

ARTICLE 17 CAMPAIGNS

SECTION 17-1 -- LEGISLATIVE DECLARATION

The citizens of the City of Loveland hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by full and timely disclosure of campaign contributions, strong enforcement of campaign laws, and limiting campaign contributions

SECTION 17-2 -- DEFINITIONS

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

(a) *Ballot issue, ballot question or issue* shall mean any measure put to a vote of the registered electors of the City by the City Council at any election held under the provisions of this Charter. For purposes of this Article 17, *ballot issue, ballot question or issue* shall also mean any measure for which recall, initiative or referendum proceedings have been commenced pursuant to Article 7 of this Charter.

(b) *Candidate* shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any City election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember. *Candidate* shall also mean any elected official who is the subject of recall proceedings pursuant to Section 7-3 of this Charter.

(c) *Candidate committee* shall mean 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 (1) candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the City Clerk.

(d) *Contribution* shall mean:

(1) The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate committee, issue committee or political committee;

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

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

(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 or political committee.

Contribution shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee or issue committee.

(e) *Contribution in kind* shall mean 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 committee, issue 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 shall be considered a contribution in kind by the person paying compensation therefore. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used. *Contribution in kind* shall not include an endorsement of a candidate or an issue by any person and shall not include the payment of compensation for legal and accounting services rendered to a candidate, candidate committee, political committee or issue committee 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 Article or other county state of federal requirements.

(f) *Expenditure* shall mean the payment, distribution, loan or advance of any money by any candidate committee, political committee or issue committee. *Expenditure* shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a candidate committee, political committee or issue 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.

(g) *Independent expenditure* shall mean the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. *Independent expenditure* shall include expenditures for political messages which unambiguously refer to any specific public office or candidate for such office, but shall not include expenditures made by persons, other than political committees, in the regular course and scope of their business and political messages sent solely to their members.

(h) *Issue committee* shall mean:

(1) Two (2) 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; or

(2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons that has accepted contributions or made expenditures to support or oppose any ballot issue or ballot question. For purposes of this Paragraph (2), the term *expenditure* shall 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 this Section.

Issue committee shall not include political committees or candidate committees as otherwise defined in this Section.

(i) *Person* shall mean any individual, partnership, committee, association, or other organization or group of persons. *Person* shall not include corporations, labor unions or political parties.

(j) *Political committee* shall mean two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of making contributions to candidate committees, issue committees or other political committees, or for the purpose of making independent expenditures. *Political committee* shall not include:

(1) Issue committees or candidate committees as otherwise defined in this Section; or

(2) Any partnership, committee, association, corporation, labor organization or other organization or group of persons previously established for a primary purpose outside of the scope of this Article.

(k) *Political message* shall mean a message delivered by telephone, any print or electronic media or other written material which advocates the election or defeat of any candidate or which unambiguously refers to such candidate.

(l) *Termination report* shall mean a final report prepared by a candidate committee, issue committee or political committee and filed with the City Clerk which discloses the committee's contributions received, expenditures made and obligations entered into, when the following conditions have been met:

(1) The committee no longer intends to receive contributions or make expenditures; and

(2) A zero (0) balance exists in the account established and maintained under Subsection 17-5(g) and the committee has no outstanding debts or obligations.

(m) *Unexpended campaign contributions* shall mean the balance of funds on hand in any candidate committee, issue committee or political committee following an election, less the amount of all unpaid monetary obligations incurred prior to the election.

SECTION 17-3 -- CANDIDATE AFFIDAVIT; DISCLOSURE STATEMENT; FAILURE TO FILE

(a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.

(b) Each candidate shall file a financial disclosure statement pursuant to Municipal Code Section 2.14.010.I with the City Clerk within ten (10) days after filing acceptance of nomination.

(c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the City Clerk has sent a notice to the person by certified mail, return receipt requested, addressed to the person's last known residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five (5) business days of receipt of the notice.

