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TITLE 4 CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

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4.10: DEFINITIONS

A. The following terms shall have the following meanings for purposes of the remaining provisions of this Title 4:

1. "Appropriate officer" means the Clerk and Recorder.
2. "Board" means the Pitkin County Board of County Commissioners.
3. "Contribution" means the payment, pledge, or promise of payment of money or other thing of value; or other obligation, loan or advance of money, whether or not legally enforceable; or the provision of goods, materials, services or facilities; to any county candidate, county candidate committee, county political committee or county issue committee. "Contribution" includes a coordinated expenditure. "Contribution" does not include:
 - a. An endorsement of a candidate or an issue by any person;
 - b. Interest earned at commercially reasonable rates on funds held in bank accounts;
 - c. The value of services rendered by natural persons volunteering their time to a county candidate or county committee, without compensation.
4. "Coordinated expenditure" means an expenditure:
 - a. Supporting or opposing the nomination, election or retention of a county candidate in coordination, cooperation, consultation, or concert with - or at the request or suggestion of - a county candidate; and
 - b. That is made or incurred by any person after one or more substantial discussion(s) with a county candidate, in which the person making the expenditure or incurring

the expense receives non-public information about the county candidate's plans, projects, activities or needs, and such non-public information is material to the subject matter or purpose of the expenditure.

5. "County ballot issue" means a matter subject to the requirements of article X, section 20 of the state constitution that is referred by the Board for a vote of all county electors.
6. "County ballot question" means a matter, other than a ballot issue, that is referred by the Board to or initiated by electors of the county for a vote of all county electors.
7. "County candidate" means a person seeking nomination or election to, or retention in, any county elective office. "County candidate" includes any county candidate committee established or maintained under the authority of a county candidate, and any agent, employee, board member, director, or officer of any county candidate or county candidate committee.
 - a. A person becomes a county candidate upon:
 - i. The filing of nominating petitions with the Clerk and Recorder as provided in Charter § 6.2., or otherwise publicly announcing an intention to seek nomination or election to, or retention in, a county elective office; and
 - ii. Accepting a contribution from a person other than the person seeking nomination or election to, or retention in, county elective office, or making an expenditure in support of such nomination, election or retention.
 - b. A person remains a county candidate for purposes of this Title 4 so long as the county candidate maintains a county candidate committee. A person who maintains a county candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle, is a county candidate for purposes of this Title 4.
8. "County candidate committee" means a person, including the county candidate, or group of persons with the common purpose of receiving contributions or making expenditures under the authority of a county candidate.
 - a. A county candidate who accepts contributions from persons other than himself or herself must form a county candidate committee.
 - b. A contribution to a county candidate by a person other than the county candidate shall be deemed a contribution to such person's county candidate committee.
 - c. A county candidate shall have only one county candidate committee.

- d. A county candidate committee shall be considered open and active until affirmatively closed by the county candidate or by action of the Clerk and Recorder.
9. “County committees” means county candidate committees, county political committees and county issue committees. “County committees” also includes county political parties, but only to the extent they make contributions, coordinated expenditures or independent expenditures to, on the behalf of, or in opposition to the nomination, election or retention of county candidates.
10. “County entity” means county candidates, county candidate committees, county issue committees and county political committees. “County entity” also includes county political parties, but only to the extent they make contributions, coordinated expenditures or independent expenditures to, on the behalf of, or in opposition to the nomination, election or retention of county candidates.
11. “County issue committee” means any person, other than a natural person, and any group of two or more persons, including natural persons, that have accepted or made contributions or expenditures of one thousand five hundred dollars or more to support or oppose any county ballot issue or county ballot question. A county issue committee shall be considered open and active until affirmatively closed by such committee or by action of the Clerk and Recorder.
12. “County political committee” means any person, other than a natural person, and any group of two or more persons, including natural persons, that have accepted or made contributions or expenditures of two hundred dollars or more to support or oppose the nomination, election or retention of any county candidate. “County political committee” does not include a county political party, county issue committee or county candidate committee. A county political committee shall be considered open and active until affirmatively closed by such committee or by action of the Clerk and Recorder.
13. “County political party” means any group of registered electors who, by petition or assembly, can confer its designation or nomination on a county candidate in the manner provided by state law, as permitted by Section 6.2.4 of the Charter.
14. “Election cycle” means the period of time beginning thirty-one days following a general election and ending thirty days before the next general election.
15. “Election year” means, with respect to any county entity, every even-numbered year and any other year in which a county candidate, county ballot issue or county ballot question appears on a ballot and is supported or opposed by the county entity in question.
16. “Expenditure” means the payment, pledge, promise of payment of money or anything of value, or other obligation, loan or advance of money, whether or not legally

