ballot issue notice for a referred measure.

- (25) Section 1-7.5-104, C.R.S., is repealed and reenacted to read:

1-7.5-104. Mail Ballot Elections.

If the city council determines that an election shall be by mail ballot, the designated election official shall conduct the election by mail ballot in accordance with this article. The designated election official shall give appropriate weight to the comments of the secretary of state concerning the City's mail ballot plan, but may conduct the election despite disapproval of all or a part of such plan by the secretary of state.

- (26) Section 1-7.5-107, C.R.S., is amended by the addition of a sentence to read:

With respect to the election of a member or members of the city council, the city clerk shall also publish the notice required by and containing the information contained in charter section 31.

- (27) Sections 1-10-201, 202 and 203, C.R.S., are repealed and reenacted to read:

1-10-201. Canvassing.

The general canvassing and election board shall be appointed and conduct its business as provided in charter section 32. The city clerk shall forward all election returns to the city council for canvassing pursuant to charter section 32. This canvassing board shall also act as the canvassing board for the City portion of a coordinated election.

- (28) Repealed.

- (29) Section 1-11-103, C.R.S., is repealed and reenacted to read:

1-11-103. Certificates of Election.

Certificates of election shall be issued as provided by charter section 32.

- (30) Article 1-12, C.R.S., is repealed and reenacted to read:

1-12-101. Recalls and Vacancies.

Recalls shall be initiated and conducted as provided in Charter Sections 55 through 62. Vacancies shall be filled as provided in Charter Section 8.

- (31) Section 1-13-107, C.R.S., is amended to add a subsection (b) to read:

- (b) The secretary of state is not authorized by this section to take any action or enforce any regulation which is inconsistent with this election code as adopted by the home rule City of Boulder or with the charter.

- (32) The following sections, parts and articles of the Colorado Revised Statutes are not adopted by reference, and are not applicable to City elections: §§ 1-1-112, 201 and 203, 1-2-203, 209, 210, 218.5, 219, 222, 701, 702 and 703; Article 1-3; Article 1-4 except parts 9, 10, and 11; §§ 1-4-902 through 908, 910, and 912, 1-4-1002 and 1003, 1-4-1103; 1-5-101, 103, 207, 301, 402, 403, 404, 601.5, 605.7 and 608.2; 1-6-102, 103, 103.5, 103.7, 104, 109, 110, 111; 1-7-105 and 106; Part 2 of Article 1-7, §§ 1-7-407; § 1-8-114.5; Part 1 of Article 1-10; 1-10.5-102; 1-11-101 through 108, 1-11-203, 1-11-204 through 211, and Part 3 of Article 1-13.

Ordinance Nos. 5667 (1994); 5724 (1995); 5903 (1997); 5936 (1997); 6018 (1998); 7135 (2001); 7228 (2002); 7311 (2003); 7474 (2006); 7525 (2007); 7793 (2011)

### **13-1-3. Responsibility of the City Manager.**

The city manager shall administer the requirements of this chapter and comply with all laws regulating the conduct of elections.

### **13-1-4. Absentee Ballot Cards.**

Whenever an electronic voting system is used in a municipal election and official ballots are in the form of ballot cards to be read by electronic vote counting equipment, official absentee ballots may also be in the form of ballot cards.

### **13-1-5. Duplication of Absentee Ballots for Counting.**

(a) Whenever an electronic voting system is used in a municipal election and whenever an absentee ballot is not suitable for counting on the electronic vote counting equipment because such ballot was cast in pencil or ink or is in the form of a paper ballot, a true duplicate copy of the ballot may be made and counted in the manner provided in this section.

(b) By means of a vote recorder or punching device, the judges of election of the precinct selected by the city manager to receive the absentee ballots shall make such duplicate copy by punching an unused ballot card provided to the judges for that purpose. One such judge shall read aloud the vote on the original handwritten ballot and another judge shall punch the duplicate. A third judge shall watch the duplication process and shall check its accuracy.

(c) An election judge shall label any duplicate ballot so made as a duplicate ballot and shall record the serial number of the duplicate ballot on the original handwritten absentee ballot.

(d) If a judge makes an inaccurate duplicate ballot, the judge shall label such ballot "void" and place it in a separate envelope provided by the city manager for that purpose. The judges shall make a new duplicate ballot and label it in the same manner as provided in this section and shall record the serial number of any new duplicate ballot on the original handwritten absentee ballot.

(e) The election judges shall retain all original handwritten absentee ballots and place them in a separate envelope provided by the city manager for that purpose.

(f) The election judges shall substitute any duplicate ballot made under this section for the original ballot and shall present such duplicate for counting on the electronic vote counting equipment at the counting center after 7:00 p.m. on election day in the same manner as other ballots from city election precincts are counted.

(g) No election judge shall make any duplicate ballot under this section before the time otherwise allowed by law for the counting of absentee ballots.

(h) Whenever election judges of the absentee voter precinct use the duplicate ballot process authorized by this section, such judges shall make a written statement, in addition to any other statements or certificates otherwise required by law to be made, showing the number of duplicate ballots made and not marked "void" together with the serial numbers thereof and the number of duplicate ballots made and marked "void" together with the serial numbers thereof and shall return such statement to the city manager with other election papers and supplies.

(i) When absentee ballots are duplicated and counted as authorized by this section, the absentee precinct judges shall not be required to make or post an abstract of the count of votes.

(j) All provisions of the election laws of the City that are not inconsistent or in conflict with this section continue to apply to all elections where the duplicate ballot process authorized by this section is used. Any provisions of the election laws of the City that are inconsistent or in conflict with the provisions of this section do not apply to elections where the duplicate ballot process provided in this section is used. Nothing in this section shall be construed to prohibit the use of a manual system of counting absentee ballots.

(k) The city manager is authorized to institute other procedures not inconsistent with the provisions of this section that are designed to promote efficiency and accuracy in the duplication process authorized by this section.

