



**Guidelines for Ballot Measure Committees and
Independent Expenditures
for the
SPECIAL MUNICIPAL ELECTION
November 3, 2020**

**City of Boulder
Office of the City Clerk**

GENERAL INFORMATION

Election Information on City Website

The guideline is available on the City of Boulder's website at <http://www.bouldercolorado.gov/elections>.

Election Administration

City Clerk's Office

Municipal elections in the City of Boulder are administered by the city clerk pursuant to the applicable provisions of the Charter and Code of the City of Boulder and the Colorado Municipal Election Code.

Campaign Finance Reform (CFR) Implementation

Implementation of the City's CFR Initiative is administered by the city clerk and her staff. Please contact the elections administrator with any questions.

Location: Municipal Building
1777 Broadway, Boulder, CO 80302
(southwest corner of Broadway and Canyon Boulevard)

Mailing Address: Office of the City Clerk
City of Boulder
P.O. Box 791
Boulder, CO 80306-2546

Telephone: 303-441-3079

Email: CFRAdmin@bouldercolorado.gov

Boulder County – Voter Registration & Mail Ballot Process

Information on voter registration and the mail ballot process should be directed to:

Boulder County Elections
1750 33rd Street, Suite 200
Boulder, CO 80301

Telephone: 303-413-7740

Date of Election

The Special Municipal Election will be held on Tuesday, November 3, 2020.

Mail Ballot Election

The City of Boulder Special Municipal Election will be conducted with Boulder County by mail ballot.

Ballots will be mailed to all active voters to the address at which they are registered to vote starting on October 9. Ballots cannot be forwarded and are considered *returned mail* for purposes of changing a voter's status to "inactive."

If you have not voted in recent elections or you have moved, you can update your voter registration online at: www.govotecolorado.com

You can *register* and vote in person at the Boulder County Clerk and Recorder's Voter Service and Polling Center (VSPC) at 1750 33rd Street through Election Day. You will need valid identification and proof that you have been a resident of the State of Colorado for more than 22 days to register to vote.

Anyone who would prefer to vote in person can surrender their mail ballot and procure a polling place ballot at any Voter Service and Polling Center. Completed mail ballots may be returned by mail or dropped off at any office or drop off location of the Boulder County Clerk. In order to be counted, they must be received no later than 7 p.m. on Election night.

Ballot Measures on Ballot

- At the time of publication of this document, no ballot measures have been certified for the 2020 Coordinated Municipal Election.

Campaign Finance Disclosure

The Boulder Revised Code (Section 13-2-1, et seq.) requires financial information from ballot measure committees supporting/opposing ballot measures on a municipal election ballot.

Financial disclosure is also required of any single citizen or entity (not accepting contributions) that makes an independent expenditure:

- greater than \$1,000 supporting or opposing a ballot measure or ballot measures

Campaign Advertising Identification

This section of the code has many changes. Below is a quick recap but make sure to review BRC 13-2-5, “Disclosure Requirements,” for complete details.

All campaign literature and advertising, whether expressly advocating or electioneering, must include the name of the *person* (individual, corporation, committee, etc.) who financed the composition, presentation or distribution of campaign materials or advertisements in the content of the materials.

Ballot Measure Committees	“Paid for by (and the name of the committee)” AND “Major funding from (and name the top three contributors)”
Independent Expenditures	“Paid for by (and the natural person’s name or the name of the entity)”

Posting of Campaign Signs

Political campaign signs are prohibited on any public right of way or public property (including street medians) other than designated kiosks.

In all residential zoning districts, all political signs:

- Must be set back at least eighteen inches from any public sidewalk adjacent to a street or from the curb or outer edge of the roadway if there is no such sidewalk.
- Must not exceed seven feet in height.
- Must not exceed 12 square feet in total sign area, with no face larger than 6 square feet.
- One large political sign may appear that does not exceed 32 square feet in total sign area, with a face no larger than 16 square feet.
- Must be removed the day after the election.
- Before posting any political signs, permission should be obtained from the property owner.

This is a selected portion of the Boulder sign code and is not totally inclusive. The City of Boulder sign code is available for your review in Central Records at the Municipal Building, 1777 Broadway, on the city’s website at <https://bouldercolorado.gov/plan-develop/sign-code> or you may call sign code administration at 303-441-1880.

KEY DEFINITIONS

The following definitions are provided for your reference:

Advertisement means any notice, announcement, bulletin, materials, display, handout or similar materials, or radio or video messages, distributed or posted to convey support for or opposition to a candidate or ballot measure.

Ballot measure 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, issue, or question - put to a vote of the electors of the city of Boulder under the provisions of the city charter. For purposes of this chapter only, "ballot measure" also includes any initiative, referendum, or recall for which a petition committee has submitted a proposed petition to the city clerk. Such term does not include any question placed on the ballot by the United States, the State of Colorado, or any political subdivision thereof other than the city.

Ballot measure committee means any person who accepts contributions, or any two or more persons who make expenditures, for the purpose of supporting or opposing a ballot measure at a city election, regardless of whether they have obtained the consent of the proponents of the ballot measure.

Committee means a candidate committee, an unofficial candidate committee, or a ballot measure 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;
- (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;
or
- (e) A contribution in-kind.

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 United States currency, 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. Contributions of foreign currency or cryptocurrency are contributions in-kind.

Contribution in-kind does not include an endorsement of a candidate or a ballot measure 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.

Distributing, distribution, or distributed refers to any communication broadcast by television, radio, cable or satellite to residents of the city; printed in a newspaper, magazine, or other periodical, or billboard, that reaches residents of the city; directly mailed or delivered by hand to personal residences in the city; or delivered for a fee digitally or by telephone, or similar means or communication targeted to residents of the city.

Election cycle means the period from the day after an election until the day of the election in the following year.