enforceable, or the provision of goods, materials, services or facilities, by any person, for the purpose of influencing the nomination, election, retention or defeat of any county candidate, or the passage or defeat of any county ballot issue or county ballot question; provided, however, the following items shall not be considered an “expenditure”:

- a. Any news article, editorial endorsement, opinion or commentary writing, or letters to the editor printed in a newspaper, magazine or other periodical;
 - b. Any editorial endorsement or opinion aired by a broadcast facility;
 - c. Spending by persons other than county entities in the regular course and scope of their business or payments by a membership organization for any communication solely to its members and their families.
17. “Independent expenditure” means an expenditure, other than a coordinated expenditure, supporting or opposing the nomination, election or retention of a county candidate.
18. “Major election” means the election in which a county candidate is elected to county office or a county ballot issue or county ballot question is passed or defeated by the electorate.
19. “Off-election year” means, with respect to any county entity, any year other than an election year.
20. “Person” means any natural person, and any partnership, corporation, association, firm, committee, governmental entity or other organization or group of persons (however organized).
21. “Registered agent” means the natural person designated to receive mailings and notices, and to address concerns and questions, regarding a county committee. A county candidate may act as registered agent for a county candidate committee.
22. “Unexpended contributions” means the balance of funds on hand in any county committee at the end of any election cycle.

4.20: CONTRIBUTION LIMITS; BANK ACCOUNT

- A. No person shall make a contribution in an amount which exceeds five hundred dollars in the aggregate for any primary, general or special election to any county candidate or any county political committee making coordinated expenditures.

- B. Nothing in this Title shall be construed to prohibit a county political party from making contributions, independent expenditures or coordinated expenditures to or on behalf of county candidates, provided that:
1. County political party contributions to county candidates, including coordinated expenditures, shall not exceed the aggregate contribution limit applicable to all other persons as set forth in Section 4.20(A);
 2. All contributions, independent expenditures and coordinated expenditures made by a county political party to, on the behalf of or in opposition to a county candidate, shall be made from a segregated fund established for the sole purpose of making any such contributions or expenditures. Such segregated fund shall be maintained at a bank operating under federal or state charter, and all account activity of such segregated fund shall be exclusively subject to the provisions of this Title and not those of state law.
 3. A county political party shall timely report and disclose all coordinated expenditures, and all independent expenditures in excess of two hundred fifty dollars (\$250.00), in the manner and to the extent required in Section 4.30 of this Title.
- C. All county committees shall deposit all contributions to and make all expenditures from a segregated fund maintained exclusively for such purposes at a bank operating under federal or state charter. Contributions shall be deposited into such segregated fund within seven (7) days of receipt by the committee in question.

4.30: DISCLOSURE OF COORDINATED AND INDEPENDENT EXPENDITURES

- A. All persons making coordinated expenditures, and all persons making independent expenditures in excess of two hundred fifty dollars, shall report the same to the Clerk and Recorder no later than seven days after the date on which such expenditures are made; provided, however, that reporting of such expenditures under this section must be performed no later than twenty-four hours after the time of such expenditures if the expenditure is made in the eight days preceding any election. The report to the Clerk and Recorder required by this subsection shall be in a form approved by the Clerk and Recorder and include the name and address of the person making the expenditure, the amount of the expenditure, a detailed description of the use of the expenditure, and the name of the county candidate whom the expenditure is intended to support or oppose.
- B. Failure to comply with the provisions of this subsection shall have no effect on the validity of any election, issue or bonds issued pursuant to law, except as provided in Section 4.80.

