



Rules and Regulations

Aurora's Regulation of Lobbyists

Rule 1 – Definitions

- a) City – City of Aurora, Colorado
- b) Code – City Code of the City of Aurora, Colorado
- c) Regulation of Lobbyists – Article IX, Chapter 2 of the Code
- d) Complainant – The person alleging that a person is or has allegedly engaged in lobbying and may be in violation of any provision of the Regulation of Lobbyist.
- e) Complaint – An allegation that a person and/or lobbyist who is subject to the Regulation of Lobbyists has violated the Regulation of Lobbyists.
- f) File – Delivery in-person to the City Clerk’s Office during normal business hours of 3 identical copies of any document(s) or other items to be filed.
- g) Hearing Officer – The hearing officer should be an attorney licensed to practice law in the State of Colorado. The hearing officer’s fee shall be paid by the City.
- h) Probable cause - Probable cause shall mean an objectively reasonable and articulable belief, based upon the totality of facts and circumstances before the City Clerk, that a violation of City Code Chapter 2, Article IX has occurred or is occurring.
- i) Service – Mailing, via first-class U.S. mail or email as provided by a party, of a document.
- j) Respondent – The person and/or lobbyist alleged to have violated the Regulation of Lobbyists.
- k) Verified – A complaint which is signed by the Complainant with an attestation the information is true and correct to the best of their information and belief made after responsible inquiry and evaluation of the information before them.

Rule 2 – Time

- a) In computing any period of time prescribed or allowed by these Rules, unless a specific Rule provision calls for a different computation of time, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted, including holidays, Saturdays or Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a City holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a City holiday. The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

Rule 3 – Commencement of Proceedings

- a) Proceedings, as provided in these Rules, shall be commenced:
 - 1) When any person files a verified Complaint with the City Clerk’s Office; or
 - 2) Upon execution by the City Clerk of a Complaint made pursuant to Code Sec. 2-960.
- b) The Complainant shall include with the Complaint any supporting affidavits or other evidence to support the factual allegations contained in the Complaint. The Complaint must be filed with the City Clerk no later than 120 days after the date of the alleged violation. The City Clerk must notify the Respondent and provide them with a copy of the Complaint within

2 business days of receiving the Complaint. The Complaint Form, at minimum, shall require inclusion of the following from the Complainant:

- 1) The name of Respondent of the Complaint;
 - 2) The facts giving rise to the Complaint, set forth clearly and with particularity such that the Hearing Officer and the Respondent can reasonably be expected to understand the nature of the allegations;
 - 3) The specific provision(s) of Article IX, Chapter 2 of the Code that the Respondent is alleged to have violated;
 - 4) The full name, current home address and/or business address, current phone number, and current email address of the Complainant.
 - 5) Signature of the Complainant attesting to the statement that, to the best of the Complainant's knowledge, information, and belief, the information in the Complaint is true.
- c) Any issues not specifically raised in the Complaint shall not be considered by the Hearing Officer.

Rule 4 – Determining Probable Cause

- a) Within 10 business of commencement of proceedings pursuant to paragraph (a) of this Rule, the City Clerk shall conduct an initial review of each Complaint filed for substantial compliance pursuant to Code Sec. 2-960.
- b) If, after initial review of the Complaint, the City Clerk determines that the Complaint is not substantially complete, the Clerk shall serve the Complainant with a notice explaining the complaint's deficiencies. The Complainant shall have 2 business days from the date of notice to resubmit the Complaint Form and cure any deficiencies. Supplemental submissions need to be verified.
 1. If the Complainant submits an amended Complaint Form that is not substantially complete, the City Clerk shall serve notice on the Complainant and the Respondent that the Complaint has been rejected for filing and will not proceed.
- c) If, after initial review of the Complaint, the City Clerk determines that the Complaint was untimely filed, lacks sufficient evidence, or no probable cause exists, the Clerk shall dismiss the complaint and send notice of dismissal and an explanation of the complaint's deficiencies to the Complainant and Respondent.
- d) If the City Clerk determines that a complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the City Clerk must notify the Respondent, within 2 business days of completing the initial review, of the opportunity to cure. The Respondent must cure and provide any additional documentation required by the City Clerk no later than 5 business days after receiving the cure notice from the Clerk.
- e) If the Complainant submits a Complaint Form, or an amended Complaint Form pursuant to paragraph (b) of this Rule, that is substantially complete, probable cause exists, and has not been cured under subsection (d), the City Clerk shall serve a **Notice of Initial Determination to Proceed** on the Complainant and the Respondent.

- f) Regardless of whether the Complaint Form is substantially complete, if the City Clerk determines that the Respondent of the Complaint is not subject to the Regulation of Lobbyists because the Respondent is not serving and has never served the City in the role of lobbyist or engaged in lobbying, then the City Clerk shall serve notice on the Complainant that the Complaint has been rejected for filing and will not proceed.

