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Date Adopted: _____
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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SIOUX FALLS, SD, AMENDING THE REVISED ORDINANCES OF THE CITY BY REVISING CHAPTER 14 OF THE CAMPAIGN FINANCE ORDINANCE FOR MUNICIPAL ELECTIONS.

BE IT ORDAINED BY THE CITY OF SIOUX FALLS, SD:

Section 1. That Section 14-50 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-50. Requirement of registration with city clerk to precede petition circulation for initiative or referendum in a municipal election.

Persons seeking to propose [or refer](#) an ordinance or resolution shall first register with the city clerk's office before such petitions are circulated for signatures. Registration shall include the name of the organization, address, contact person, and language of the proposed ordinance or resolution, [or the title and date of passage of the ordinance or resolution being referred](#). A copy of the proposed resolution or ordinance will become public when petition circulation effort commences.

Section 2. That Section 14-51 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-51. Definitions.

Candidate. Any person who seeks election to the office of mayor or member of the city council, whether or not successfully. A person shall be deemed to seek election when he or she first:

- (1) Raises, collects, or disburses contributions in excess of \$500; or
- (2) Has created a candidate campaign committee for the purpose of obtaining office; or
- (3) [Announces publicly or files](#) for office; or
- ~~(4) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or~~
- ~~(45) Authorizes the solicitation of contributions or the making of expenditures; or~~
- ~~(6) Gives his or her consent to another person to take on behalf of the individual any of the actions in subsections (1), (2), or (4) of this section.~~

Independent expenditure. An expenditure, including the payment of money or exchange of other valuable consideration or promise, made by a person, organization, political committee, or political party to expressly advocate the election or defeat of a clearly identified candidate or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, political committee, or agent of a candidate or political committee. The term does not include administration and solicitation of any contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. The term does not include any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to any member of the organization and the member's family.

Organization. Any business corporation, limited liability company, nonprofit corporation, limited liability partnership, limited partnership, partnership, cooperative, trust except a trust account representing or containing only a contributor's personal funds, business trust, association, club, labor union, collective bargaining organization, local, state, or national organization to which a labor organization pays membership or per capita fees, based upon its affiliation and membership, trade or professional association that receives its funds from membership dues or services fees, whether organized inside or outside the state, any entity organized in a corporate form under federal law or the laws of South Dakota, or any group of persons acting in concert which is not defined as a political committee or political party in this chapter.

~~*Qualified nonprofit corporation.* Any nonprofit corporation subject to the provisions of SDCL chapters 47-22 to 47-28, inclusive, that was organized for the purposes of promoting political ideas and cannot engage in business activities, has no shareholders or other persons affiliated so as to have a claim on the assets or earnings, was not established by a corporation, and has not accepted more than de minimis amount of funds from any corporation.~~

Recognized business entity, any:

- (a) Domestic corporation, limited liability company, nonprofit corporation, limited liability partnership, or cooperative duly registered with the secretary of state as of the first day of January of the current calendar year, and which is currently in good standing;
- (b) Foreign corporation, limited liability company, nonprofit corporation, limited liability partnership, or cooperative duly registered with the secretary of state as of the first day of January of the current calendar year, and which is currently in good standing; or
- (c) Entity organized in a corporate form under federal law.

A political committee or political party is not a recognized business entity. An organization which was established by or is controlled, in whole or in part, by a candidate, political committee, or agent of a candidate or political committee is not a recognized business entity.

Section 3. That Section 14-53 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-53. Statement of organization and candidate campaign committee required—exception.

The treasurer of a ~~candidate campaign~~political action committee or a ballot question committee, ~~pursuant to section 14-51,~~ shall file a statement of organization with the city clerk not later than 15 days after the date upon which the committee made contributions, received contributions, or paid expenses in excess of \$500 unless such activity falls within 30 days of any municipal election, in which case the statement of organization shall be filed within 48 hours. A candidate shall file a statement of organization for a candidate campaign committee with the city clerk not later than 15 days after becoming a candidate pursuant to section 14-51. Notwithstanding the provisions of section 14-82, the statement of organization shall include the original signature of each person filing the statement. ~~The treasurer for a political action committee shall file a statement of organization with the secretary of state no later than 15 days after the date upon which the committee participating in a municipal election made contributions, received contributions, or paid expenses in excess of \$500, unless such activity falls within 30 days of any municipal election, in which case the statement of organization shall be filed within 48 hours.~~ A political committee that regularly files a campaign finance disclosure statement with the secretary of state or another state or the Federal Election Commission or a report of contributions and expenditures with the Internal Revenue Service is exempt from this requirement.