Electioneering communications means any communication that is:

- (a) Taken as a whole and in context unambiguously referring, in writing or pictorially, to any candidate;
- (b) Distributed before the end of the election cycle and after the first date a city council candidate nomination petition could be certified for any candidate; and
- (c) Distributed to an audience that includes residents of the city;

Electioneering communication does not include:

- (a) Any communication by persons, other than committees, made in the regular course and scope of their business;
- (b) Any communication made by a membership organization solely to members or such organization and their families;
- (c) Any communication that refers to a candidate or ballot measure only as part of the popular name of a bill or statute;
- (d) The original broadcast or distribution of any news articles, editorial endorsements, opinions, commentary writings, or letters to the editor, through media not owned or controlled by a candidate, committee, or a person contributing over \$1,000 towards the original broadcast or printing; or
- (e) Candidate forums.

Entity means any person or group of persons, other than one natural person, that makes contributions or expenditures, including without limitation corporations, partnerships, limited liability companies, limited liability partnerships, commissions, enterprises, or any other formal or informal associations or organizations.

Expenditure means the payment, distribution, loan, or advance of any money, 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.

Express Advocacy means any communication that contains words urging election or defeat, such as "vote for," "support," "cast your ballot for," "vote against," "defeat," "reject," "Smith for Congress," "endorse," or any communication, by words or symbols, which is the functional equivalent of express advocacy because it is susceptible to no other reasonable interpretation than as an appeal to vote for or against a specific candidate or ballot measure.

Fair market value means the amount a willing buyer and a willing seller would pay for the product or service when neither was under any obligation to do so.

Independent expenditure means an expenditure by any person for the purpose of creating or disseminating express advocacy or electioneering communications, which expenditure is not controlled by, coordinated with, or made upon consultation with any committee or any agent of such committee. Independent expenditure does not include expenditures made by persons in the regular course and scope of their business, including political messages sent solely to members.

Loan means providing something of value, including money, to another, with a promise, express or implied, that money will be paid in the future for the item of value.

Natural person means a human being.

Person means the same as the definition in Chapter 1-2-1.

Published means a writing presented for distribution in exchange for money or other item of value.

Solicitation means a written or oral or other endeavor to obtain, seek or plead for money or other item of value.

Top contributors mean the persons from whom the ballot measure committee paying for a communication has received its three largest cumulative contributions of \$1,000 or more for a communication that includes express advocacy as of the date of the first broadcast or other distribution of the communication.

BALLOT MEASURE COMMITTEES

Organizing an Ballot Measure Committee

No more than three days after a ballot measure committee receives a contribution or obligates itself for an expenditure, it must file an *Ballot Measure Committee Statement of Organization*. Acceptance of this form by the city clerk recognizes the *committee*. You begin by sending the Election Administrator an email with the name of your committee and the committee's email address. You will then be sent an email with a user name (which will be your committee ID) and password to log on to the city's election web site.

Following the processing of this form by the City Clerk's Office, the committee will be sent a *Confirmation of Committee Organization*. This document will assign a unique identification number, which will be used by the committee on all subsequent filings. The committee may use this document whenever verification is needed. For example, it can be used at a bank to assist in opening a checking account for the committee's campaign.

The *Ballot Measure Committee Statement of Organization* asks for the names and addresses of committee officers (treasurer, chairperson, etc.). It is important in selecting these officers to consider the skills needed to perform the various roles. It is especially important to have someone with a bookkeeping background as the treasurer. Accurate record-keeping and thorough financial controls are essential from day one of the campaign. The city clerk has the right to request and audit the records of any campaign at any time. Decisions on the committee treasurer and the record-keeping system should be made with this accountability requirement in mind.

Establishing a Campaign Bank Account

The following information is offered as a general guideline. Please consult your bank, the IRS or your tax attorney for definitive advice on tax-related matters.

In order to open a bank account as a political organization, your *committee* will need a tax identification number from the Internal Revenue Service. This number, called an Employer Identification Number (EIN), can be obtained by completing IRS Form SS-4 or calling the IRS at 1-800-829-4933 or applying online. You will then need to fax or mail the completed SS-4 to the IRS. The bank will require the EIN number to open your campaign account.

Expenditure Limits

There are no *expenditure limits* for ballot measure committees.

Filing Requirements

Ballot measure committees are required to file certain forms on specified dates whether or not *contributions* have been collected or *expenditures* made.

Required Forms

Ballot measure committees must use forms provided by the City to meet the reporting requirements described in this document.

When submitting required reports, if not otherwise stated on the form, information must be current and accurate at least as of 5:00 p.m. on the day before the filing date.

Changes to Information Submitted

If previously submitted information changes, such as a change of an officer of a *committee*, you must re-file the information within three days of the change.

If you find an error in information that has been submitted to the City, please contact the Election Administrator in the City Clerk's Office for directions on how to document and correct the erroneous information. This should be done as soon as possible, but no more than three days after finding the error.

If a *committee* is notified by the City of an unmet reporting requirement, incorrect information or incomplete information, the *committee* must provide the required information within 72 hours of notification.

Unexpended Campaign Contributions

At the end of the campaign, any unexpended *contributions* must be either donated to a charitable organization (recognized under the Internal Revenue Code, §501(c)(3)) or returned to the contributor.

Summary of Forms and Due Dates for Ballot Measure Committees

Form No.	Form Title	Due Dates for Issue Committees
13-2-6 (b) (1) (C)	<i>Ballot Measure Committee Statement of Organization</i>	No more than 3 days after the committee receives a contribution or obligates itself for an expenditure the committee shall file a <i>Statement of Organization</i> .
13-2-6 (c)	<i>Ballot Measure Committee Contributions & Expenditures Statement</i>	Seven (7) Required Filings <ol style="list-style-type: none"> 1. No more than 3 days after the committee receives a contribution or obligates itself for an expenditure 2. 42nd day prior – September 22, 2020 3. 28th day prior – October 6, 2020 4. 21st day prior – October 13, 2020 5. 14th day prior – October 20, 2020 6. Thursday prior – October 29, 202 7. No later than 30 days after the election – December 3, 2020

LIMITS ON CONTRIBUTIONS

No Limits on Contributions for Ballot Measure Committees

Anonymous Contributions

If anonymous contributions are received, they must be processed as follows:

- Anonymous means the committee is unaware of the name of the contributor.
- Remember, contributions of coin or paper currency may not exceed \$100 (BRC 13-2-4 (a) (5)).

