

CHAPTER 2

Administration and Personnel

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ARTICLE I

Elections

Sec. 2-1-10. Definitions.

As used in this Article, unless the context otherwise requires:

Candidate, for purposes of compliance with this Article only, means any person who has publicly announced an intention to seek elected municipal office and has received a contribution or made an expenditure in support of the candidacy.

Candidate committee means a person, including a candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one (1) candidate committee.

City Clerk means the City Clerk of the City of Lone Tree, Colorado, who is the custodian of the official records of the City, or any person delegated by the City Clerk to exercise any part of his or her powers, duties or functions. Reference herein to "the office of the City Clerk" shall mean the physical location in a public building of the City Clerk's office.

Committee treasurer or *treasurer* means the treasurer of any candidate, candidate committee, issue committee or political committee. A candidate may appoint himself or herself as committee treasurer. A committee treasurer shall be a natural person.

Contribution means:

- a. The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate, candidate committee, issue committee or political committee;
- b. Any payment made to a third party for the benefit of any candidate, candidate committee, issue committee or political committee;
- c. The fair market value of any gift or loan of property made to any candidate, candidate committee, issue committee or political committee;
- d. Anything of value given, directly or indirectly, to a candidate, candidate committee, issue committee or political committee.

Contribution does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, issue committee or political committee.

Day means a calendar day. When the deadline for any act required by this Article falls on a Saturday, Sunday or legal City holiday, the deadline shall be the close of business on the next business day.

Election means any regular or special municipal election. *Election* includes a recall election and elections for initiatives, referenda and referred measures.

Electioneering means engaging in activities or making statements that are intended to induce a person to cast a ballot in favor of or opposed to a candidate.

Electioneering communication means any communication broadcasted by television or radio, printed in a newspaper or on a sign or billboard, directly mailed or delivered by hand to personal residences, transmitted electronically or telephonically or otherwise distributed that:

- a. Unambiguously refers to any candidate;
- b. Is broadcasted, printed, mailed, delivered by hand, transmitted or otherwise distributed within sixty (60) days before an election; and
- c. Is broadcasted, printed, mailed, delivered by hand, transmitted or otherwise distributed to an audience that includes members of the electorate of the City.

Electioneering communication does not include:

- a. Any news articles, editorial en-dorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate;
- b. Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate;
- c. Any communication by persons 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;

Expenditure means the purchase, payment, distribution, loan, advance, deposit or gift of any money by any candidate, candidate committee, issue committee, political committee or their agents for the purpose of influencing the election or defeat of a candidate, or supporting or opposing any issue. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined. *Expenditure* 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;
- b. Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate;
- c. Any communication by persons 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.

Independent expenditure means an expenditure that is not controlled, requested or suggested by, or coordinated with, any candidate, candidate committee or agent of a candidate or candidate committee. An expenditure that is controlled, requested or suggested by, or coordinated with, a candidate or candidate's agent is deemed to be both a contribution by the maker of the expenditure and an expenditure by the candidate committee.

Issue means any proposition, ballot issue, ballot question, initiative, referendum or referred measure which is to be submitted to the electorate of the City for their approval or rejection and includes the recall of any elected municipal official.

Issue committee means any person, other than a natural person, or any group of two (2) or more persons, including natural persons, who have associated themselves or cooperated together and have received a contribution or made an expenditure for the purpose of supporting or opposing any issue. *Issue committee* includes a recall committee. *Issue committee* does not include a candidate committee or political committee.

Natural person means a human being.

Person means any individual, partnership, committee, association, corporation, labor organization or other organization or group of persons.

Political committee means any person, other than a natural person, or any group of two (2) or more persons, including natural persons, that have accepted or made contributions or expenditures to support or oppose one (1) or more candidates, or for the purpose of making a contribution to a candidate, candidate committee, issue committee or other political committee or for the purpose of making independent expenditures. *Political committee* does not include a candidate committee or issue committee.

Public communication means any communication or solicitation for funds broadcasted by television or radio, printed in a newspaper or on a sign or billboard, directly mailed or delivered by hand to personal residences, transmitted electronically or telephonically or otherwise distributed, that:

- a. Is broadcasted, printed, mailed, delivered by hand, transmitted or otherwise distributed within sixty (60) days before an election; and
- b. Is broadcasted, printed, mailed, delivered by hand, transmitted or otherwise distributed to an audience that includes members of the electorate of the City.

Recall committee means an issue committee supporting the recall or retention of any elected municipal official.

Registered agent or agent means a person responsible for maintaining all candidate, candidate committee, issue committee or political committee records and for filing required reports, and is the person designated by the candidate, candidate committee, issue committee or political committee to receive communications from the City. A registered agent shall be a natural person. (Ord. 08-03 Art. 3)

Sec. 2-1-20. Applicability of provisions.

(a) The provisions of this Article shall apply to any general or special municipal election within the City.

(b) This Article shall be applied and shall govern in place of any provisions contained in Article XXVIII of the Colorado Constitution or in the Colorado Fair Campaign Practices Act in regard to election matters of local concern to the City.

(c) A violation of this Article shall not affect the validity of any election unless otherwise provided in this Article. (Ord. 08-03 Art. 3)

Sec. 2-1-30. Where to file; timeliness.

