

# CAMPAIGN REPORTING REQUIREMENTS

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## GENERAL

The Colorado Constitution Article XXVIII (Article XXVIII), Colorado Revised Statutes adopt the provisions of the *Fair Campaign Practices Act* (FCPA), Title 1, Article 45. The Secretary of State's Rule #22 provides more direction for Disclaimer Statements. Copies of those documents are attached behind the *Guidelines*.

Article XXVIII and the FCPA set forth certain requirements for Candidates to provide disclosure with respect to receiving campaign contributions and making expenditures. An individual who becomes a Candidate for City Council elective office is required to file certain forms with the City Clerk pursuant to these laws regardless of whether you receive or make expenditures. Copies of each blank form are available by request from the City Clerk's Office or online at <http://www.ThorntonCO.gov/government/city-clerk/Pages/Candidate-Reporting-Forms.aspx>. An original must be filed with the City Clerk.

### ***Electronic Filing of Reports***

Reports may be filed electronically provided the report has been signed by the Candidate or the Registered Agent.

A completed sample of each form referenced is attached to assist you in completing the requirements of Article XXVIII and FCPA.

Political, issue, and small donor committees supporting or opposing Candidates or issues are also required to comply with these filing requirements.

## ***Posting of Reports***

Any report submitted pursuant to Article XXVIII and the FCPA will be made available for public inspection and placed on the City's website the day after reports are due.

If you have questions regarding your particular situation, you may wish to consult with a private attorney who can assist you with an interpretation of the applicable laws and regulations.

## FREQUENTLY ASKED QUESTIONS

A list of frequently asked questions (FAQs) is on pages 5-8 and 5-9.

## ANNOUNCING YOUR CANDIDACY

### ***Candidate Affidavit***

The Candidate Affidavit must be filed with the City Clerk's Office within 10 days of publicly announcing an intention to run for office and subsequently receiving a contribution or making an expenditure in support of the candidacy.

The definition of "publicly announced" contained in the Campaign and Political Finance Rule 1.19 states:

*"Publicly announced an intention to seek election to public office or retention of a judicial office" means: 1.19.1, Registering a Candidate committee; or 1.19.2, Announcing an intent to seek election to public office through: (a) A speech, advertisement, or other communication reported or appearing in public media; or (b), A statement made in any place accessible to the public; or (c) A statement made in a manner that a reasonable person would expect to become public.*

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Candidates are requested to provide an email address on this form so that our office can get information to you quickly, if it becomes necessary. Information will also be available via T-Alerts.

### CANDIDATE COMMITTEES

#### ***Committee Registration Form***

The Committee Registration form must be submitted prior to a Candidate accepting any contributions. A Candidate committee consists of a person, including the Candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a Candidate.

The Committee Registration form asks for the name of a Registered Agent. The Registered Agent, or committee treasurer, is an individual designated to receive mailings and address concerns and questions regarding the committee. A Candidate may serve as their own Registered Agent. However, if there is a Registered Agent, that individual may sign the Committee Registration form and all disclosure reports instead of the Candidate.

A Candidate can only have one Candidate committee.

If you do not intend to accept contributions and will not be expending funds, or will only be expending personal funds, a Committee Registration Form will not need to be filed. However, you will still be required to file campaign reports throughout your candidacy.

#### ***Bank Accounts***

All contributions received by a Candidate committee must be deposited and maintained in a financial institution in a

separate account, the title of which must include the name of the committee.

All records pertaining to the account must be maintained by the committee for 180 days following the election.

#### ***2018 FCPA Changes to the Definition of “Contribution” and “Expenditure”***

House Bill 18-1047 was adopted during the 2018 legislation session which changed the definition of “contribution” to exclude the payment of legal fees to advise a Candidate on compliance with campaign finance law or regulations or to represent a Candidate or Candidate committee in any action in which the Candidate or Candidate committee has been named as a defendant as used in Section 2(5)(a)(II) and (5)(a)(IV) of Article XXVIII of the State Constitution. Nor does “contribution” include an intervention by the Secretary of State, as authorized by Section 1-45-111.5(1.5)(g) of the FCPA, in any action brought to enforce the provisions of Article XXVIII of the State Constitution or Article 45.

The definition of “Expenditure” was also changed by House Bill 18-1047 to say that “Expenditure” does not include legal services paid to defend a Candidate or Candidate committee against any action brought to enforce the campaign finance provisions of the State Constitution or the FCPA.

### PROHIBITED CONTRIBUTORS

A Candidate committee cannot contribute to another Candidate committee or accept contributions from:

- ♦ Any person who is not a citizen of the United States, or
- ♦ A foreign government, or
- ♦ Any foreign corporation that does not have authority to transact business in

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Colorado pursuant to Article 115 of Title 7 of the Colorado Revised Statutes, or

- ♦ Another Candidate committee, or
- ♦ Issue Committees, or
- ♦ Anonymous donations of \$20 or more.