### **13-1-6. Submission of Citizen Petitions for Comment Prior to Circulation.**

The proponents of an initiative, referendum or charter amendment petition may submit a draft thereof to the city manager before circulating the petition. No later than fifteen days after the date of receiving such petition draft and after consulting with the city attorney, the manager shall provide written comments to the proponents concerning any problems encountered in the format or contents of the draft. The proponents may either disregard the comments or alter the petition draft in response thereto.

### **13-1-7. Initiative and Referendum.**

All aspects of the exercise of the initiative and referendum power reserved to the people by the charter of the City of Boulder shall be governed exclusively by the provisions of the charter, this code and any other applicable ordinance of the City, and no statute of the state purporting to regulate in any way the exercise of the initiative or referendum shall govern the exercise of the initiative or referendum, except for those criminal provisions of state law not in conflict with any provision of the charter or this code which prohibit fraud or deception in the circulation or signing of initiative or referendum petitions, or respecting affidavits concerning said petitions. This section does not apply to initiatives concerning the amendment or abolition of the charter.<sup>1</sup>

Ordinance No. 7135 (2001)

### **13-1-8. Special Provisions Concerning Filling Council Vacancies by Special Election.**

The electors of the City approved an amendment to charter section 8 in November 1996. That amendment changed the method of filling vacancies on the city council from an appointment system to an election system. This section establishes the term of a person elected by special election to fill a council vacancy, and makes such adjustments to the provisions of the Uniform Election Code of 1992, as adopted with amendments by this title, as are useful in adapting that code to the exigencies of special elections to fill vacancies, which must be conducted on a compressed time frame.

(a) The term of a council member elected in a special election held pursuant to charter section 8 to fill a council vacancy shall expire at 10:00 a.m. on the third Tuesday in November following the next general municipal election.

(b) The city council may, in the resolution calling for a special election to fill a council vacancy, specify a number of days before the election that the early voters' polling place shall be open which is less than that specified in § 1-8-202, C.R.S., as adopted by reference, and may also specify additional hours during which such early voters' polling place shall be open. But such a provision is only effective for a special election which is not conducted as a coordinated election.

Ordinance Nos. 5856 (1996); 5903 (1997)

### **13-1-9. Fixing of Ballot Title for Purposes of § 1-45-117, C.R.S.**

For purposes of § 1-45-117, C.R.S., ballot titles for city ballot measures shall be considered fixed upon the final vote of council after final reading of a motion, resolution or ordinance which officially submits a specific ballot measure in the form it is to appear on the ballot for a vote of the electors at the next election. The date the election is called for consideration of city ballot measures shall not change the date upon which the ballot title is fixed as provided in this section.

Ordinance No. 7793 (2011)

---

<sup>1</sup> Article XX, section 9 of the Colorado Constitution gives the General Assembly authority over the home rule amendment process. See section 31-2-201 et seq., C.R.S.

## Chapter 2 Campaign Financing Disclosure<sup>1</sup>

### 13-2-1. Legislative Intent.

(a) The purposes of this chapter include assisting electors in the City in making informed election decisions by requiring financial disclosure information from candidates for city office and committees supporting or opposing such candidates and city ballot issues.

(b) The limitations on contributions are intended to assure the public that:

(1) Excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process; and

(2) Large campaign contributions will not be used to buy political access or to influence governmental actions.

(c) Public campaign financing is intended to assure the public that access to large amounts of money will not be a prime requirement for participation in the political process.

(d) The provisions of this chapter concerning financial disclosure are exclusive, and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S., unless the provisions of such statute are expressly made applicable by reference in this chapter.

(e) The reporting requirements are necessary to gather the data to detect violations.

(f) The provisions of this chapter have been modeled on the Federal Election Campaign Act and the Colorado Fair Campaign Practices Act, and in accordance with an initiative passed by the people of the City in 1999. Modifications have been made where necessary to meet specific needs of the City, to clarify and make more specific various requirements, and to comply with the evolving law in this area.

(g) The city council finds that at this time it is not necessary to require candidates and their candidate committees to report expenditures over \$200.00 as frequently as such reporting is necessary for unofficial candidate committees and independent expenditures in order to serve the purposes of this chapter. Candidates are necessarily subject to intense scrutiny throughout the campaign, and are required to file financial disclosures shortly after becoming candidates. They become candidates no later than seventy-one days before the election under the charter. Generally candidate committees file their statement of organization at the beginning of the campaign, and thus are a formed ongoing entity which is well known. Unofficial candidate committees can be formed at any time, and individuals can make independent expenditures at any time, so within twenty-one days of the election more frequent reporting of larger expenditures is required of them. Council, like the United States Congress, finds that a twenty-four hour reporting period is not unreasonable in that immediate pre-election time, especially where mail ballots are used. In addition, if unofficial candidate committees and individuals making independent expenditures use the alternative of reporting campaign advertising instead of placing language of attribution in the advertisement, more frequent reporting is essential if voters interested in knowing the source of the advertisement are to be able to discover this information in a timely manner.

(h) Making an endorsement supporting or opposing a candidate or ballot proposition, or solicitation of such an endorsement by a candidate, committee or other person, is not regulated by this title. However, the expenditures for publishing endorsements, and any contributions for support or opposition to a candidate or ballot proposition other than the endorsement itself, are regulated by this title in the same way as other contributions and expenditures.

Ordinance No. 7214 (2002)

### 13-2-2. Definitions.

The following terms used in this chapter and chapter 13-3, "Campaign Activities," B.R.C. 1981, have the following meanings unless the context clearly indicates otherwise:

---

<sup>1</sup> Adopted by Ordinance No. 4678. Amended by Ordinance Nos. 4934, 5186, 5218, 5271, 5639, 5800, 5903, 6018, 7035. Derived from Ordinance Nos. 4049, 4333. Repealed and reenacted by Ordinance No. 7136.

*Ballot proposition* means any amendment to the city charter, and any initiative, referendum or recall for which petitions have been properly certified by the city clerk for submission to the city council, or any ordinance or issue put to a vote of the electors of the City of Boulder under the provisions of the city charter. Such term does not include any ballot issue placed on the ballot by the United States, the State of Colorado or any political subdivision thereof other than the city.