(a) For the purpose of meeting the filing requirements of this Article, candidates for elected municipal office, candidate committees, issue committees and political committees shall file all required documents and information in the office of the City Clerk. Facsimile or electronic copies shall be accepted, provided that original documents are received by the City Clerk within five (5) days from the date of the facsimile or electronic filing.

(b) Documents and information required to be filed by this Article shall be deemed timely filed if received by the City Clerk by the close of business on the designated day for filing.

(c) When the deadline for any act required by this Section falls on a Saturday, Sunday or legal City holiday, the deadline shall be the close of business on the next business day. (Ord. 08-03 Art. 3)

Sec. 2-1-40. Candidate affidavit.

(a) Within ten (10) days of becoming a candidate, a candidate shall certify, by affidavit filed with the City Clerk, that he or she is familiar with and understands the provisions of this Article. Any contributions or expenditures received or made on behalf of the candidate prior to the filing of such affidavit shall be reported in the first reporting period, and such report shall include the information required under Section 2-1-90 of this Article.

(b) Failure of any candidate to file an affidavit as required by this Section shall result in the disqualification of such person as a candidate. Disqualification shall occur only after the City Clerk has sent a notice to the candidate by certified mail, return receipt requested, addressed to the candidate's residence address. The notice shall state that the candidate will be disqualified if the candidate fails to file the appropriate document within five (5) business days of receipt of the notice. (Ord. 08-03 Art. 3)

Sec. 2-1-50. Write-in candidate affidavit.

(a) No write-in vote for any municipal office in any election in the City shall be counted unless an affidavit of intent to be a write-in candidate has been filed with the City Clerk by the applicable individual not less than twenty (20) days before the day of the election. The affidavit shall state that such individual desires the office and is qualified to assume the duties of that office if elected.

(b) The City Clerk shall have a form of such affidavit of intent and shall make the form available in the office of the City Clerk. (Ord. 08-03 Art. 3)

Sec. 2-1-60. Cancellation of election.

(a) If the only matter before the electors is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including write-in candidates filing affidavits of intent, the City Clerk, if instructed by resolution of the City Council, shall cancel the election and the City Council shall by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected.

(b) Notice of such cancellation shall be published, if possible, and posted at each polling place and in at least one (1) other public place within the City. (Ord. 08-03 Art. 3)

Sec. 2-1-70. Organization of committees.

(a) Every candidate, candidate committee, issue committee and political committee shall file a statement of organization with the City Clerk no later ten (10) days after accepting or making a contribution or expenditure or twenty (20) days prior to the election, whichever is earlier.

(b) The statement of organization shall include:

(1) The name, address and phone number of the candidate committee, issue committee or political committee, the candidate or issue it supports or opposes and any other purpose or interest of the committee.

(2) The name, phone number and address of the registered agent of the candidate committee, issue committee or political committee.

(3) The name, phone number and address of the committee treasurer, if other than the registered agent, of the candidate committee, issue committee or political committee.

(4) Proof of the existence of a bank account as required in Section 2-1-80 below and proof of the date of the initial deposit made therein.

(c) When any candidate committee, issue committee or political committee is organized, the registered agent or other officer of such committee shall certify, by affidavit at the office of the City Clerk, at the time of filing the required statement of organization, a statement that the person signing the affidavit is familiar with and understands the provisions of this Article. (Ord. 08-03 Art. 3)

Sec. 2-1-80. Deposit of contributions.

All contributions received by a candidate, candidate committee, issue committee or political committee shall be deposited no later than ten (10) business days after receipt in a financial institution in a separate account, the title of which shall include the name of the candidate, candidate committee, issue committee or political committee. All records pertaining to such accounts shall be maintained by the candidate, candidate committee, issue committee or political committee for sixty (60) days after submission of the final report unless a complaint is filed, in which case they shall be maintained

until final disposition of the complaint and any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this Article. (Ord. 08-03 Art. 3)

Sec. 2-1-90. Reports; certification and filing.

(a) A candidate, registered agent, candidate committee treasurer, issue committee treasurer or political committee treasurer shall file with the City Clerk reports of all contributions received and all expenditures made. In the event that no contributions have been received or no expenditures have been made, a report stating as much shall be filed with the City Clerk. Reports shall be filed twenty-one (21) days before the election, the Friday before the election and thirty (30) days after any election. The reporting period shall close no earlier than five (5) calendar days prior to the effective date of filing.

(b) Notwithstanding Subsection (a) of this Section, any issue committee which has as its purpose the recall or retention of any elected municipal official shall file with the City Clerk reports of all contributions received and expenditures made by the committee. In the event no contributions or no expenditures have been made, a report stating as much shall be filed with the City Clerk. Reports shall be filed every fourteen (14) days following the filing of the statement of organization until twenty-five (25) days before the election; thereafter reports shall be filed twenty-one (21) days before the election, the Friday before the election and thirty (30) days after the recall election. The reporting period shall close no earlier than five (5) calendar days prior to the effective date of filing.

(c) All reports shall be filed in the office of the City Clerk by the close of business on the day due. When the deadline for any act required by this Section falls on a Saturday, Sunday or legal City holiday, the deadline shall be the close of business on the next business day. Facsimile or electronic copies shall be accepted, provided that original documents are received by the City Clerk within five (5) days of receipt of the copies.