Section 4. That Section 14-55 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-55. Contents of statement of organization.

The statement of organization shall include:

- (1) The name, street address, postal address, and daytime telephone number of the committee;
- (2) The name, street address, postal address, and daytime telephone number of the chair and the treasurer of the committee;
- (3) A statement of the type of political committee that has been or is being organized;
- (4) In the case of a candidate campaign committee, the name, street address, and postal address of the candidate;
- (5) In the case of a political action committee or ballot question committee, a concise statement of its purpose and goals, and the full name, street address, and postal address of the organization with which the committee is connected or affiliated, or if the committee is not connected or affiliated with any one organization, the trade, profession, or primary interest of the committee;

- (6) If the committee is organized as a corporation under federal or state laws for liability purposes only as authorized by section [14-54](#) of this Code, a statement affirming such organization; and
- (7) The name, street address, postal address, and telephone number of each financial institution where an account or depository is maintained.

The statement shall be signed by the [candidate and](#) treasurer for a candidate campaign committee and by the chair and treasurer for other political committees. A political committee continues to exist until a termination statement is filed pursuant to sections [14-69.1](#) and [14-70](#) of this Code. The treasurer of a political committee shall file an updated statement of organization not later than 15 days after any change in the information contained on the most recently filed statement of organization.

Section 5. That Section 14-57 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-57. Limit on contributions to political action committees.

If the contributor is a person [or an organization](#), no political action committee may accept any contribution which in the aggregate exceeds \$10,000 during any calendar year. A political action committee may accept contributions from any candidate campaign committee, political action committee, or political party.

Section 6. That Section 14-61 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-61. Required reporting of sale of property.

~~It shall be a violation of sections [14-50](#) through [14-85](#) of this Code to fail to timely report the sale of any property and any proceeds resulting therefrom in the campaign finance disclosure statement.~~ The sale of any property shall be reported in the campaign finance disclosure statement.

Section 7. That Section 14-63 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-63. Statements to be filed regarding independent expenditures for communications advocating for or against candidate, office holder, ballot question, or political party—time for filing—contents—exceptions.

The following apply to independent expenditures by individuals and organizations related to communications advocating for or against candidates, public office holders, ballot questions, or political parties, and expenditures by individuals and organizations within 60 days of an election that clearly identify a candidate or public office holder but do not expressly advocate the election of the candidate or public office holder:

- (1) Any person or ~~qualified nonprofit corporation~~ [organization](#) that makes an independent expenditure for a communication which expressly advocates for or against a candidate,

public office holder, ballot question, or political party ~~totaling \$1,000 or more shall file a statement with the city clerk that is received within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.~~

~~Any organization that makes an independent expenditure for a communication which expressly advocates for or against a public office holder, ballot question, or political party totaling \$1,000 or more shall file a statement with the city clerk that is received within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.~~ regardless of the amount of the expenditure, shall append to or include in each communication a disclaimer that clearly and forthrightly:

- (a) Identifies the person or organization making the independent expenditure for that communication;
- (b) States the address or website address of the person or organization; and
- (c) States that the communication is independently funded and not made in consultation with any candidate, party, or political committee.

(2) Any person or organization that makes an expenditure, including the payment of money or exchange of other valuable consideration or promise, for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published within 60 days of an election shall append to or include in the communication a disclaimer that clearly and forthrightly:

- (a) Identifies the person or organization making the expenditure for that communication; and
- (b) States the address or website address of the person or organization.

(3) Any organization which is not a recognized business entity and which makes an expenditure for a communication described in subdivision (1) or (2) shall file a statement within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.

(4) Any person or recognized business entity that makes expenditures in excess of \$2,000 during any calendar year for communications described in subdivision (1) or (2) shall file a statement with the city clerk that is received within 48 hours of the time that the person's or organization's expenditures exceed \$2,000, and thereafter, within 48 hours of the time that any such subsequent communication is disseminated, broadcast, or otherwise published during the remainder of that calendar year.

(5) The statements required by this section shall include the name, street address, city, and state of the person, ~~qualified nonprofit corporation,~~ or organization and ~~its street address, city, and state,~~ for any expenditures made for communications described in subdivision (1) or (2) during that calendar year but not yet reported on a prior statement, the name of each candidate, public office holder, ballot question, or political party

mentioned ~~or identified~~ in ~~the each~~ communication, the amount spent on ~~the each~~ communication, and a description of the content of ~~the each~~ communication.

~~Further, if the independent expenditure is made by~~ For an organization, the statement shall also include the name and title of the person filing the report, the name of its chief executive, if any, and the name of the person who authorized the expenditures on behalf of the organization.

(6) For an organization ~~whose majority ownership is owned by, controlled by, held for the benefit of, or~~ comprised of 20 or fewer ~~persons, partners, owners, trustees, beneficiaries, participants,~~ members, or shareholders, the statement shall ~~include the~~ identify by name and address of each ~~person, partner, owner, trustee, beneficiary, participant,~~ shareholder, or member who owns, ~~controls, or comprises~~ 10% ~~percent~~ or more of the organization.

(7) An organization shall also provide supplemental statements, as defined in subdivision (5), for any of its ~~partners, owners, trustees, beneficiaries, participants, members, or shareholders identified pursuant to subdivision (6) which are owned by, controlled by, held for the benefit of, or comprised of 20 or fewer persons, partners, owners, trustees, beneficiaries, participants, members, or shareholders, until no organization identified in the supplemental statements meets the ownership test set forth in subdivision (6).~~

(8) For the purposes of this section, the term, “communication,” does not include:

(1a) Any news articles, editorial endorsements, opinion, or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;

(2b) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;

(3c) Any communication by a person made in the regular course and scope of the person’s business or ministry or any communication made by a membership organization solely to members of the organization and the members’ families; and

(4d) Any communication that refers to any candidate only as part of the popular name of an amendment, ordinance, or resolution.

Section 8. That Section 14-64 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-64. Statements to be filed regarding payments for communications identifying candidate or office holder but not advocating election or defeat—contents—exceptions.

Any ~~person,~~ political committee, ~~or~~ political party, ~~or organization~~ that makes a payment or promise of payment totaling \$1,000 or more for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published

within 60 days of an election, shall file a statement with the city clerk disclosing the name, street address, city, and state of such ~~person, political committee, or~~ political party, ~~or organization~~. The statement shall also include the name of the candidate or public office holder mentioned in the communication, the amount spent on the communication, and a description of the content of the communication. The statement shall be received and filed within 48 hours of the time that the communication is disseminated, broadcast, or otherwise published.

For the purposes of this section, the term, “communication,” does not include:

- (1) Any news articles, editorial endorsements, opinion or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (3) Any communication by a person made in the regular course and scope of the person’s business or ministry or any communication made by a membership organization solely to members of the organization and the members’ families; and
- (4) Any communication that refers to any candidate only as part of the popular name of an amendment, ordinance, or resolution.

Section 9. That Section 14-65 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-65. Certain political contributions and independent expenditures by organizations prohibited.

No organization may make a contribution to a candidate committee, ~~political action committee,~~ or political party ~~or make an independent expenditure expressly advocating the election or defeat of a candidate~~. An organization may make a contribution to a ballot question committee organized solely for the purpose of influencing an election on a ballot question and independent expenditures regarding the placement of a ballot question on the ballot or the adoption or defeat of a ballot question. Any organization making expenditures, equal to or exceeding 50 percent of the organization’s annual gross income, for the adoption or defeat of a ballot measure is a ballot question committee. ~~The prohibitions of this section do not apply to independent expenditures expressly advocating the election or defeat of a candidate by a qualified nonprofit corporation from its treasury funds.~~ An organization may create a political action committee.

Section 10. That Section 14-66 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-66. Statements required for organization to make contribution to ballot question committee—disclosure of information by committee.

Before making a contribution to a ballot question committee pursuant to section 14-65, an organization shall provide to the ballot question committee the following:

- (1) A statement that the organization is filed as a domestic or foreign entity in good standing with the office of the secretary of ~~this~~ state;
- (2) A statement that the organization is filed as an entity in good standing with another jurisdiction, and setting forth the following:
 - a. The name of the organization;
 - b. The name of the state or nation under whose law the organization is incorporated or organized; and
 - c. The street address of the organization's principal office.
- (3) If neither of the above apply, a statement providing:
 - a. The name of the organization;
 - b. The street address of the organization's principal office;
 - c. The name and street address of the person authorizing the contribution; and
 - d. The name and street address of every owner, director, and officer of the organization.

Before contributing more than \$10,000 in the aggregate to a ballot question committee pursuant to section [14-65](#), an organization shall provide to the ballot question committee a sworn written statement made by the president and treasurer of the organization declaring and affirming, under the penalty of perjury, the following:

- (1) The name and street address of every person who owns 10 percent or more of the organization, has provided 10 percent or more of the organization's gross receipts, including capital contributions, in the current or preceding year, or has provided 10 percent or more of the funds being contributed to the ballot question committee; and
- (2) That no part of the contribution was raised or collected by the organization for the purpose of influencing the ballot question.

A ballot question committee shall disclose in its applicable campaign financial disclosure statement or supplemental statement all information received from an organization pursuant to this section. No ballot question committee may accept any contribution from an organization not

preceded or accompanied by the statements required by this section, ~~except as provided by SDCL § 22-29-1.~~

Section 11. That Section 14-67 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-67. Expenditure of public funds to influence election outcome prohibited.

The City of Sioux Falls, an agency of the city, and the governing body of the city, ~~or other political subdivision of the city~~ may not expend or permit the expenditure of public funds for the purpose of influencing the ~~nomination or~~ election of any candidate, or for the petitioning of a ballot question on the ballot or the adoption or defeat of any ballot question. This section may not be construed to limit the freedom of speech of any officer or employee of the city, ~~or such political subdivision~~ in his or her personal capacity. This section does not prohibit the city, its agencies, or the governing body of ~~any political subdivision of the city~~ from presenting factual information solely for the purpose of educating the voters on a ballot question.

Section 12. That Section 14-68 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-68. Persons and entities required to file campaign finance disclosure statements—time for filing.

A campaign finance disclosure statement shall be signed and filed in the city clerk's office by the treasurer of every candidate or candidate campaign committee, political action committee, political party, ballot question committee, and public office holder pertaining to city elections. Any statement pursuant to this section shall be consecutive and shall cover contributions and expenditures since the last statement filed. Filing shall occur pursuant to the following schedule:

(1) Candidates shall file a statement of financial interest:

- a. Within 15 days after ~~becoming a candidate~~ filing nominating petitions; ~~or and~~
- b. Within 15 days after assuming office, any corrections or additions.

(2) Candidates and candidate campaign committees shall have filed a finance disclosure statement by 5:00 p.m. within three business days ~~pursuant to the~~ following schedule and complete through:

- a. ~~By 5:00 p.m. within three business days after~~ December 31 of the year prior to a city of Sioux Falls municipal election;
- b. ~~By 5:00 p.m. within three business days after~~ ~~t~~The last business day of February preceding the election; in an election year;
- c. ~~By 5:00 p.m. within three business days of~~ ~~t~~The last Monday one week prior to the election;

- d. ~~By 5:00 p.m. within 60~~ Sixty calendar days following the election for all candidates and newly elected officials who did not have a runoff; and
 - e. For runoff candidates, ~~the post election statement shall be filed by 5:00 p.m. within 60~~ calendar days following the runoff election.
- (3) Ballot question committees shall have filed a finance disclosure statement by 5:00 p.m. within three business days ~~pursuant to the following~~ scheduled and complete through:
- a. ~~By 5:00 p.m. within three business days, t~~The last business day of each month during the 90-day period immediately preceding the election;
 - b. ~~By 5:00 p.m. within three business days on t~~The last Monday, one week prior to the election;
 - c. ~~By 5:00 p.m. within 60~~ Sixty calendar days following the election, and shall include the disposition of any remaining funds or obligations of such person or committee;
 - d. The requirements of subsection (3) shall also apply to any person raising, collecting, or disbursing money for the adoption or defeat of any question submitted to the voters at any election unless the person is engaging in such activities on behalf of a ballot question committee.
- (4) Political action committees shall file a finance disclosure statement with the city clerk by 5:00 p.m. within three business days from the last Monday one week prior to each city election. The statement shall cover the contributions and expenditures of the political action committee from the last filing with the secretary of state's office. A political action committee that regularly files a campaign finance disclosure statement with the Federal Election Commission or a report of contributions and expenditures with the Internal Revenue Service is not required to file a campaign disclosure statement.
- (5) Public office holders for the city of Sioux Falls shall file an end of the year finance disclosure statement by 5:00 p.m. within three business days after December 31, with the city clerk. The statement shall cover the contributions and expenditures for the preceding calendar year. If the public office holder filed a financial disclosure statement during the course of a municipal election in the preceding calendar year, then the end of the year finance disclosure statement shall cover the contributions and expenditures from the last filing with the city clerk's office.

Section 13. That Section 14-69.1 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-69.1. Termination statement.

The post-election financial disclosure statement pursuant to section 14-68(2)d. and 14-68(2)e. shall serve as the termination statement for all candidates except public officials subject to section 14-68(~~45~~). The last campaign disclosure statement for public officials, subject to

section [14-68\(45\)](#), shall be a termination statement and shall be filed by the treasurer within 30 days following disposition of all funds and property and the payment of all obligations.

Section 14. That Section 14-71 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-71. Conditions requiring filing of amended statement—time for filing.

Any treasurer, or other person filing a statement pursuant to this chapter, shall file an amended statement within three days of discovering any omission, inaccuracy, or other change necessary to make the statement accurate. A person responsible for filing a statement pursuant to this chapter, who willfully fails to report a material change or correction, is in violation of city ordinance. A person responsible for filing a statement pursuant to this chapter, who willfully fails to file an amendment pursuant to this section [is subject to the civil penalty in section 14-73 of this Code](#) beginning on the first day following the third day after the candidate, treasurer, or other person is notified of the omission, inaccuracy, or other change necessary to make the statement ~~accurate is in violation of city ordinance~~.

Section 15. That Section 14-78 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-78. Investigation and prosecution of violations by city attorney.

The city attorney shall investigate violations of the provisions of this chapter ~~by any persons not currently holding an elected office with the city relating to a city elected office or a ballot question~~ and may prosecute any violation thereof. ~~The Sioux Falls Board of Ethics shall investigate and make recommendations on possible violations of this chapter relating to any current city-elected official pursuant to the Ethics Chapter of this Code.~~ Any penalty recovered shall be paid to the city general fund. An action brought by the city attorney shall be commenced in Minnehaha County, in the county where the person resides, or in the county where the organization, political party, or political committee has its principal office.

Section 16. That Section 14-79 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-79. Access to records by [investigating authority](#)~~city attorney~~.

The ~~city attorney~~[investigating authority](#) may, for the purpose of enforcing the provisions of this chapter, inspect or examine any political committee or political party records required to be maintained by this chapter. It is a misdemeanor for any person having charge, control, or possession of political committee or political party records to neglect or refuse the ~~city attorney~~[investigating authority](#) reasonable access to any records required to be maintained by this chapter which is necessary to enforce the provisions of this chapter.

Section 17. That Section 14-80 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-80. Confidentiality of records.

| The ~~city attorney~~ investigating authority shall keep each record inspected or examined confidential except when the records are used to enforce provisions of this chapter.

Section 18. That Section 14-81 of the Revised Ordinances of Sioux Falls, SD, is hereby amended to read as follows:

Sec. 14-81. Candidate may not be certified or to forfeit office for violation.

| If any candidate is proved in a contest of an election or is proved to have intentionally made any false, fraudulent, or misleading statement or entry in any statement of organization, campaign finance, disclosure statement, other statement, or amendment, the candidate may not be certified for election or the candidate shall forfeit his or her office. The office shall be declared vacant and shall be filled in the manner provided by the charter of the city of Sioux Falls.

Date adopted: _____.

Mayor

ATTEST:

City Clerk