*Candidate* means any person whose petition of nomination for city council, whether at a regular, special or recall election, has been certified as sufficient by the city clerk pursuant to charter section 26.

*Candidate committee* means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. The term "official candidate committee" is synonymous with "candidate committee."

*Committee* means a candidate committee, an unofficial candidate committee and an issue committee, unless the context indicates that it can mean only one or two of these types of committees.

*Contribution* means:

- (a) Any payment, loan, pledge or advance of money, including, without limitation, checks received but not deposited or payments made by credit card or guarantee of a loan, made to or for the benefit of any candidate or committee;
- (b) Any payment made to a third party for the benefit of any candidate or committee, including, without limitation, the use of a credit card to secure such benefit;
- (c) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's election, including, without limitation, commercial services such as banking, printing and mailing services; or
- (d) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, without limitation, 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.

*Contribution* does not include services provided without compensation by individuals volunteering their time on behalf of a candidate or committee.

*Contribution in kind* means the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate or committee for the purpose of influencing the passage or defeat of any issue or the 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 of fair market value shall be used by the candidate or committee. "Contribution in kind" does not include an endorsement of a candidate or an issue by any person, nor does it include the payment of compensation for legal or 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 this title.

*Expenditure* means the payment, distribution, loan or advance of any money by any candidate or committee, whether in cash, by check, as a credit card charge, or otherwise. "Expenditure" also includes the payment, distribution, loan or advance of any money by a person for the benefit of a candidate or committee that is made with the prior knowledge and consent of an agent of the candidate or committee. An expenditure occurs when the actual payment is made or when a contract is agreed upon, whichever comes first. Consent may be implied from collaboration and need not be express.

*Independent expenditure* means an expenditure by any person for the purpose of expressly advocating the election or defeat of a candidate or candidates, which expenditure is not controlled by, coordinated with or made upon consultation with any candidate or candidate committee or any agent of such candidate or committee. "Independent expenditure" does not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business, including political messages sent solely to members.

*Issue* is synonymous with ballot proposition.

*Issue committee* means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of opposing or supporting a ballot proposition at a city election, regardless of whether or not it has obtained the consent of the sponsors of the ballot proposition.

*Official candidate committee* - see definition of *candidate committee*.

*Political committee* means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of opposing or supporting a candidate for city council, or a city ballot proposition, and which, because of campaign activities concerning other candidates, other ballot measures or both, is required under the Fair Campaign Practices Act found in state law to file statements and reports with the secretary of state or the county clerk and recorder. It is the intention of this chapter to reduce the burden on such committees of following two separate sets of filing and reporting requirements, while still protecting the public purposes served by filing and reporting. However, no candidate committee or other committee, the expenditures of which are in any way, directly or indirectly, controlled by, coordinated with or made upon consultation with any candidate or candidate committee or agent thereof shall be deemed a political committee eligible for these different requirements.

*Unofficial candidate committee* means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of expressly advocating the election or defeat of a clearly identified candidate for city council. An unofficial candidate committee ceases to be independent if its expenditures are in any way, directly or indirectly, controlled by, coordinated with or made upon consultation with any candidate or candidate committee or agent thereof.

### **13-2-3. Candidate's Financial Disclosure Statement.**

No more than three days after a candidate's petition of nomination for city council has been certified as sufficient by the city clerk pursuant to charter section 26, the candidate shall file a statement of financial disclosure that contains:

(a) The candidate's employer and occupation and the nature and source of any other income in excess of \$1,000.00 per year, including, without limitation, capital gains, whether or not taxable, dividends, interest, wages, salaries, rents and profits;

(b) The name, location and nature of activity of any business entities or enterprises for profit, with holdings of real or personal property or with business dealings in the area encompassed by the Boulder Valley Comprehensive Plan, in which the candidate has any financial interest or is actively engaged as an officer, director or partner and the nature of the candidate's interest or activity;

(c) The location of any real property within Boulder County in which the candidate has an interest or, if the candidate has a controlling interest in an entity or enterprise disclosed pursuant to subsection (b) of this section, in which the controlled entity or enterprise has any interest and the nature of such interest;

(d) Any other information that the candidate feels would be helpful or should be disclosed; and

(e) Notwithstanding any other provision of this chapter, no candidate is required to disclose any confidential relationship protected by law.

### **13-2-4. Incumbent's Financial Disclosure Statement.**

On September 10 of each calendar year each incumbent council member shall file an amended statement concerning the financial disclosures in section 13-2-3, "Candidate's Financial Disclosure Statement," B.R.C. 1981, with the city manager or notify the manager in writing that the council member has no change of financial condition regarding the disclosed items since previously filing a disclosure statement.

### **13-2-5. Statement of Organization of Official Candidate Committee.**

(a) No more than three days after a candidate's petition of nomination for city council has been certified as sufficient by the city clerk pursuant to charter section 26, the candidate shall file a statement of organization of the committee formed to assist the candidate in being elected to city council. This statement shall be filed even if the candidate has not formed a committee, and shall be amended later if a committee is formed or the information required changes. The statement of organization shall include:

- (1) The name and address of the candidate;
- (2) The name and address of the committee;
- (3) The names and addresses of all persons acting as officers of the candidate's campaign or of the committee, including committee chairpersons; and
- (4) The name and address of the committee's campaign treasurer.

(b) A candidate may be the treasurer and hold any position in the candidate's own campaign committee. A candidate is deemed to have a committee even if there is none, but this does not increase the reporting requirements. No candidate shall be deemed to have more than one candidate committee, and if more than one committee acts under the authority of or in coordination with a candidate, all shall be deemed the candidate's committee and shall file combined reports as required by this title and all shall jointly be subject to the limitations of this title.

(c) The committee treasurer shall file a statement of any changes in the information required by subsection (a) of this section no more than three days after such change.

(d) Expenditures by any person on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with or made upon consultation with any candidate or the candidate's official committee or agent thereof shall be considered a contribution to the candidate and are subject to the contribution limitations contained in this chapter. If such an expenditure is made by an unofficial candidate committee, all contributions to that committee shall be deemed contributions to the candidate for purposes of contribution limitations. Such expenditures also count toward the expenditure limit of any candidate receiving public funding under this chapter.