Rule 5 – Selection of the Hearing Officer

- a) Upon issuing the **Notice of Initial Determination to Proceed** pursuant to Rule 4, the City Clerk shall appoint the Hearing Officer pursuant to Code Sec. 2-960. Upon appointment of the Hearing Officer, the City Clerk shall serve a **Notice of Appointment** to the parties.
- b) The Hearing Officer shall be responsible for making rulings upon any motions or objections of the parties; issuing any orders, decisions, notices, and requests; administering oaths to witnesses; authorizing subpoenas to compel witnesses to attend the proceedings and testify; and presiding over any hearings and deliberations.
- c) Recusal. A Hearing Officer shall be disqualified in a proceeding in which the member is interested or prejudiced, or has been of counsel for any party, or is or has been a material witness, or is so related or connected with any party or attorney as to render it improper for the member to continue in the proceeding. The Hearing Officer shall not be an officer, employee, or agent of the city. Any motion for recusal shall be accompanied by a supporting affidavit setting out facts to support recusal. Upon recusal of a Hearing Officer, the proceedings are automatically stayed until a new Hearing Officer is appointed by the City Clerk.

Rule 6 – Request for Hearing or File Written Brief

Request for Hearing

- a) Within 10 business days of service of a **Notice to Proceed** pursuant to Rule 4, the Respondent may file a request for hearing. Upon a timely request for hearing, the Hearing Officer shall schedule a hearing on the matter. The hearing shall be scheduled within 91 days of the filing of the request for hearing, unless the Hearing Officer finds good cause to schedule outside of 91 days. Upon a timely request for a hearing, the Hearing Officer shall schedule a date and location to deliberate on the matter.
- b) Regardless of whether the Respondent timely requests a hearing, the Hearing Officer may determine that a hearing is necessary due to a significant discrepancy in the facts as presented by the parties or because additional information is needed to make a finding and recommendation.

File Written Brief

- a) If the Respondent does not timely request a hearing, within 10 days of service of a **Notice to Proceed** pursuant to Rule 4, the Respondent may file a written brief in response to the Complaint, which shall contain:
 - 1. An admission or denial of each factual allegation contained in the Complaint. If the Respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, the Respondent shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegation denied. When a

Respondent intends in good faith to deny only a part or a qualification of an averment, the Respondent shall specify so much of it as is true and material and shall deny only the remainder.

2. Any argument the Respondent wishes to present as to why the Hearing Officer should find no violation of the Regulation of Lobbyists.
 3. Any mitigation the Respondent wishes to present.
 4. Any supporting affidavits or other exhibits.
- b) Within 14 business days of the filing of the Respondent's written brief, the Complainant may file a reply brief. A reply brief may not contain issues not raised in the Complaint.
- c) Once all written briefings permitted under this Rule have been filed or the deadline to file a written briefing has passed without a filing, the matter shall be considered at issue. If no request for a public hearing has been timely filed the deliberations shall be conducted in closed session. Written findings and recommendations shall be issued by the Hearing Officer within 35 days of the at-issue date. However, if the Hearing Officer determines that a hearing is necessary pursuant to Rule 8, the Hearing Officer shall issue an order to set hearing, which shall include an explanation of why a hearing is necessary and may include partial findings in order to limit the issues to be addressed in a hearing, within 14 days of the at-issue date, or longer if good cause exists as determined by the Hearing Officer.

Rule 7 – Scheduling of Hearing

1. The Hearing Officer provides the City Clerk with a date to hold the hearing
2. The City Clerk serves both parties with the notice of the date
3. Both parties have 7 business days from receipt of notice to object to the date of the hearing. The City Clerk will transmit the objections to the Hearing Officer. If there are no objections filed, the hearing date is set.
4. Within 7 business days of the hearing being set, the City Clerk serves the **Notice of Public Hearing** to both parties and the Hearing Officer. This notice includes the location, date and time of the hearing.

Rule 8 – Conduct of Hearing

The Hearing Officer may dismiss the complaint if the Complainant fails to appear at the hearing. The hearing will proceed if the Respondent fails to appear at the hearing and the findings will be based on the evidence present at the hearing. Either party may be represented by counsel. The conduct of hearing may be modified by verbal or written order of the Hearing Officer.

A. Pre-Hearing Exhibits and Subpoenas

1. Written Motions shall not be filed in advance of the hearing. Motions may only be allowed at the request of the Hearing Officer. Any motions provided, not by the request of the Hearing Officer, will not be read or considered by the Hearing Officer.
2. At least 35 days before the hearing, each party shall file written disclosure statements identifying the name, address, telephone number, and a detailed statement of the expected testimony for each witness the party intends to call at

hearing. Any witness not timely disclosed shall not testify at the hearing unless the Hearing Officer finds good cause for the failure of timely disclosure.