4.40: ORGANIZATIONAL FILINGS BY COUNTY ENTITIES

- A. County candidates: Not later than ten days after a person becomes a county candidate, he or she shall file the following documents with and in forms approved by the Clerk and Recorder:
1. A candidate affidavit specifying his or her name, residence and mailing addresses and other contact information, the county elective office to or in which election or retention is sought and the date of the election, and containing his or her sworn attestation that he or she has reviewed and understands the provisions of this Title 4 and § 6.6 of the Charter;
 2. A written designation of all county political committees affiliated with, or known to be making expenditures in support of, the county candidate's campaign.
- B. County candidate committees: If a county candidate is required to form a county candidate committee because he or she accepts contributions from persons other than the county candidate, the county candidate shall file with and in a form approved by the Clerk and Recorder a new committee registration statement, specifying the name, physical address, mailing address and other contact information for the county candidate committee and its registered agent, and the name and address of the financial institution at which the segregated account required by section 4.20(C) is or will be maintained.
- C. County political committees: Not later than ten days after one or more persons become a county political committee, the natural person who will serve as its registered agent shall file with and in forms approved by the Clerk and Recorder:
1. A new committee registration statement specifying the name, physical address, mailing address and other contact information for the county political committee and its registered agent, and the name and address of the financial institution at which the segregated account required by section 4.20(C) is or will be maintained; and
 2. An affidavit of organization demonstrating decision-making independence from any county candidate or other county political committee. Any county political committee not filing such an affidavit may not accept any contributions or make expenditures of two hundred dollars or more, in the aggregate.
- D. County issue committees: Not later than ten days after one or more persons become(s) a county issue committee, the natural person who will serve as its registered agent shall file with and in a form approved by the Clerk and Recorder a new committee registration statement specifying the name, physical address, mailing address and other contact information for the county issue committee and its registered agent, and the name and address of the financial institution at which the segregated account required by section 4.20(C) is or will be maintained.

4.50: PERIODIC DISCLOSURES OF CONTRIBUTIONS AND EXPENDITURES

A. Content of Reports. Not later than five days after the end of each reporting period, a county entity shall file with the Clerk and Recorder disclosure reports itemizing contributions received and expenditures made by the county entity during the applicable reporting period. The periodic disclosure reports shall be in a form approved by the Clerk and Recorder and shall set forth:

1. The balance of funds on hand at the beginning of the reporting period, if any;
2. An itemization of all contributions received during the reporting period from persons who have made contributions of twenty dollars or more during the reporting period, which itemization shall include:
 - a. The contributor's name and address;
 - b. The contributor's occupation and employer, if the contributor has made contributions of one hundred dollars or more during the reporting period;
 - c. The aggregate amount of all contributions made by such contributors in the current and all prior reporting periods of the current election year.
3. The total amount of all contributions received during the current reporting period from persons who have contributed less than twenty dollars during the election year, stated in the aggregate;
4. An itemization of all loans received;
5. An itemization of loans wholly or partially repaid;
6. An itemization of contributions returned to contributors;
7. An itemization of all expenditures during the reporting period of twenty dollars or more, which itemization shall include the name and address of the person to whom the expenditure was paid, and a description of the purpose of the expenditure;
8. The sum of all individual expenditures during the reporting period of less than twenty dollars, stated in the aggregate;
9. The balance of funds on hand at the end of the reporting period, if any;
10. A statement by the county entity whether the report constitutes a regular filing for the most recent reporting period, and amended filing for a reporting period prior to the most recent reporting period, or a termination report.

B. Reporting Periods and Filing Deadlines.

1. Reporting Due Dates in Election Years. During election years, a county entity shall file with the Clerk and Recorder periodic disclosure reports of contributions received and expenditures made during the applicable reporting period not later than:
 - a. The twenty-first day and the Friday before, and the thirtieth day after, the primary election;
 - b. The twenty-first day and the Friday before, and the thirtieth day after, the general election;
 - c. The twenty-first day and the Friday before, and the thirtieth day after, a special election, if the county entity supports or opposes the nomination, election or retention of a county candidate who, or the passage of a county ballot issue or county ballot question that, will appear on the ballot for the special election.

2. Reporting Due Date in Off-Election Years.

In off-election years, county entities shall file with the Clerk and Recorder periodic disclosure reports of contributions received and expenditures made during the applicable reporting period not later than the first day of the calendar month in which the anniversary of the major election occurs.