### **13-2-6. Statement of Organization of Unofficial Candidate Committee.**

(a) No more than three days after an unofficial candidate committee accepts a contribution or makes or obligates itself to make an expenditure, the treasurer of the committee shall file a statement of organization that includes:

- (1) The name and address of the committee;
- (2) The candidate or candidates the committee is supporting or opposing, or both if that is the case;
- (3) The names and addresses of all persons acting as officers of the committee, including committee chairpersons; and
- (4) The name and address of the committee's campaign treasurer.

(b) The committee treasurer shall file a statement of any changes in the information required by this section no more than three days after such change.

(c) Expenditures by any unofficial candidate committee on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with or made upon consultation with any candidate or the candidate's committee or agent thereof shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable penalties contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

(d) Unofficial candidate committees which make expenditures on behalf of any candidate who has received public funding under this chapter shall keep records of the time, place and general subject matter of all consultation with any

person, other than a member of the committee who is not affiliated with any other candidate or official or unofficial candidate committee, concerning the substance, venue and timing of the expenditure, which records shall be given to the city manager by the committee treasurer if the manager makes a demand for same. The manager is authorized to make such a demand any time the manager has a reasonable suspicion that the expenditures were controlled by, coordinated with or made upon consultation with any candidate or candidate's committee or other unofficial candidate committee or agent thereof.

### **13-2-7. Statement of Organization of Issue Committee.**

(a) No more than three days after an issue committee accepts a contribution or makes an expenditure, or three days after ballot certification if the committee has accepted contributions or made expenditures in anticipation of ballot proposition certification, the treasurer of the committee shall file a statement of organization that includes:

- (1) The name and address of the committee;
- (2) The ballot proposition or propositions being supported or opposed by the committee;
- (3) The names and addresses of all persons acting as officers of the committee, including committee chairpersons; and
- (4) The name and address of the committee's treasurer.

(b) The committee treasurer shall file a statement of any changes in the information required by this section no more than three days after such change.

### **13-2-8. Statement of Contributions and Expenditures of Official Candidate Committee.**

(a) The candidate, or the treasurer of each official candidate committee, shall file statements of contributions and expenditures according to the following schedule:

- (1) Three days after the candidate's petition of nomination for city council has been certified as sufficient by the city clerk pursuant to charter section 26, which statement shall cover all contributions and expenditures made in anticipation of candidacy;
- (2) On the twenty-eighth day prior to the election; and
- (3) On the fourteenth day prior to the election.

(b) The statement shall contain:

- (1) The names and addresses of each person making contributions to the filer's knowledge, and the amount, dates and nature of such contributions since the last report required to be filed by this chapter, unless the statement is the first one required;
- (2) The cumulative total value of the contributions received;
- (3) The names and addresses of each person to whom an expenditure has been made and the amount, date and purpose of such expenditure since the last statement required by this chapter, unless the statement is the first one required;
- (4) The cumulative total value of all expenditures made; and
- (5) A statement of all anonymous contributions received, together with their disposition, from the last statement required by this chapter, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the candidate or the treasurer of each official candidate committee shall file a statement of contributions and expenditures, providing the information required by subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) On the thirtieth day after the election, the candidate or the treasurer of each official candidate committee shall file a final statement of contributions and expenditures, stating the information required by subsection (b) of this section and, if a balance remains on the candidate's or committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(e) The candidate and the candidate's committee shall comply with the disclosure requirements of section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

Ordinance Nos. 7289 (2003); 7390 (2004)

### **13-2-9. Statement of Contributions and Expenditures of Unofficial Candidate Committee.**

(a) The treasurer of each unofficial candidate committee shall file statements of contributions and expenditures according to the following schedule:

- (1) Three days after the committee accepts a contribution or makes or obligates itself to make an expenditure, which statement shall cover all contributions and expenditures made in anticipation of candidacy;
- (2) On the twenty-eighth day prior to the election; and
- (3) On the fourteenth day prior to the election.

(b) The statement shall contain:

- (1) The names and addresses of each person making contributions to the treasurer's knowledge, and the amount, dates and nature of such contributions since the last report required to be filed by this section, unless the statement is the first one required;
- (2) The cumulative total value of the contributions received;
- (3) The names and addresses of each person to whom an expenditure has been made and the amount, date and purpose of such expenditure since the last statement required by this section, unless the statement is the first one required;
- (4) The cumulative total value of all expenditures made; and
- (5) A statement of all anonymous contributions received, together with their disposition, from the last statement required by this section, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the treasurer of each unofficial candidate committee shall file a statement of contributions and expenditures, providing the information required by subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) In addition, if an unofficial candidate committee makes an expenditure in excess of \$200.00, the treasurer of the committee shall file a statement of independent expenditure giving the names and addresses of each person to whom such an expenditure has been made, and the amount, date and purpose of such expenditure, on the following schedule:

- (1) On or before the twenty-first day before the election: Within three business days after obligating funds for the first such expenditure.<sup>1</sup>
- (2) On or after the twenty-first day but more than twenty-four hours before the election, and including any reportable expenditure not previously reported: Within twenty-four hours after obligating funds for such expenditure.

---

<sup>1</sup> These requirements are in addition to the first and subsequent periodic filings required above. If more than one such expenditure is made before the twenty-first day before the election, the expenditures after the first need not be filed until made part of the twenty-first day filing. It is intended that all such expenditures be reported, but that no expenditure be reported twice.

(3) On or before the thirtieth day after the election: Notice of any independent expenditure in excess of \$200.00 made on the day before or the day of the election.

(4) A statement due on a weekend or holiday shall be filed on the next business day.