(d) Every candidate who is an incumbent municipal official and every candidate elected to municipal office is subject to the reporting requirements of this Section.

(e) All reports required by this Section are public records and shall be open to inspection by the public during regular business hours.

(f) Each report required by this Section shall contain the following information:

(1) The amount of the balance of funds at the beginning of the reporting period.

(2) The name and address of each person who has made an aggregate contribution to or for such candidate, candidate committee, issue committee or political committee within the reporting period in excess of twenty-five dollars (\$25.00) and the occupation and employer of any person who has made a contribution in excess of one hundred dollars (\$100.00), together with the amount and date of such contribution.

(3) The total sum of all contributions to or for such candidate, candidate committee, issue committee or political committee during the reporting period.

(4) The name and address of each person to whom expenditures have been made by or on behalf of the candidate, candidate committee, issue committee or political committee within the reporting period in excess of twenty-five dollars (\$25.00), together with the amount, date and purpose of each such expenditure and the name of and the office sought by each candidate or the issue for which such expenditure was made.

(5) The total sum of all expenditures made by such candidate, candidate committee, issue committee or political committee during the reporting period.

(6) The name and address of any bank or other depository of funds used by the candidate, candidate committee, issue committee or political committee.

(g) The reporting provisions of this Section and Section 2-1-70 above shall apply to any candidate, candidate committee, issue committee or political committee that receives contributions from any person through donations or through events such as dinners, luncheons, rallies or other fundraising events.

(h) A candidate, candidate committee, issue committee or political committee may terminate if all of the following conditions are met: the candidate or committee no longer intends to receive contributions or make expenditures; a zero balance is achieved by having no cash on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. A termination statement may be filed at any time. Until terminated in accordance with this Section, a committee shall file a report for every reporting period, even if the committee has no activity, expenditures or contributions to report during the reporting period. (Ord. 08-03 Art. 3)

Sec. 2-1-100. Unexpended contributions and expenditure deficits; reports.

(a) Any post-election report filed under Section 2-1-90 above shall be final unless it shows an unexpended balance of contributions or an expenditure deficit, in which event a supplemental report shall be filed no later than sixty (60) days after the election to which it applied. Subject to the provisions of Subsections (b) and (c) of this Section, no unexpended balance of contributions or expenditure deficit may exist later than ninety (90) days after the date of the election.

(b) No elected municipal official, candidate, registered agent, candidate committee treasurer, issue committee treasurer or political committee treasurer shall use any contribution for private purposes not reasonably related to influencing:

- (1) The election or defeat of any candidate;
- (2) The approval or rejection of any issue;
- (3) The recall or retention of an elected municipal official; or
- (4) Voter registration.

Contributions not expended on behalf of a candidate, candidate committee, issue committee or political committee may be donated to any nonprofit or charitable organization, to the State or to any

political subdivision of the State, but not to any political party, or may be returned to the contributors to such candidate, candidate committee, issue committee or political committee.

(c) Unexpended contributions may be retained by the candidate or candidate committee for use by the candidate or the candidate committee in a subsequent City election upon notice of intent to retain contributions filed with the City Clerk. Such contributions shall be deposited in a financial institution in a separate account, the title of which shall include the name of the candidate or the candidate committee. A quarterly report shall be filed with the City Clerk describing any activity regarding the account. In the event no activity in the account has taken place, a report stating as much shall be filed with the City Clerk. Reports shall be due on the fifteenth calendar day following March, June, September and December of each year. Candidate or candidate committees that retain unexpended contributions shall refile a statement of organization and an affidavit for the subsequent election, as required under Section 2-1-70 above, within ten (10) days of receiving a contribution or making an expenditure, but in no event later than twenty (20) days prior to the subsequent election, whichever is earlier. Any unexpended contributions retained by a candidate committee for use in a subsequent City election shall be reported as a contribution from a candidate committee in any subsequent election and shall not be counted toward the contribution limits of this Article. In no event shall contributions to a candidate or candidate committee be used for personal purposes not related to supporting the election of the candidate. At such time as the candidate is no longer serving in or running for elected municipal office, any unexpended contributions or expenditure deficits shall be handled as provided for in this Section. (Ord. 08-03 Art. 3)

Sec. 2-1-110. Contribution limits.

(a) No person shall make to a candidate committee, and no candidate committee shall accept from any one (1) person, aggregate contributions in excess of two thousand dollars (\$2,000.00). A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee.

(b) An expenditure by a candidate on behalf of his or her own candidacy shall be deemed a contribution to the candidate's candidate committee. Contributions by a candidate to a candidate's own candidate committee shall not be subject to contribution limits.

(c) No person shall make to an issue committee, and no issue committee shall accept from any one (1) person, aggregate contributions in excess of ten thousand dollars (\$10,000.00).

(d) No person shall make to a political committee, and no political committee shall accept from any one (1) person, aggregate contributions in excess of two thousand dollars (\$2,000.00).

(e) The contribution limits of this Section shall apply to each election. (Ord. 08-03 Art. 3; Ord. 08-08 Art. 4)

Sec. 2-1-120. Independent expenditures.

