



Agenda

Election Code Committee

September 11, 2024 – 4:00 PM

Colorado River Room, 222 Laporte Avenue and via Zoom at <https://fcgov.zoom.us/j/98639152564>

Remote Participation Available

A) Call Meeting to Order

B) Roll Call

C) Public Participation

D) Public Participation Follow-up

E) Approval of Minutes

1. **Approval of Minutes.**

The purpose of this item is to approve the minutes of the May 29, 2024, Election Code Committee meeting.

F) Discussion / Informational Items

2. **Potential Code Changes Regarding Campaign Finance.**

In February 2024, Council appointed Mayor Jeni Arndt and Councilmembers Tricia Canonico and Julie Pignataro to serve as members of the ECC and Councilmember Melanie Potyondy to serve as an alternate. At its first meeting on March 27, 2024, the Committee heard and discussed potential topics. It was decided to focus first on Charter amendments given the ballot timeline, and then after the Committee discussed examining Code revisions related to campaign finance and associated complains.

G) Review of Upcoming Calendar

3. **2024 Election Update and Workplan Check-In.**

The Election Code Committee finished its work for the previous term in May 2024. Charter amendments were approved by Council in July 2024 for Article VIII – Elections, Article IX – Recall (repeal and re-enact) and Article X – Initiative and Referendum (repeal and re-enact) in preparation for the November 5, 2024, Special Election. These items, together with a ballot issue to extend the City's existing 0.25% sales and use tax for the street maintenance program will appear on the upcoming election ballot.

Campaign Finance Enforcement is the next item set for Committee consideration with an expected January 14 Work Session and possible Council action on February 4 (1st Reading). Additional Code changes that could be brought forward at the same time include:

Redistricting and

Charter follow-up for any items that pass.

Additional items remaining on the Committee's Work Plan include:

1. Education for Ranked Choice Voting and Sign Code requirements
2. Additional Charter Amendments
 - a. Article II – Vacancies
 - b. Article IV – General Provisions
3. Other Topics: “Bike Rack” Items:
 - a. Oversight Committee; and
 - b. Public Financing of Campaigns

Staff will provide updates on these items and is also wanting to ensure there is an understanding of the scope of work needed for the remaining items and whether there are any other items of interest that need to be added.

H) Other Business

I) Adjournment

Next Scheduled Committee Meeting: 4:00 PM, October 21, 2024

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione aviso previo cuando sea posible. Las solicitudes de interpretación en una reunión deben realizarse antes del mediodía del día anterior.

September 11, 2024

AGENDA ITEM SUMMARY

Election Code Committee



STAFF

Delynn Coldiron, City Clerk

SUBJECT

Approval of Minutes.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes of the May 29, 2024, Election Code Committee meeting.

ATTACHMENTS

1. Draft Minutes, May 29, 2024

May 29, 2024

ELECTION CODE COMMITTEE MEETING

4:34 PM

COMMITTEE MEMBERS PRESENT: Arndt, Pignataro (remote), Canonico
STAFF PRESENT: Rita Knoll, Rupa Venkatesh, Sara Arfmann, Tyler Robbins, Carrie Daggett, Heather Walls

A. CALL MEETING TO ORDER

B. ROLL CALL

C. PUBLIC PARTICIPATION

Robbie Moreland requested the Committee consider including in the proposed Charter changes language that would allow for the formation of a quasi-judicial election oversight commission.

D. PUBLIC PARTICIPATION FOLLOW-UP

None.

E. APPROVAL OF MINUTES

The purpose of this item is to approve the minutes of the April 24, 2024, Election Code Committee meeting.

Mayor Arndt made a motion, seconded by Councilmember Pignataro, to approve the minutes of the April 24 meeting. Yeas: Canonico, Arndt, and Pignataro. Nays: None.

THE MOTION CARRIED.

F. DISCUSSION/INFORMATIONAL ITEMS

1. Proposed Charter Amendments Relating to Elections, Recall and Initiative and Referendum.

The purpose of this item is to allow the Committee to consider amendments to Articles VIII, IX, and X of the City Charter that will address computation of time, inconsistencies in timing, re-organization of certain provisions, and suggested updates to simplify language to promote more efficiencies in the conduction of election-related processes.

Interim City Clerk Walls outlined the proposed changes to modernize the language, compute time in terms of dates falling on holidays or weekends, shifting 'working days' to 'business days,' and timing of election events, in Articles VIII, IX, and X of the City Charter.

City Attorney Daggett stated the main substantive change to Article VIII relates to changing the time for an elected candidate to qualify for office from 60 to 30 days. Members discussed whether this provision is necessary. City Attorney Daggett stated staff would further research the topic.

City Attorney Daggett outlined the proposed changes related to recall. Mayor Arndt asked about the 25% of signatures required to recall the Mayor. Chief Deputy City Clerk Knoll replied that number is in state statute, Municipal Election Code, and Uniform Election Code. City Attorney Daggett stated there would be no legal barrier to lowering that number.

City Attorney Daggett stated the Uniform Election Code is the main set of election statutes for the state whereas the Municipal Election Code is specific to municipal elections and how statutory cities

and towns are required to run their elections. Fort Collins can vary from those Codes as it is a home rule city; however, many aspects of elections are dependent on state functions, such as voter registration records.

City Attorney Daggett discussed the possibility of changing the number of days for mayor recall petition circulation, the potential to cure signature deficiencies in a petition, increasing the number of days for determination of sufficiency, and the election timeline.

Chief Deputy City Clerk Knoll noted the city has never gone through a recall process.

City Attorney Daggett discussed proposed changes to the initiative timeline and election timeframe.

Chief Deputy City Clerk Knoll noted it is not legal to check signatures against images on file on a petition, though research could be done by the City Clerk's Office if a protest occurs.

Members discussed how to ensure signatures are gathered from all districts for petition efforts. Chief Deputy City Clerk Knoll stated signatures do seem to come from all areas of the city based on anecdotal examinations of petitions.

City Attorney Daggett outlined the proposed changes to referenda and protest hearing language and noted staff will thoroughly examine the proposed changes prior to the Council hearing.

Mayor Arndt requested information as to whether petition circulators are required to carry the full petition document and ordinance language with them. City Attorney Daggett replied there is proposed revised language that states the petition will contain an accurate and fair summary of the ordinance prepared by the City Clerk in consultation with the City Attorney if the ordinance is more than two pages long.

Councilmember Pignataro expressed concern about the ambiguity of 'accurate and fair.' Mayor Arndt stated she is comfortable with the City Clerk writing the summary if it is not in concert with the petitioner.

Councilmember Canonico asked if a process needs to be put in place for an individual to dispute the language should they not believe it to be fair and accurate. Members discussed wording that the Clerk's language would be final.

G. REVIEW OF UPCOMING CALENDAR

1. 2024 Workplan

Interim City Clerk Walls stated the only change to the Workplan is to move the first reading of the Charter amendments to July 2 and second reading to July 16.

Councilmember Pignataro requested staff ensure the reasons around the changes are made clear to ensure that the changes are not twisted into looking like the voice of the public is being suppressed.

Members concurred there is not a need for a work session on the Charter changes, though Councilmember Canonico suggested other Councilmembers should be given the opportunity to ask questions or discuss the topics prior to July 2.

H. OTHER BUSINESS

Members acknowledged Chief Deputy City Clerk Knoll's upcoming retirement and thanked her for her work.

I. ADJOURNMENT

The meeting was adjourned by unanimous consent at 5:51 p.m.

September 11, 2024



AGENDA ITEM SUMMARY

Election Code Committee

STAFF

Rupa Venkatesh, Assistant City Manager
Delynn Coldiron, City Clerk
Sara Arfmann, Legal
Carrie Daggett, Legal

SUBJECT

Potential Code Changes Regarding Campaign Finance.

EXECUTIVE SUMMARY

In February 2024, Council appointed Mayor Jeni Arndt and Councilmembers Tricia Canonico and Julie Pignataro to serve as members of the ECC and Councilmember Melanie Potyondy to serve as an alternate. At its first meeting on March 27, 2024, the Committee heard and discussed potential topics. It was decided to focus first on Charter amendments given the ballot timeline, and then after the Committee discussed examining Code revisions related to campaign finance and associated complains.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. What Code changes related to campaign finance and associated complaints would the Committee like to consider for discussion in 2024-2025 and in what priority order?

BACKGROUND / DISCUSSION

As previously discussed at the first session for this ECC, the Committee could propose code changes to streamline the campaign finance complaint process. Staff has identified several areas that cause the process to be lengthier and suggested potential changes to address these concerns. The Committee could consider providing the option for a respondent to a complaint to pay the fine and resolve the complaint earlier in the process. Additionally, recent state law would allow the City to refer complaints that pose an actual or potential conflict to the Secretary of State.

ATTACHMENTS

1. Presentation
2. City Code Campaign Finance Provisions
3. City Code Campaign Violations

ARTICLE V. CAMPAIGNS¹**Sec. 7-131. Legislative declaration.**

The City Council hereby finds and declares that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, full and timely disclosure of campaign contributions and strong enforcement of campaign laws.

(Ord. No. 162, 2000, § 1, 11-21-00)

Sec. 7-132. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Ballot issue, ballot question or issue shall mean any measure put to a vote of the registered electors of the City by the City Council at any election held under the provisions of the Charter. For purposes of this Article V, *ballot issue, ballot question or issue* shall also mean any measure for which recall, initiative or referendum proceedings have been commenced pursuant to Article IX, Section 1(b), Article X, Section 1(b), and Article X, Section 2(b), respectively, of the Charter.