There is no limitation on contributions for Ballot Measure Committees and they are allowed to retain and make expenditures with anonymous contributions. However, if a ballot measure committee receives an anonymous contribution, the treasurer must keep on file the following information/materials for at least six months after the election: the envelope or other container in which the *contribution* arrived, any other material that arrived with the contribution, a photocopy of the contribution itself (showing only the amount and serial number of any bills). This information must be made available to the city clerk or her representative upon request.

INDEPENDENT EXPENDITURES

Independent expenditures can be made by (1) either a natural person (human, using personal funds) or (2) a person (different types of entities, using general treasury funds) that *does not collect contributions* and does make express advocacy expenditures regarding ballot measures. Reporting requirements are triggered when expenditures are in excess of \$1,000 for ballot measures (express advocacy only). If your group collects contributions, you must file as a ballot measure committee.

Due Dates for Independent Expenditures

Following each independent expenditure, an expenditure statement must be filed following the schedule found in BRC 13-2-6 (c) (2).

1. Prior to September 22, no more than 3 days after the expenditure.
2. From September 22, 2020, file on the following days:
 - 42nd day prior – September 22, 2020
 - 28th day prior – October 6, 2020
 - 21st day prior – October 13, 2020
 - 14th day prior – October 20, 2020
 - Thursday prior – October 29, 2020
 - No later than 30 days after the election – December 3, 2020

Disclosure Requirements

Anyone (individual, corporation, committee, etc.) making an *independent expenditure* in excess of \$1,000 for the composition, presentation or distribution of posters, advertisements, leaflets, brochures, letters, postcards, records or tapes that expressly oppose or support a ballot measure(s) must include the “Paid for by (and the name of the *person* who paid for the material or ad in the content of the material or ad).” Other requirements may apply. Review 13-2-5 Disclosure for additional information.

The purpose of this requirement is to allow interested citizens to know who is financing activities to support or oppose *ballot measures*.

UNEXPENDED CAMPAIGN CONTRIBUTIONS

Ballot Measure Committees

At the end of the campaign, any unexpended contributions to ballot measure committees must be donated to an organization that is tax-exempt under Section 501 (c) (3) of the Internal Revenue Code or returned to the contributor. The final distribution of these funds must be reported to the City Clerk's Office on the *contributions and expenditures statement*.

RESTRICTED AND PROHIBITED ACTIVITIES

Restrictions on Increased Fees for Municipal Election Advertising BRC 13-2-4 (e)

City Code states that no person who sells space in a newspaper or magazine to a candidate and 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.

Restrictions on Contributions in Another's Name BRC 13-2-4 (b)

Potential contributors are prohibited from making a contribution in someone else's name. Candidates and committees are prohibited from knowingly accepting a contribution from one person in the name of another person.

Restrictions on Representation of Campaign Authority BRC 13-2-4 (f)

Candidates, political committees and their agents are prohibited from making any fraudulent misrepresentations or acting for or on behalf of another candidate or committee on a matter that is damaging to the other candidate or committee. Knowingly participating in or conspiring in a plan to do so is also prohibited.

COMPLIANCE AND ENFORCEMENT OF CAMPAIGN VIOLATIONS

Campaign Finance Violations and Penalties

Criminal Acts and Penalties

The following acts are prohibited by Chapter 13-3:

- Filing required statements that knowingly contain false information.
- Failing to file a required statement within 72 hours of being notified by the city clerk.
- Failing to provide required information necessary to complete a required statement within 72 hours of being notified by the city clerk.
- Knowingly misstating or misrepresenting the names of persons required to be disclosed by Chapter 13-2
- Failing to comply with any of the other requirements of Chapter 13-2

Any person convicted of a violation of any of the above is subject to a fine not to exceed \$1,000.

Civil Action

In lieu of filing a complaint with the city and upon meeting the requirements of B.R.C. subsection 13-3-10 (b), any registered elector of the city may bring a private civil action.

Allegation of Election Code Violation by Registered Elector

- Any registered elector of the City of Boulder who believes there has been a violation of Chapter 13-2, “Campaign Finance, Disclosure and Reporting Requirements,” B.R.C. 1981 may file an election complaint with the City Clerk’s Office. The request must include, among other requirements, identification of the particular provisions of Chapter 13-2 that were allegedly violated. See Chapter 13-3, “Allegation of Election Code Violation by Registered Elector,” for complete information.
- Section 13-3-4, “Action by the City Clerk,” provides for four determinations: (a) that a violation, if any, can be cured; (b) that there is no probable cause that further investigation would disclose a violation; (c) that there is probable cause of a violation and a decision can be made without a hearing; and (d) that there is probable cause of a violation and additional facts are necessary to make a final determination on the violation.
- If additional facts are necessary, a hearing shall be held.
- The complaint, any written direction by the city clerk to a respondent to cure a violation, the final results of the clerk’s inquiry or investigation and the clerk’s final decision will be made public unless there is good cause (i.e., interference with pending litigation, criminal prosecution or disclosure of a person’s identity where such disclosure could affect the safety of that person). See section 13-3-9, “Confidentiality of Investigation,” for further details.

BOULDER REVISED CODE TITLE 13

ELECTIONS AND CAMPAIGN DISCLOSURE

Footnotes:

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Editor's note— [Ord. No. 8317](#), § 1, adopted March 5, 2019, repealed the former Title 13, §§ 13-1-1—13-1-6, 13-2-1—13-2-21, 13-3-1—13-3-5, 13-4-1—13-4-13, and enacted a new Title 13 as set out herein. The former Title 13 pertained to similar subject matter. See Code Comparative Table for complete derivation.

Chapter 1 - Elections

13-1-1. - Legislative Intent.

- (a) The purposes of this chapter are (1) to establish procedures for regular and special elections of the home rule City of Boulder; and (2) to set the date upon which a proposed ballot measure is final for its submission to the voters. This chapter does not apply to initiatives concerning the amendment or abolition of the charter.
- (b) The procedures for regular and special elections are intended to be consistent with the Municipal Election Code of 1965 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.

Ordinance Nos. [8317 \(2019\)](#); 8319 (2019)

13-1-2. - General Municipal Elections.