(a) Any person making an independent expenditure the aggregate sum of which exceeds two hundred fifty dollars (\$250.00) per calendar year shall deliver notice in writing within ten (10) days of such expenditure to the City Clerk stating the amount of such expenditure and a detailed description of the use of the independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent

expenditure the aggregate sum of which exceeds two hundred fifty dollars (\$250.00) shall require the delivery of a new notice. Any person making an independent expenditure the aggregate sum of which exceeds two hundred fifty dollars (\$250.00) within thirty (30) days of a regular or special election shall deliver such notice within forty-eight (48) hours after obligating funds for such expenditure.

(b) Any person making an independent expenditure of two hundred fifty dollars (\$250.00) or more shall disclose, in every communication related to the expenditure, the name of the person making the expenditure and a specific statement that the advertisement of material is not authorized by any candidate. Such disclosure shall be prominently featured in the communication.

(c) Expenditures by any person on behalf of a candidate that are coordinated with or controlled by the candidate, the candidate committee or the candidate's agent, shall be considered a contribution to the candidate's candidate committee.

(d) This Section applies only to independent expenditures made for the purpose of expressly advocating the election or defeat of any candidate. (Ord. 08-03 Art. 3)

Sec. 2-1-130. Electioneering communications.

Any person who expends in the aggregate two hundred fifty dollars (\$250.00) or more per calendar year on electioneering communications shall deliver a notice in writing within ten (10) days of such expenditure to the City Clerk. Each expenditure in the aggregate of two hundred fifty dollars (\$250.00) or more shall require the delivery of a new notice. Such notice shall include the amount, date and purpose of each expenditure, and the name and address of any person that contributes more than one hundred dollars (\$100.00) per year to such person toward electioneering communications. In all cases where the person is a natural person, such notice shall also include the occupation and employer of such natural person. The last such notice shall be filed thirty (30) days after the applicable election. (Ord. 08-03 Art. 3)

Sec. 2-1-140. Public communication; disclaimer notice.

A public communication made by a candidate, candidate committee, issue committee or political committee shall include a disclaimer notice identifying the name of the committee that paid for the communication. A disclaimer notice shall be clear and conspicuous on the communication and, in the case of a single-sided document, sign or billboard, the disclaimer shall be on the front. A notice shall not be considered to be clear and conspicuous if it is difficult to read or hear. (Ord. 08-03 Art. 3)

Sec. 2-1-150. Limitations on City contributions.

(a) The City, acting through its City Council, its elected or appointed officials, boards, commissions, committees and its employees in their official capacity, shall make no contribution to campaigns involving the nomination, retention or election of any person to any public office, nor shall the City expend any public moneys from any source, or make any contribution, to urge electors to vote in favor of or against any:

(1) Statewide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to Section 1-40-106(1), C.R.S., or that has had a title designated and fixed pursuant to that Section;

(2) Issue that has been submitted for the purpose of having a title fixed pursuant to Section 31-11-111, C.R.S., or that has had a title fixed pursuant to that Section;

(3) Referred measure, as defined in Section 1-1-104(34.5), C.R.S.;

(4) Measure for the recall of any elected official that has been certified for submission to the electors for their approval or rejection.

(b) The City, acting through its City Council, its elected or appointed officials, boards, commissions, committees and its employees in their official capacity may respond to questions about any matter described in Subsection (a) of this Section if the City has not solicited the question. A member or employee of the City or City Council who has policy-making responsibilities may expend not more than fifty dollars (\$50.00) of public moneys in the form of letters, telephone calls or other activities incidental to expressing his or her opinion on any such issue described in Subsection (a) of this Section.

(c) Nothing in this Section shall be construed as prohibiting the City from expending public moneys or making contributions to dispense a factual summary that includes arguments both for and against the proposal on any issue of official concern before the electorate in the City. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the City.

(d) Nothing in this Section shall be construed as prohibiting the City from expending public funds to produce and distribute the election notices and summaries required by Article X, Section 20(5) of the Colorado Constitution.

(e) Nothing in this Section shall be construed as prohibiting the City Council, its elected or appointed officials, boards, commissions or committees from:

(1) Passing a resolution or taking a position of advocacy on any issue described in Subsection (a) of this Section; or

(2) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of the City Council, its elected or appointed officials, boards, commissions or committees is regularly provided to the public.

(f) Nothing in this Section shall be construed as prohibiting a member of the City Council, an elected or appointed City official, a member of a City board, commission or committee or a City employee not acting in his or her official capacity from expending personal funds, making contributions or using personal time to urge electors to vote in favor of or against any candidate or issue described in Subsection (a) of this Section.

(g) Nothing in this Section shall be construed to prevent a member of the City Council, an elected or appointed City official, a member of a City board, commission or committee or a City employee from expressing a personal opinion on any election matter.

(h) A violation of this Section shall be subject to any appropriate order of relief, including but not limited to injunctive relief or a restraining order to enjoin the continuance of the violation. (Ord. 08-03 Art. 3)

Sec. 2-1-160. Duties of City Clerk.

(a) The City Clerk shall:

(1) Prescribe forms for reports, statements and other information required to be filed by this Article and furnish such forms and information free of charge for use by candidates and other persons required to file such reports, statements and information under this Article.

(2) Keep a copy of any report, or statement required to be filed by this Article for a period of one (1) year from the date of filing. In the case of candidates who are elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office.