### CONTRIBUTION LIMITS

There are no contribution limits for Candidate committees in a municipal election. However, please remember that:

- ♦ All contributions must be reported; and
- ♦ Contributions of \$20 or more must be itemized; and
- ♦ When a one-time contribution from an individual is \$100 or more, or when the aggregate amount exceeds \$100, the employer and occupation of the contributor must be disclosed; and
- ♦ Contributions or expenditures exceeding \$100 must be made by check, money order, or traceable funds. No Candidate committee, political committee, small donor committee, issue committee, or political party can accept a contribution, or make an expenditure, in cash (currency or coin) exceeding \$100. [Article XXVIII Section 3(10)].

### UNEXPENDED CONTRIBUTIONS

Unexpended contributions to a Candidate committee may be contributed to:

- ♦ a political party;
- ♦ a Candidate committee established by the same Candidate for a different public office if the Candidate committee making such a contribution is affirmatively closed by the Candidate no later than ten days after the date such a contribution is made;

- ♦ donated to a charitable organization recognized by the Internal Revenue Service;
- ♦ returned to the contributors; or
- ♦ retained by the committee for use by the Candidate in a subsequent campaign.
- ♦ In no event shall contributions to a Candidate committee be used for personal purposes not reasonably related to supporting the election of the Candidate.

In addition, a person elected to a public office may use unexpended campaign contributions held by the person's Candidate committee for the following:

- ♦ Voter registration;
- ♦ political issue education;
- ♦ postsecondary educational scholarships;
- ♦ to defray reasonable and necessary expenses related to mailings and similar communications to constituents; and
- ♦ expenses directly related to official duties as an elected official, e.g., purchase or lease of office equipment and supplies.

### EXPENDITURE LIMITS

There are no expenditure limits for Candidate committees in municipal elections. However, expenditures and obligations entered into by the committee must be reported. Expenditures or obligations of \$20 or more must be itemized and no Candidate committee shall make an expenditure in currency or coin exceeding \$100.

An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined (i.e., an obligation is made).

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All Candidate, political, small donor, and issue committees and political parties are required to report to the City Clerk their contributions received, including the name and address of each person who has made contributions in the amount of \$20 or more; expenditures made; and obligations entered into by the committee. Candidates who do not receive contributions but use only their own funds must file Statements of Personal Expenditures by a Candidate, and Candidates who do not receive contributions and do not make expenditures must file Candidate Statements of Non-Receipt of Contributions or Non-Expenditure of Funds.

All reports will be accepted on a conditional basis and the registered agent and Candidate will be notified in writing if any deficiencies are found or if the report is incomplete. Notice will be provided by electronic mail if an electronic mail address is on file. If none is on file, then the Candidate will be notified by mail.

### ***Late and Incomplete Filings***

Failure to file reports by 11:59 p.m. on the date they are due could result in a \$50 per day fine.

If a report is deficient, the Registered Agent or Candidate will have 30 days from the date the notice is received to file an amended report. Amended reports not filed by 11:59 p.m. on that date could result in a \$50 per day fine.

All small donor committees and political committees making contributions to municipal Candidates are required to file reports with the City Clerk even if they

are registered with the Secretary of State [C.R.S. 1-45-109(1)(b)]. Small donor committees and political committees will be contacted if contributions are reported by a Candidate committee.

Reports must include any contributions or expenditures made up to five days prior to the filing date.

## CAMPAIGN REPORTING FORMS

### ***Applicability of Filing Deadlines***

These filing deadlines are applicable to all candidate, issue, small donor, and political committees, as well as independent expenditure committees who are contributing in a municipal election.

### ***Filing Deadlines***

All candidate, issue, small donor, political, and independent expenditure filing deadlines for reports in 2021 are as follows:

<u>Period Covered</u>	<u>Filing Date</u>
* - October 7	October 12
October 8 - October 24	October 29
October 25 - November 27	December 2

The reporting period closes five days prior to the filing date.

\*From the date a contribution was received or expenditure made or, for incumbents with open committees, from a prior election from the date covered by the last report filed.

An Annual Report of Contributions and Expenditures will need to be filed on November 1, 2022 (or next business day if the deadline falls on a weekend), and each year thereafter, if a Candidate's statement does not balance to -0- when the December 2, 2021 statement is filed

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**and** the Candidate has not terminated the committee.

**Remember** – if the Candidate’s account balance is -0- on the December 2, 2021 report, the committee may be terminated at that time. Just check the box next to “Termination Report” on the front page of the Report of Contribution and Expenditures Form or, if filing electronically, check the box that indicates you are terminating your committee.