- (a) The Municipal Election Code of 1965, § 31-10-101, et seq., as it may be amended, is adopted by reference and incorporated to have the same force and effect as if printed in full in this code, except as specifically amended by the charter or provisions of this chapter.
- (b) Unless the context or ordinance requires otherwise, general municipal elections as defined in Section 22 of the Charter shall be held as specified for regular municipal elections in the Municipal Election Code.

Ordinance No. [8317 \(2019\)](#)

13-1-3. - Responsibility of the City Clerk.

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

Ordinance No. [8317 \(2019\)](#)

13-1-4. - 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.

Ordinance No. [8317 \(2019\)](#)

13-1-5. - Special Provisions Concerning Filling Council Vacancies by Special Election.

- (a) 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, and may also specify additional hours during which such early voters' polling places shall be open. Such a provision is only effective for a special election which is not conducted as a coordinated election.
- (b) 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.

Ordinance No. [8317 \(2019\)](#)

13-1-6. - Fixing of Ballot Title.

Ballot titles for city ballot measures shall be considered fixed upon the final vote of the 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 Nos. [8317 \(2019\)](#); 8319 (2019)

Chapter 2 - Campaign Finance, Disclosure and Reporting Requirements

13-2-1. - Legislative Intent.

- (a) 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.
- (b) The purposes of this chapter include the following:
 - (1) Assisting electors in making informed election decisions by requiring disclosure of information from candidates for city office and from persons supporting or opposing such candidates and/or ballot measures. The purpose of disclosure is to provide for transparency in the collection and disbursement of monies spent on campaigns and not to regulate speech;
 - (2) Limiting contributions to candidates running for city council and committees formed to support or oppose such candidates. This limit is meant to ensure that large campaign contributions do not cause corruption or the appearance of corruption in the election process, are not used to buy political access or to influence governmental actions, and to ensure that access to large amounts of money will not be a prime requirement for participation in the political process. This chapter does not limit contributions made to committees supporting or opposing ballot measures;

- (3) Assuring the public that there is transparency of the companies or individuals that are providing financial support or otherwise backing electioneering communications and express advocacy materials, while not putting an onerous burden on contributors;
 - (4) Providing public financing for candidate campaigns that is contingent on candidates who receive public funds complying with expenditure limits. These measures are meant to reduce candidates' need to focus on fundraising and also to reduce the amount of money that is needed to run an effective campaign, which benefits the recipients of matching funds as well as other candidates and the citizens generally; and
 - (5) Providing members of the public with information regarding financial dealings of candidates and council members that might affect their ability to make impartial decisions.
- (c) The provisions of this chapter 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.

Ordinance No. [8317 \(2019\)](#)

13-2-2. - Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

Advertisement means any notice, announcement, bulletin, materials, display, handout or similar materials, or radio or video messages, distributed or posted to convey support for or opposition to a candidate or ballot measure.

Ballot measure 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, issue, or question - put to a vote of the electors of the city of Boulder under the provisions of the city charter. For purposes of this chapter only, "ballot measure" also includes any initiative, referendum, or recall for which a petition committee has submitted a proposed petition to the city clerk. Such term does not include any question placed on the ballot by the United States, the State of Colorado, or any political subdivision thereof other than the city.

Ballot measure committee means any person who accepts contributions, or any two or more persons who make expenditures, for the purpose of supporting or opposing a ballot measure at a city election, regardless of whether they have obtained the consent of the proponents of the ballot measure.

Candidate means any natural 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 Section 26 of the City Charter. A person is no longer a candidate after the date of the election for which the person filed a petition.

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.

Candidate forum means provisions or broadcasts of a forum for candidates which:

- (a) Is conducted after expiration of the time during which candidates may be certified;
- (b) Is open to all candidates without discrimination;
- (c) Provides all candidates equal time to express their positions;
- (d) Is not sponsored by a committee; and
- (e) If rebroadcasted, includes the full statements of all participants.

Committee means a candidate committee, an unofficial candidate committee, or a ballot measure 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;
- (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;
or
- (e) A contribution in kind.

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 United States currency, 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. Contributions of foreign currency or cryptocurrency are contributions in kind. 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.

Distributing, distribution, or distributed refers to any communication broadcast by television, radio, cable or satellite to residents of the city; printed in a newspaper, magazine, or other periodical, or billboard, that reaches residents of the city; directly mailed or delivered by hand to personal residences in the city; or delivered for a fee digitally or by telephone, or similar means or communication targeted to residents of the city.

Election cycle means the period from the day after an election until the day of the election in the following year.

Electioneering communications means any communication that is:

- (a) Taken as a whole and in context unambiguously referring, in writing or pictorially, to any candidate;
- (b) Distributed before the end of the election cycle and after the first date a city council candidate nomination petition could be certified about any candidate; and
- (c) Distributed to an audience that includes residents of the city;

Electioneering communication does not include:

- (a) Any communication by persons, other than committees, made in the regular course and scope of their business;
- (b) Any communication made by a membership organization solely to members or such organization and their families;

- (c) Any communication that refers to a candidate or ballot measure only as part of the popular name of a bill or statute;
- (d) The original broadcast or distribution of any news articles, editorial endorsements, opinions, commentary writings, or letters to the editor, through media not owned or controlled by a candidate, committee, or a person contributing over \$1,000 towards the original broadcast or printing; or
- (e) Candidate forums.

Entity means any person or group of persons, other than one natural person, that makes contributions or expenditures, including without limitation corporations, partnerships, limited liability companies, limited liability partnerships, commissions, enterprises, or any other formal or informal associations or organizations.

Excepted investment means a mutual fund, common trust fund of a bank, pension, or deferred compensation plan, any other investment fund, or a ten percent or less interest in the stock of a company, which for funds or stocks is widely held; publicly traded (or available) or widely diversified; and which for funds under circumstances where the investor neither exercises control over nor has the ability to exercise control over the financial interests held by the fund. A fund is widely diversified when it holds no more than five percent of the value of its portfolio in the securities of any one issuer (other than the U.S. Government).

Expenditure means the payment, distribution, loan, or advance of any money, 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.

Express Advocacy means any communication that contains words urging election or defeat, such as "vote for," "support," "cast your ballot for," "vote against," "defeat," "reject," "Smith for Congress," "endorse," or any communication, by words or symbols, which is the functional equivalent of express advocacy because it is susceptible to no other reasonable interpretation than as an appeal to vote for or against a specific candidate or ballot measure.