(3) Make the reports and statements filed available for supervised public inspection and copying, commencing as soon as practicable, but not later than the end of the second day following the day during which it was received. The City Clerk shall permit copying of any such report or statement at the expense of the person requesting the copying. No information copied from such reports and statements shall be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

(4) Review all required filings for timeliness and completeness. In the event that the City Clerk determines a filing contains an error or is otherwise incomplete, the candidate, registered agent or treasurer of any candidate, candidate committee, issue committee or political committee who has made the erroneous or incomplete filing shall have three (3) days from the date of notification of the error by the City Clerk to file a corrected report or statement. If such corrected report or statement is not timely filed or is again erroneous, the City Clerk shall notify the City Manager as provided in Subsection (b) of this Section, and an independent hearing officer may be, but is not required to be, appointed as therein provided.

(b) Any person who believes a violation of this Article has occurred may file a written complaint no later than thirty (30) days after the date that the final report of a candidate, candidate committee, issue committee or political committee was filed with the City Clerk. The City Clerk shall notify the City Manager of any complaint, and the City Manager, in consultation with the City Clerk and the City Attorney, may appoint an independent hearing officer to hear and determine such complaint. Any hearing shall be held in accordance with the provisions of Section 24-4-105, C.R.S., or such other rules as the City Clerk has promulgated. If the hearing officer determines after a hearing that a violation has occurred, the City Attorney or, if applicable, a special prosecutor may institute a civil action in a court of competent jurisdiction, including the Municipal Court, for relief that is appropriate. (Ord. 08-03 Art. 3)

Sec. 2-1-170. Use of funds.

No candidate, candidate committee or political committee may use any contribution for private purposes not reasonably related to influencing an election or voter registration. No issue committee

may use any contribution for private purposes not reasonably related to influencing the approval or rejection of an issue or voter registration. (Ord. 08-03 Art. 3)

Sec. 2-1-180. Encouraging withdrawal from campaign prohibited.

No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value. (Ord. 08-03 Art. 3)

Sec. 2-1-190. Penalty.

(a) Any person who violates any provision of this Article or who gives or accepts any contribution required to be deposited and reported under Sections 2-1-80 and 2-1-90 of this Article in such a way as to hinder or prevent reporting or identification of the true donor commits a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) by imprisonment not exceeding one (1) year or by both such fine and imprisonment. Any candidate who conspires with another to violate any provision of this Article shall, in addition to any other penalty provided in this Section, forfeit his or her right to assume the office or to take the oath for the office to which he or she may have been elected, unless he or she has already taken the oath, in which case the office shall be deemed vacated. In the event the office to which the candidate has been elected is vacated, the vacancy to the office shall be filled as provided by the City Charter.

(b) In addition to any other sanction imposed, any person who violates any provision of this Article relating to contribution limits shall be subject to a civil penalty of double the amount contributed or received in violation of the applicable provisions of this Article. Candidates shall be personally liable for fines imposed against the candidate's committee.

(c) The City Clerk, after proper notification by certified mail, return receipt requested, shall impose a penalty of fifty dollars (\$50.00) per day for each day that a statement or other information required to be filed pursuant to this Article is not filed by the close of business on the day due. However, the City Clerk may excuse this penalty if a bona fide personal emergency prevented the filing through no fault of the responsible candidate, candidate committee, issue committee or political committee. (Ord. 08-03 Art. 3)

Sec. 2-1-200. Immunity from liability for fine or penalty.

Any individual volunteering his or her time on behalf of a candidate, candidate committee, issue committee or political committee shall be immune from any liability for a fine or penalty imposed pursuant to this Article in any proceeding that is based on an act or omission of such volunteer if the volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate, candidate committee, issue committee or political committee. (Ord. 08-03 Art. 3)

ARTICLE II

Municipal Court

Sec. 2-2-10. Creation of Municipal Court.

(a) In accordance with Section 13-10-102, C.R.S., the Municipal Court of the City is hereby established as a qualified Municipal Court of record and to that end, the Municipal Court shall keep a verbatim record of the proceedings and evidence at trials by electric devices, which shall include tape recorders.

(b) The judge of the Municipal Court shall be admitted to and currently licensed in the practice of law in the State. (Ord. 97-7 §2.1)

Sec. 2-2-20. Original jurisdiction.

The Municipal Court shall have original jurisdiction of all cases arising under the provisions of this Code and ordinances of the City, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed in this Code or by ordinance. (Ord. 04-17 §1)

Sec. 2-2-30. Compensation of Judge.

Pursuant to Section 13-10-107, C.R.S., the annual salary of the Municipal Judge shall be set by City Council. (Ord. 97-7 §3.1; Ord. 04-17 §1)

Sec. 2-2-40. Oath of office.

Before entering upon the duties of his or her office, the Municipal Judge shall take an oath of affirmation that he or she will support the Constitution of the United States, the Constitution of the State and the laws of the City, and will faithfully perform the duties of his or her office. (Ord. 04-17 §1)

Sec. 2-2-50. Court Clerk.

The City Manager, with the approval of the City Council, may appoint a person to serve as Court Clerk, whose duties shall be those assigned by the Municipal Judge. The Municipal Judge may also act as Court Clerk in accordance with state statutes. (Ord. 04-17 §1)

Sec. 2-2-60. Sessions generally.