(d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

SECTION 17-4 -- REGISTRATION OF COMMITTEES

All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Such registrations may be amended as necessary. Registration shall include a statement listing:

(1) The committee's full name, spelling out any acronyms used therein;

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

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

(4) All affiliated candidates and committees;

(5) The purpose or nature of interest of the committee.

SECTION 17-5 -- CAMPAIGN CONTRIBUTIONS

(a) *Limits.* No person may make contributions and/or contributions in kind totaling more than one hundred dollars (\$100.00) to the candidate committee of any candidate for the office of Mayor or for any position on the City Council. No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind. These limitations shall apply to all contributions or contributions in

kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:

(1) Contributions or contributions in kind made by a candidate to his or her own candidate committee;

(2) Independent expenditures; or

(3) Monetary loans that are: (a) personally guaranteed in writing by the candidate or the candidate's immediate family, or (b) secured by real or personal property owned by the candidate or the candidate's immediate family.

(b) *Adjustment of limits.* At the beginning of each calendar year in those years ending in the numeral five (5) or the numeral zero (0), as there becomes available from the Bureau of Labor Statistics of The United States Department of Labor the necessary Consumer Price Index data, the City Clerk shall determine and the City Council approve, unless the City Clerk is determined by the City Council to have acted arbitrarily or capriciously, an adjustment to the limits set forth in Subsection (a) of this Section in proportion to the rise or fall of the Consumer Price Index since the last such adjustment or, in the case of 2010, since enactment of this Article.

If any such adjustment amount is not a multiple of five dollars (\$5.00) such amount shall be adjusted to the nearest multiple of five dollars (\$5.00).

Each amount so adjusted shall be in effect until the next adjustment.

(c) *Joint contributions.* No person shall make a contribution jointly with another person through the issuance of a check drawn on a jointly owned account unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No candidate committee, issue committee or political committee shall knowingly accept a contribution made in violation of this Subsection (b).

(d) *Contributions in excess of limits.* No later than ten (10) business days after receiving a contribution in excess of the limits set forth in this Section, the candidate committee that received the contribution shall remit the excess to the contributor.

(e) *Prohibited contributors.* No candidate committee or political committee shall knowingly accept contributions from any person who is not a citizen of the United States, or from a foreign government, corporation, labor union, or political party.

(f) *Contributions from one (1) candidate committee to another.*

(1) 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.

(2) No candidate committee shall accept a contribution or contribution in kind from a candidate committee of the same candidate that was established or maintained for a federal, state or county election campaign or office.

(g) *Recordkeeping.* All contributions received by a candidate committee, issue committee or political committee shall be deposited and maintained in a financial institution in a separate account whose title shall include the name of the committee. All records pertaining to such accounts shall be maintained by the committee for ninety (90) days following any election in which the committee received contributions unless a complaint has been filed under Section 17-11 alleging a violation of the provisions of this Article,

in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be subject to inspection at any hearing held pursuant to this Article.

(h) *Reimbursements prohibited.* No person shall make a contribution to a candidate committee, issue committee or political committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee or political committee, nor shall any person make such reimbursement. An unexpended campaign contribution returned to a contributor by a candidate committee pursuant to Section 17-8 (a)(4) shall not be considered a reimbursement.

SECTION 17-6 -- DISCLOSURE; FILING OF REPORTS

(a) All candidate committees, political committees and issue committees shall report to the City Clerk their contributions and contributions in kind received, including the name, address, occupation and employer of each person who has made contributions or contributions in kind in the amount equal to or greater than twenty dollars (\$20.00) or more; expenditures made; and obligations entered into by the committee.

(b) For purposes of complying with the requirements of this Section, an issue committee consisting of an organization whose primary purpose is not to support or oppose ballot issues shall report only those contributions accepted, expenditures made and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.

(c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and on the Friday before the election, thirty (30) days after the election, and annually on the first day of the month in which the anniversary of the election occurs until such time as a termination report is filed. If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

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

(e) All reports shall be submitted on forms provided by the City Clerk and shall be complete in all respects. Reports shall be current in all respects as of two (2) days prior to the date upon which each such report is to be filed.

