

TITLE 9
ELECTIONS

Chapter 9.04 Elections

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Chapter 9.04 ELECTIONS¹

¹ **Charter reference**—Elections generally, § 2.1 et seq.; adoption of Colorado Municipal election law to govern city elections, § 2.1.

Sec. 9.04.005. Legislative declaration.

The City Council hereby finds and declares that large campaign contributions to political candidates allow wealthy contributors and special interests groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the interests of the public are best served by limiting campaign contributions; that full and timely disclosure of campaign contributions aids voters in evaluating those who seek public office and that recordkeeping, reporting and disclosure requirements are an essential means of gathering the data necessary to detect violations of this Chapter. (Ord. No. 3-2001, § 1)

Sec. 9.04.010. Definitions.

For the purpose of this Chapter, the definitions set forth in the Act shall apply. In addition, the following definitions shall apply:

Act means the State of Colorado Fair Campaign Practices Act, 1-45-101, et seq., C.R.S., as now enacted or as it may from time to time be amended.

Campaign treasurer means the treasurer of any candidate committee, political committee, issue committee or political party. If no campaign treasurer is identified, then the person responsible for filing contributions and expenditures reports pursuant to the Act shall be the campaign treasurer.

Election means any municipal, general, primary, special or run-off election held within the City of Aspen at which any issue is submitted to the electorate or a person or persons seek to be elected, to run for, to fill or to be recalled from the office of Mayor or Council member of the City. Election includes any initiative, referendum, run-off or recall election. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001 § 2)

Sec. 9.04.020. Records of contributions and expenditures.

The campaign treasurer, shall prepare, maintain, keep and file records of contributions and expenditures as required by the Act. In the event that the provisions of this Chapter are inconsistent with the provisions of the Act, the more stringent shall apply. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001, § 3)

Sec. 9.04.030. Deadlines for and publication of contributions and expenditures.

(a) No person shall accept any contribution (including contributions to a candidate from the candidate himself or herself or from members of his or her immediate family later than seven (7) days prior to any election.

(b) Seven (7) days before an election, the Campaign Treasurer shall file with the City Clerk a report meeting the requirements of the Act. The filings shall be complete and final as of the date of filing. In the event that the Campaign Treasurer is unable, unwilling or fails to file a report in accordance with this Subsection, the candidate and all officers of the candidate, political or issue committee, individually, shall be become responsible for filing the requisite report no less than seven (7) days before an election.

(c) The City Clerk shall, four (4) days before any election, publish in any newspaper of general circulation within the City of Aspen, information concerning all contributions and expenditures received and made as contained in the reports filed pursuant to this Chapter and pursuant to the Act. The publication shall contain at a minimum total receipts, total expenditures and the name of each contributor and the amount of such contribution, all as contained in said reports. In addition, the reports shall be available for public inspection during business hours.

(d) Nothing herein shall be deemed to supersede the reporting or disclosure requirements of the Act, but the requirements of the Act and this Chapter shall be deemed cumulative. (Ord. No. 43-1995, § 1 [part] Ord. No. 3-2001, § 4)

Sec. 9.04.040. Anonymous contributions.

No person shall make, nor shall any campaign treasurer, candidate or political committee accept, any anonymous contribution to a candidate, committee or anyone for the purpose of influencing the election or defeat of any candidate or the passage of defeat of any issue. The intended recipient of an anonymous contribution shall, promptly upon receipt of such contribution, transmit such contribution to the City Clerk for deposit in the General Fund of the City. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.050. Contributions on behalf of another.

No person shall make a contribution on behalf of another or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution, the person's, intermediary's or agent's own full name and street address and the name and street address of the actual contributor. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.060. Limit on contributions by single donor.

No person shall make, solicit or accept a contribution that will cause the total contributions by such person on behalf of any candidate or a political committee supporting or opposing the election of such candidate to exceed two hundred fifty dollars (\$250.00) with respect to any single election. A run-off election shall be considered a separate election. The intended recipient of any contributions that would cause the total amount of contributions to a candidate or committee from a single donor to exceed two hundred fifty dollars (\$250.00) shall promptly, upon receipt thereof, transmit any such excess to the City Clerk for deposit in the General Fund of the City. (Ord. No. 43-1995, § 1 [part]; Ord. No. 3-2001, § 5)

Sec. 9.04.070. Reserved.

Editor's note—Ord. No. 3-2001, § 6, repealed former § 9.04.070, regarding excess campaign contributions. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.080. False statements.

No person shall knowingly make, publish, circulate or cause to be made, published or circulated in any letter, circular, advertisement, poster or in any other writing or on radio or television any false statement designed to influence the vote on any issue or election or defeat of any candidate, nor conspire to do so. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.090. Enforcement.

(a) The City Attorney shall enforce all provisions of this Chapter.

(b) Notwithstanding the provisions of Subsection 9.04.090(c), any person residing in the City of Aspen may sue for injunctive relief to enjoin violations or to compel compliance with this Chapter.

(c) Any person residing in the City may bring a civil action consistent with this Chapter; provided such person first files with the City Attorney a written request for the City Attorney to commence action. The request shall include a statement of grounds for believing a cause for action exists. The City Attorney shall respond within ten (10) days after receipt of the request indicating whether he or she intends to file a civil action. If the City Attorney indicates in the affirmative and files suit within thirty (30) days thereafter, no other action may be brought unless the action brought by the City Attorney is dismissed without prejudice.

(d) In the event any person residing within the City shall bring a civil action for injunction or to otherwise enforce this Chapter and such person shall prevail in such action, then he or she shall be awarded a reasonable attorney's fee and costs of the action to be paid by the defendant. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.100. Criminal penalties.

(a) Any person who knowingly violates any provision of this Chapter is guilty of a misdemeanor and shall be punished by a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both such fine and imprisonment.

(b) Any candidate who knowingly violates any provision of this Chapter shall, in addition to any other penalties provided for herein, be denied his or her right to take oath for the office to which he or she was elected unless he or she has already taken said oath, in which event, the office shall be deemed vacant and shall be filled as otherwise provided by law. (Ord. No. 43-1995, § 1 [part])

Sec. 9.04.110. Civil penalties.

(a) Any person who violates any of the reporting provisions of this Chapter shall be liable in any civil action initiated by the City Attorney or by a person residing within the City for an amount not more than the amount or value not properly reported.

(b) Notwithstanding the provisions of Subsection 9.04.110(a), any person who makes or receives a contribution or expenditure in violation of this Chapter is liable in a civil action initiated by the City Attorney or by a person residing within the City for an amount up to five hundred dollars (\$500.00) or three (3) times the amount of the unlawful contribution or expenditure, whichever is greater.

(c) In determining the amount of liability under Subsections 9.04.110(a) and (b), the Court may take into account the seriousness of the violation and the culpability of the defendants. If a judgment is entered against a defendant or defendants in an action under the sections noted above, the plaintiffs, other than the City, shall receive fifty percent (50%) of the amount recovered. The remaining fifty percent (50%) shall be deposited in the treasury of the City. In an action initiated by the City Attorney, the entire amount record all be paid into the treasury of the City. (Ord. No. 43-1995, § 1 [part])