

ORDINANCE NO. 5096

An Ordinance Amending Ordinance No. 5092, Relating to the City of McMinnville's New Requirements and Regulations Relating to Campaign Finance Declaring an Emergency.

RECITALS:

Whereas, the City of McMinnville adopted campaign finance legislation for candidate elections on April 14th of 2020; and

Whereas, the City is currently in an Election Cycle, and Expenditures and Independent Expenditures are ongoing; and

Whereas, the City desires to ensure that implementation and enforcement of the McMinnville Code on all Expenditures and Independent Expenditures during the Election Cycle are consistent; and

Whereas, the City of McMinnville wishes to amend Ordinance 5092 to remove required minimum civil penalty.

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. A new Chapter 2.10 of Title 2 of the McMinnville Municipal Code is hereby adopted to read as set forth on Exhibit A attached hereto and incorporated herein. Ordinance 5092, Chapter 2.10 of Title 2 of the McMinnville Municipal Code is amended to read as set forth on Exhibit A attached hereto and incorporated herein.
2. The City Council for City of McMinnville adopts the above-stated recitals and findings as if fully set forth herein. The City Council further finds that it is necessary for the preservation of public health, safety, and welfare that an emergency be declared, and this Ordinance shall be in full force and effect on the date of passage

Passed by the Council this 11th day of August, 2020, by the following votes:

Ayes: Drabkin, Garvin, Menke

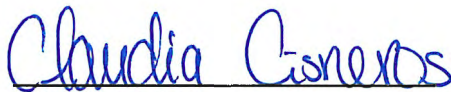
Nays: Geary

Abstain: _____



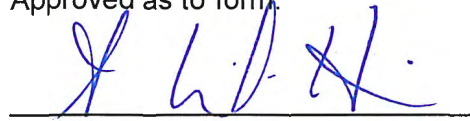
MAYOR

Attest:



City Recorder

Approved as to form:



City Attorney

EXHIBIT A TO ORDINANCE 5096

“Chapter 2.10

CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS

2.10.10 Contributions in City of McMinnville Candidate Elections.

A. Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

2.10.20 Expenditures in City of McMinnville Candidate Elections.

A. An Entity shall register with the Oregon Secretary of State as a Political Committee under Oregon law within 3 business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of McMinnville Candidate Election.

2.10.30 Timely Disclosure of Large Contributions and Expenditures.

A. Each Communication to voters related to a City of McMinnville Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:

1. The names of any Political Committees and other Entities that have paid to provide or present
2. For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
 - a. The name of the Individual or Entity providing the Contribution.
 - b. The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
3. For each of the largest five Dominant Independent Spenders paying to provide or present it:
 - a. The name of the Individual or Entity providing the Independent Expenditure.
 - b. The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the NAICS.

B. If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

C. The disclosure shall be current to within 10 business days of the printing of printed material or within 5 business days of the transmitting of a video or audio communication.

2.10.040 Coordination with Public Funding of Campaigns.

A Candidate participating in a government system of public funding of campaigns may receive any amount that such system allows a participating candidate to receive.

2.10.50 Implementation and Enforcement.

- A.** The provisions of this Chapter shall take effect on May 1, 2020.
- B.** Each violation of any provision in this Chapter shall be punishable by imposition of a civil fine which is not more than 20 times the amount of the unlawful Expenditure or Independent Expenditure at issue.
- C.** Any person may file a written complaint of a violation of any provision in this Chapter with the City Finance Director.
- D.** The City Finance Director, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- E.** Upon receipt or issuance of a complaint , the City Finance Director:
 - 1.** Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
 - 2.** Within 2 business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
 - 3.** Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
 - 4.** Shall render a decision on the complaint within 10 business days of the close of the material submission period.
- F.** If the complaint is received or issued within 30 calendar days of the date of the election involving the object of the complaint, then all time periods stated in Subsections 2.10.050 E.3. and 2.10.050 E.4. shall be reduced by one-half.
- G.** The City Finance Director may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Chapter.
- H.** Upon finding a violation of the requirement for timely disclosure set forth in Section 2.10.30 , the City Finance Director shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 2.10.030.

I. The complainant or any person who is the object of the complaint may, within 30 calendar days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.

J. The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of McMinnville. If the decision is not enforced within 30 calendar days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of McMinnville, and for any appropriate equitable relief.

2.10.060 Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

2.10.070 Severability.

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

2.10.080 Definitions.

Unless otherwise indicated by the text or context of this Chapter 10.4, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Chapter.

- A. "Candidate" has the meaning set forth at ORS 260.005(1).
- B. "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."
- C. "City of McMinnville Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of the City of McMinnville.
- D. "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper

stickers, Small Signs, or a distribution of 500 or fewer substantially similar pieces of literature within any 10 business-day period.

E. "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include:

1. Funds provided by government systems of public funding of campaigns; or
2. Providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.

F. "Dominant Contributor" means any Individual or Entity which contributes more than \$1,000 during an Election Cycle to a Candidate Committee or Political Committee.

G. "Dominant Independent Spender" means any Individual or Entity which expends more than \$1,000 during an Election Cycle to support or oppose a particular Candidate.

H. "Election Cycle" means:

1. Generally, the period between an election at which a Candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.

2. For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.

3. For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.

I. "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.

J. "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:

1. It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.

2. The exception in ORS 260.007(7) does not apply.

K. "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.

L. "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Chapter expresses a limitation or prohibition, "Individual" means any human being.

M. "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.

1. It cannot have commercial enterprises as members.

2. It can transfer to one and only one Small Donor Committee not more than 40 percent of the amount paid to the organization by each Individual member, with a limit of \$100 transferred per Individual member per calendar year.

3. It shall within 30 calendar days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying individual members.

N. "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.

O. "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:

1. any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;
2. any video disclosure remaining reading on the regular screen (not closed captioning) for not less than 4 seconds;
3. any Finance Directory disclosure spoken at a maximum rate of 5 words per second;
4. any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
5. any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.

P. "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to \$100 per Individual contributor per calendar year.

Q. "Small Sign" means a sign smaller than 6 square feet."