(a) There shall be regular sessions of the Municipal Court for the trial of cases as may be fixed by the Municipal Judge. The Municipal Judge may hold special sessions of court at any time, including Sundays, holidays and evenings. All sessions shall be open to the public.

(b) Where the nature of the case is such that it would be in the best interest of justice to exclude persons not directly connected with the proceedings, the Municipal Judge may order that the courtroom be cleared. (Ord. 04-17 §1)

Sec. 2-2-70. Rules of procedure.

In addition to other powers, the Municipal Judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the Municipal Court, consistent with the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court. (Ord. 04-17 §1)

Sec. 2-2-80. Contempt power.

(a) When the Court finds any person to be in contempt, the Court may vindicate its dignity by imposing on the contemnor a penalty in accordance with Section 1-4-20 of this Code.

(b) In cases of indirect contempt, the alleged contemnor shall have all the rights, privileges, safeguards and protections of a defendant in a petty offense case, including but not limited to a formal written complaint, arraignment and trial by jury. (Ord. 04-17 §1)

ARTICLE III

Police Department

Sec. 2-3-10. Creation; composition.

There is hereby created a Police Department for the City, which shall consist of one (1) Chief of Police and as many police officers as may from time to time be deemed necessary for the safety and good order of the City. (Ord. 04-17 §1)

Sec. 2-3-20. Departmental regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the City Council. (Ord. 04-17 §1)

Sec. 2-3-30. Chief of Police; appointment and duties.

(a) The City Manager shall appoint a Chief of Police who shall be the head of the Police Department. It shall be the duty of the Chief of Police to:

(1) See that the ordinances of the City and the laws of the State are duly enforced and the rules and regulations of the Police Department obeyed, and perform such duties as may be required by the City Manager.

(2) Direct the operations of the Police Department, subject to the rules and regulations thereof.

(3) Arrest any person violating any of the City ordinances and take such violator before the Municipal Court for trial.

(4) Render such accounts of the Police Department, his or her duties and receipts as may be required by the City Manager, and keep the records of his or her office open to inspection by the City Manager at any time.

(b) Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 04-17 §1)

Sec. 2-3-40. Duties of police officers.

All members of the Police Department shall have power and duties as follows:

- (1) They shall perform all duties required by the Chief of Police.
- (2) They shall be the enforcement officers of the City and shall see that the provisions of the ordinances of the City and the laws of the State are complied with.
- (3) They shall execute and return all writs and processes to them directed by the Municipal Judge in any case arising under a City ordinance, and they may serve the same in any part of the State. (Ord. 04-17 §1)

Sec. 2-3-50. Oath of officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution of the United States, the Constitution and laws of the State and the ordinances of the City, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter. (Ord. 04-17 §1)

ARTICLE IV

Planning Commission

Sec. 2-4-10. Establishment.

The Planning and Zoning Commission, hereinafter referred to as the *Planning Commission*, is established pursuant to the provisions of Article VII of the Charter. (Ord. 04-17 §1)

Sec. 2-4-20. Powers and duties.

(a) The Planning Commission shall elect from its members a chairman and secretary and such other officers as it may determine. The chairman shall conduct the meetings of the Planning Commission, and the secretary shall keep and record the minutes of the Planning Commission.

(b) The Planning Commission shall adopt rules for the transaction of its business and shall keep a record of its resolutions and actions. The Planning Commission shall operate in accordance with the Open Meetings Law, Section 24-6-401 et seq., C.R.S.

(c) The Planning Commission shall have the power to expend those funds appropriated for its use by the City Council.

(d) The Planning Commission shall have those powers delegated to it by City ordinances and resolutions, including but not limited to Chapters 16 and 17 of this Code.

(e) The Planning Commission shall exercise those powers specified in Section 31-23-306, C.R.S., acting in the capacity of a zoning commission.

(f) The Planning Commission shall select one (1) of its members to serve as an alternate on the Board of Adjustment in the event of an absence or vacancy on that Board. (Ord. 97-5 §2.2; Ord. 04-17 §1)

ARTICLE V

Board of Adjustment

Sec. 2-5-10. Establishment.

The Board of Adjustment and Appeals, hereinafter referred to as the *Board of Adjustment*, is established pursuant to the provisions of Article VII of the Charter. (Ord. 04-17 §1)

Sec. 2-5-20. Organization.

(a) The Board of Adjustment shall elect from its members a chairman and secretary and such other officers as it may determine. The chairman shall conduct the meetings of the Board of Adjustment, and the secretary shall keep and record the minutes of the Board.

(b) The Board of Adjustment shall adopt rules for the transaction of its business and shall keep a record of its resolutions and actions. The Board of Adjustment shall operate in accordance with the Open Meetings Law, Section 24-6-401 et seq., C.R.S.

(c) The Board of Adjustment shall have the power to expend those funds appropriated for its use by the City Council. (Ord. 97-6 §2.1; Ord. 04-17 §1)

Sec. 2-5-30. Powers and duties.

(a) The Board of Adjustment shall have those powers delegated to it by City ordinances and resolutions, including but not limited to Chapters 16 and 17 of this Code.