Candidate shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any City election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember. *Candidate* shall also mean any elected official who is the subject of recall proceedings pursuant to Article IX of the Charter.

Candidate committee shall mean a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A candidate shall have only one (1) candidate committee. A candidate committee shall be considered open and active until the committee has filed a termination report with the City Clerk.

Contribution shall mean:

- (1) The payment, loan, pledge or advance of money, or guarantee of a loan, made to any candidate committee, issue committee or political committee;
- (2) Any payment made to a third party for the benefit of any candidate committee, issue committee or political committee;
- (3) Anything of value given, directly or indirectly, to a candidate committee for the purpose of promoting the candidate's nomination, retention, recall or election; or
- (4) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services or participation in a campaign-related event, mailing

¹Charter reference(s)—City Council, Art. II; campaign contributions, Art. VIII, § 7.

lists and other similar items of value, the amount equal to the value in excess of the amount of such compensation or consideration as reasonably determined by the candidate committee, issue committee or political committee based on market prices or other similar information.

Contribution shall not include:

- (1) Services provided without compensation by a natural person volunteering their personal time on behalf of a candidate, candidate committee, political committee, issue committee or small-scale issue committee;
- (2) Mailing lists that were not developed primarily for sale, have never been sold or offered for sale, were not produced by an employee or contractor (other than an employee of the recipient), and do not incorporate mailing lists that themselves would constitute a *contribution*;
- (3) Funds collected subsequent to the election to pay the cost of a requested recount pursuant to Section 7-46.

Contribution in kind shall mean the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate committee, issue committee, small-scale issue committee or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election or defeat of any candidate. Personal services shall be considered a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used.

Contribution in kind shall not include an endorsement of a candidate or an issue by any person.

Expenditure shall mean the payment, distribution, loan or advance of any money by any candidate committee, political committee, issue committee or small-scale issue committee. *Expenditure* shall also include the payment, distribution, loan or advance of any money by a person for the benefit of a candidate committee, political committee, issue committee or small-scale issue committee that is made with the prior knowledge and consent of an agent of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined.

Independent expenditure shall mean the payment of money by any person for the purpose of advocating the election, defeat or recall of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. *Independent expenditure* shall include expenditures for political messages which unambiguously refer to any specific public office or candidate for such office. *Independent expenditure* shall also include the payment of money by any person for supporting or opposing a ballot issue or ballot question that is not controlled by, or coordinated with, an issue committee or a small-scale issue committee. *Independent expenditure* shall include, but not be limited to, advertisements placed for a fee on another person's website or advertisement space provided for no fee or a reduced fee where a fee ordinarily would have been charged.

Independent expenditure shall not include:

- (1) Expenditures made by persons in the regular course and scope of their business and political messages sent solely to their members;
- (2) Expenditures made by small-scale issue committees; or
- (3) 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 the candidate, or communications other than advertisements posted or published on the internet for no fee.

Issue committee shall mean:

- (1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, and that take steps in furtherance of an intent to accept contributions or contributions in kind, or make expenditures, to support or oppose any ballot issue or ballot question; or

- (2) Any person that takes steps in furtherance of an intent to accept contributions or contributions in kind for the purpose of supporting or opposing any ballot issue or ballot question; or
- (3) Any person or associated persons upon making independent expenditures of two thousand five hundred dollars (\$2,500) or more for the purpose of supporting or opposing any ballot issue or ballot question.

Issue committee shall not include small-scale issue committees as otherwise defined in this Section.

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

Political committee shall mean:

- (1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, and that take steps in furtherance of an intent to accept contributions, or contributions in kind, or make expenditures to support or oppose one (1) or more candidates; or
- (2) Any person that takes steps in furtherance of an intent to accept contributions or contributions in kind for the purpose of supporting or opposing one (1) or more candidates; or
- (3) Any person or associated persons upon making independent expenditures of two thousand five hundred dollars (\$2,500) or more for the purpose of supporting or opposing one (1) or more candidates.

Political committee shall not include candidate committees as otherwise defined in this Section.

Political message shall mean a message delivered by telephone, any print or electronic media or other written material which advocates the election or defeat of any candidate or which unambiguously refers to such candidate.

Public announcement shall mean:

- (1) Registration of a candidate committee; or
- (2) A statement made by the candidate signifying an interest in, or exploring the possibility of, seeking the office by means of a speech, advertisement or other communication reported or appearing in public media or in any place accessible to the public, including social media, that a reasonable person would expect to become public.

Registered agent shall mean a natural person designated by or representing a committee and responsible to receive mailings, respond to inquiries regarding the committee, to receive complaints related to the committee, and timely filing campaign finance reports and other filings required pursuant to this Chapter.

Small-scale issue committee means a committee otherwise meeting the definition of *issue committee* that has accepted contributions, contributions in kind or expenditures in an amount that does not exceed two thousand five hundred dollars (\$2,500.) during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.

The following are each treated as a single small-scale issue committee:

- a. A small-scale issue committee that supports or opposes a common ballot measure if the committee is established, financed, or controlled by a single corporation or its subsidiaries;
- b. A small-scale issue committee that supports or opposes a common ballot measure if the committee is established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; and

- c. A small-scale issue committee that supports or opposes a common ballot measure if the committee is established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

Social media shall mean any electronic medium, including an interactive computer service, application, or data network, that allows users to create, share, and view user-generated content, including but not limited to videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail, or internet website profiles.

Termination report shall mean a final report prepared by a candidate committee, issue committee or political committee and filed with the City Clerk which discloses the committee's contributions received, expenditures made and obligations entered into, when the following conditions have been met:

- (1) The committee no longer intends to receive contributions or make expenditures; and
- (2) A zero (0) balance exists in the account established and maintained under Subsection 7-135(f) and the committee has no outstanding debts or obligations.

Unexpended campaign contributions shall mean the balance of funds on hand in any candidate committee, issue committee, political committee or small-scale issue committee following an election, less the amount of all unpaid monetary obligations incurred prior to the election.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 1, 11-6-01; Ord. No. 021, 2016, § 9, 3-1-16; Ord. No. 005, 2017, § 5, 1-17-17; Ord. No. 045, 2018, §§ 3, 4, 4-3-18; Ord. No. 077, 2018, §§ 5, 6, 6-19-18; Ord. No. 113, 2018, § 2, 9-4-18; Ord. No. 079, 2022, § 2, 7-5-22)

Sec. 7-133. Candidate affidavit; disclosure statement; failure to file.

- (a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.
- (b) Each candidate shall file a financial disclosure statement pursuant to § 2-636 with the City Clerk at the same time as filing an acceptance of nomination.
- (c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought.
- (d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 2, 11-6-01; Ord. No. 045, 2018, § 5, 4-3-18)

Sec. 7-134. Registration of committees; termination.

- (a) All candidate committees, political committees and issue committees shall register with the City Clerk before accepting any contributions or contributions in kind or making any expenditures. Registration must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form.
 - (1) The committee's full name, spelling out any acronyms used therein;
 - (2) The name of a natural person authorized to act as a registered agent for the committee;
 - (3) A current street address, mailing address (if different from the street address), telephone number and email address for the principal place of business of the committee;
 - (4) A current mailing address, telephone number and email address for the registered agent;

- (5) The purpose or nature of interest of the committee;
 - (6) The date of the election regarding which the committee intends to be active;
 - (7) The name and address of the financial institution in which all contributions received by the committee are deposited in a separate account bearing, in the case of a candidate committee, the name of the candidate, or in the case of a political or issue committee, the name of the person authorized to act as the registered agent for the committee, and documentation of such account reasonably satisfactory to the City Clerk; and
 - (8) An acknowledgement and certification signed by the registered agent and, for any candidate committee, the candidate.
- (b) A registered committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee, or any change in financial institution or account.
 - (c) Any candidate committee, political committee, issue committee or registered small-scale issue committee that has registered with the City Clerk, but has not engaged in any election activities or reported any contributions accepted or expenditures made, may terminate at any time by filing an amended committee registration indicating the nature of the amendment is termination of the committee and verifying that no contributions have been received or expenditures made since registration occurred pursuant to § 7-134. Alternatively, the committee shall file a campaign report indicating no contributions have been received or expenditures made, and indicating it is a termination report.
 - (d) Any political committee, issue committee or registered small-scale issue committee that has not taken the necessary steps to terminate pursuant to Subsection (c) above must have properly disposed of all funds and must file a termination report no later than seventy (70) days after the election.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 3, 11-6-01; Ord. No. 045, 2018, § 6, 4-3-18; Ord. No. 077, 2018, § 7, 6-19-18; Ord. No. 113, 2018, § 3, 9-4-18; Ord. No. 121, 2020, 10-20-20; Ord. No. 079, 2022, § 3, 7-5-22)

Sec. 7-135. Campaign contributions/expenditures.