The Annual Report should include the balance at the beginning of the reporting period, total of all contributions received, and total of expenditures made during the reporting period.

If the reporting deadline falls on a weekend or legal holiday, the report must be filed by the close of the next business day.

Reports must be filed no later than 11:59 p.m. on the date they are due. If you are filing a report using the Excel document, when signed, it may be emailed to the City Clerk’s Office at [clerk@ThorntonCO.gov](mailto:clerk@ThorntonCO.gov). Reports received after 11:59 p.m. will be deemed received on the following business day. Reports may also be faxed provided the original is received within five days following the fax.

Following is a detailed summary for each of the reporting forms with an example attached.

### **Report of Contributions and Expenditures Form**

The three methods that can be used for completing the reporting forms are:

- **New** - Electronically, using the City’s Candidate Reporting Portal at [www.ThorntonCO.gov](http://www.ThorntonCO.gov). The database is structured similar to the Excel

Report of Contributions and Expenditures form and includes the same Schedules A, B, C, D, and Statement of Non-Monetary Contributions. Totals will carry-over from the Schedules to the Summary page.

- Using the Excel fill in forms on the City’s website. The Report of Contributions and Expenditures fill-in form contains formulas that will calculate and carry-over totals from the itemized pages to the appropriate lines on pages 1 and 2 of the report, as well as keep a running total of the amount of contributions and expenditures made on the detailed reporting pages.
- Downloading the forms from the City’s website and filling them out manually.

Detailed instructions are included for completing the forms. Schedules A through D and Statement of Non-Monetary Contributions contain multiple pages, should you need them, regardless of whether you are filing electronically or using the Excel reports. Below is a description of each page of this form (see attached sample) including basic instructions:

- **Report of Contributions and Expenditures:** This is the first page of the report. It contains all of the basic information about the committee, the type of report being filed and the reporting period, and a summary of the contributions and expenditures for the reporting period.
- **Detailed Summary:** This page is used to gather and calculate data from the other worksheets. This page and the first page of the report are where you enter your funds on hand from the previous reporting period.

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- ♦ **Schedule A - Itemized Contributions:** All monetary contributions of \$20 or more should be reported here. Include the name and address of the individual and if the contribution is more than \$100, include the individual's place of employment and occupation.
- ♦ **Schedule B - Itemized Expenditures:** All expenditures are reported here. Any expenditure of \$20 or more needs to be itemized where indicated on this form and include the name, address, date, and purpose of each expenditure.
- ♦ **Schedule C - Loans:** Each loan from a lending institution, or from the Candidate, received and repaid by the Candidate committee needs to be listed on a separate page.
- ♦ **Schedule D - Returned Expenditures & Contributions:** This form should be used to document any contributions or expenditures, or portions that have been returned during the reporting period.
- ♦ **Statement of Non-Monetary Contributions:** The fair market value of all non-monetary gifts of any amount should be reported here.

### ***Statement of Personal Expenditures by a Candidate***

This form is for a Candidate who does *not* have a committee, has *only* expended personal funds, and has *not* accepted or received any contributions or non-monetary contributions. For such Candidates, this form may be substituted for the Report of Contributions and Expenditure.

**NOTE:** If a Candidate has expenditures

or contributions in 2022, a non-election year, and each year thereafter, reports are to be filed annually on November 1 (or next business day if the deadline falls on a weekend).

### ***Candidate Statement of Non-Receipt of Contributions or Non-Expenditure of Funds***

This form is for a Candidate who does not have a committee, has *not* received contributions or made any expenditures, *nor* have any expenditures been made. For such Candidates, this form may be substituted for the Report of Contributions and Expenditures.

### **EXPENDITURES FOR POLITICAL ADVERTISING**

A Candidate committee cannot pay any radio or television station, newspaper, periodical, or other supplier of materials, or services a higher charge than that normally required for local commercial customers for comparable use of space, materials or services. Any such rate shall not be rebated, directly or indirectly.

If any radio or television station, newspaper, or periodical charges a Candidate committee a lower rate for use of space, materials, or services than the rate charged another Candidate committee for comparable use of space materials, or services, the difference in such rate must be reported as a contribution to the Candidate committee that was charged the lower rate.

### **REPORTS ARE PUBLIC RECORD**

Any report submitted pursuant to Article XXVIII and the FCPA will be made available for public inspection and placed on the City's website the day after reports are due.

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No information contained in any campaign report may be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

### **NOTARY SERVICES**

Some election forms must be notarized and some must be filed under oath. Notary services are usually available at

banks, car dealerships, real estate offices, and at places that provide mailing services. A notary public may charge up to \$5 for each document notarized. Notary public services are available at the City Clerk's Office on the second floor of City Hall during normal working hours. There is no charge for City-related business, such as notarization of campaign forms for City Candidates. However, the signer must be present.