(b) The Board of Adjustment may grant variances from Chapter 16 when a strict application of the Chapter would cause peculiar and exceptional practical difficulties or exceptional and undue hardship, subject to the limitations and approval criteria set forth in Chapter 16, Article XX. Within the limitations of Chapter 16, the Board of Adjustment may vary or modify the application of regulations for the purpose of considering access to sunlight for solar energy purposes.

(c) The Board of Adjustment shall hear and decide appeals from and review any administrative order, requirement, decision or determination made by any administrative official charged with the enforcement of Chapter 16 in accordance with the procedures established in Article XX of said Chapter and Section 2-5-40 below.

(d) The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of an applicant any matter arising under Chapter 16, including the granting of variances. (Ord. 97-6 §2.2)

Sec. 2-5-40. Appeals process.

(a) Any person who desires to appeal a decision of an administrative official enforcing Chapter 16 of this Code shall first file with the Planning Department an application and other documentation, as required by Chapter 16, Article XX, within ten (10) days of the adverse decision. When the application is complete, the Director of Planning and Community Development (the "Director") shall transmit to the Board of Adjustment the application and all papers constituting the record on which the action appealed from was taken. The applicant shall be responsible for complying with the public notice requirements contained in Chapter 16, Article XX.

(b) An appeal stays all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the Board of Adjustment, specifying the facts that justify his or her opinion, that a stay would cause imminent peril to life or property. In that case, proceedings shall not be stayed unless a restraining order is granted by the Board of Adjustment or by the District Court on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(c) The Board of Adjustment shall set a reasonable time for hearing the appeal, and the Director shall provide notice to the parties. The Board of Adjustment shall make its decisions within a reasonable time. In accordance with Chapter 16, Article XX, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the appealed-from order, requirement, decision or determination, as in its opinion is appropriate in light of all circumstances. To that end, the Board of Adjustment has the powers of the officer from whom the appeal is taken.

(d) The Board of Adjustment shall not have the power to grant a use variance or any variance authorizing a violation of any City ordinance. (Ord. 97-6 §2.3; Ord. 04-17 §1)

Sec. 2-5-50. Review by Court.

Every decision of the Board of Adjustment shall be subject to review by certiorari by the District Court in and for the County or any county in which any part of the City is located. The appeal shall be filed no later than thirty (30) days from the final action taken by the Board of Adjustment. The appeal may be taken by any person aggrieved or by an officer, department or board of the City. (Ord. 97-6 §3.1)

ARTICLE VI

City Council

Sec. 2-6-10. Council business.

(a) Regular meetings.

(1) Location, day, time. Regular meetings of the City Council shall be held in Council Chambers at the Lone Tree Civic Center, 8527 Lone Tree Parkway, Lone Tree, at 7:00 p.m. on the first and third Tuesdays of each month, except national holidays or holiday eves recognized by the City.

(2) Agenda.

a. The Mayor and the City Manager shall jointly prepare a written draft agenda in advance of the meeting. Such preparation may occur at a staff meeting at which not more than two (2) Council members (including the Mayor) may attend. Any Council member may request that an item be included on the draft agenda. A Council member may also place an item on the agenda at the meeting by motion to amend the agenda at the meeting. The item shall be added to the agenda if a majority of the City Council approves the motion. However, prior to choosing that course, the Council member shall endeavor to have the item placed on a study session topic list (see Subsection (b) below) and discussed in study session prior to the item being place on the agenda, or on the draft agenda prepared by the Mayor and the City Manager.

b. City staff may place an item before the City Council for action by first submitting it for the future agenda items list in the agenda packet or by submitting it as a study session topic, after which the item may appear for action on the agenda. If the City Manager deems an item to be urgent, an item submitted by staff may be added to the regular agenda with the City Council's consent.

c. Any City board, committee or commission may place an item before the City Council for consideration by submitting it to the City Manager's office for inclusion in the list of study session topics. If warranted, the item may later be placed on a future regular meeting agenda.

d. Members of the public are encouraged to contact their City Council representatives to place an item on the agenda.

(3) Consent agenda. The agenda of each regular meeting may include a "consent agenda" comprised of matters that generally do not require discussion of the City Council. Prior to addressing the consent agenda, the Mayor shall ask if any member has any objection to any item therein. If no objection is made, the consent agenda shall be voted on for approval. If any member does object to an item on the consent agenda, that item shall be extracted and considered separately as the next item on the regular agenda, following the adoption of the remainder of the consent agenda.

(4) Order of business. At each regular meeting of the City Council, the business to be considered shall be taken up for consideration and disposition in the following order:

- a. Call to order and roll call.
- b. Executive session.
- c.. Regular session convened.
- d. Pledge of Allegiance.

- e. Amendments to the agenda and adoption of the agenda.
- f. Conflict of interest inquiry.
- g. Public comment.
- h. Announcements.
- i. Ceremonial presentations.
- j. Consent agenda.
- k. Community Development Department.
- l. Public Works Department.
- m. Administrative matters.
- n. Council comments.
- o. Adjournment.

(5) Adoption of agenda. At Subparagraph (4)e., "Amendments to the agenda and adoption of the agenda" above, the Mayor shall inquire whether any members propose any amendments to the agenda. If a Council member proposes an amendment, it may be added either without objection or by a majority vote of the City Council. If no amendments or objections are raised, the agenda shall be adopted as presented. Thereafter, any amendment to the agenda may be approved only by a majority-plus-one vote of the Council quorum present.