- (a) *Limits.*
 - (1) No person may make contributions and/or contributions in kind totaling more than one hundred dollars (\$100.) to the candidate committee of any candidate for the office of Mayor. No person may make contributions and/or contributions in kind totaling more than seventy-five dollars (\$75.) to the candidate committee of any candidate for the office of Councilmember. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:
 - a. Contributions or contributions in kind made by a candidate to his or her own candidate committee;
 - b. Independent expenditures;
 - c. Monetary loans that are: (a) personally guaranteed in writing by the candidate, the candidate's immediate family or a business entity in which the candidate owns at least five (5) percent; or (b) secured by real or personal property owned by the candidate, the candidate's immediate family or a business entity in which the candidate owns at least five (5) percent; or
 - d. Contributions made to a candidate committee by another candidate committee established by the same individual as a candidate for the office of Mayor or Councilmember.

- (2) No person may make contributions and/or contributions in kind totaling more than one hundred dollars (\$100.) to a political committee.
- (3) No person shall make a contribution or contribution in kind in the name of another person or knowingly permit one's name to be used by another person to effect such a contribution or contribution in kind.
- (b) *Limited Liability Company Contributions.* A limited liability company ("LLC") may make contributions or contributions in kind to candidate committees or political committees subject to the following requirements and all other applicable limits of this Section:
 - (1) Any contribution from an LLC shall count against contribution limits for both the LLC itself and the individual members of the LLC as apportioned according. The amount a person contributes as an individual member of the LLC shall count towards the aggregate contribution limit for that person in Subsection (a) herein.
 - (2) The LLC shall provide the candidate committee or political committee with a written statement affirming the permissibility of the contribution on a form provided by the City Clerk. The affirmation shall include:
 - a. The name and address of the LLC and each LLC member;
 - b. Information on how the contribution is attributed among the LLC members, which attribution must reflect the capital each member has invested in the LLC relative to the total amount of capital invested in the company, or the percentage of ownership each member has in the LLC as of the date of the contribution.
 - (3) No candidate committee or political committee shall accept a contribution from an LLC unless the LLC provides the written affirmation in compliance with this Section before the contribution is deposited by the committee.
 - (4) The candidate committee or political committee receiving the contribution shall:
 - a. List both the individual LLC members' names and the name of the LLC as contributors on disclosure reports; and
 - b. Retain the affirmation statements for one (1) year after the date of the election; provider however, in the event a complaint is filed against the committee, the committee must maintain the affirmations until the final disposition of the complaint.
 - (5) As used in this Subsection (b), "limited liability company" shall have the same meaning as "domestic limited liability company" as defined in Section 7-90-102(15), C.R.S., or "foreign limited liability company" as defined in Section 7-90-102(24), C.R.S., as amended.
- (c) *Joint contributions.* No person shall make a contribution jointly with another person through the issuance of a check drawn on a jointly owned account unless: (i) the total amount of the joint contribution is less than the maximum amount that can be contributed by one (1) person under the contribution limits established in Subsection (a) of this Section or (ii) the check is signed by all owners of the account, in which event the amount of the total contribution shall be allocated equally among all such persons unless a different allocation is specified on the face of the check. No candidate committee shall knowingly accept a contribution made in violation of this Subsection (c).
- (d) *Contributions in excess of limits.* No later than ten (10) business days after receiving a contribution or contribution in kind in excess of the limits set forth in this Section, the committee that received the contribution shall remit the excess to the contributor or pay to the contributor the value of the contribution in kind.

- (e) No candidate committee, issue committee, small-scale issue committee or political committee shall knowingly accept contributions or contributions in kind from any person who is not a citizen of the United States, from a foreign government or from any foreign corporation that does not have authority to transact business in this State pursuant to Article 115 of Title 7, C.R.S., or who is prohibited from contributing pursuant to the Charter of the City of Fort Collins or this Article.
- (f) No issue committee, small-scale issue committee or political committee shall make a contribution or contribution in kind to any other committee or to any candidate.
- (g) *Contributions from one (1) candidate committee to another.*
 - (1) No candidate committee shall make a contribution or contribution in kind to, or accept a contribution or contribution in kind from, a candidate committee of another candidate.
 - (2) No candidate committee shall accept a contribution or contribution in kind from a candidate committee of the same candidate that was established or maintained for a federal, state or county election campaign or office.
- (h) *Recordkeeping.*
 - (1) All contributions and contributions in kind received by a candidate committee, small-scale issue committee, issue committee or political committee shall be documented and deposited and maintained in a financial institution in a separate account that complies with Subsection 7-134(a)(7). Following any election in which the committee received contributions, the committee shall maintain all records pertaining to contributions and related accounts for one (1) year following the date the final disclosure report is due under Section 7-136 or the date the committee terminates, whichever is later, unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of this Article, or the person or committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be subject to inspection in connection with any investigation or other action to enforce the terms of this Article.
 - (2) Following any election in which the committee made any expenditure, the committee shall document all expenditures and shall maintain all records pertaining to said expenditures, including but not limited to invoices, receipts, instruments of payment, and copies of any public communications produced as a result of the expenditure, for one (1) year following the date the final disclosure report is due under Section 7-136 or the date the committee terminates, whichever is later, unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of this Article, or the person or committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Documentation shall include the name and address of the vendor(s) or payee(s) providing the property, materials, or services and the amount of the expenditure. Such records shall be made available within three (3) business days upon request of the City and subject to inspection in connection with any investigation or other action to enforce the terms of this Article.
- (i) *Reimbursements prohibited.* No person shall make a contribution or contribution in kind to a candidate committee, issue committee, small-scale issue committee or political committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution or contribution in kind made to any candidate committee, issue committee, small-scale issue committee or political committee, nor shall any person make such reimbursement. An unexpended campaign contribution returned to a contributor or compensation for a contribution in kind by a committee pursuant to § 7-135(c) shall not be considered a reimbursement.

- (j) A candidate committee, issue committee, small-scale issue committee or political committee shall not coordinate its expenditures or activities with, or share information with, any other committee and shall not conduct its campaign activities in a manner that has the effect of circumventing any restrictions or limitations on campaign contributions, expenditures or reporting set forth in this Article.
- (k) A candidate, candidate committee or political committee shall obtain from each seller a certification of full fair market value for any purchased goods or services and from the contributor for any goods or services that constitute a contribution or contribution in kind. Any seller or contributor asked to provide a certification of value shall provide to the candidate, candidate committee or political committee a correct and undiscounted statement of value. Certification of value documentation shall be provided by a candidate, candidate committee or political committee to the City Clerk, or other appropriate City official responsible for investigating or reviewing compliance, upon request.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 189, 2000, § 1, 1-2-01; Ord. No. 148, 2001, § 4, 11-6-01; Ord. No. 005, 2017, § 6, 1-17-17; Ord. No. 077, 2018, § 8, 6-19-18; Ord. No. 113, 2018, §§ 4, 5, 9-4-18; Ord. No. 109, 2020, § 3, 9-15-20; Ord. No. 112, 2020, §§ 2, 3, 9-15-20; Ord. No. 079, 2022, § 4, 7-5-22)

Sec. 7-136. Disclosure; filing of reports.

- (a) All candidate committees, political committees and issue committees shall report to the City Clerk their contributions and contributions in kind received, including the name and address of each person who has made a contribution or a contribution in kind; expenditures made; and obligations entered into by the committee.
- (b) For purposes of complying with the requirements of this Section, an issue committee, political committee or small-scale issue committee consisting of an organization whose primary purpose is not to support or oppose ballot issues or candidates shall report only those contributions and contributions in kind accepted, expenditures made and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question or candidate. Such committee shall not be required to report donations, membership dues or any other payments received and for non-election purposes except to the extent such amounts are used or set aside to be used for the purpose of supporting or opposing a ballot issue or ballot question or candidate.
- (c) Reports shall be filed with the City Clerk as follows:
 - (1) All committees must file reports on the following dates:
 - a. the thirty-fifth (35th) day before the election;
 - b. the twenty-first (21st) day before the election;
 - c. the fourteenth (14th) day before the election;
 - d. no later than noon on the Friday before the election;
 - e. the thirty-fifth (35th) day after the election; and
 - f. the seventieth (70th) day after the election.
 - (2) Candidate committees that continue in operation must file a report annually on the first day of the month in which the anniversary of the election occurs until such time as a termination report is filed.
 - (3) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.
- (d) The reports required by this Section shall include the balance of funds at the beginning of the reporting period, the total of contributions and contributions in kind received, and the total of expenditures made during the reporting period. The reports shall also include cumulative totals of contributions and

contributions in kind received and a cumulative total of expenditures made by the committee during the election cycle.