Fair market value means the amount a willing buyer and a willing seller would pay for the product or service when neither was under any obligation to do so.

Income means money received for the provision of goods or services, not including the unrealized appreciation of any asset, income from any excepted fund, or interest earned from any commercial bank, savings and loan, or credit union.

Independent expenditure means an expenditure by any person for the purpose of creating or disseminating express advocacy or electioneering communications, which expenditure is not controlled by, coordinated with, or made upon consultation with any committee or any agent of such committee. Independent expenditure does not include expenditures made by persons in the regular course and scope of their business, including political messages sent solely to members.

Loan means providing something of value, including money, to another, with a promise, express or implied, that money will be paid in the future for the item of value.

Natural person means a human being.

Official 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.

Other household income means any income earned by a spouse, domestic partner, or partner in a civil union who resides in the same household as the reporting person that is reportable by a candidate or incumbent for federal or state income tax purposes.

Other household member means a spouse, domestic partner, or partner in a civil union who resides in the same household as the reporting person.

Person means the same as the definition in Chapter 1-2-1.

Published means a writing presented for distribution in exchange for money or other item of value.

Reportable interest means:

- (a) In the case of a corporation, either more than ten percent of the total combined voting power of all classes of stock of the corporation entitled to vote, or more than ten percent of the capital, profits, or beneficial interest in the voting stock of the corporation;
- (b) In the case of a partnership, association, trust, or other entity, more than ten percent of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity; or
- (c) Any interest in any entity that owns real property, if more than fifty percent of the entity's holdings are in Boulder County.

Solicitation means a written or oral or other endeavor to obtain, seek or plead for money or other item of value.

Top contributors means the persons from whom the ballot measure committee paying for a communication has received its three largest cumulative contributions of \$1,000 or more for a communication that includes express advocacy as of the date of the first broadcast or other distribution of the communication.

Unofficial candidate committee means any natural person who accepts contributions, or any two or more persons who make expenditures, for the purpose of supporting or opposing a 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.

Ordinance No. [8317 \(2019\)](#)

13-2-3. - Participants.

(a) Candidates.

- (1) Official Candidate Committee. A candidate is deemed to have an official candidate committee even if none has been formed. A candidate may hold any position in the candidate's official campaign committee. No candidate shall have more than one candidate committee. If more than one committee acts under the authority of or in coordination with a candidate, all shall be deemed the candidate's official candidate committee and shall file combined reports as required by this title and all shall jointly be subject to the limitations of this title.
- (2) Public Matching Funds.
 - (A) Eligibility. A candidate who meets the following requirements shall be eligible to receive matching funds: (1) The candidate raises at least ten percent of the expenditure limit from contributions of no more than \$25; (2) The candidate accepts contributions only from natural persons, and (3) The candidate signs a contract with the city committing that the candidate will:
 - i. Limit his or her expenditures to \$20,740;
 - ii. Contribute to his or her campaign no more than twenty percent of the expenditure limit from his or her own personal wealth; and
 - iii. Return at least fifty percent of any unexpended funds to the city, but not more than the matching funds received.
 - (B) Match Amount. 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 forth above. Only actual currency or its equivalent shall be matched with

public funds. Neither loans nor contributions in kind or amounts exceeding \$100 from the candidate's personal wealth shall be eligible for matching funds.

- (C) Disbursements. 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. The final request for matching funds must be submitted to the city no later than fourteen days before the election and may be for less than \$500.
- (D) Inflation Adjustment. The city clerk shall adjust the limit set forth in subsection (2)(A) of this section based upon the percentage change over a two-year period in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder-Greeley, all urban consumers, or its successor index, rounded to the nearest dollar. The first adjustment shall be done in the first quarter of 2021 and then every two years thereafter.

(b) Persons Who Support or Oppose Candidates or Ballot Measures.

- (1) Unofficial Candidate Committee. Any persons meeting the definition of an unofficial candidate committee are deemed to have formed a committee and must adhere to the requirements of this chapter.
- (2) Ballot Measure Committee. Any persons meeting the definition on a ballot measure committee are deemed to have formed a committee and must adhere to the requirements of this chapter.
- (3) Individuals. Any person making an independent expenditure in excess of \$200 to support or oppose one or more candidates, or in excess of \$1,000 to support or oppose a ballot measure, shall be subject to the reporting and disclosure requirements set forth below in this chapter.
- (4) Coordination. Expenditures by any person or 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 candidate committee or agent thereof shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable limitations contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

Ordinance No. [8317 \(2019\)](#)

13-2-4. - Campaign Activities.

(a) Contribution Limitations.

- (1) No person shall make contributions to any official candidate committee or unofficial candidate committee that, in the aggregate, exceeds \$100 with respect to any election cycle in which such candidate or committee is participating for a municipal election. Persons are not limited in the amount that may be contributed to ballot measure committees.
- (2) Any expenditure that is controlled by, or coordinated with, a committee or agent of a committee, is deemed to be both a contribution by the maker of the expenditure and an expenditure by the committee.
- (3) Contributions to unofficial candidate committees are subject to the \$100 limitation per person per committee regardless of how many candidates the unofficial candidate committee supports or opposes.
- (4) The recipient of any contribution which would cause the total amount of contributions from a single person to exceed \$100 per committee limitation shall promptly return any such excess to the donor.
- (5) No person shall make contributions of coin or paper currency for the benefit of any ballot measure committee that, in the aggregate, exceeds \$100 per election cycle.
- (6) A committee may not make a contribution to another committee.

- (b) 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.
- (c) Anonymous Contributions.
 - (1) Anonymous contributions to any official candidate committee or unofficial candidate committee may not be retained or expended by the committee. If anonymous contributions are received by such a committee, they shall be disposed of as follows:
 - (A) 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.
 - (B) Unofficial candidate committees and candidate committees of candidates who have not accepted public financing under this chapter shall be allowed to 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 13-2-6(c).
 - (C) 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, 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 clerk upon request.
 - (2) If an anonymous contribution is received by a ballot measure committee, the 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 the amount and serial number of any bills) as committee records for at least six months after the election, and shall make such records available to the city clerk upon request.
- (d) Unexpended Campaign Contributions. Candidates receiving matching funds must return at least fifty percent of any unexpended funds to the city, but not more than the matching funds received. Any remaining 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 13-2-6(c)(2).
- (e) 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.
- (f) Misrepresentation of Campaign Authority. No candidate or any agent of a candidate or committee 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.
- (g) No Personal Use. Committee funds shall not be used for personal purposes not reasonably related to supporting or opposing the election of a candidate or the adoption of a ballot measure.
- (h) City Resources. City resources shall not be used to make any contribution to a committee or to fund express advocacy after a ballot title is fixed as described in Section 13-1-6, B.R.C. 1981, for a ballot measure or after a person is certified as a candidate for candidate elections. Nothing in this subsection shall be construed as prohibiting the city from expending city resources to dispense a

factual summary, which shall include arguments both for and against the proposal, on any ballot measure. Notwithstanding the foregoing, city council may pass a resolution or take a position of advocacy for or against a ballot measure, and city resources may be used to report city council's action through established, customary means other than paid advertising.

Ordinance Nos. [8317 \(2019\)](#); 8319 (2019)

13-2-5. - Disclosure Requirements.

(a) Election Materials and Advertising Contain Sponsor's Name.

- (1) A committee that distributes an advertisement shall include therein the words "Paid for by" followed by the name of the committee. An unofficial candidate committee that distributes an advertisement shall include therein the words "Not affiliated with any candidate or candidate committee."
- (2) A ballot measure committee that distributes an advertisement supporting or opposing a ballot measure shall include therein the words "Major funding from" followed by the names of the top contributors to the committee paying for the advertisement. If two or more contributors of identical amounts qualify as top contributors, all the contributors of that amount shall be listed.
- (3) A person, other than a committee, who makes an independent expenditure shall include in the advertisement the words "Paid for by" followed by the name of the person.
- (4) An advertisement that is distributed as video shall include the disclosures required by this section at the beginning or end of the advertisement, displayed for at least five seconds of a broadcast of thirty seconds or less or for at least ten seconds of a broadcast that lasts longer than thirty seconds on the entire bottom one-third of the television or video display screen, with the type size of the smallest letters no less than four percent of the height of the television or video display screen. The written disclosures shall be underlined, except for the names of the top contributors.
 - (A) The top contributors to a ballot measure committee, if any, shall each be disclosed on a separate horizontal line centered horizontally, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line.
 - (B) If using a type size of four percent of the height of the television or video display screen causes the name of any of the top contributors to exceed the width of the screen or causes the disclosures to exceed one-third of the television or video display screen, the type size of the name of the contributor shall be reduced until the top contributor's name fits within one-third of the television or video display screen, but in no case shall the type size be smaller than two and one-half percent of the height of the screen.
- (5) An advertisement in printed form shall include the required disclosure on a solid background with the words in a contrasting color in an Arial equivalent font within a box and set apart from any other print on the advertisement. Display of the disclosure shall be in one of the following forms:
 - (A) A print advertisement that is distributed shall include the disclosures required by this section, with a type size of at least ten-point; or
 - (B) A print advertisement that is larger than those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall display the disclosure with a total height of at least five percent of the height of the advertisement. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma; or
 - (C) For a print advertisement of twenty square inches or less paid for by a ballot issue committee, the disclosure is only required to include the single top contributor of \$1,000 or more.

- (6) An advertisement that is distributed by audio shall include the disclosures required by this section at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds. Notwithstanding the definition of "top contributors," radio and prerecorded telephonic advertisements made by a ballot measure committee shall disclose only the top two contributors of \$1,000 or more unless the advertisement lasts fifteen seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of \$1,000 or more shall be disclosed.
- (b) 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 advertisement, such communication:
 - (1) If authorized by a candidate or committee or any agent thereof, shall clearly state that the communication has been so authorized;
 - (2) 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.

Ordinance Nos. [8317 \(2019\)](#); 8319 (2019)

13-2-6. - Reporting Requirements.

- (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 calendar day before the filing date. A statement due on a weekend or holiday shall be filed on the next business day.
- (b) Committee Statements of Organization.
 - (1) Initial Filing. A committee's initial Statement of Organization shall be filed:
 - (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 Section 26 of the City Charter, 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.
 - (B) No more than three days after an unofficial candidate committee accepts a contribution or makes or obligates itself to make an expenditure, the committee shall file a statement of organization as set forth below in this chapter.
 - (C) No more than three days after a ballot measure committee accepts a contribution or makes an expenditure, the committee shall file a statement of organization as set forth below in this chapter.
 - (D) Once a committee files a statement of organization, it cannot add or change the ballot measure(s) or candidate(s) supported or opposed.
 - (2) Information Required. The statement of organization for all committees shall include the name and address of the committee and the names and addresses of all persons acting as officers of the committee, including committee chairperson(s) and treasurer. In addition, statements shall include the following information:
 - (A) The statement of organization for the official candidate committee shall include the name and address of the candidate.
 - (B) The statement of organization for an unofficial candidate committee shall include the names of the candidate(s) the committee supports or opposes and a statement of whether the committee supports or opposes each candidate.

- (C) The statement of organization for a ballot measure committee shall include the names of all ballot measure(s) the committee supports or opposes and a statement of whether the committee supports or opposes each measure.
- (3) Updates. Committees shall file a statement with any changes to the information required by this section no more than three days after such change occurs.
- (c) Contributions and Expenditures.
 - (1) Information Required. In accordance with the schedule below, committees shall file regular reports from the date of the prior report to the end of the reporting period unless the statement is the first one required containing the following information:
 - (A) The names and addresses of each person making contributions to the treasurer's knowledge, and the amount, cumulative total to-date value, dates, and nature of such contributions since the last report required.
 - (B) For anonymous contributions, a statement of all such contributions received together with their disposition.
 - (C) The names and addresses of each person to whom an expenditure has been made and the amount, cumulative total to-date value, date, and nature of such expenditure. For expenditures for joint advertising by multiple committees, each committee must disclose the total cost of the joint advertising along with the amount each paid for its portion of the advertisement. The amount expended must be proportional to the committee's portion of the advertising.
 - (2) Schedule of Reports. All committees shall file Statements of Contributions and Expenditures on the following schedule:
 - (A) Initial Submission:
 - (i) Official candidate committees shall file three days after the candidate's petition of nomination for city council has been certified as sufficient by the city clerk pursuant to Section 26 of the City Charter. This statement shall cover all contributions and expenditures made in anticipation of candidacy.
 - (ii) Unofficial candidate committees and ballot measure committees shall file three days after the committee accepts a contribution or makes or obligates itself to make an expenditure. This statement shall cover all contributions and expenditures made to date.
 - (B) Subsequent Reports. Reports are due on the following schedule and shall include all contributions and expenditures made that were not included in a prior filed report:
 - (i) On the forty-second day prior to the election.
 - (ii) On the twenty-eighth day prior to the election.
 - (iii) On the twenty-first day prior to the election.
 - (iv) On the fourteenth day prior to the election.
 - (v) By 5:00 p.m. on the Thursday before the election. This statement shall also identify anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.
 - (vi) On or before the thirtieth day after the election: If a balance remains on the candidate's or committee's books, this statement shall also include the intended disposition of that balance.
 - (vii) Not more than sixty days after the election: Committees with a balance remaining on the 30-day report shall file a final statement showing the actual disposition of that balance.

- (3) Independent Expenditure Reports of Unofficial Candidate Committees. If an unofficial candidate committee makes an independent expenditure in excess of \$5,000 on or before the twenty-first day prior to the election, the committee shall file a statement of 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 within three business days after obligating funds for the first such expenditure.
 - (4) Other Independent Expenditure Reports. If a person, other than an unofficial candidate committee, makes an independent expenditure in excess of \$1,000 to support or oppose a ballot measure, or in excess of \$200 to support or oppose the election of a candidate, the person shall file a statement of expenditure giving the names and addresses of each person to whom such an expenditure has been made, and the amount, date, and nature of such expenditure and any other reportable expenditure not previously reported according to the schedule established in Section 13-2-6(c).
- (d) Interest Disclosure Statement.
- (1) Reporting schedule.
 - (A) On or before September 10, any person having been certified as a candidate shall file a statement of financial disclosure as set forth below. Candidates shall report any changes to the information reported below in subsections (2)(A), (C), and (D), of this provision, within fifteen days after the change has occurred.
 - (B) On or before April 15 of each year, every member of the city council shall file a statement of financial disclosure as set forth below. Council members shall report any changes to the information reported below in subsections (2)(A), (C), and (D), of this provision, within fifteen days of the end of the calendar quarter in which the change occurred.
 - (2) Any person required to file a financial disclosure statement required by this chapter shall file a statement on a form provided by the city clerk, that includes the following information:
 - (A) The reporting person's employer and occupation.
 - (B) The source of any income in excess of \$1,000 per year, including, without limitation, other household income, capital gains, whether or not taxable, dividends, interest, wages, salaries, rents, profits, and retirement accounts.
 - (C) The name, location, and nature of activity of any business entities or enterprises, with holdings of real or personal property or with business dealings in the area encompassed by the Boulder Valley Comprehensive Plan, in which the reporting person or other household member has any financial interest or is actively engaged as an officer, director, or partner, and the nature of the reporting person's or other household member's interest or activity. A reporting person or other household member is not required to report any financial interest in any business entity in which the reporting person's or other household member's only interest is through an investment in an excepted investment. A charitable donation is not a financial interest.
 - (D) The location of any real property within Boulder County in which the reporting person or other household member has an interest or, if the reporting person or other household member has a reportable interest in an entity or enterprise disclosed pursuant to paragraph (b)(3) above, in which the entity or enterprise has any interest and the nature of such interest.
 - (E) Any other information that the reporting person feels would be helpful or should be disclosed.
 - (3) Each financial disclosure statement shall include all information current on the date of filing, except for the sources of income required by subsection (d)(2)(B) of this section shall be reported as of the end of the previous calendar year.

- (4) When reporting information regarding the activities of a third party, a reporting person is required to report only information about which he or she has actual knowledge. Notwithstanding any other provision of this chapter, no reporting person or other household member is required to disclose any confidential relationship protected by law.

Ordinance Nos. [8317 \(2019\)](#); 8319 (2019)

13-2-7. - Filing, Preservation and Public Inspection of Statements.

(a) Recordkeeping.

- (1) Copies of documents supporting the contributions and expenditures included in any statements required by this section shall be maintained by the person or committee and provided to the city clerk in the event of an audit.
 - (2) Individuals and unofficial candidate committees who make an 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 clerk if the clerk makes a demand for same. The clerk is authorized to make such a demand any time the clerk 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.
- (b) Persons required by this chapter to file statements or deliver notices shall file such statements or notices with the city clerk on forms that the clerk provides and preserve such records for a period of six months from the date of the election.
- (c) The city clerk 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, or as specified in the city's Records Retention Schedule, whichever is longer. Such statements constitute a part of the public records of the city and shall be available for public inspection during normal business hours.

Ordinance No. [8317 \(2019\)](#)

Chapter 3 - Compliance and Enforcement for Campaign Violations

13-3-1. - Legislative Intent.

The provisions of this chapter are intended to assist with the enforcement of the regulatory provisions of Chapter 13-2, "Campaign Finance, Disclosure and Reporting Requirements," B.R.C. 1981. The provisions of this chapter (a) provide procedures for citizen enforcement of complaints before the city clerk or a hearing officer and quasi-judicial review of that decision; (b) identify cures, remedial orders, and penalties that may be imposed by the city; and (c) make clear the city retains its power to enforce any code provision in a civil or criminal action. The procedures set forth in this chapter are not exclusive and shall supplement other applicable enforcement provisions, including those in Title 5, B.R.C. 1981.

Ordinance No. [8317 \(2019\)](#)

13-3-2. - Allegation of Election Code Violation by Registered Elector.

- (a) A registered elector of the city may file a complaint with the city clerk alleging that any provision of Chapter 13-2, "Campaign Finance, Disclosure and Reporting Requirements," B.R.C. 1981, of this title has been violated. The complaint shall be in writing and must be submitted no later than forty-five days following any election in which it is alleged that the violation occurred. The complaint shall:

- (1) Identify the particular provisions of Chapter 13-2, "Campaign Finance, Disclosure and Reporting Requirements" that allegedly were violated;
 - (2) Identify the person violating the stated provisions (the "respondent");
 - (3) State the factual basis for that allegation;
 - (4) Identify any relevant documents or other evidence;
 - (5) Identify any witnesses or persons with relevant knowledge; and
 - (6) State whether the person filing the complaint (the "complainant") is willing to pursue the complaint through a hearing process as provided for in this chapter if the city clerk determines a hearing is necessary.
- (b) The city clerk will notify the respondent and may provide the respondent an opportunity to provide information or otherwise respond to the allegations of the complaint.

Ordinance No. [8317 \(2019\)](#)

13-3-3. - Review of Complaint.

The city clerk will evaluate the complaint and all information in the clerk's possession related to the complaint 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 complaint, any information provided by the complainant or the respondent, and upon such additional information as the clerk may determine to be pertinent.

Ordinance No. [8317 \(2019\)](#)

13-3-4. - Action by City Clerk.

- (a) If the city clerk determines that the violation, if any, can be cured, the city clerk shall provide written notice to the complainant and the respondent of the potential cure. After the cure is implemented in accordance with the direction of the city clerk, the city clerk shall provide written notice that no violation exists to the complainant and the respondent.
- (b) 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 notify both the complainant and the respondent in writing. A determination by the city clerk that there is no probable cause that further investigation would disclose a violation shall be final and no appeal or review from such determination shall be permitted.
- (c) If the city clerk determines that there is probable cause that there may be a violation and can make the decision on the allegation without a hearing, the city clerk shall provide a written determination to the complainant and the respondent.
- (d) If the city clerk determines that there is probable cause that there may be a violation and additional facts are necessary to make a final determination on the violation, and the complainant is willing to present the case to prove the violation, a hearing shall be held as provided herein.

Ordinance No. [8317 \(2019\)](#)

13-3-5. - Power of City Clerk to Offer Cure or Issue Remedial Order.

At any point prior to or during the investigation of a complaint, if the city clerk determines that an alleged violation can be cured or handled by remedial action, the city clerk may direct the respondent to

cure the violation or take remedial action within seventy-two hours, including, without limitation, the following:

- (a) Filing a corrected disclosure form;
- (b) Publishing corrective advertising;
- (c) Refunding any contributions obtained in violation of Chapter 13-2; and
- (d) Refunding to the city any public monies inappropriately obtained for the financing of election activities.

In the event the respondent timely complies with the cure or remedial action required, any investigation of a complaint shall be terminated, and the final written decision of the city clerk shall be provided to the complainant and respondent.

Ordinance No. [8317 \(2019\)](#)

13-3-6. - Hearings on Complaints.

- (a) The purpose of hearings on complaints will be to determine whether sufficient evidence of a violation by the respondent exists to warrant finding a violation occurred and imposing a penalty.
- (b) The hearing may be held before the city clerk or a hearing officer appointed by the city manager who may be a city employee. A hearing officer shall be appointed when the dispute involves the city clerk's decisions regarding the administration or enforcement of this article. Any hearing shall be held in conformance with this chapter.
- (c) The hearing officer has the authority provided in Section 1-3-5, "Hearings and Determinations," to conduct the hearing and any decision shall be in accordance with the intent of Chapter 13-2 and this chapter.

Ordinance No. [8317 \(2019\)](#)

13-3-7. - 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, or pursue in municipal or state court such remedies as may be appropriate, including but not limited to prosecution under Title 5, B.R.C. 1981. This chapter shall not be construed as to require administrative proceedings before such criminal or civil action.

Ordinance No. [8317 \(2019\)](#)

13-3-8. - 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 complainant or person named in a complaint.

Ordinance No. [8317 \(2019\)](#)

13-3-9. - Confidentiality of Investigation.

The contents of files relating to pending inquiries or investigations into possible violations of the provisions of chapter 13-2, "Campaign Finance, Disclosure and Reporting Requirements," and preliminary reports or drafts relating to the results of investigations, shall not be made public. The complaint, any written direction by the city clerk to a respondent to cure a violation, the final results of the clerk's inquiry or investigation, and the clerk's final decision on a complaint shall be made public unless there is a good cause. Good cause shall include but not be limited to interference with pending litigation, criminal prosecution or disclosure of a person's identity where such disclosure could affect the safety of that person. Any person may appeal to the municipal court a decision to release or not to release such information. The city council finds that other disclosures could compromise criminal justice investigations and undermine the purposes of this title 13 for compliance with the election and campaign disclosure requirements. 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.

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13-3-10. - Campaign Finance Violations and Penalty.

- (a) Criminal Acts and Penalties. It shall be unlawful to:
- (1) File any statement required by Chapter 13-2 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 clerk pursuant to this chapter;
 - (3) Fail to provide required information necessary to complete a required statement within seventy-two hours of having been notified by the city clerk pursuant to this chapter;
 - (4) Knowingly misstate or misrepresent the names of the persons required to be disclosed by Chapter 13-2; or
 - (5) Fail to comply with any of the requirements of Chapter 13-2.
- (b) Civil Action by Registered Elector. In lieu of filing a complaint with the city as provided in Section 13-3-2 above, 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 Chapter 13-2, provided such person first files with the city attorney a written request for the city attorney to commence action. The request to the city attorney 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 by any registered elector unless the action brought by the city attorney is dismissed without prejudice.
- (c) Penalties. In addition to any other applicable remedy at law or in equity, the following shall apply:
- (1) Any official or unofficial candidate committee that knowingly accepts a contribution in excess of \$100, or exceeds the expenditure limit in violation of Chapter 13-2, 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, or three times the amount by which the contribution or expenditure limit is exceeded, whichever is greater. In determining the amount of civil liability, the hearing officer or court may take into account the seriousness of the violation and culpability of the defendant.
 - (2) The penalties in Section 5-2-4, "General Penalties," B.R.C 1981.

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