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## FREQUENTLY ASKED CAMPAIGN FINANCE QUESTIONS

- 1. Does a Candidate have to list employer and occupation of contributors on Schedule A and the Statement of Non-Monetary Contributions of the Report of Contributions and Expenditures form?** Yes, if a contribution is \$100 or more or the aggregate amount reaches \$100.
- 2. If a Candidate has a committee and has opened a bank account, what form should be filed?** The Report of Contributions and Expenditures form should be used even if the Candidate has only spent his or her own personal money. If the Candidate uses his or her own money to open the account, it should be listed as a contribution on Schedule A.
- 3. What should be listed on the non-monetary contributions page of the Report of Contributions and Expenditures form?** Examples of non-monetary contributions include use of office space, tables and chairs, the cost for printing or other materials paid by someone other than the Candidate committee. The fair market value of the item should be the amount entered on that page. If the contribution is coordinated with the Candidate committee, then the box on line 10 needs to be checked and the amount also needs to be listed on the Detailed Summary as a non-monetary expenditure.
- 4. Does a Candidate need to open a separate bank account if he/she does not have a committee and only spends personal funds?** No, there is no requirement for a Candidate without a committee to open a separate checking account. In this case, a Candidate should file the Statement of Personal Expenditures by a Candidate instead of the Report of Contributions and Expenditures form.
- 5. Can a Candidate pay individuals to do such things as distribute flyers and, if so, how is it reported?** This expenditure is okay as long as it is for campaign purposes. If the amount spent is \$19.99 or less per worker, the total amount can be reported as a non-itemized expenditure on the Detailed Summary page of the Report of Contribution and Expenditures form. If it is \$20 or more then it has to be itemized on Schedule B.
- 6. What is the difference between a Candidate making a contribution to or loaning the Candidate committee money?** It is up to the Candidate how he/she is going to report the funds given to a Candidate committee. If a Candidate doesn't expect to be paid back for the money donated to the committee, then he/she may choose to report the funds as a contribution. Then if there are funds remaining at the end of the campaign, the committee can return all or a part of the contribution(s) to the Candidate. If the candidate expects to be repaid, then he/she may choose to report it as a loan.
- 7. Can a Candidate loan money to his/her committee?** Yes, if a Candidate expects to be paid back he/she may choose to report the funds as a loan using

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Schedule C which is also the form to report loans from a financial institution. If there are not sufficient funds at the end of the campaign to fully reimburse the Candidate, then the Candidate can forgive all or part of the outstanding loan.

8. **Do I need to file copies of my campaign reports with the Secretary of State or Adams County?** No, Municipal Candidates only file reports with the City Clerk.
9. **If a Small Donor Committee or Political Committee, that is registered with the Secretary of State and files reports with them, donates to my campaign, do they have to submit a report with the City Clerk?** Yes, C.R.S. 1-45-109(1)(b) states that, "For the purposes of meeting the filing and reporting requirements of this article: (b) Candidates in municipal elections, their Candidate committees, any political committee supporting or opposing a special district ballot issue; and small donor committees making contributions to such Candidates." Small Donor committees and Political committees will be contacted if they are listed as a contributor to your campaign and have not filed the appropriate reports.
10. **If I change who the Registered Agent is do I have to report that?** For Candidate committees, when a registered agent resigns the candidate becomes the registered agent until the responsibilities are assigned to a new agent. You *must* file an amended Committee Registration form within ten days after the resignation of a registered agent or the appointment of a new registered agent.
11. **What if I receive an anonymous contribution?** All anonymous contributions of \$20 or more must be donated to a charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer.
12. **Can a Candidate Committee accept contributions from a "Go Fund Me" Account?** Contributions can be paid through a third party such as "Go Fund Me", provided all contributions of \$20 or more are reported on the Report of Contributions and Expenditures form and includes the name and address of everyone who has donated \$20 or more. If the "Go Fund Me" service charges 10% for collecting the funds, for example, a contribution of \$100 would be listed as a \$100 contribution and the \$10 charge would be listed as an expenditure to "Go Fund Me." It is still considered a \$100 donation because that is the amount donated/contributed to the "Go Fund Me" account. The Committee is still required to list the name, address, employer and occupation for a donation of \$100 or more. If the donation is \$20, it would need to be listed as a \$20 contribution and as a \$2.00 expenditure to "Go Fund Me."
13. **Can I have a Zoom meeting with you if I have questions about my report?** Yes, a meeting can be requested via [clerk@ThorntonCO.gov](mailto:clerk@ThorntonCO.gov), or by calling the City Clerk or Deputy City Clerk, at 303-538-7309 or 303-538-7223, respectively. Please request a Zoom meeting at least two days prior to the deadline for filing reports, just remember that the City Clerk's office cannot provide legal advice.