- (e) All reports shall be submitted on forms provided by the City Clerk and shall be complete and correct in all respects. Reports shall be current in all respects as of two (2) days prior to the date upon which each such report is to be filed.
- (f) A report required to be filed by this Section is timely if the report is filed electronically not later than midnight Mountain Standard Time on the date due. Notwithstanding the foregoing, the report that is due by noon on the Friday before the election must be filed by noon regardless of the manner of filing.
- (g) Any report that is deemed by the City Clerk to be incomplete or inconsistent with the requirements of this Article shall be accepted on a conditional basis, and shall be subject to the penalties and process in § 7-143.
- (h) Any candidate committee, political committee or issue committee which has not accepted any contributions or contributions in kind, made any expenditures, or entered into any obligations during a reporting period, shall file a report with the City Clerk on the days specified in Subparagraph (c) above certifying that the committee has not accepted any contributions or contributions in kind, made any expenditures or entered into any obligations during the relevant reporting period.
- (i) Except as specified in this Subparagraph (i), the disclosure requirements specified in this Section shall not apply to a small-scale issue committee. To the extent there is any conflict between the small-scale issue committee provisions of Subparagraphs (i), (j), (k), and (l) of this Section 7-136, those Subparagraphs shall control. Any small-scale issue committee shall disclose or file reports about the contributions, contributions in kind or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:
 - (1) Any small-scale issue committee that accepts contributions or contributions in kind or makes expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred fifty dollars (\$250.) is not required to disclose or file reports about the contributions, contributions in kind or expenditures it has made or received or otherwise register as an issue committee in connection with accepting such contributions or contributions in kind or making such expenditures.
 - (2) Any small-scale issue committee that accepts contributions or contributions in kind or makes expenditures in an aggregate amount during any applicable election cycle of between two hundred fifty dollars (\$250.) and two thousand five hundred dollars (\$2,500.) shall register with the City Clerk within ten (10) business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred fifty dollars (\$250.). The registration required by this subparagraph must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form:
 - a. The committee's full name, spelling out any acronyms used in the name;
 - b. The name of a natural person authorized to act as a registered agent of the committee;
 - c. A current street address, mailing address (if different from the street address), telephone number and email address for the principal place of business of the committee;
 - d. A current mailing address, telephone number and email address for the registered agent;
 - e. The purpose or nature of interest of the committee;
 - f. The date of the election regarding which the committee intends to be active;

- g. The name and address of the financial institution in which all contributions received by the committee are deposited in a separate account bearing the name of the committee, and documentation of such account reasonably satisfactory to the City Clerk; and
 - h. An acknowledgement and certification signed by the registered agent and, from any candidate committee, the candidate.
- (3) A registered small-scale issue committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee, or any change in financial institution or account.
- (j) Except as required by Subsection 7-135(f)(2), no small-scale issue committee described in subsection (i)(2) is required under this Article to disclose or report any contributions, contributions in kind or expenditures it has made or received, so long as it continues to meet the definition of small-scale issue committee.
 - (k) Within seven (7) days of the date on which a small-scale issue committee accepts contributions or contributions in kind or makes expenditures in an aggregate amount during any applicable election cycle that exceeds two thousand five hundred dollars (\$2,500.), the committee shall:
 - (1) through its registered agent, report this change in the committee's status to the City Clerk; and
 - (2) report to the City Clerk on an approved form, for each particular contribution, contribution in kind or expenditure accepted or made, the name and address of each person who has made such contribution or contribution in kind and the amount of each specific contribution, contribution in kind and expenditure accepted or made by the committee.
 - (l) Once any issue committee that began as a small-scale issue committee accepts contributions or contributions in kind or makes expenditures in an aggregate amount during any applicable election cycle that exceeds two thousand five hundred dollars (\$2,500.), the committee shall from that point forward make disclosure of any contributions, contributions in kind or expenditures it accepts or makes not already reported under Subparagraph (k) and comply with all requirements under this Article applicable to issue committees.
 - (m) Any political committee or issue committee formed prior to July 1, 2017, will be deemed to have been formed for an election held prior to said date, and shall be deemed terminated and shall cease to operate as a committee as of April 13, 2018, except that any such terminated committee and persons responsible for the operation of such committee shall continue to be subject to the limitations on disbursement of funds set forth in § 7-138.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 189, 2000, § 2, 1-2-01; Ord. No. 148, 2001, § 5, 11-6-01; Ord. No. 173, 2014, § 7, 12-16-14; Ord. No. 021, 2016, § 10, 3-1-16; Ord. No. 005, 2017, § 8, 1-17-17; Ord. No. 045, 2018, § 7—11, 4-3-18; Ord. No. 077, 2018, § 9, 6-19-18; Ord. No. 113, 2018, § 6, 9-4-18; Ord. No. 109, 2020, § 4, 9-15-20; Ord. No. 079, 2022, § 5, 7-5-22)

Sec. 7-137. Reports to be public record.

- (a) Upon receipt of any campaign report submitted pursuant to this Article, the City Clerk shall make available such report for public inspection and post the report on the City's website no later than the next business day.
- (b) No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 6, 11-6-01; Ord. No. 021, 2016, § 11, 3-1-16)

Sec. 7-138. Unexpended campaign contributions.

- (a) Unexpended campaign contributions to a candidate committee may be:
- (1) Contributed to a political party;
 - (2) Contributed to a candidate committee established by the same candidate for a subsequent campaign in a City election, or to a candidate committee established after January 1, 2021, for a non-City election, to the extent permitted by applicable law. For a City election, such contributions are subject to the limitations set forth in Paragraph 7-135(g)(2);
 - (3) Donated to a charitable organization recognized by the Internal Revenue Service;
 - (4) Returned to the contributors;
 - (5) Used to pay for the cost of a recount requested by the candidate pursuant to § 7-46.

In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election or retention of the candidate.

- (b) In addition to any use described in Subsection (a) of this Section, a person elected to the office of Mayor or Councilmember, or retained in office following a recall attempt, may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:
- (1) Voter registration;
 - (2) Political issue education, which includes obtaining information from or providing information to the electorate;
 - (3) Postsecondary educational scholarships;
 - (4) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;
 - (5) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences and meetings on legislative issues, and telephone and pager expenses.
- (c) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in Subsection (a) of this Section, no later than five (5) years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.
- (d) Unexpended campaign contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service, returned to the contributor, or used to pay for the cost of a recount requested by the committee's registered agent pursuant to § 7-46.
- (e) Any unexpended campaign contributions held by a candidate committee subsequent to the date of the election shall, upon the registration of a candidate committee for a City office in a subsequent election, be available for that candidate committee as a beginning fund balance to use in that election. Such carryover funds will not count against any contribution limit attributable to any past contributor in a prior election campaign. Absent the candidate registering a candidate committee for a City office in a subsequent election, the unexpended campaign contributions may be used as otherwise set forth in this Section.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 7, 11-6-01; Ord. No. 021, 2016, § 12, 3-1-16; Ord. No. 109, 2020, § 5, 9-15-20)

Sec. 7-139. Independent expenditures.

- (a) Any person, excluding a committee required to register under this Article, who makes independent expenditures in connection with any particular ballot totaling in the aggregate more than two hundred fifty dollars (\$250.) shall report any such independent expenditures made after that threshold is met to the City Clerk on a form provided by the City Clerk no later than three (3) business days after the day that funds are obligated to pay for said independent expenditure. Said notice shall include the following information, together with any other information required by the City Clerk:
- (1) The name, address and telephone number of the person making the independent expenditures;
 - (2) The name of the candidate whom the independent expenditures are intended to support or oppose;
 - (3) The name and address of the vendor(s) providing the property, materials or services;
 - (4) A detailed description of the independent expenditures sufficient to allow for determination of compliance with this section;
 - (5) The amount of the independent expenditures;
 - (6) The date the funds were obligated; and
 - (7) Copies of receipts, invoices, or other documentation related to the independent expenditure.
- (b) For the purposes of this provision, funds shall be considered to have been obligated as soon as an agreement is reached for the provision of the property, materials or services in question, regardless of when payment is to be made for such property or services.
- (c) All independent expenditures shall be documented and all records pertaining to independent expenditures, including but not limited to invoices, receipts, instruments of payment, and copies of any public communications produced as a result of the expenditure, shall be maintained for one (1) year following any election in which the funds were expended unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of this Article, or the person or committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they shall be maintained until final disposition of the complaint and any consequent court proceedings. Such records shall be made available within three (3) business days upon request of the City and subject to inspection in connection with any hearing held pursuant to this Article.
- (d) Any person or persons, excluding a committee otherwise required to register under this Article, who makes or make independent expenditures in connection with any particular City election (including either candidate races or ballot questions or issues) totaling in the aggregate two thousand five hundred dollars (\$2,500) or more, shall register as an issue committee or political committee, as applicable, within three (3) business days of having made expenditures in excess of such threshold. The initial report of any such committee shall provide the dates of any reports of independent expenditures previously made and the source of funds for said previously reported expenditures.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 148, 2001, § 8, 11-6-01; Ord. No. 005, 2017, § 7, 1-17-17; Ord. No. 077, 2018, § 10, 6-19-18; Ord. No. 113, 2018, § 7, 9-4-18; Ord. No. 079, 2022, § 6, 7-5-22)

Sec. 7-140. Responsibility for communications.

- (a) Required Statements.
- (1) Whenever a candidate, candidate committee, issue committee, political committee or registered small-scale issue committee makes an expenditure for the purpose of financing communications expressly

- advocating a particular result in an election, or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, such communication if paid for or authorized by a candidate, candidate committee, issue committee, political committee, registered small-scale issue committee, or any agent for the same, shall clearly state that the communication is paid for by that candidate, candidate committee, issue committee, political committee or registered small-scale issue committee.
- (2) Whenever any person makes an independent expenditure in excess of the reporting threshold in § 7-139 for the purpose of financing communications expressly advocating for a particular result in an election, such communication shall clearly state that the communication is paid for by that person.
- (b) In regard to the different forms of communication set forth in subsection (a) of this Section 7-140, "communication" shall include, but shall not be limited to:
- (1) Websites or social media of a candidate, candidate committee, issue committee, political committee or registered small-scale issue committee available to the general public;
 - (2) Websites or social media of a person if and to the extent they are financed by independent expenditures in excess of the reporting threshold in § 7-139 and are available to the general public; and
 - (3) Advertisements placed for a fee on another person's website or social media.
- (c) The statement required by this Section 7-140 must be clear and conspicuous in the communication. The statement required herein shall not apply to communications where including the statement would be impractical, such as:
- (1) Bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed;
 - (2) Skywriting, water towers, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable; or
 - (3) Checks, receipts, and similar items of minimal value that are used for purely administrative purposes and do not contain a political message.
- (d) Nothing herein shall be deemed to alleviate any person from complying with federal campaign finance law, as applicable.
- (Ord. No. 113, 2018, § 8, 9-4-18)

Sec. 7-141. Expenditures for political advertising; rates and charges.