3. Reporting Periods.
 - a. The reporting period for any disclosure report with a due date expressed in terms of a day or number of days *before* an election in Section 4.50(B)(1) begins on the day after the last day of the prior reporting period, and ends on the date that is five calendar days before the date that the report is due.
 - b. The reporting period for any disclosure report with a due date expressed in terms of a number of days *after* an election Section 4.50(B)(1) begins on the day after the last day of the prior reporting period, and ends on the last day of the calendar month in which the election was held.
 - c. The reporting period for any disclosure report due in an off-election year begins on the first day of the calendar month following the month in which the major election occurred, and ends on the date that is five days prior to the due date for the disclosure report in the off-election year.

- d. Each year, the Clerk and Recorder shall publish a calendar of reporting periods and periodic disclosure report due dates and make the same available on the official county website and the Clerk and Recorder's website devoted to county elections, if any.

4.60: CHANGES TO COMMITTEES; TERMINATION

- A. Amendments. Changes to any information disclosed on a committee registration statement shall be reported to the Clerk and Recorder within ten days.
- B. Change of Office Sought. A county candidate who changes the office sought shall terminate his or her existing county candidate committee and register a new candidate committee within ten days of the change.
- C. Termination of County Committee. A county committee may terminate if the following conditions are met:
 1. The county committee no longer intends to receive contributions or make expenditures;
 2. The county committee has a zero balance because it has no cash or assets on hand and no outstanding debts or obligations; and
 3. The county candidate or county committee files a termination report of contributions and expenditures with the Clerk and Recorder.
 4. A county committee may dispose of assets remaining in its possession before termination in the same manner as allowed for the disposition of unexpended contributions.
- D. Unexpended Contributions.
 1. Generally. Unexpended contributions of a county committee shall be reported as the ending balance throughout the election cycle. Unexpended balances from the disclosure report filed thirty days after the applicable election shall be reported as the beginning balance in the next election cycle.
 2. County candidate committees.
 - a. Unexpended contributions of a county candidate committee may be retained by the county candidate committee for use in a subsequent election cycle for the same county elective office.
 - b. Unexpended contributions of a county candidate committee may be transferred to a new county candidate committee established by the same candidate for a

different county elective office, provided that the existing county candidate committee shall be affirmatively closed by the county candidate within ten days of registering the new candidate committee.

- c. Unexpended contributions held by a county candidate committee that wishes to terminate may be:
 - i. Donated to a charitable organization recognized by the Internal Revenue Service;
 - ii. Returned to contributors;
 - iii. For county candidates elected to county office, utilized for voter registration, political issue education, postsecondary educational scholarships, to communicate with constituents, or for expenses directly related to the officeholder's official duties.
3. County political committees and county issue committees. County political committees and county issue committees desiring to terminate may dispose of unexpended contributions by returning them to contributors or donating them to a charitable organization recognized by the Internal Revenue Service.

4.70: CALCULATION OF TIME; TIMELINESS

- A. In the event any due date for filing any statement or report required by this Title 4 falls on a weekend or legal holiday, the due date is extended until the next business day.
- B. All filings by county entities required by this Title 4 shall be deemed timely if made at or before the regular close of business of the office of the Clerk and Recorder.

4.80: PENALTIES

- A. The County Clerk and Recorder shall publish the names of all county entities not in compliance with the applicable provisions of this Title 4 no later than ten (10) days prior to any election, if such lack of compliance is known to the Clerk and Recorder at such time.
- B. Any county candidate who knowingly or intentionally violates any provision of this section, or who conspires with another to violate any provision of this section, shall, in addition to any other penalties, be denied his/her right to take oath for the office to which he/she was elected, unless he/she has already taken said oath, in which event the office shall be deemed vacated and shall be filled as otherwise provided by this Charter.

- C. Any person who knowingly or intentionally violates a provision of this Title 4 relating to a county entity is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one hundred (\$100.00) dollars, or by imprisonment in the County jail for not more than ten (10) days, or both such fine and imprisonment.

4.90: SEVERABILITY

If any provision of this Title or the application thereof to any person or circumstance is determined to be invalid, such invalidity shall not affect other provisions or applications of this Title which can be given effect without the invalid provision or application and, to this end, the provisions of this Title are declared to be severable.

4.100: SAFETY CLAUSE

The Board of County Commissioners of Pitkin County hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health and safety, and it shall become effective upon adoption.

(Title 4 added [ord. 013-2012](#))