3. All exhibits to be used at the hearing which are in the possession, custody, or control of the parties shall be identified and filed by the parties at least 35 days before the hearing. The Complainant shall use numbers to identify exhibits; the Respondent shall use letters to identify exhibits. Authenticity of all identified and filed exhibits shall be deemed admitted unless a written objection is filed at least 14 days before the hearing specifying the factual issues concerning the authenticity of the exhibits. Any exhibit not timely filed shall not be introduced at the hearing unless the Hearing Officer finds good cause for the failure of timely filing.
4. Witnesses shall be limited to testifying on direct examination about matters disclosed in reasonable detail in the written disclosures. However, a party may call witnesses for whom written disclosures were not previously made for the purpose of authenticating exhibits if the opposing party made a timely objection to the authenticity of such exhibits specifying the factual issues concerning the authenticity of the exhibits.
5. Upon request of either party, the Hearing Officer shall authorize subpoenas to desired witnesses requiring their attendance at the hearing. Unless otherwise agreed by the parties, it shall be the responsibility of the party seeking the subpoena to have it served on the witness in the manner provided by the Colorado Rules of Civil Procedure.

B. Rules of Procedure for Hearing

1. Opening Statements
 - a. Limited to 5 minutes per party. A party may choose to not provide an opening statement.
2. Presentation of evidence
 - a. The Complainant presents evidence first
 - b. The Respondent may present any evidence
 - c. Rebuttal evidence is allowed with the permission of the Hearing Officer
3. Witness Testimony
 - a. Direct examination of the witness
 - b. Cross-examination of the witness
 - c. Re-direct examination is allowed with the permission of the Hearing Officer
4. Closing Statements
 - a. Limited to 15 minutes per party. A party may choose to not provide a closing statement.

Rule 9 – Findings and Recommendations

The hearing officer must determine if a violation of this article has occurred and issue a final determination that includes all findings of fact and conclusions of law. All findings of fact and conclusions of law must be based upon a preponderance of the evidence. Uncontested evidence, whether documentary or testimonial, if internally and externally consistent with a violation under Section 2-959 of the City Code constitutes prima facie evidence of a violation sufficient upon which to impose a penalty.

- a) If after deliberation the Hearing Officer finds that the Complaint should be dismissed for any of the reasons contained in Rule 6, the Hearing Officer shall issue a written order of dismissal that explains the reasons for dismissal.
- b) Unless the matter is dismissed pursuant to Rule 4, the Hearing Officer shall take all evidence available as a result of the investigation, all evidence presented at the hearing, and shall give written notice of the findings and ruling to the Respondent and City Clerk, dismissing some or all of the matter or issuing sanctions as stated in Section 2-961 of the City Code as he or she deems appropriate.
- c) Once an order of dismissal or written recommendation has been issued, the City Clerk shall serve a copy on all parties within 7 business days.

*In the event of any conflict between these Rules and Article IX - Regulation of Lobbyists, the Lobbyist Ordinance shall control.



Rules and Regulations - Penalties

Aurora's Regulation of Lobbyists

Sanctions – Sec. 2-961

Each violation of this article, with the exception of late filings addressed by penalties stated in section [2-963](#), constitutes a separate and distinct civil offense to which a separate penalty or fine may apply.

Any violation that was not cause by willful and intentional misconduct or any individual acting in good faith will be exempt from any liability for a penalty imposed according to this section.

The sanctions for a violation of this article can be one or more of the sanctions stated below:

1. Written warning to the individual or organization that committed the violation.
2. Revocation or suspension, for a maximum period of 12 months, of the certificate of registration issued pursuant to section [2-953\(e\)](#).
3. A bar on the individual or organization from registration for a maximum period of 12 months.
4. A fine of \$125.00 per violation, not to exceed \$2,500 per total charge.

Fees and Late Filing Penalties

The City Clerk must send notice of a late filing or written warning to the person who is required to file. The penalties will begin accruing immediately, regardless of whether this notice is received.

- (1) Filing of lobbyist registration statements as required by section [2-953\(a\)](#);
- (2) Amending lobbyist registration statements as required by section [2-953\(d\)](#); and
- (3) Filing quarterly financial reports as required by section [2-954\(a\)](#).

Late Filing Fee Schedule

- \$50.00 per day for each of the first three days that a statement or report required by this article is not filed by the due date.
- After the first three days: \$100.00 a day until the statement or report is filed with the City Clerk.

If a penalty is not paid within 30 days of demand, the matter must be referred to a hearing officer in accordance with the procedures outlined in the Rules and Regulations. Any unpaid debt owed to the city resulting from a penalty imposed under this article will be collected by the city in accordance with the requirements of Section [50-138](#).