- (a) No committee shall pay to any radio or television station, newspaper, periodical, internet advertiser or website provider, social media provider or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials or services. Any such rate shall not be rebated, directly or indirectly.
- (b) Any radio or television station, newspaper, internet advertiser or website provider, social media provider or periodical that charges a committee a lower rate for use of space, materials or services than the rate such station, newspaper, internet advertiser or website provider, social media provider or periodical or supplier charges another issue committee or candidate committee for the same ballot measure or public office for comparable use of space, materials or services shall report the difference in such rate as a contribution to the committee that is charged such lower rate. A person who receives a discounted rate as described herein shall be deemed to have received a contribution and to meet the definition of political committee, issue committee or small-scale issue committee, as applicable, and must comply with the related requirements.

- (c) Nothing in this Article shall be construed to prevent an adjustment in rates related to frequency, volume, production costs and agency fees if such adjustments are offered consistently to other advertisers.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 077, 2018, § 11, 6-19-18; Ord. No. 113, 2018, § 9, 9-4-18; Ord. No. 079, 2022, § 2, 7-5-22)

Sec. 7-142. 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. No. 162, 2000, § 1, 11-21-00)

Sec. 7-143. Violations and penalties.

- (a) Except as provided in Subparagraph (b) herein, any person who violates or fails to comply with the provisions of this Article as set forth in the following schedule commits a civil infraction and is subject to a civil penalty as follows:

Code Section	Penalty Amount
7-133 - Candidate affidavit; disclosure statement; failure to file	No monetary penalty (disqualification per Section 7-133)
7-134 - Registration of committees; termination.	\$150 first offense; \$300 each subsequent offense
7-135 - Campaign contributions/expenditures.	\$100 first offense; \$200 each subsequent offense
7-136 - Disclosure; filing of reports.	\$100 first offense; \$200 each subsequent offense
7-137(b) - Reports to be public record.	\$50 first offense; \$100 each subsequent offense
7-138 - Unexpended campaign contributions.	\$100 first offense; \$200 each subsequent offense
7-139 - Independent expenditures	\$100 first offense; \$200 each subsequent offense
7-140 - Responsibility for communications.	\$50 first offense; \$100 each subsequent offense
7-141 - Expenditures for political advertising; rates and charges.	\$50 first offense; \$100 each subsequent offense

- (b) Any person who undertakes any of the following commits a misdemeanor and is subject to a fine or imprisonment in accordance with § 1-15:
 - (1) Knowingly violates § 7-135(e), (i), (j), or (k), with the intent to circumvent the restrictions of § 7-135.
 - (2) Knowingly violates § 7-136 with the intent to fraudulently misrepresent campaign contributions or expenditures on a disclosure report;
 - (3) Knowingly violates § 7-142; or
 - (4) Is found liable for a violation after the person has been found liable for two (2) or more violations under this Article in a single election cycle.
- (c) Failure to comply with the provisions of this Article shall have no effect on the validity of any election, except as expressly required by the City Charter.
- (d) Each complaint received under Division 2 of this Article shall be posted on the City's website along with other campaign information. Records of communications between the City Clerk and the complainant and between the City Clerk and the subject of any complaint shall be a public record.

(Ord. No. 162, 2000, § 1, 11-21-00; Ord. No. 109, 2020, § 6, 9-15-20; Ord. No. 079, 2022, § 8, 7-5-22)

Sec. 7-144. Severability.

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

(Ord. No. 162, 2000, § 1, 11-21-00)

Division 2 Campaign Violations

Sec. 7-145. Allegation of campaign violation.

- (a) Any candidate or registered elector of the City ("complainant") who has reason to believe a violation of Chapter 7, Article V, of this Code, has occurred by any person, candidate, candidate committee, issue committee, small-scale issue committee or political committee may file a written complaint with the City Clerk, no later than sixty (60) days after the alleged violation has occurred.
- (b) The complaint must contain:
 - (1) The name of the alleged violator;
 - (2) The Code provision allegedly violated;
 - (3) A brief statement or description of the offense allegedly committed and the basis for the allegation;
 - (4) Identification of any relevant documents or other evidence;
 - (5) Identification of any witnesses or persons with relevant knowledge; and
 - (6) The name, address and telephone number of the complainant.
- (c) For complaints that allege a criminal violation as set forth in § 7-143(b), the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in this Division 2.
- (d) For complaints that do not allege a criminal violation, the complaints shall be subject to a civil infraction process as provided herein:
 - (1) The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction.
 - (2) The City Clerk will forward the complaint to the City Attorney, who shall review the complaint to determine whether the complaint:
 - a. Was timely filed under § 7-145(a);
 - b. Contains the information required by § 7-145(b); and
 - c. Alleges sufficient facts to support a factual and legal basis for the violations alleged.
 - (3) If the City Attorney determines that the complaint fails to satisfy any of the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall so notify the City Clerk who will, in turn, notify the complainant and respondent in writing.
 - (4) If the City Attorney determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall notify the City Clerk who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with § 7-143(a) and that the respondent shall have ten (10) days from the date of the notice to submit written evidence of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials or other proof that the violation has been corrected. The respondent's written response shall be due to the City Clerk no later than 5:00 p.m. on the tenth (10th) day. In the event the tenth (10th) day is a City holiday, the response shall be due no later than 5:00 p.m. the next business day.

- (5) On receipt of the respondent's written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time of up to seven (7) additional days to file an amended response regarding cure in order to respond to any such request.
- (6) After the period for cure has expired, the City Attorney shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether respondent has substantially complied with its legal obligations under Chapter 7, Article 5, of this Code. In determining whether the respondent has substantially complied with its legal obligations, the City Attorney shall consider:
 - a. The extent of the respondent's noncompliance;
 - b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
 - c. Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.

If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations under Chapter 7, Article 5, the City Attorney shall so notify the City Clerk who, in turn, shall notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.

- (7) If the City Attorney determines the respondent has not cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court.
- (8) If the City Attorney files a complaint with the Municipal Court, the matter shall be governed by Article V of Chapter 19 of this Code.
- (9) A complainant or any other nonrespondent shall not be a party to the City Attorney's initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.
- (10) Any person that commits a violation of this Article shall be personally liable for the penalties imposed. Any candidate shall be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.

(Ord. No. 005, 2017, § 9, 1-17-17; Ord. No. 113, 2018, § 10, 9-4-18; Ord. No. 109, 2020, § 7, 9-15-20; Ord. No. 079, 2022, § 9, 7-5-22)

Sec. 7-146. Evaluation of campaign complaint.

- (a) For those complaints that concern a criminal violation pursuant to § 7-143(b), if the City Attorney determines that no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements of § 7-145 were not met by the complainant, the City Attorney shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.
- (b) If the City Attorney determines probable cause exists, the City Attorney may notify Fort Collins Police Services, who, in consultation with the City Attorney, may file and serve a summons and complaint to the respondent.
- (c) The City Attorney retains prosecutorial discretion on whether to ultimately file criminal charges. If the City Attorney determines filing a summons and complaint is inappropriate, he or she shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

(Ord. No. 005, 2017, § 9, 1-17-17; Ord. No. 109, 2020, § 8, 9-15-20)

Sec. 7-147. Conflicts of interest.

Notwithstanding the above, nothing in this Article shall be read to preclude the City Attorney from declaring a conflict of interest, and taking appropriate action in accordance with this Code and general practices of the City, including, but not limited to, hiring special counsel, if deemed necessary and advisable under the circumstances.

(Ord. No. 005, 2017, § 9, 1-17-17)

Sec. 7-148. Complaint not required for city action.

Nothing in this Article shall preclude the City from pursuing an action, civil or criminal, against any person, candidate, candidate committee, issue committee, small-scale issue committee or political committee for any violation of this Chapter, regardless of whether a complaint had been filed pursuant to this Article.

(Ord. No. 005, 2017, § 9, 1-17-17)

Sec. 7-149. Administrative procedures.

The City Manager is charged with ultimate authority to pursue complaints under this Article and is hereby authorized to adopt administrative regulations consistent with the provisions of this Article.

(Ord. No. 005, 2017, § 9, 1-17-17)

Sec. 7-150. Reserved.

Ord. No. 109, 2020, § 9, adopted September 15, 2020, repealed § 7-150, which pertained to action by complainant, and derived from Ord. No. 005, 2017, § 9, adopted January 17, 2017.

Secs. 7-151—7-154. Reserved.