(e) On the thirtieth day after the election, the treasurer of each unofficial candidate committee shall file a final statement of contributions and expenditures, stating the information required by subsection (b) of this section and, if a balance remains on the committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(f) Unofficial candidate committees shall comply with the disclosure requirements of section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

Ordinance Nos. 7289 (2003); 7390 (2004)

### **13-2-10. Independent Expenditures.**

(a) Any natural person making an independent candidate expenditure in excess of \$200.00 shall deliver notice in writing to the city clerk of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure, within three business days after obligating funds for such expenditure. Thereafter, notice of additional expenditure obligations in excess of \$200.00 shall be delivered to the clerk on the twenty-first day before the election. Notice of each subsequent independent expenditures in excess of \$200.00 up to twenty-four hours before the election but not previously reported shall be delivered to the clerk within twenty-four hours after obligating funds for the independent expenditure. On or before the thirtieth day after the election, notice of any independent expenditure in excess of \$200.00 made on the day before or the day of the election shall be delivered to the clerk. The notice shall specifically state the name of the candidate or candidates whom the independent expenditure is intended to support or oppose. Each independent expenditure shall be reported as a separate item in each notice.

(b) Any natural person making an independent expenditure in excess of \$200.00 shall comply with the disclosure requirements of section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

(c) Expenditures by any natural person on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with or made upon consultation with any candidate or the candidate's committee or agent thereof shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable penalties contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

(d) Individuals who make an independent expenditure on behalf of any candidate who has received public funding under this chapter shall keep records of the time, place and general subject matter of all consultation with any person about the substance, venue and timing of the expenditure, which records shall be given to the city manager if the manager makes a demand for same. The manager is authorized to make such a demand any time the manager has a reasonable suspicion that the expenditures were controlled by or coordinated with or made upon consultation with, any candidate or candidate's committee or agent thereof.

### **13-2-11. Statement of Contributions and Expenditures of Issue Committee.**

(a) The treasurer of each issue committee shall file a statement of contributions and expenditures according to the following schedule:

- (1) Three days after the committee accepts a contribution or makes or obligates itself to make an expenditure, or three days after ballot certification if the committee has accepted contributions or made expenditures in anticipation of ballot proposition certification;
- (2) On the twenty-eighth day prior to the election; and
- (3) On the fourteenth day prior to the election.

(b) The statement shall contain:

- (1) The names and addresses of each person making contributions to the treasurer's knowledge, and the amount, dates and nature of such contributions since the last report required to be filed by this section, unless the statement is the first one required;
- (2) The cumulative total value of the contributions received;
- (3) The names and addresses of each person to whom an expenditure has been made and the amount, date and purpose of such expenditure since the last statement required by this section, unless the statement is the first one required;
- (4) The cumulative total value of all expenditures made; and
- (5) A listing of the amount of each individual anonymous contribution, together with the total of all anonymous contributions received from the last statement required by this section, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the treasurer of each issue committee shall file a statement of contributions and expenditures, providing the information required by subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) On the thirtieth day after the election, the treasurer of each issue committee shall file with the city manager a final statement of contributions and expenditures, stating the information required by subsection (b) of this section and, if a balance remains on the committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

Ordinance Nos. 7289 (2003); 7390 (2004)

### **13-2-12. Political Committee Filing and Reporting Requirements.**

A political committee which is, by virtue of its support for or opposition to a candidate for a political office other than that of city council of the city, or for a ballot proposition appearing on the ballot of an entity other than the city, required to file, and does file with the secretary of state or the county clerk and recorder or both, the disclosures required by § 1-45-108, C.R.S., and complies with the reporting and filing requirements of § 1-45-109, C.R.S., and disposes of unexpended campaign contributions pursuant to § 1-45-106, C.R.S., is exempt from the separate filing and reporting and unexpended campaign contribution requirements of this chapter. But such a committee shall file with the city manager, within three days of its first acceptance of a contribution or expenditure in support of or opposition to a candidate for city council or a city ballot proposition, a full and correct copy of its registration statement as filed with the secretary of state pursuant to § 1-45-108(3), C.R.S., and the most recent other report or disclosure which it has filed with the secretary of state or any county clerk and recorder, and shall thereafter file with the city manager full and correct copies of every disclosure or report on the same day it files such a document with either state official, plus an expenditure report conforming with section 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," or 13-2-11, "Statement of Contributions and Expenditures of Issue Committee," B.R.C. 1981, as applicable, segregating, insofar as possible, expenditures made on the city election.

### **13-2-13. Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name.**

All persons composing, presenting or distributing information in any of the following forms, which expressly opposes or supports any candidate or candidates, shall include therein the name of the person who financed the composition, presentation or distribution of such information: posters, advertisements, leaflets, flyers, brochures, letters, postcards, records or tapes.

### **13-2-14. Solicitation for Candidate Campaign Funds.**

Whenever any person makes an expenditure for the purpose of soliciting any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political

advertising for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such communication:

(a) If authorized by a candidate or committee or any agent thereof, shall clearly state that the communication has been so authorized;

(b) If paid for by other persons but authorized by a candidate or committee, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such candidate or committee, or its agents; or

(c) If not authorized by a candidate or committee, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or committee.

(d) Each candidate and committee shall include on the face or front page of all literature and advertisements soliciting contributions the following notice:

"A copy of our report is filed with the City Clerk of the City of Boulder, Colorado."<sup>1</sup>

### **13-2-15. Filing, Preservation and Public Inspection of Statements.**

(a) Persons required by this chapter to prepare and file statements shall do so on the basis of information that is complete and current at least as of 5:00 p.m. on the second calendar day before the filing date.

(b) Persons required by this chapter to file statements or deliver notices shall file such statements or notices with the city manager on forms that the manager provides.

(c) The city manager shall preserve all statements filed under this chapter for a period of six months from the date of the election or, in the case of a successful candidate, until six months after the person finally leaves office. Such statements constitute a part of the public records of the city and shall be available for public inspection during normal business hours.