(f) A report required to be filed by this Article is timely if the original report is received by the City Clerk not later than the close of business on the due date or if a copy of the report is filed by fax on or before the date due and the original report is filed not later than the close of business on the next business day. For the purpose of this provision, the *original report* shall mean a copy containing an original signature of the person completing the report.

(g) Any report that is deemed by the City Clerk to be incomplete or inconsistent with the requirements of this Article shall be accepted on a conditional basis, and the committee treasurer shall be notified in writing as to any deficiencies found. Such notice may be delivered in person, by mail, by fax, or, if an electronic mail address is on file with the City Clerk, by electronic mail. The committee treasurer shall have seven (7) business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report filed for the reporting period.

(h) Any candidate committee, political committee or issue committee which has not accepted any contributions or contributions in kind, made any expenditures, or entered into any obligations during a reporting period, shall file a report with the City Clerk on the days specified in Subparagraph (c) above

certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.

SECTION 17-7 -- REPORTS TO BE PUBLIC RECORD

(a) Upon receipt of any campaign report submitted pursuant to this Article, the City Clerk shall make available such report for public inspection. The campaign report filed with the City Clerk fourteen (14) days prior to the election pursuant to Section 17-6 above shall be posted by the City Clerk on the city's official website in a manner that makes it easily identifiable, which posting shall occur no less than seven (7) days prior to the election. The campaign report filed with the City Clerk thirty (30) days after the election pursuant to Section 17-6 above shall also be posted on the city's official website by the City Clerk, which publication shall occur no more than seven (7) days after the City Clerk's receipt of the report.

(b) No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

SECTION 17-8 -- UNEXPENDED CAMPAIGN CONTRIBUTIONS

(a) Unexpended campaign contributions to a candidate committee may be:

- (1) Contributed to a political party;
- (2) Contributed to a candidate committee established by the same candidate for a subsequent campaign for the same office, subject to the limitations set forth in Section 17-5(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;
- (3) Donated to a charitable organization recognized by the Internal Revenue Service; or
- (4) Returned to the contributors.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

(b) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than one (1) year from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(c) Unexpended contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

SECTION 17-9 -- INDEPENDENT EXPENDITURES

Any person or political committee making independent expenditures totaling more than one hundred dollars (\$100.00) shall deliver notice in writing of such independent expenditures to the City Clerk no later than three (3) business days after the day that such funds are obligated. Said notice shall include the following information:

- (1) The name, address, telephone number, occupation and employer of the person making the independent expenditures;
- (2) The name of the candidate(s) whom the independent expenditures are intended to support or oppose;
- (3) The name and address of the vendor(s) providing the property, materials or services;

- (4) A detailed description of the independent expenditures;
- (5) The amount of the independent expenditures; and
- (6) The date the funds were obligated.

For the purposes of this provision, funds shall be considered to have been obligated as soon as an agreement is reached for the provision of the property, materials or services in question, regardless of when payment is to be made for such property or services.

SECTION 17-10 -- DUTIES OF CITY CLERK

The City Clerk shall:

- (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this Article;
- (2) Develop a filing and indexing system consistent with the purposes of this Article;
- (3) Keep a copy of any report or statement required to be filed by this Article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (4) Make reports and statements filed under this Article available for public inspection and copying no later than the end of the next business day after the date of filing;
- (5) Upon request by the Secretary of State, transmit records and statements filed under this Article to the Secretary of State;
- (6) Notify any person who has failed to fully comply with the provisions of this Article; and
- (7) Report apparent violations of this Article to the City Manager.

SECTION 17-11 -- VIOLATIONS PROCEDURES AND PENALTIES

- (a) Any person who knowingly violates or fails to comply with any of the provisions of this Article commits a misdemeanor and is subject to a fine or imprisonment in accordance with ordinances adopted by the City Council pursuant to Section 4-14.
- (b) Failure to comply with the provisions of this Article shall have no effect on the validity of any election.

SECTION 17-12 -- SEVERABILITY

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

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