



Agenda
Election Code Committee
October 21, 2024 – 4:00 PM
CIC Conference Room, City Hall, 300 Laporte Ave
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 September 11, 2024, Election Code Committee meeting.

F) **Discussion / Informational Items**

2. **Potential Code Changes Regarding the Campaign Complaint Process and the Campaign Contribution Limits.**

Members of the ECC expressed interest in examining the current campaign contribution limits and provided direction for simplifying the campaign complaint process and to also provide for a way to pay the presumptive fine and close the matter earlier. Staff have provided a draft of the proposed changes.

3. **2024 Workplan and Election Updates.**

The purpose of this item is to provide updates on the Committee's Work Plan and to enable discussion on Work Plan items. The purpose also includes providing updates on the current and coming elections.

At its September 11, 2024, meeting, the Committee confirmed the items listed on the Work Plan.

Code amendments related to campaign finance enforcement are scheduled for discussion at the October 21, 2024, meeting. Discussion is also planned on possible changes to campaign contribution limits.

For the December 10, 2024, meeting, staff will be prepared to discuss:

- Code changes related to contribution limits (if direction is given by the Committee to do so);
- Discussion on possible code changes that would eliminate write-in candidates;
- Discussion on possible code changes that would eliminate having petition circulators read a petition an entire petition if requested;

- Discussion on possible code changes related to redistricting; and
- Discussion on code changes that are needed based on any Charter changes that pass.

Additional code changes agreed to at the December meeting, together with a summary of items the Committee approved at the October meeting, will be reviewed at the January 27, 2024, ECC meeting. These items will then be prepared for Council consideration. If no work session is needed, the items could be brought forward for first reading as early as February 18, followed by second reading on March 4, 2025. An earlier meeting in January could be scheduled if the Committee desires to do so.

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 remaining items as information is available. For the October meeting, staff will be prepared to discuss the field trip staff took to the City of Boulder related to Ranked Choice Voting and will be prepared to bring forward more detailed information on a related communications and outreach plan in January.

Discussion on possible additional Charter amendments can begin in February if the Committee desires to pursue these items.

4. Discussion of Issues Related to the Proposed Charter Amendments.

This item will provide opportunity for questions and clarifications related to the issues surrounding Ballot Question 2D and Notice issues.

G) Other Business

H) Adjournment

Next Scheduled Committee Meeting: 4:00 PM, November 25, 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.

October 21, 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 September 11, 2024, Election Code Committee meeting.

ATTACHMENTS

1. Draft Minutes, September 11, 2024



Meeting Minutes
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>

A) Call Meeting to Order

1. The meeting was called to order at 4:00 P.M.

B) Roll Call

1. Mayor Jeni Arndt, Councilmember Julie Pignataro, and Councilmember Tricia Canonico were all present.
2. Others present: City Clerk Delynn Coldiron, City Attorney Carrie Daggett, Assistant City Attorney Sara Arfmann, Assistant City Manager Rupa Venkatesh

C) Public Participation

1. Robbie Morland, District 1, discussed Ranked Choice Voting and the mock voter's guide from 2023. Voter guides were collected from municipalities around the country as examples. The intent is to mail out the guide in addition to social media and other outlets. Daggett discussed not using the City logo in future publications.
2. Kathleen Schmidt, representing the League of Women Voters of Larimer County, expressed support for educating voters on RCV and offered the League's assistance to ensure successful outreach for the 2025 implementation. She advised contacting the Clerk's Office to help ensure adequate outreach.
3. Jack Armstrong from District 4 reiterated that the mock guide would not be distributed to the public; it was simply an example of what could be created for voters. Mayor Arndt supported not using the City logo in such publications.

D) Public Participation Follow-up

1. There was no follow-up.

E) Approval of Minutes

1. Councilmember Arndt moved, seconded by Councilmember Pignataro, to approve the minutes of the May 29, 2024, Election Code Committee meeting.

F) Discussion / Informational Items

2. Potential Code Changes Regarding Campaign Finance.

Background: 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.

City Attorney Carrie Dagget introduced Assistant City Attorney Sara Arfmann to the Election Code Committee. Assistant City Attorney Arfmann provided a presentation on Campaign Finance, the Complaint Process, and potential ways to streamline the system. She presented statistics on complaints and investigations related to campaign finance and explained the current process, where complaints can be submitted online or dropped off in person. A person facing a complaint can pay fines immediately to resolve the issue.

Assistant City Attorney Arfmann outlined the notice process for subjects of complaints, which includes giving them a time window to correct the issue. She explained how conflicts related to an elected city position are handled, noting that the City prefers to avoid any appearance of bias. In such cases, conflicts can be referred to the Secretary of State.

Sara highlighted three elements required for a valid complaint: it must be timely filed, contain the required information, and allege sufficient facts. She explained the process for filing and processing complaints. If the issue is resolved ("cured"), the process ends. If not, the case moves to municipal court, which can take several weeks to months to resolve.

Councilmember Pignataro inquired whether the violations only pertain to finance. The City Attorney's Office clarified that the violations cover more than finance, and suggested the name be changed to "Campaign Violations" rather than just "Campaign Finance Violations." Changing the code would be required to allow a violator to pay a fine and resolve the case. Councilmember Pignataro also asked whether fines could be paid from personal or campaign funds, and the City Attorney confirmed they could be paid from committee funds.

Prosecutors have the authority to dismiss cases if deemed not worthwhile. Councilmember Canonico asked about a specific case, which the City Attorney elaborated on. Assistant City Attorney Arfmann noted that previously, campaign violation cases were treated as criminal offenses, whereas they are now civil cases. An investigator, commissioned by the police chief, reviews complaints, though it is difficult for police to prioritize these cases.

Councilmember Pignataro inquired about using an independent investigator for ethics complaints. The City Attorney explained that outside attorneys are used for ethics complaints, but there is no independent contractor for campaign violation investigations.

Mayor Arndt asked about proposed changes to the process. Assistant City Attorney Arfmann suggested allowing violators to pay fines earlier to resolve cases more quickly. She also mentioned that referring conflicts to the Secretary of State would not require a code change and could save the City money on outside counsel and staff time.

There was concern from Mayor Arndt about whether the Secretary of State's office would be familiar enough with the City's Code to handle these cases thoroughly. Assistant City Attorney Arfmann suggested that simplifying the Code might make it easier for people to understand.

Finally, the Committee discussed clarifying complaints before proceeding, as many issues involve minor corrections, such as ensuring text messages in campaigns include links to websites that disclose who paid for them. The Committee also discussed fines related to campaign materials, such as postcards without "paid for by" disclosures, and how to streamline the process for repeat compliance issues. The agenda packet included a discussion on fines and potential increases in donations and penalties for violations.

G) Review of Upcoming Calendar

3. 2024 Election Update and Workplan Check-In.

Background: 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 the current items and ensure the committee understands the scope of work needed for the remaining items. The discussion will also address whether there are any additional items of interest to be added.

Staff has proposed several code changes, education on Ranked Choice Voting (RCV) and issues related to temporary signage under the sign code. Additional charter amendments concerning vacancies were also mentioned.

The committee discussed the topic of campaign finance limits, noting that these limits have not been adjusted, even for inflation. The City Clerk had consulted with the Secretary of State to determine allowable contribution levels. Mayor Arndt emphasized the importance of keeping limits low to maintain community involvement, while acknowledging the challenge of addressing "dark money." Canonico expressed support for a \$225 limit for general elections, suggesting that aligning local limits with state levels for committees would simplify matters. Carrie referenced recent 2023 legislation that sets limits on campaign contributions, with a maximum aggregate donation of \$400. Arndt advocated for broader donations, while Pignataro suggested considering an increase tied to other factors.

The Clerk recommended bringing historical data on campaign finance back to the committee. Councilmember Pignataro noted that low limits could have unintended consequences and create barriers. The group reviewed the historic costs associated with campaign finances. Rupa suggested bringing this topic back for further discussion at the October committee meeting, particularly considering what the state is doing. The committee agreed to consider a few options at that time.

The topic of redistricting also requires a code change, according to the Clerk. The current code mandates a review of district alignment every six years after the census. When the County changes precinct boundaries, the City must assess and adjust accordingly. The committee discussed past coordination issues between the County Clerk and the City’s boundaries, with the City Attorney explaining that these precinct changes are often driven by election mechanics rather than population shifts. The committee discussed overriding the code and moving boundaries to ensure alignment with how residents elect Council members, especially when people move between precincts. The

ets its district boundaries, and the County follows them, but the Clerk mentioned the importance of ensuring GIS alignment and providing notices of precinct changes. Arndt suggested removing conflicting language in the code and adjusting the timeline to 180 days before the election.

Mayor Arndt left the meeting at 5:02 PM.

The committee also discussed engaging with CSU students regarding election campaigns, with a field trip planned for October 11th to observe Boulder's process. The group discussed strategies for raising awareness about RCV in the first or second quarter of the year, including hosting town halls and making the information engaging to capture public attention. There was mention of exploring an RCV initiative at the state level.

Councilmember Pignataro suggested using relatable events to help communicate complex redistricting concepts, while Councilmember Canonico raised the idea of utilizing the City's Public Information Office (CPIO) to market voting.

On the topic of the sign code, the committee discussed the need for more education around the rules, and Councilmember Pignataro suggested including information about signage in campaign materials. Councilmember Canonico stressed the importance of providing clear dates for when signs can be posted and ensuring the messaging is succinct. The City Attorney noted that the code enforcement team should clearly communicate how they are enforcing the sign code.

The discussion also touched on Proposition 131, which would establish a top four primary with RCV for specific positions, set to take effect in 2026.

Finally, the committee discussed charter amendments related to the vacancy process, which is currently convoluted. The Election Code Committee (ECC) will keep this item on the agenda as part of the broader charter cleanup process. The City Attorney mentioned that a charter review project is underway to identify inconsistencies, with a work session planned for December.

H) Other Business

1. City Clerk Delynn Coldiron provided the following updates to the Council:
 - Election update: Intergovernmental Agreement (IGA) ballot content has been sent to the County.
 - September 20: TABOR Pros/Cons statements must be submitted by noon, with the County sending out the notice on September 23.
 - September 21: Overseas/military ballots will be sent.
 - TABOR statements will be added to the notice.
 - Mail ballots will be sent on October 14.
2. City Attorney Daggett asked about the timing of upcoming initiatives. Assistant City Manager Venkatesh responded with the following timeline:
 - First reading of code changes is scheduled for the February Council meeting, with content proposals to be presented in October.
 - November will focus on redistricting, after which they will know about any necessary charter code changes.
 - In January, the Election Code Committee (ECC) will convene, with Council reviewing the updates in February.

- Education efforts regarding RCV will follow in the spring, after the February meeting.

I) Adjournment

1. **The Committee adjourned at 5:18 P.M.**

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

October 21, 2024



AGENDA ITEM SUMMARY

Election Code Committee

STAFF

Sara Arfmann, Legal
Carrie Daggett, Legal

SUBJECT

Potential Code Changes Regarding the Campaign Complaint Process and the Campaign Contribution Limits.

EXECUTIVE SUMMARY

Members of the ECC expressed interest in examining the current campaign contribution limits and provided direction for simplifying the campaign complaint process and to also provide for a way to pay the presumptive fine and close the matter earlier. Staff have provided a draft of the proposed changes.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Are the Code changes attached sufficient or would any ECC members like to see different changes?
2. Do the ECC members want to proceed with the inflation adjustment language? If so, what amount should the adjustments be rounded to? (\$1, \$5, \$25?)

BACKGROUND / DISCUSSION

Campaign Compliant Process

As previously discussed at the last session for this ECC, the Committee could propose code changes to streamline the campaign complaint process. Staff presented several areas that cause the process to be lengthier and suggested potential changes to address these concerns at the prior meeting. Staff have made proposed changes to the existing process which help to streamline it in the hopes of making the process easier to navigate as well as to update language, similar to the updates made to the Charter. Procedural steps that are more administrative have been removed to simplify the Code while not altering the intent of the process. Staff also proposed a way to allow a respondent to pay the presumptive fine earlier in the process, as well as to explicitly allow the respondent to provide a response or evidence of a cure earlier.

The following is a summary of the proposed changes:

- Provide notification of the presumptive fine and ability to pay, along with how to provide additional information and/or evidence of a cure when notifying the respondent of the complaint.

- Require a complainant to provide factual evidence of a violation, more than a belief that one occurred.
- Clarify the roles of the departments.
- Create a clear stages for the complaint process: preliminary review, credible evidence review, and then an investigation.
- Provides more clarification of when outside counsel will be retained and establishes that internal or external investigators may be used.

Campaign Contribution Limits

As to the contribution limits, the Committee could propose code changes to change the campaign contribution limits. The history of the City's set campaign contribution limits is:

- Ordinance No. 154, 1981, adopted on second reading on October 20, 1981, added a new section to the City Code establishing a contribution limit of \$100 in support of or in opposition to any initiative, referendum, or candidate on the ballot at any City election.
- In April 1982, Council repealed the new Code section based on a ruling by the U.S. Supreme Court finding ordinances of this type to be unconstitutional [Ordinance No. 042, 1982].
- In June 1982, Council reenacts the Code section, this time limiting contributions to support or oppose a candidate to \$500. No limits are enacted relating to initiative or referendum [Ordinance No. 074, 1982].
- In December 1986, Council lowered the contribution limit to \$50 to "reduce the influence of major contributors upon the selection of any candidate to City Council" [Ordinance No. 190, 1986].
- Contribution limits were amended in October 2000 to establish a \$100 limit for contributions to a Mayoral candidate and \$75 to a District Councilmember candidate [Ordinance No. 121, 2000].

Staff researched the limits set by other municipalities and Colorado offices, please see attached. Several municipalities contain inflation adjustment language that allows the City Clerk to adjust the limit every 2-4 years, most base this adjustment on the United States Bureau of Labor Statistics Consumer Price Index Denver-Boulder-Greeley. These municipalities have the amount rounded to either the nearest dollar, five dollars, or twenty-five dollars.

ATTACHMENTS

1. Presentation
2. Proposed Code language for campaign complaint process
3. Chart of other municipal contribution limits
4. Proposed Code language for contribution limits

Sec. 7-145. - Allegation of campaign violation.

a) Any candidate or registered elector of the City ("complainant") who has ~~reason~~ reasonable, good faith belief, based on factual information, that any person, candidate, candidate committee, issue committee, small-scale committee, or political committee to believe has 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 ~~date of the~~ alleged violation ~~has occurred~~.

b) 1) The complaint must contain:

1) a. The name of the alleged violator;

2) b. The Code provision allegedly violated;

3) c. A brief statement or description of the offense allegedly committed and the basis for the allegation;

4) d. Identification of any relevant documents or other evidence; All documentation or other factual evidence known to the complainant to support the allegation;

5) e. Identification of any witnesses or persons with relevant knowledge; and

6) f. The name, address and telephone number of the complainant.

b) Within 3 working days of receipt of a complaint the City Clerk, in consultation with the City Attorney, will conduct a preliminary review to determine whether the complaint is sufficient. A sufficient complaint must comply with the following:

1) Was timely filed under § 7-145(a);

2) Contains the information required by § 7-145(b); and

3) Properly alleges a violation of Chapter 7, Article V, of this Code.

c) If the City Clerk, in consultation with the City Attorney, determines that the complaint is insufficient, the City Clerk will:

1) Notify the complainant that the complaint has been dismissed; and

2) Forward the complaint to the person who is the subject of the complaint ("respondent") and notify them that the complaint has been dismissed.

d) If the respondent to the complaint is a candidate for an elected position for municipal office or if the City Clerk, in consultation with the City Attorney, determines internal review of the complaint may raise conflict concerns, the City Attorney will retain special legal counsel to conduct the evaluation of the complaint using the process described below, if it is determined by the City Clerk to be sufficient.

e) For sufficient 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.

f) For sufficient complaints that do not allege a criminal violation, the complaints shall will be subject to a civil infraction process as provided herein follows:

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 and of the presumptive penalty in accordance with § 7-143(a).

2) Upon receipt of the complaint and at any time prior to filing of the complaint with Municipal Court, the respondent may:

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- a. Pay the fine; or
- b. Provide any responsive information to the City Clerk regarding the allegations in the complaint.

1) —
 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~~

e. 3) ~~Alleges sufficient facts to support a factual and legal basis for the violations alleged~~ After providing notice to the respondent of the complaint, the City Clerk, in consultation with the City Attorney, will determine whether the complainant has provided credible evidence to support a finding that the respondent violated this Article so as to warrant further investigation. If the City Clerk determines that the complaint does not contain credible evidence or that the allegation does not warrant further investigation, the Clerk will dismiss the complaint and notify both the respondent and the complainant.

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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.

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4) Upon receipt of the complaint up until the initiation of an investigation, the respondent may provide evidence of a cure. A "cure" is defined to include evidence of substantial compliance with the applicable law. Upon receipt of evidence of a cure, the City Clerk, in consultation with the City Attorney, will dismiss the complaint. The City Clerk will notify both the respondent and the complainant. When reviewing the evidence, the City Clerk, in consultation with the City Attorney, will consider the following:

- 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.

5) If the City Attorney-Clerk, in consultation with the City Attorney, determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2) contains credible evidence and warrants further investigation, the City Attorney will arrange for any necessary outside or internal investigators to assist in conducting an investigation. ~~the City Attorney shall notify the~~ The City Clerk who will, in turn, notify the respondent and complainant that an investigation has begun, that they may be contacted for an interview or other information gathering. Any additional information that either the respondent or complainant wants to provide must be received by the City Clerk within ten (10) business days. Documentation must be received within the ten (10) working days in order to be considered during the investigation. ~~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.~~

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~~4) 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.~~

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~~6) 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.~~

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~~7) Upon receiving payment of the fine, the City Clerk will close the complaint and notify the respondent and complainant.~~

~~8) Based on the outcome of the investigation the City Clerk, in consultation with the City Attorney, will After the period for cure has expired, the City Attorney shall determine whether a violation under 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 occurred.~~

~~6) If it is determined that a violation did occur, the complaint will be filed with the Municipal Court. - 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.~~

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~~7)9) If the City Clerk, in consultation with the City Attorney, determines that a violation under Chapter 7, Article 5 did not occur, the City Clerk will dismiss the complaint and notify the complainant and respondent.~~

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~~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.~~

~~8) 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.~~

~~9)10) If the City Attorney files Any a complaint filed with the Municipal Court under this Section, the matter shall will be governed by Article V of Chapter 19 of this Code.~~

~~10~~11) A complainant or any other nonrespondent ~~shall~~will 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.

~~11~~12) Any person that commits a violation of this Article ~~shall~~will be personally liable for the penalties imposed. Any candidate ~~shall~~will be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.

Sec. 7-145. - Allegation of campaign violation.

- a) Any candidate or registered elector of the City ("complainant") who has reasonable, good faith belief, based on factual information, that any person, candidate, candidate committee, issue committee, small-scale committee, or political committee has violation of [Chapter 7](#), Article V, of this Code may file a written complaint with the City Clerk, no later than sixty (60) days after the date of the alleged violation.
 - 1) The complaint must contain:
 - a. The name of the alleged violator;
 - b. The Code provision allegedly violated;
 - c. A brief statement or description of the offense allegedly committed and the basis for the allegation;
 - d. All documentation or other factual evidence known to the complainant to support the allegation;
 - e. Identification of any witnesses or persons with relevant knowledge; and
 - f. The name, address and telephone number of the complainant.
- b) Within 3 working days of receipt of a complaint the City Clerk, in consultation with the City Attorney, will conduct a preliminary review to determine whether the complaint is sufficient. A sufficient complaint must comply with the following:
 - 1) Was timely filed under [§ 7-145\(a\)](#);
 - 2) Contains the information required by [§ 7-145\(b\)](#); and
 - 3) Properly alleges a violation of Chapter 7, Article V, of this Code.
- c) If the City Clerk, in consultation with the City Attorney, determines that the complaint is insufficient, the City Clerk will:
 - 1) Notify the complainant that the complaint has been dismissed; and
 - 2) Forward the complaint to the person who is the subject to the complaint ("respondent") and notify them that the complaint has been dismissed.
- d) If the respondent to the complaint is a candidate for an elected position for municipal office or if the City Clerk, in consultation with the City Attorney, determines internal review of the complaint may raise conflict concerns, the City Attorney will retain special legal counsel to conduct the evaluation of the complaint using the process described below, if it is determined by the City Clerk to be sufficient.
- e) For sufficient 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.
- f) For sufficient complaints that do not allege a criminal violation, the complaints will be subject to a civil infraction process as follows:
 - 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 and of the presumptive penalty in accordance with [§ 7-143\(a\)](#).
 - 2) Upon receipt of the complaint and at any time prior to filing of the complaint with Municipal Court, the respondent may:
 - a. Pay the fine; or
 - b. Provide any responsive information to the City Clerk regarding the allegations in the complaint.
 - 3) After providing notice to the respondent of the complaint, the City Clerk, in consultation with the City Attorney, will determine whether the complainant has

provided credible evidence to support a finding that the respondent violated this Article so as to warrant further investigation. If the City Clerk determines that the complaint does not contain credible evidence or that the allegation does not warrant further investigation, the Clerk will dismiss the complaint and notify both the respondent and the complainant.

- 4) Upon receipt of the complaint up until the initiation of an investigation, the respondent may provide evidence of a cure. A “cure” is defined to include evidence of substantial compliance with the applicable law. Upon receipt of evidence of a cure, the City Clerk, in consultation with the City Attorney, will dismiss the complaint. The City Clerk will notify both the respondent and the complainant. When reviewing the evidence, the City Clerk, in consultation with the City Attorney, will consider the following:
 - 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.
- 5) If the City Clerk, in consultation with the City Attorney, determines that the complaint contains credible evidence and warrants further investigation, the City Attorney will arrange for any necessary outside or internal investigators to assist in conducting an investigation. The City Clerk will notify the respondent and complainant that an investigation has begun, that they may be contacted for an interview or other information gathering. Any additional information that either the respondent or complainant wants to provide must be received by the City Clerk within ten (10) business days. Documentation must be received within the ten (10) working days in order to be considered during the investigation.
- 6) Upon receiving payment of the fine, the City Clerk will close the complaint and notify the respondent and complainant.
- 7) Based on the outcome of the investigation the City Clerk, in consultation with the City Attorney, will determine whether a violation under [Chapter 7](#), Article 5, of this Code occurred.
- 8) If it is determined that a violation did occur, the complaint will be filed with the Municipal Court. If the City Clerk, in consultation with the City Attorney, determines that a violation under Chapter 7, Article 5 did not occur, the City Clerk will dismiss the complaint and notify the complainant and respondent.
- 9) Any complaint filed with the Municipal Court under this Section will be governed by Article V of [Chapter 19](#) of this Code.
- 10) A complainant or any other nonrespondent will 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.
- 11) Any person that commits a violation of this Article will be personally liable for the penalties imposed. Any candidate will be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.

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.
- 4) ***Inflation Adjustment.* The City Clerk will adjust the limit set forth in this Subsection (1) of this section based upon the percentage change over a two-year period in the United States Bureau of Labor Statistics Consumer Price Index Denver-Boulder-Greeley, all urban consumers, or its successor index, rounded to the nearest dollar. The first adjustment will be done in the first quarter of 2027 and then every two years thereafter.**

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;

- 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.

CAMPAIGN CONTRIBUTION LIMITS IN COLORADO

Fair Campaign Practices Act, Colo. Rev. Stat. § 1-45-103.7

(1.9)(a)(I) The maximum amount of aggregate contributions that any one person, including a political party, and excluding a small donor committee, may make to a candidate committee of a candidate for a municipal office, and that a candidate committee for such a candidate may accept from any one such person per election is four hundred dollars.

(II) The maximum amount of aggregate contributions that any one small donor committee may make to a candidate committee of a candidate for a municipal office and that a candidate committee for such a candidate may accept from any one small donor committee per election is four thousand dollars.

Fair Campaign Practices Act, Colo. Rev. Stat. § 1-45-116

Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112(2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

Colorado Constitution, Article XXVIII, §3(3)(a)

No political party shall accept aggregate contributions from any person, other than a small donor committee . . . that exceed three thousand dollars per year at the . . . local level combined.

Municipality	Contribution Limits [Code]	Matching Provision [Code]	Limits Adjustment [Code]
Arvada	\$750 for mayor and at large \$500 for district [30-1]	n/a	n/a
Aurora	\$2,250 for mayor or at large \$450 for a ward race [54-105(a)] <i>Effective August 1, 2023, the rates have been updated pursuant to section 54-105(d).</i>	n/a	Clerk to adjust limits by an amount calculated by the Colorado Secretary of State per article XXVIII § 3(13) which says limits shall be adjusted based on the change over a 4-year period in the CPI for Denver-Boulder-Greeley [54-105(d)]
Boulder	\$100 for any candidate [13-2-4(a)(1)] https://bouldercolorado.gov/media/6945/download?inline=	Subject to candidate meeting eligibility requirements, City will match up to 50% of expenditure limit, which is the actual currency (not in-kind donations) excluding up to \$100 from candidate's personal wealth. [13-2-3(a)(2)]	Clerk to determine adjustment every 2 years based on the change over a 2-year period in the CPI for Denver-Boulder-Greeley [13-2-3]
Broomfield	\$2,660 for mayor \$1,330 for councilmember [4-08-070]	n/a	Clerk to determine adjustment every 2 years based on the change over a 2-year period in the CPI for Denver-Boulder-Greeley [4-08-070]
Castle Rock	Does not have contribution limits.	n/a	n/a
Centennial	No limitations on contribution amounts to candidates for City Elective Office shall apply in any City election. [2-6-315]	n/a	n/a
Colorado Springs	Does not have contribution limits. https://coloradosprings.gov/city-clerk/page/campaign-finance-faq	n/a	n/a

Municipality	Contribution Limits [Code]	Matching Provision [Code]	Limits Adjustment [Code]
Commerce City	Will follow new limits established by state statute in 2025 \$400 for individual or political party \$4,000 from a small donor committee [HB23-1245; FCPA 1-45-103.7(1.9)]	n/a	n/a
Denver	<u>Fair Election Fund Limits</u> \$595 for mayor \$415 for auditor, councilmember at large, judge, clerk and recorder \$235 for district councilmember <u>Non-Fair Election Fund Limits</u> \$1,190 for mayor \$835 for auditor, councilmember at large, judge, clerk and recorder \$475 district councilmember https://denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Clerk-and-Recorder/Campaign-Finance	n/a	Clerk to determine adjustment each election cycle based on the change over a 4-year period in the CPI for Denver-Boulder-Greeley [15-37(a)(3)]
Golden	\$1,000 for mayor \$250 for city council 1.05.040	n/a	n/a
Grand Junction	\$625 for any candidate [2.20.040(d)(1)] <i>First adjustment to be made in Q4 2024.</i>	n/a	Clerk to determine adjustment every 2 years based on the change over a 2-year period in the CPI for Denver-Boulder-Greeley. First adjustment to be made Q4 2024. [2.20.040(d)(5)]
Greeley	\$2,500 for any candidate; does not apply to personal funds [2-126] <i>Limits first enacted August 2024.</i>	n/a	Clerk to determine adjustment every 2 years based on CPI for Denver-Boulder-Greeley [2-126]

Municipality	Contribution Limits [Code]	Matching Provision [Code]	Limits Adjustment [Code]
Lakewood	\$800 for mayor \$400 for city council [2.54.030]		n/a
Lone Tree	\$2,000 for any candidate [2-1-110]	n/a	n/a
Loveland	\$130 for any candidate [17-5(a)] https://www.lovgov.org/home/showpublisheddocument/54978/637547093103030000	n/a	Clerk to determine adjustment every 5 years based on CPI [17-5(b)]
Northglenn	Will follow new limits established by state statute in 2025 \$400 for individual or political party \$4,000 from a small donor committee [HB23-1245; FCPA 1-45-103.7(1.9)]	n/a	n/a
Thornton	\$400 for individual or political party \$4,000 from a small donor committee [HB23-1245; FCPA 1-45-103.7(1.9)]	n/a	n/a
Westminster	\$400 for individual or political party \$4,000 from a small donor committee [HB23-1245; FCPA 1-45-103.7(1.9)]	n/a	n/a

Other Colorado donation limits for a natural person

Contributing to	Limit
Attorney General per election cycle*	\$725
County Candidates per election cycle* (under state law)	\$1,425
CU Regent per election cycle*	\$225
District Attorney per election cycle*	\$225
Governor and Lt. Governor per election cycle*	\$725
Independent expenditure committee	No limit
Issue committee / Small-scale issue committee	No limit
Political committee per election cycle*	\$725
Political party per year	\$4,675**
Regional Transportation District	No limit
Secretary of State per election cycle*	\$725
School director per election	\$2,500
Small donor committee per year	\$50
State Board of Education per election cycle*	\$225
State House of Representatives per election cycle*	\$225
State Senate per election cycle*	\$225
State Treasurer per election cycle*	\$725

*All candidates may accept contributions for the primary and general election. Colorado law recognizes the Governor and Lt. Governor as one committee and the contribution and spending limits for governor apply to the joint committee.

Contribution limits double for a candidate who has accepted voluntary spending limits if their opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit.

Contributions to a candidate committee by the candidate count as political party contributions when a candidate accepts voluntary spending limits. Any unexpended campaign contributions that carry forward to a subsequent election cycle also count as a political party contribution.

**State, county, district, & local levels combined, of which no more than \$3,875 may be given to the state party.

Proposed Changes to the Campaign Complaint Process & Contribution Limits

Sara Arfmann

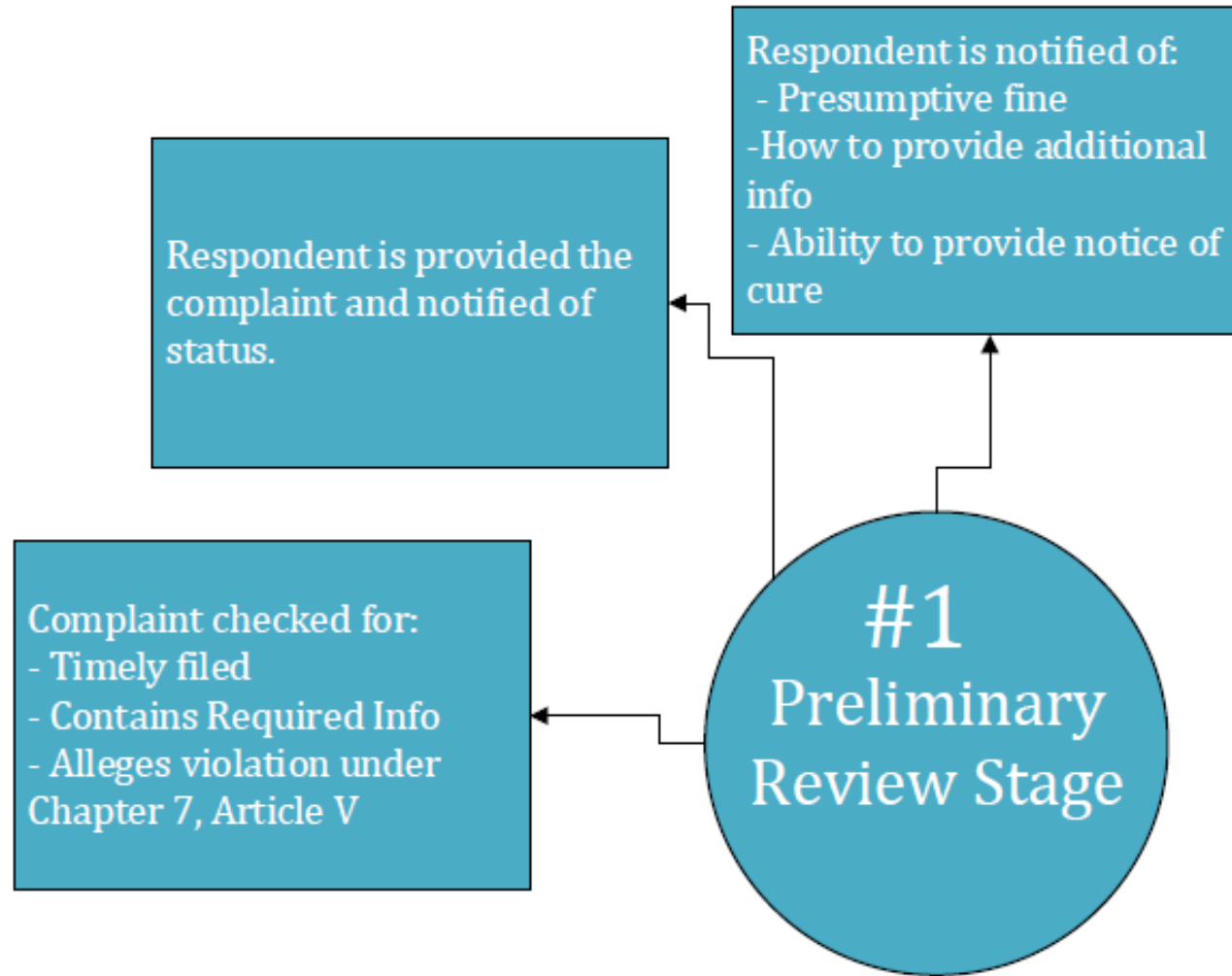
Assistant City Attorney II



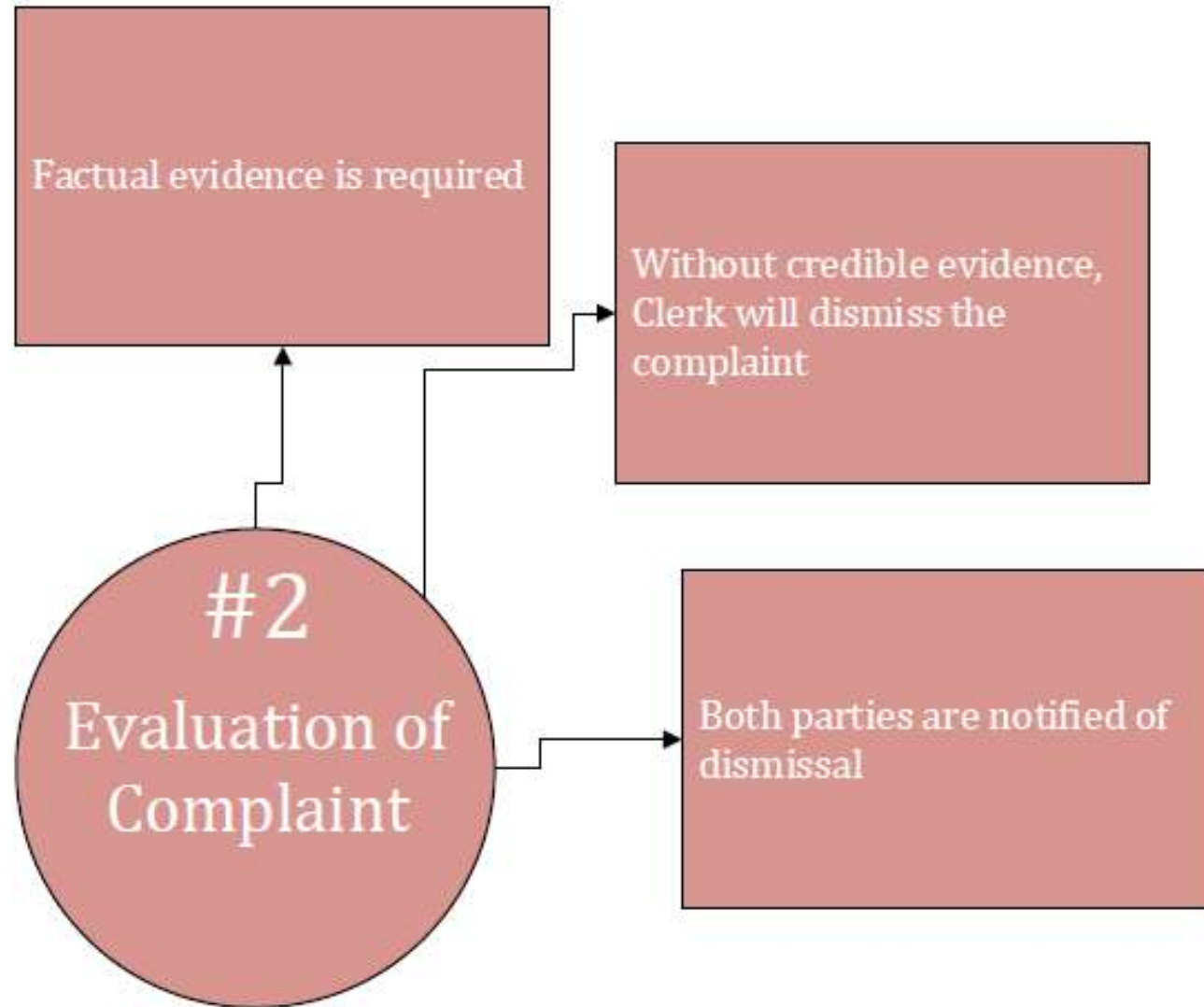
iew of Proposed Changes

- Complainant must have a “reasonable, good faith belief, based on factual information” that a violation occurred
 - Currently it only states that a person has “reason to believe” a violation occurred
- Requires complainant to provide all documents/evidence of the violation known to them to support the complaint
- Clarifies that the City Clerk makes the determination with consultation with the City Attorney’s Office
- Clearly states that outside counsel will be retained if the complaint involves a candidate for an elected position
- Clearly states that the CAO may retain any internal or outside investigatory services to conduct an investigation
- Creates a more streamlined and easier to understand process
 - Clearer deadlines
 - Ability to pay, cure, or provide evidence earlier

1 – Preliminary Review



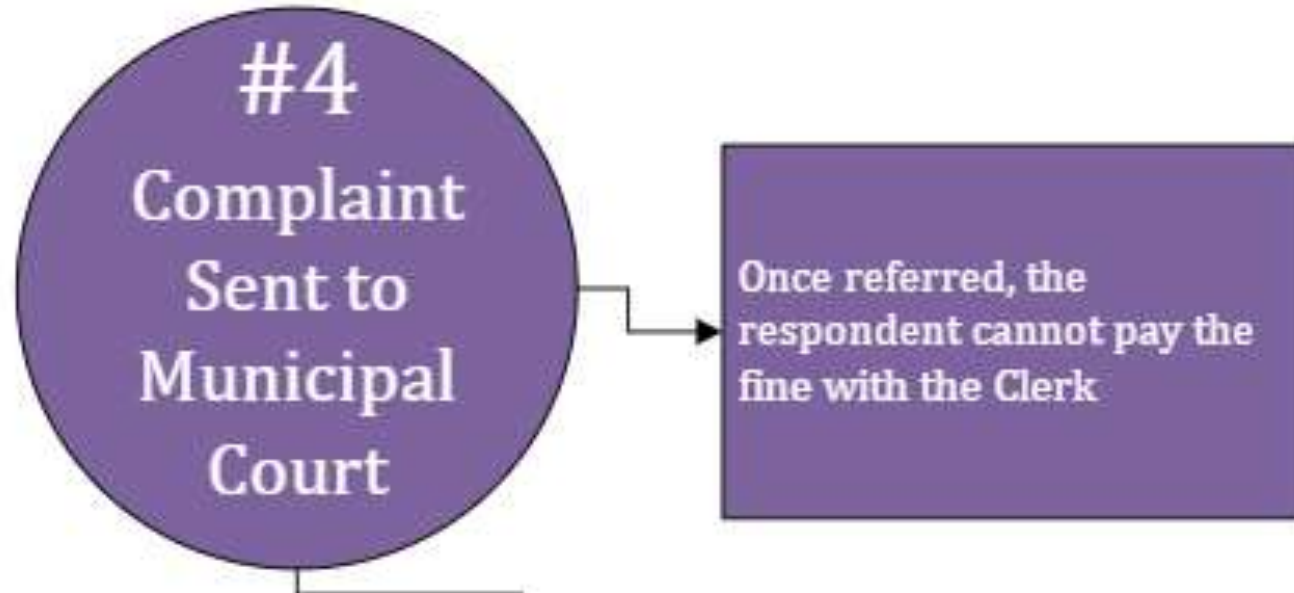
2 – Evaluation of Complaint



3 – Investigation of Complaint



4 – Refer to Municipal Court



Proposed Changes to Contribution Limits

- Committee member guidance on what the new limits should be
- Propose including a provision allowing for an automatic inflation adjustment every 2 years based on the United States Bureau of Labor Statistics Consumer Price Index Denver-Boulder-Greeley
 - Many other municipalities provide for this or something similar
 - Propose having this amount rounded to the nearest dollar (or greater if desired)
- Comparison chart provided of other municipalities
 - Shows their current limits, if they have any
 - Also shows which municipalities allow for inflation adjustments



Questions?

October 21, 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 Workplan and Election Updates.

EXECUTIVE SUMMARY

The purpose of this item is to provide updates on the Committee's Work Plan and to enable discussion on Work Plan items. The purpose also includes providing updates on the current and coming elections.

At its September 11, 2024, meeting, the Committee confirmed the items listed on the Work Plan.

Code amendments related to campaign finance enforcement are scheduled for discussion at the October 21, 2024, meeting. Discussion is also planned on possible changes to campaign contribution limits.

For the December 10, 2024, meeting, staff will be prepared to discuss:

- Code changes related to contribution limits (if direction is given by the Committee to do so);
- Discussion on possible code changes that would eliminate write-in candidates;
- Discussion on possible code changes that would eliminate having petition circulators read a petition an entire petition if requested;
- Discussion on possible code changes related to redistricting; and
- Discussion on code changes that are needed based on any Charter changes that pass.

Additional code changes agreed to at the December meeting, together with a summary of items the Committee approved at the October meeting, will be reviewed at the January 27, 2024, ECC meeting. These items will then be prepared for Council consideration. If no work session is needed, the items could be brought forward for first reading as early as February 18, followed by second reading on March 4, 2025. An earlier meeting in January could be scheduled if the Committee desires to do so.

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

5. Other Topics: "Bike Rack" Items:
- a. Oversight Committee; and
 - b. Public Financing of Campaigns

Staff will provide updates on remaining items as information is available. For the October meeting, staff will be prepared to discuss the field trip staff took to the City of Boulder related to Ranked Choice Voting and will be prepared to bring forward more detailed information on a related communications and outreach plan in January.

Discussion on possible additional Charter amendments can begin in February if the Committee desires to pursue these items.

Election Update

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

- Mail ballot packages are out to voters
- We are responding to questions as they come but haven't had many
- Annual reports for anyone with open campaigns are due November 1st; reminders have been sent
- No committees have filed related to ballot issue or questions
- No independent expenditure reports have been filed
- Ballots are due back by 7:00 p.m. on November 5th
- The last day for the County to receive military/overseas ballots and for people to correct signature deficiencies is November 13
- The last day for verification and counting of all ballots is November 15
- The deadline for the County to certify election results is November 27

Staff is working on updating Candidate Guidelines and other materials for the 2025 election. We are hoping to schedule a Candidate Information Session during Q1 which will include some information about the new ranked choice voting process.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does this meet the Committee's expectations regarding these items?
2. