

15-32 – Definitions

(i) *Electioneering communication* shall mean any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, placed on a website, streaming media service, or online forum for a fee, or a pre-recorded audio message delivered by telephone, that:

(1) Unambiguously refers to any candidate, ballot issue or ballot question; and

(2) Is broadcast, printed, mailed, delivered, posted or otherwise distributed in the period beginning sixty (60) days before a general municipal election until the run-off election, or within thirty (30) days of a special or vacancy election; and

(3) Is broadcast to, printed in a newspaper distributed to, mailed or delivered by hand to, targeted online to, or posted on a billboard to an audience that includes members of the electorate for the candidate, ballot issue or ballot question.

(4) Electioneering communication does not include:

a. Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

b. Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party; or

c. Any communication by persons, other than committees, made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.

(5) An electioneering communication is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

15-35.5 – Reporting Requirements for Independent Expenditures and Electioneering Communication

(a) Once any person spends an aggregate of one thousand dollars (\$1,000.00) or more on either electioneering communications or independent expenditures in an election cycle, the person shall file an initial report that accounts for the first one thousand dollars (\$1,000.00) of spending. The person shall then be required to file a report for each subsequent electioneering communication or independent expenditure, regardless of the amount. The report shall be filed within forty-eight (48) hours after obligating moneys for the independent expenditure or electioneering communication.

(b) For the purposes of this subsection, the term "election cycle" shall have the same meaning as set forth in section 15-32(h).

(c) The report shall include the following:

(1) The name of the person making the communication;

(2) The occupation and employer of the person making the communication, if such person is a natural person;

(3) Whether each communication is an independent expenditure or electioneering is communication;

(4) The date of each communication;

(5) The method of communication;

(6) The name of the candidates, ballot issues, or ballot questions referred to in the communication;

(7) Whether the communication supports or opposes the named candidates, ballot issues or ballot questions; and

(8) The amount spent on each communication.

a. If the person used donor funds for the communication, the report shall include the name and address of any person that donated more than twenty-five dollars (\$25.00) for the purposes of making the communication.

b. If the person used non-donor funds for the communication, whether whole or in part, the person shall briefly describe the source of the non-donor funds. For the purposes of this section, "non-donor funds" include investment income, capital gains, regular membership dues, income earned from providing goods, services or facilities, sales of assets, or other receipts that are not donations.

(d) Any report filed under this section shall include a statement certifying that the reported communications were not controlled by or coordinated with any candidate or issue committee.

(e) A committee registered under section 15-34 does not need to file an additional report under this subsection separate from regularly filed disclosure reports listing all contributions, disbursements, and expenditures under section 15-35.

(f) Any communications under this section that are controlled by or coordinated with a candidate or issue committee or their agents are deemed to be contributions to the candidate or issue committee. Such communications are subject to all contribution limits, prohibitions, and reporting requirements.

15-40 – Complaints; Duties of Clerk and Recorder

(a) Any person who believes a violation of this article has occurred may file a written complaint with the clerk and recorder, who shall in turn appoint a hearing officer to investigate the complaint.

(b) If the hearing officer determines there is probable cause that a violation has occurred, the hearing officer shall so notify the city attorney, who shall determine whether to institute legal proceedings.

(c) In conducting an investigation pursuant to this section, the hearing officer shall have the authority and ability to issue subpoenas as it deems necessary to complete its investigation. Any subpoena issued hereunder shall be enforceable in the county court.

(d) If requested to do so by the candidate involved, the hearing officer shall keep an investigation pursuant to this section confidential; provided, however, that if probable cause is found, the investigation shall be made public notwithstanding any request by the candidate.

15-42 – Responsibility for Communications

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating a particular result in an election, or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication:

(a) If paid for and authorized by a candidate, candidate committee, issue committee, political committee or their agents, shall clearly state that the communication is paid for by that candidate, candidate committee, issue committee, or political committee;

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

(c) If paid for by a person as an independent expenditure or electioneering communication, shall clearly state both the full name of the person making the expenditure and that the advertisement or material is not authorized by the candidate, candidate committee, issue committee, or political committee.