### **13-2-16. Notice of Disclosure Requirements and Enforcement.**

The city manager shall administer the provisions of this article and shall:

(a) Publish a summary of the filing and reporting required of candidates and committees and independent expenditures in a newspaper of general circulation in the city on the forty-fifth day before each regular municipal election, or as soon thereafter as practicable after the calling of a special election, and again two weeks after each municipal election;

(b) Prepare and make available the forms to be used in filing the statements required by this chapter;

(c) Prepare and provide to each candidate or organization upon its first filing with the manager a checklist of the statements required and the specific calendar date each is due;

(d) Keep a record of persons or organizations to whom the forms and checklists were given and a record of the date such filings were received;

(e) Upon concluding on the basis of such records, complaints or other information that a candidate or organization has not filed the required statements or has filed incomplete or incorrect statements, immediately notify, either verbally or in writing, the person required to file that such person must file the missing statement or provide the information within seventy-two hours of the manager's notice; and

(f) As soon as practical after any candidate signs a contract with the city for matching funds, the manager shall publish notice of that fact electronically on the city's website, in the city's regular news release, and as part of the next available weekend newspaper listing of upcoming city government activities.

---

<sup>1</sup> Derived from 2 U.S.C. § 435.

### **13-2-17. Contribution Limitation.**

No candidate for city council or candidate committee, or unofficial candidate committee, shall solicit or accept any contribution, including any "in-kind" contribution, that will cause the total contributions from any person to exceed \$100.00 to that candidate with respect to any single election. The recipient of any contribution which would cause the total amount of contributions to a candidate from a single person to exceed \$100.00 shall promptly return any such excess to the donor. The candidate and the candidate's committee shall be treated as one, and a contribution to one is counted as a contribution to the other. Contributions to unofficial candidate committees are separately subject to the \$100.00 limitation.

### **13-2-18. Anonymous Contributions.**

(a) Anonymous contributions to any candidate or candidate committee or unofficial candidate committee may not be retained or expended by the candidate or committee. Anonymous contributions also may not be retained or expended by a political committee insofar as it is reasonably possible to discern from the contribution that it was intended to support that committee's efforts to elect or defeat a candidate. If anonymous contributions are received by a candidate or committee, they shall be disposed of as follows:

- (1) If the candidate has accepted public financing under this chapter, all anonymous contributions to the candidate or the candidate's committee shall be forwarded to the city clerk with the next required report, noted in the report, and deposited in the general fund of the city.
- (2) Unofficial candidate committees, political committees and candidates and candidate committees of candidates who have not accepted public financing under this chapter shall donate anonymous contributions to any charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or to the city, and the distribution of such funds shall be indicated on the next report required to be filed pursuant to section 13-2-8, "Statement of Contributions and Expenditures of Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," B.R.C. 1981.
- (3) If an anonymous contribution is donated to a charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code, the candidate or committee shall retain the envelope or other container in which it arrived, together with any other material which arrived with it, and a photocopy of the contribution itself (showing only the amount and serial number of any bills), and shall retain such information as candidate or committee records for at least six months after the election, and shall make such records available to the city manager upon request.

(b) If an anonymous contribution is received by an issue committee, the treasurer shall retain the envelope or other container in which it arrived, together with any other material which arrived with it, and a photocopy of the contribution itself (showing only the amount and serial number of any bills), and shall retain such information as committee records for at least six months after the election, and shall make such records available to the city manager upon request.

### **13-2-19. Unexpended Campaign Contributions.**

Unexpended contributions to candidates or committees may be donated to any charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or returned to the contributor, and the distribution of such funds shall be indicated on the final report of the committee required to be filed pursuant to section 13-2-8, "Statement of Contributions and Expenditures of Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," B.R.C. 1981.<sup>1</sup>

### **13-2-20. Public Matching Funds.**

(a) The city will allocate and provide matching funds, up to fifty percent of the expenditure limit as herein defined, to any city council candidate who meets the eligibility requirements set out in section 13-2-21, "Eligibility for Matching Funds," B.R.C. 1981. The expenditure limit shall be set at \$0.15 per registered city voter as of the day after the date set by

---

<sup>1</sup> Compare 1-45-106, C.R.S.

state law for the purging of registration records of the election year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal to the percentage change for the preceding two years. Only actual currency or its equivalent shall be matched with public funds. Neither loans nor in-kind contributions nor amounts exceeding \$100.00 from the candidate's personal wealth shall be eligible for matching funds.

(b) After meeting the eligibility requirements, any candidate may request matching funds from the city no more frequently than once per week in amounts no less than \$500.00. The final request for matching funds must be submitted to the city no later than fourteen days before the election, but may be for less than \$500.00.

### **13-2-21. Eligibility for Matching Funds.**

A candidate who meets the following requirements shall be eligible to receive matching funds:

(a) The candidate raises at least ten percent of the expenditure limit from individual contributors. No more than \$25.00 of each contribution may be counted toward the ten percent; and

(b) The candidate signs a contract with the city committing to the following:

- (1) Agrees to limit his or her expenditures to \$0.15 per registered voter of the city as of the day after the date set by state law for the purging of registration records of the election year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal to the percentage change for the preceding two years;
- (2) Agrees to contribute to his or her campaign no more than twenty percent of the expenditure limit from his or her own personal wealth;
- (3) Agrees to return at least fifty percent of any unexpended funds to the city, but not more than the matching funds received; and
- (4) Agrees to treat any carryover funds from a previous campaign as funds from the candidate's personal wealth, subject to the limits of such funds.

### **13-2-22. Violations and Penalty.**

(a) Criminal Acts and Penalties: No person shall:

- (1) File any statement required by this chapter that the person knows contains false information;
- (2) Fail to file a required statement within seventy-two hours of having been notified by the city manager pursuant to subsection 13-2-16(e), B.R.C. 1981;
- (3) Fail to provide required information necessary to complete a required statement within seventy-two hours of having been notified by the city manager pursuant to subsection 13-2-16(e), B.R.C. 1981;
- (4) Knowingly misstate or misrepresent the name of the person who financed the composition, presentation or distribution of information as required by section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981; or
- (5) Fail to comply with any of the other requirements of this chapter;
- (6) Any person convicted of a violation of this subsection is subject to a fine not to exceed \$1,000.00.<sup>1</sup>

(b) Civil Remedies:

---

<sup>1</sup> Ordinance No. 5639, effective July 15, 1994.