Campaign Finance Complaint Process Overview & Potential Changes to Streamline

Sara Arfmann

Assistant City Attorney II



- Campaign finance complaints and investigations related to alleged violations of the City's campaign finance rules in the City Code
- Currently all investigations are initiated by citizens filing a complaint
- Statistics of Complaints Filed in Prior Elections:
 - 2023 – 7 complaints
 - 2022 – 3 complaints
 - 2021 – 12 complaints
- Complaints and accompanying documents are considered public records and posted on the City's Election website
- Questions have been raised regarding making the process more efficient and more timely

- CFC can be filed online or dropped off at the Clerk's Office
- The complaint must contain:
 - The name of the alleged violator;
 - The Code provision allegedly violated;
 - A brief statement or description of the offense allegedly committed and the basis for the allegation;
 - Identification of any relevant documents or other evidence;
 - Identification of any witnesses or persons with relevant knowledge; and
 - The name, address, and telephone number of the complainant.
- Complaints must be filed no later than 60 days after the alleged violation occurred

Return this completed form to: **For City Clerk's Use Only:** Date Filed: _____ Initials: _____
 City Clerk's Office, 300 LaPorte Avenue, Fort Collins, CO 80521, or email to elections@fcgov.com

NOTICE OF ELECTION COMPLAINT ALLEGING A VIOLATION OF CITY CAMPAIGN LAWS	
Complainant Information: Name, address, telephone number(s), and email address of the complainant (who must be a registered elector). If more than one complainant, please provide the name, address, telephone number(s), email address, and signature of each complainant on the back of this form or on additional sheets.	
Name: _____	Complainant's Signature: _____
Street Address: _____	Zip Code: _____
Phone #: _____	Email: _____

A complaint alleging a violation of City campaign laws, in accordance with Section 7-145, must be filed with the City Clerk no later sixty (60) days after the alleged violation has occurred.

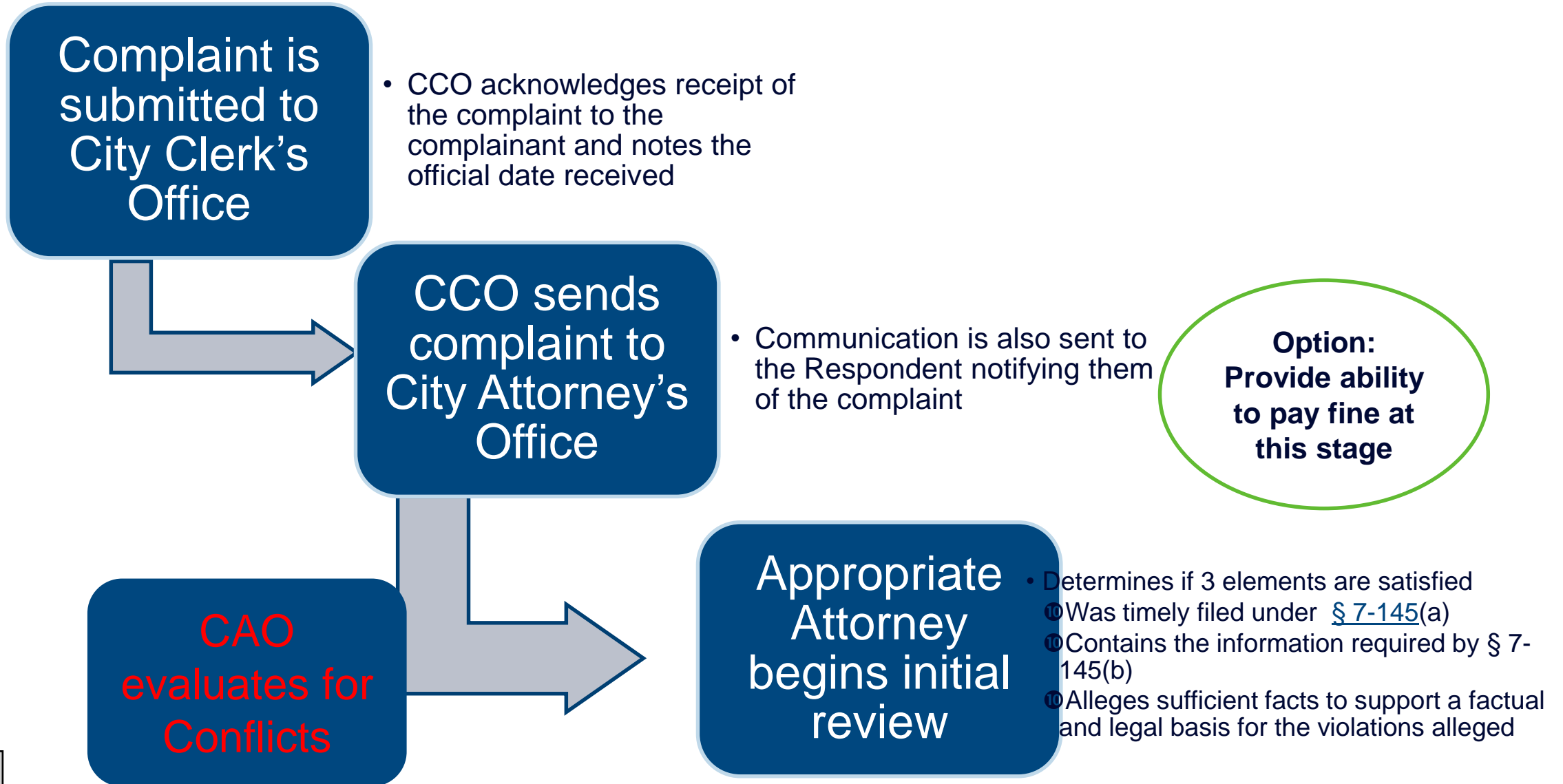
GROUNDS FOR ELECTION COMPLAINT	
Name of alleged violator(s): _____	Date(s) of alleged violation: _____
Code provision allegedly violated: _____	
Description of the offense allegedly committed and the basis for the allegation: _____	
Identification of any relevant documents or other evidence. Please attach copies of documents if available. _____	
Identification of any witnesses or persons with relevant knowledge. Please provide contact information for each witness or person identified, such as phone number, physical address, email address, etc. if available. _____	

****A separate form must be completed for each Complaint****

For City Clerk's Use Only

Date Complaint Forwarded to City Manager and City Attorney: _____ Initials: _____

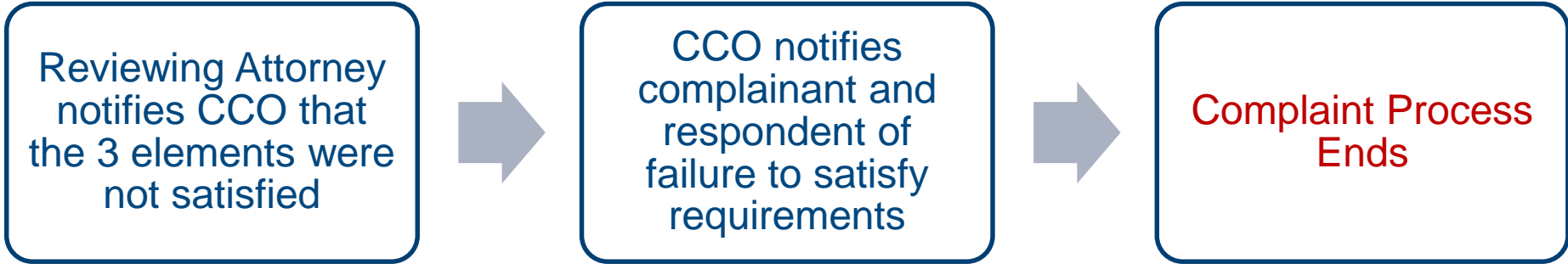
Steps for Complaints Alleging Civil Infractions



- Conflicts arise when there is a concern that the CCO/CAO may not be neutral in evaluating the complaint or could create future concerns, for example:
 - The CAO advises the individual as a client and involvement in a complaint could create a difficult future working relationship with the person involved in a complaint; or
 - When the CCO or CAO has already been deeply involved in the matter prior to the complaint
- What are routine conflicts:
 - Complaints related to anyone running for an elected position
 - Complaints related to an issue that the CCO or CAO has been closely involved with (ex: referendum)
- Currently when a conflict exists the CAO sends the matter to outside counsel to take the place of the CAO in the complaint process
- HB24-1283 could address how to deal with conflicts in the future (discussed under potential changes)

Reviewing Attorney determines if the complaint satisfies initial 3 elements

If NO



If YES

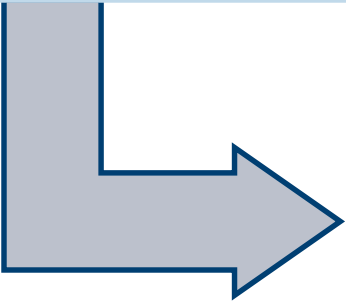
Reviewing Attorney notifies CCO who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with 7-143(a) and that they have 10 days to file a response

Respondent Cure Period

CCO sends notice of required action to Respondent

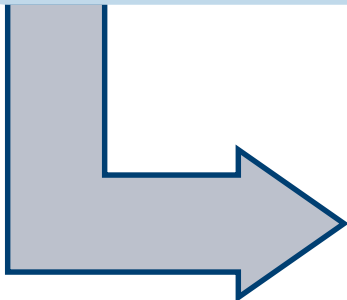
- Respondent has 10 days to provide proof of cure or attempt to cure
 - Often leads to Respondent arguing that they did not violate the code
- If Respondent fails to provide any information, the Reviewing Attorney will file a complaint in Municipal Court