(b) Study sessions.

(1) Location, day, time. The City Council has determined that holding study sessions as a matter of course at a recurring day and time enhances knowledge of and familiarity with agenda items and other City business. Accordingly, the written notice and posting requirements of Article IV, Section 7.B. of the Charter pertaining to study sessions are hereby declared satisfied such that study sessions shall be held at the same location as the regular meetings.

(2) Notice. Notice of study sessions shall be posted along with notice of regular meetings.

(3) Topics. The City Manager shall draft a list of topics for study sessions with input from the Mayor and any Council member. City staff may submit a topic to the City Manager for inclusion on the list. (Ord. 07-06 Art. 3)

Sec. 2-6-20. Conflicts of interest.

A Council member who has a financial interest, as defined in Article III, Section 7 of the Charter and Subsection 24-18-102(4), C.R.S., in a matter to be voted upon by the City Council shall disclose the interest to the Council and shall not vote, or influence the vote, on the matter. The Council member with the conflict and the City Council shall carry out the procedures of Article III, Section

7.B of the Charter and Sections 24-18-109 and 24-18-110, C.R.S., in addressing the conflict. A Council member who is in doubt as to whether or not a conflict exists may consult with the City Attorney for advice in advance of the meeting in which the matter will come up for a vote. (Ord. 07-06 Art. 4)

Sec. 2-6-30. Duties and responsibilities of Mayor.

(a) The Mayor shall preside at meetings of the City Council. It is the Mayor's duty:

(1) To open the meeting at the appointed time by taking the chair and calling the meeting to order, having ascertained that a quorum is present.

(2) To announce in proper sequence the business that comes before the City Council in accord with the adopted agenda.

(3) To recognize members or visitors who are entitled to the floor.

(4) To state and to put to vote all questions that legitimately come before the City Council as motions or that otherwise arise in the course of the meeting, and to announce the result of each vote or, if a motion is made that is out of order, to rule the motion out of order.

(5) To protect the assembly from obviously frivolous or dilatory motions by refusing to recognize them.

(6) To enforce the rules relating to debate and those relating to order and decorum within the assembly.

(7) To expedite business in every way compatible with the rights of members.

(8) To decide all questions of order, subject to appeal, unless, when in doubt, the Mayor prefers initially to submit such question to the City Council for a decision.

(9) To authenticate by his or her signature, when necessary, all acts, orders and proceedings of the assembly.

(10) To declare the meeting adjourned when the City Council so votes or, where applicable, at the time prescribed in the program, or any time in the event of a sudden emergency affecting the safety of those present.

(b) The Mayor shall serve as the recognized head of the City government for all ceremonial purposes.

(c) The Mayor shall be recognized by the governor of the State for the purposes of military law.

(d) The Mayor shall execute and authenticate all legal instruments of the City Council.

(e) The Mayor shall carry out those responsibilities prescribed elsewhere in this Article. (Ord. 07-06 Art. 5)

Sec. 2-6-40. Conduct of Council members.

(a) Each Council member shall use his or her best efforts to demonstrate honesty and integrity in every action and statement, serve as a model of leadership and civility to the community, inspire confidence in the City government and work for the common good, not personal interest, in his or her role as a Council member.

(b) Each Council member shall endeavor to prepare in advance of Council meetings and be familiar with issues on the agenda, and be fully attentive during Council meetings and demonstrate personal respect, consideration and courtesy to others. During Council meetings, Council members shall refrain from answering, calling from or otherwise using cell phones and handheld personal communication devices or instant messaging in any form.

(c) As an elected public official, each Council member acknowledges the importance of attendance at regular meetings for the faithful and effective accomplishment of his or her service to the citizens of the City.

(d) In addition to attending regular meetings of the City Council, Council members shall be willing to represent the City on outside boards and commissions, subject to reasonable time constraints. Appointments to outside boards and commissions shall be established by consensus, if possible, of the City Council; otherwise, by majority vote.

(e) Each Council member shall read and comply with City Resolution No. 06-28 regarding use of confidential information and acceptance of gifts, and shall avoid any misconduct under applicable provisions of Title 24, Article 18, C.R.S., regarding local government officials' standards of conduct. Penalties for Council member misconduct shall be as provided in Title 24, Article 18, C.R.S., and Resolution No. 06-28, as applicable. (Ord. 07-06, Art. 6)

Sec. 2-6-50. Appointments to boards, commissions and committees.

(a) City boards, commissions and committees. The City Council shall make appointments to City boards, commissions and committees according to the appointment policy adopted by the City Council.

(b) Outside boards, commissions and committees. The City Manager shall bring to the City Council's attention the need to designate a Council representative to a board, commission or committee not created by the City (an "outside board"). Appointments shall be made by a collaborative process established by policy. (Ord. 07-06, Art. 7)

Sec. 2-6-60. Development of City policies and procedures.

The City Council recognizes that, in order to carry out directives and government procedures, it may be necessary to formulate written policies. The City Council may direct the City Manager to draft, for Council consideration and adoption, "Council Adopted Policies" (CAPs), which facilitate the efficient conduct of government. (Ord. 07-06 Art. 8)