- (1) For the purposes of this subsection, *this ordinance* means those provisions adopted by the people in the 1999 regular municipal election as placed on the ballot in Ordinance No. 6097, including, without limitation, any contract entered into pursuant to subsection 13-2-21(b), B.R.C. 1981.<sup>1</sup>
- (2) Any registered elector of the city may bring a civil action including, without limitation, an action for injury, and may sue for injunctive relief to enjoin violations or to compel compliance with this ordinance consistent with paragraph (b)(3) of this section, provided such person first files with the city attorney a written request for the city attorney to commence action. The request shall include a statement of grounds for believing a cause of action exists. The city attorney shall respond within ten days after receipt of the request indicating whether the city attorney intends to file a civil action. If the city attorney indicates in the affirmative and files suit within thirty days thereafter, no other civil action for the same violation may be brought unless the action brought by the city attorney is dismissed without prejudice.
- (3) Any candidate or candidate committee who knowingly accepts a contribution in excess of \$100.00 or exceeds the expenditure limit in violation of the contract with the city and this ordinance is liable in a civil action initiated by the city attorney or by a registered elector of the city for an amount up to \$500.00 or three times the amount by which the contribution or expenditure limit is exceeded, whichever is greater.
- (4) In determining the amount of civil liability, the court may take into account the seriousness of the violation and culpability of the defendant.
- (5) The city attorney shall enforce all provisions of this ordinance.
- (6) The city council is empowered to create an advisory committee and other enforcement procedures as it deems appropriate to implement this ordinance.

### **Chapter 3 Campaign Activities<sup>2</sup>**

#### **13-3-1. Legislative Intent.**

The purpose of this chapter is to regulate election campaign activities in municipal elections. The provisions of this chapter have been modeled on portions of the Federal Election Campaign Act, 2 U.S.C. §§ 435 and 441. Modifications have been made where necessary to meet specific needs of the city.<sup>3</sup> The provisions of this chapter concerning municipal election campaign activities are exclusive, and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S.

#### **13-3-2. Campaign Advertising Requirements.**

No person who sells space in a newspaper or magazine to a candidate or committee to use in connection with a municipal election may charge an amount for such space which exceeds the amount charged for comparable use of such space for other purposes.<sup>4</sup>

#### **13-3-3. Contributions by City Contractors.**

It shall be unlawful for any person who enters into any contract with the city or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies or equipment to the city or any department or agency thereof, or for selling any land or building to the city or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land or building is to be made in whole or in part from funds appropriated by the city council, at any time between the commencement of negotiations for and the later of completion of performance under or the termination of negotiations for such contract or furnishing of

<sup>1</sup> These are found in this chapter as the definition of "independent expenditure" in section 13-2-2, "Definitions," B.R.C. 1981, subsection 13-2-9(d), B.R.C. 1981, concerning independent expenditures by unofficial candidate committees, these civil enforcement provisions, and sections 13-2-10, "Independent Expenditures," 13-2-17, "Contribution Limitation," 13-2-20, "Public Matching Funds," and 13-2-21, "Eligibility for Matching Funds," B.R.C. 1981.

<sup>2</sup> Adopted by Ordinance No. 4934. Amended by Ordinance Nos. 5218, 5800, 6018. Repealed and reenacted by Ordinance No. 7136.

<sup>3</sup> See *Buckley v. Valeo*, 424 U. S. 1(1976).

<sup>4</sup> Derived from 2 U.S.C. § 435.

material, supplies, equipment, land or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any candidate or committee or to any person for any political purpose or use in any city election; or knowingly to solicit any such contribution from any such person for any such purpose during any such period.<sup>1</sup>

#### **13-3-4. Contributions in Name of Another Prohibited.**

No person shall make a contribution in the name of another person or knowingly permit such person's name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.<sup>2</sup>

#### **13-3-5. Limitation on Contribution of Currency.**

No person shall make contributions of coin or paper currency of the United States or of any foreign country to or for the benefit of any candidate or committee, which, in the aggregate, exceed \$100.00 with respect to any campaign in which such candidate or committee is participating for a municipal election.<sup>3</sup>

#### **13-3-6. Misrepresentation of Campaign Authority.**

No candidate or political committee or any agent thereof shall make any fraudulent misrepresentation as speaking or writing or otherwise acting for or on behalf of any other candidate or committee on a matter which is damaging to such other candidate or committee; or willfully and knowingly participate in or conspire to participate in any plan, scheme or design to do so.<sup>4</sup>

### **Chapter 4 Complaints Related to Election Procedures and Regulations<sup>5</sup>**

#### **13-4-1. Legislative Intent.**

The provisions of this chapter are intended to assist with the enforcement of the regulatory provisions of chapters 13-2, "Campaign Financing Disclosure," and 13-3, "Campaign Activities," B.R.C. 1981. The procedures set forth in this chapter are not exclusive and shall supplement other applicable enforcement provisions.

#### **13-4-2. Allegation of Election Code Violation.**

(a) A request for action stating that any provision of chapter 13-2, "Campaign Financing Disclosure" or chapter 13-3, "Campaign Activities," B.R.C. 1981, of this title has been violated may be submitted to the city clerk. The request for action shall be in writing and must be submitted no later than forty-five days following any election in which it is alleged that the misconduct occurred. The request for action shall:

- (1) Request that the city attorney file a civil action;
- (2) Identify the particular provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign Activities," B.R.C. 1981, that allegedly were violated;
- (3) State the factual basis for that allegation;
- (4) Identify any relevant documents or other evidence; and
- (5) Identify any witnesses or persons with relevant knowledge.

(b) The city clerk will notify the party named in the request for action (the "respondent") and may provide the respondent an opportunity to provide information or otherwise respond to the allegations of the request for action.

---

<sup>1</sup> Derived from 2 U.S.C. § 441(c).

<sup>2</sup> Derived from 2 U.S.C. § 441(f).

<sup>3</sup> Derived from 2 U.S.C. § 441(g).

<sup>4</sup> Derived from 2 U.S.C. § 441(h).

<sup>5</sup> Adopted by Ordinance No. 7214.

### **13-4-3. Initial Review of Request for Action.**

The city clerk will evaluate the request for action and all information in the clerk's possession related to the request for action to determine whether there is probable cause to believe that further investigation would disclose a violation by the respondent. The city clerk may, at the clerk's discretion, consult with the city attorney or delegated legal counsel regarding this review. Such determination shall be made based upon the request for action, any information provided by the person who filed the request for action or the party named in the request for action, and upon such additional information as the clerk may determine to be pertinent.

### **13-4-4. Denial of Request for Action by City Clerk.**

If the city clerk determines that no probable cause exists that further investigation would disclose a violation by the respondent, the city clerk shall close the file with regard to the matter. In that event, the city clerk shall so notify both the complainant and the respondent. Such notice shall be sufficient if it is accomplished by depositing it with the United States Postal Service addressed to the last known address of the complainant and the respondent. The city clerk may also determine that the violation, if any, can be cured after exercise of the city manager's powers under chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, and, if the violation is cured, may deny the request for action on that basis without further review.

### **13-4-5. Determination by City Clerk Final.**

(a) A determination by the city clerk that there is no probable cause that further investigation would disclose a violation by the respondent shall be final. Cure of a violation through exercise of the city manager's powers under chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, also shall be final. No appeal or review from such determinations shall be permitted, and the city attorney will not bring any civil or criminal enforcement action against a party in either circumstance.

(b) A determination by the city clerk that there is probable cause that investigation will disclose a violation by the respondent shall also be final. No defect in the city clerk's determination shall constitute a defense at any hearing held by a city clerk or at any judicial enforcement proceeding.

### **13-4-6. Power of City Clerk to Hold Hearings.**

The city clerk is empowered to receive evidence and make recommendations with regard to any request for action. The purpose of such hearings will be to determine whether sufficient evidence of a violation by the respondent exists to warrant bringing a civil or criminal action. The city clerk may schedule hearings, mandate the appearance of witnesses through the issuance of subpoenas and mandate the provision of documents through the issuance of subpoenas for documents. Subpoenas for documents may be directed to any custodian of records or to any other person possessing or controlling such records.

### **13-4-7. Hearing Procedures.**

The following procedures shall be used by the city clerk in any hearing:

(a) The city clerk shall fix the date, time, duration and place of each hearing;

(b) The complainant and the respondent may each be represented by counsel or other authorized representative;

(c) The city clerk may receive and consider testimony under oath, as well as evidence of witnesses by affidavit, giving such evidence only such weight as seems proper after consideration of any objection made to its admission;

(d) The legal rules of evidence need not be strictly applied by the city clerk. The city clerk shall accept or reject evidence based upon the city clerk's evaluation of the reliability of that evidence; and

(e) The city clerk may refer to the provisions in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, relating to quasi-judicial hearings, for guidance with respect to procedures that may be utilized at any hearing held pursuant to this section. However, final decisions regarding such procedures shall be determined by the city clerk in conformity with the intent of these provisions and in a manner consistent with general principles of due process.

#### **13-4-8. Negative Determination by City Clerk.**

If, upon completion of the city clerk's evaluation of evidence, the city clerk determines that there is insufficient evidence of a violation by the respondent to warrant bringing a civil or criminal action, the investigation shall be terminated concerning that respondent. In that event, the city clerk shall notify both the complainant and the respondent of this determination. Such notice shall be sufficient if it is deposited with the United States Postal Service addressed to the last known address of the complainant and the respondent.

#### **13-4-9. Power of City Clerk to Issue Remedial Order or Warning Letter.**

If, upon completion of the hearing process, the city clerk determines that sufficient evidence exists to bring a civil or criminal action, the city clerk may direct the respondent to take remedial actions including, without limitation, the following:

- (a) Filing a corrected disclosure form;
- (b) Publishing corrective advertising;
- (c) Refunding any private contributions obtained under false pretenses; and
- (d) Refunding to the city any public monies inappropriately obtained for the financing of election activities.

The city clerk may also issue the respondent a warning letter. The city attorney may bring a civil action following compliance with a remedial order as described in subsections (a) through (d) of this section for the purpose of incorporating the terms of the order into a consent decree. Otherwise, a warning letter or compliance by the respondent with a remedial order will end the process, and no civil or criminal action will be filed.

#### **13-4-10. Referral to City Attorney for Criminal or Civil Prosecution.**

If upon completion of the formal hearing process, the city clerk determines that sufficient evidence exists to bring a civil or criminal action and if the matter is not resolved through a warning letter or compliance with a remedial order issued by the city clerk, the matter shall be referred to the city attorney and delegated legal counsel. In such an instance, the city attorney or delegated legal counsel will evaluate the case to determine whether or not criminal prosecution or the bringing of a civil enforcement action is in the public interest.

#### **13-4-11. Remedies Not Exclusive.**

The procedures set forth by these provisions shall not impair the right of any interested party, including the city clerk, the city attorney or a complainant, to notify the district attorney or the police of crimes that might be investigated or potentially prosecuted by those agencies. Nor shall these provisions preclude the city attorney from bringing criminal charges without first exhausting the administrative hearing process set forth in these provisions if the city attorney feels that there is sufficient basis for a criminal prosecution and that the interests of justice require prosecution prior to exhaustion of the administrative process described in these provisions.

#### **13-4-12. No Appeal to City Council.**

No decision by the city clerk made pursuant to this chapter shall be reviewed or reversed by the city council. The city council shall not become involved in the handling of any matter brought or investigated pursuant to these provisions. Nothing in this chapter shall be deemed to create a right of appeal to the city council by a person named in a request for action.

#### **13-4-13. Confidentiality of Investigation.**

The contents of files relating to pending inquiries or investigations into possible violations of the provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign Activities," B.R.C. 1981, shall not be made public by the city clerk, the city attorney or by any other person or agency that is conducting an official investigation on the part of the city into alleged or possible violations of this type. Nor will any preliminary reports or drafts relating to the results of such investigations be made public. The city council finds that such disclosures could compromise criminal justice

investigations. Further, the city council finds that such disclosures would be contrary to the public interest because such disclosures might have the effect of politically damaging a person or interest in a case in which the final disposition of an investigation would not sustain a finding of misconduct. The release of interim findings or draft reports might in that manner interfere with the appropriate workings of the democratic process.