**Option:
Remind of ability
to pay fine &
close along with
other options**



Respondent provides proof of cure or attempt to cure

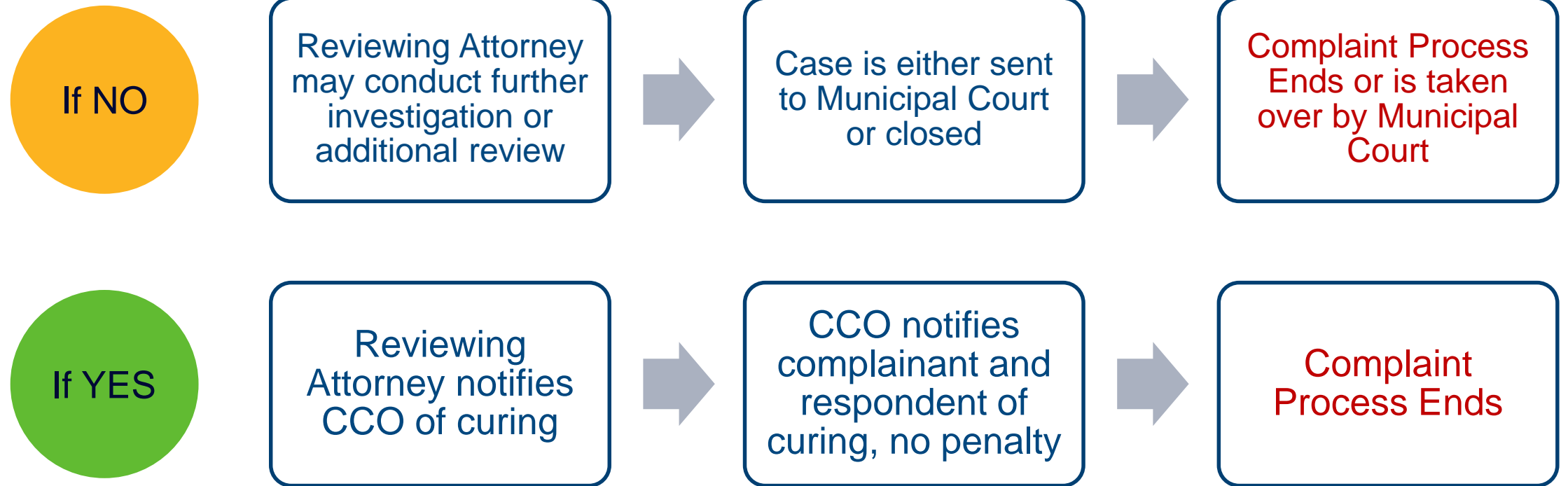
- CCO forwards this to Reviewing Attorney



Reviewing Attorney reviews proof of cure or attempt to cure

- Reviewing Attorney may request more information from respondent
- If they do, Respondent has another 7 days to provide information

Reviewing Attorney determines if the violation has been cured

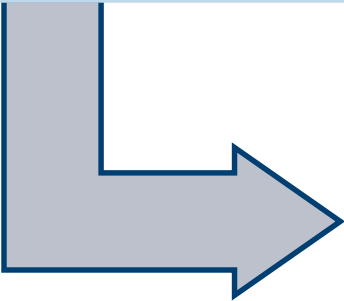


Suit Referred to Municipal Court

CAO refers complaint to Municipal Court

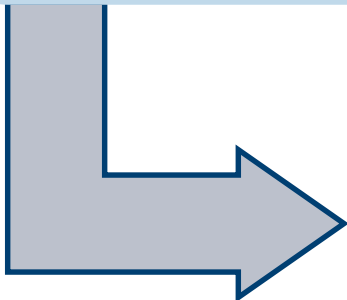
- FCPS must determine probable cause for criminal violation
- If probable cause found, FCPS will personally serve the Respondent with a citation to appear in Municipal Court
- Can take time given caseload on officers

Once referred, Respondent can no longer pay the fine with the CCO, must go through Court process



Respondent provided with appearance date

- Normally date is 3-6 weeks after service
- Respondent can ask to continue or reset date for many reasons



Respondent either takes a plea deal or contests at trial

- A plea could be accepted at the first appearance or reset
- Cases could take 2-4 months to resolve

- Evaluating whether there is a sufficient factual and legal basis for a violation Sec. 7-145(d)(2)(c)
 - Not always clear on the face
- Opportunity to cure
 - Often a “cure” is not readily available, especially after the election has passed
 - Investigations can be time consuming and requires staff to delay work for other client departments
 - Often Respondents will “argue their case” instead of providing evidence of a cure or substantial compliance with the law, causing substantial back and forth
- Filing with Municipal Court
 - When referred FCPS must do their own review and then serve the Respondent to initiate process
 - What is the intent for sending complaints to Court?
 - If someone admits that they unknowing violated the CFC but cannot cure now, should they go to Court?
 - Should only those who contest the violation and unwilling to cure or show substantial compliance go to Court?
 - By its nature, any matter referred to Court will take time to resolve
- Using outside counsel – generally will take longer

Summarizing Potential Changes

- Create a way to close a civil complaint by paying the presumptive fine
 - Provide this option when notifying Respondent of the compliant and presumptive fine
 - Ideal when election has occurred and therefore there is no clear “cure” for the violation
 - Would require a code change to allow
- In the future, examining whether to hire an investigator who will conduct CFC investigations for the CAO
 - FCPS Chief could grant authority to investigator to serve citations instead of referring all to FCPS
 - No code change required for this
- HB24-1283: Allow complaints with actual or potential conflicts to be referred to the Secretary of State
 - Requires Council to adopt an ordinance to do so
 - Cannot refer for an election that is less than 180 days after ordinance adopted & provided to the SoS
 - SoS has to use the City’s campaign finance process, not the State’s
 - City would waive collection of any fines
 - Likely would save City money as outside counsel for complaints, City spent \$24,594.66 from 2024-2019
 - 2021 was the most expensive year at \$9,428.50
- Repeal entire CFC process and refer all complaints to the SoS (similar requirements as above)



Questions?

September 11, 2024



AGENDA ITEM SUMMARY

Election Code Committee

STAFF

Delynn Coldiron, City Clerk
Rupa Venkatesh, Assistant City Manager
Carrie Daggett, City Attorney
Sara Arfman, Assistant City Attorney

SUBJECT

2024 Election Update and Workplan Check-In.

EXECUTIVE SUMMARY

The Election Code Committee finished its work for the previous term in May 2024. Charter amendments were approved by Council in July 2024 for Article VIII – Elections, Article IX – Recall (repeal and re-enact) and Article X – Initiative and Referendum (repeal and re-enact) in preparation for the November 5, 2024, Special Election. These items, together with a ballot issue to extend the City’s existing 0.25% sales and use tax for the street maintenance program will appear on the upcoming election ballot.

Campaign Finance Enforcement is the next item set for Committee consideration with an expected January 14 Work Session and possible Council action on February 4 (1st Reading). Additional Code changes that could be brought forward at the same time include:

Redistricting and
Charter follow-up for any items that pass.

Additional items remaining on the Committee’s Work Plan include:

1. Education for Ranked Choice Voting and Sign Code requirements
2. Additional Charter Amendments
 - a. Article II – Vacancies
 - b. Article IV – General Provisions
3. Other Topics: “Bike Rack” Items:
 - a. Oversight Committee; and
 - b. Public Financing of Campaigns

Staff will provide updates on these items and is also wanting to ensure there is an understanding of the scope of work needed for the remaining items and whether there are any other items of interest that need to be added.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Are these the existing priorities the Committee would like to continue working on in the current term?
2. Does the committee want to pursue any additional code changes relating to elections in the current term?

BACKGROUND / DISCUSSION

The Election Code Committee reconvened in March 2024 and spent time planning future work for the Committee and, during its meetings in April and May 2024, worked on potential Charter changes. The Charter changes included modernizing language and changing time computations for all articles. Additionally, the following changes were proposed:

- Article VIII – General Elections
 - Updating processes to allow the City Clerk to appoint an elections expert to serve on the Board of Election; and
 - Eliminating vague language related to qualification of elected officers (utilizing the statutory process).
- Article IX – Recall
 - Reorganizing the material for clarity (requires a repeal and re-enact due to the significant number of revisions);
 - Ensuring the results were based on first choice votes due to ranked choice voting;
 - Extending City Clerk review periods;
 - Simplifying the petition review process;
 - Modifying election timeframes; and
 - Eliminating vague language related to qualification of elected officers (utilizing statutory process).
- Article X – Initiative and Referendum
 - Reorganizing the material for clarity (requires a repeal and re-enact due to the significant number of revisions);
 - Modifying processes around petition form approval;
 - Extending City Clerk review periods;
 - Simplifying the petition review process (elimination of cure provisions);
 - Creating a uniform protest process; and
 - Modifying election timeframes.

These items were approved by Council at its July 2, 2024, and July 16, 2024, meetings and will appear on the November 5, 2024 ballot.

COMMITTEE PRIORITIES

Campaign Finance Enforcement

This is the next priority item set for Committee consideration. A separate agenda item has been created for this topic and will be discussed at the September 11, 2024, meeting.

Code Changes (new addition to the Committee's Work Plan)

There are some potential Municipal Code changes to be considered by the Committee:

Campaign Contributions:

Some interest has been expressed to staff in modifying the existing campaign contribution amount for candidates to match the \$225 allowed by the State. Staff would like to get guidance from the Committee on whether there is interest in pursuing this. If interested, staff will bring back historical and other requested information such as what the amount would be had it been adjusted for inflation since it was last changed.

Redistricting:

During the process of completing redistricting following the decennial census, there was discussion by the Committee about making changes to City Code provisions governing the redistricting process. Of particular interest was looking at what activates a requirement to adjust district boundaries.

In the City's Municipal Code, it requires that a redistricting review be done:

- no more than 18 months after an official decennial (10 year) publication of the United States census to ensure there is no more than a ten percent deviation between the most populous and least populous district; and
- not less than once every six years after the census work is done. Another review to ensure no more than a ten percent deviation.

Additionally, any time that Larimer County provides notice that precinct boundaries have been amended, the City Clerk is directed to review precinct boundaries and recommend to Council any precinct boundary changes. If this results in population deviations that exceed ten percent, the City Clerk is directed to recommend boundary adjustments and possible redistricting options.

Precinct adjustments by Larimer County are common prior to most elections. Instead of moving forward with a full redistricting effort each time, Council has adopted an ordinance that amended the City precinct map to reflect changes in the County precinct boundaries but waived the redistricting requirement.

When discussed, staff will share more history around redistricting efforts, provide related suggestions, and get feedback from the Committee on the desired direction and possible Code changes.

Charter Changes:

A review of elections items within the Municipal Code will need to be reviewed based on whether any of the election-related Charter changes pass in November. Staff will bring back needed changes for Committee approval once we know what item(s) pass.

Education Efforts

Ranked Choice Voting:

Staff will be doing research and bringing suggestions to the Committee on education and outreach related to ranked choice voting to help prepare Council, candidates, staff and voters on how the process works and related procedures and expectations. Staff will be looking at a variety of things to help including using or developing training videos, written materials, a robust outreach and engagement plan, and providing town hall meetings and/or open houses to help ensure everyone is aligned and has the information needed to understand and fully participate in the new process. Staff has a field trip scheduled to the City of Boulder to learn more about its ranked choice voting efforts and related processes, procedures and educational efforts.

Sign Code Requirements:

Staff plans to discuss with the Committee current sign code requirements as it relates to temporary signs and to bring related strategies to get feedback and direction. Making this information more prominent on election web pages, developing related social media campaigns and having more proactive enforcement are items that are planned for discussion.

Additional Charter Amendments

An additional item identified by the Committee for possible amendments to the Charter included Article II – Vacancies. This item will likely be consolidated as part of the current Charter Update project that is underway. Recommended changes will be brought back to Council for discussion and approval.

Other Topics: “Bike Rack”

Two items have been placed on the Committee’s Bike Rack and might be considered at a later time. The items include consideration of an Oversight Committee and Public Financing of Campaigns.

Election Update

Here’s what is happening related to the current election:

- The IGA with the County enabling a coordinated election has been signed and completed with the County
- A notice of the Charter amendments was published
- All ballot content has been certified and submitted to the County
 - Ballot Issue – TABOR – 0.25% Sales and Use Tax for Street Maintenance
 - Ballot Question – Proposed Charter Amendment No. 1 – Article VIII – General Elections
 - Ballot Question – Proposed Charter Amendment No. 2 – Article IX – Recall
 - Ballot Question – Proposed Charter Amendment No. 3 – Article X – Initiative & Referendum
- Deadline to submit pro and con statements for TABOR issues is September 20
- Ballots must be sent to military and overseas voters by September 21
- Deadline to submit TABOR text to Larimer County is September 23
- Deadline to mail TABOR notices to households is October 4
- The earliest mail ballot packages will go out to voters is October 14

ATTACHMENTS

1. Presentation

2024 Election Update and Work Plan Check-In

Delynn Coldiron

City Clerk



- Election Code Committee finished its previous term in May
- Charter Amendments were approved by Council in July
- Article VIII – General Elections:
 - Updated processes to allow the City Clerk to appoint an elections expert to serve on the Board of Election; and
 - Eliminated vague language related to qualification of elected officers (utilizing the statutory process).
- Article IX – Recall
 - Reorganized the material for clarity (requires a repeal and re-enact due to the significant number of revisions);
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- Article X – Initiative and Referendum
 - Reorganized the material for clarity (requires a repeal and re-enact due to the significant number of revisions);
 - Modified processes around petition form approval;
 - Extended City Clerk review periods;
 - Simplified the petition review process (elimination of cure provisions);
 - Created a uniform protest process; and
 - Modified election timeframes.

Campaign
Finance
Enforcement
Discussed Today

Code Changes
Redistricting
Charter Changes

Education Efforts
Ranked Choice Voting
Sign Code

Additional
Charter
Amendments
Vacancies

Other Topics
Oversight Committee
Public Financing of
Campaigns



- City campaign contribution amounts have not changed since 2000
 - \$100 – Mayor
 - \$75 – District Candidates
- State contribution levels (natural person)
 - \$2,500
 - School Director
 - \$1,425
 - County candidate
 - \$725
 - Attorney General
 - Treasurer
 - \$225
 - District Attorney
 - State and House Representative

Redistricting:

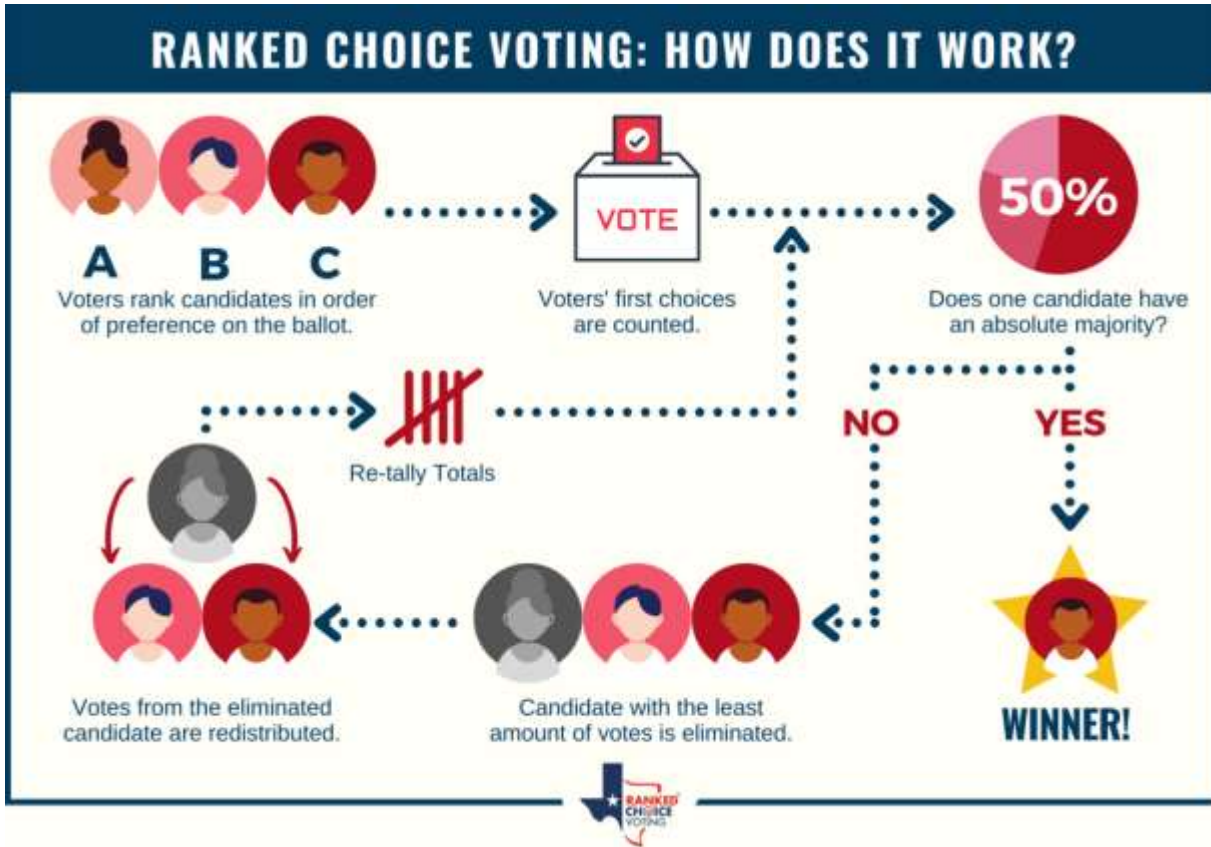
Current requirements

- After decennial (10 year) publication of Census
- Check within six years after redistrict due to Census
- When changes in precinct boundaries are amended causing deviations to exceed 10%
 - Changes by the County are common prior to elections
 - Council generally waives the redistricting requirement associated with this



Charter Changes:

- May require code changes for any of the Charter amendments that passed during the election



Will crews be singing "I've Been Working on the Railroad" while they work? If they do, they should probably sing it all the live long day, but we don't control the railroad and we don't control the construction playlist, so we'll just have to cross our fingers and see. □

Additional Charter Amendments

- Vacancies
- Other?

Other Topics

- Oversight Committee
- Public Financing of Campaigns

IGA signed

Charter notice published

Ballot content certified

TABOR Pro/Con – Sept. 20

Overseas/military ballots get sent – Sept. 21

TABOR notices get sent – Oct 4

Mail ballots start to go out – Oct 14



Questions?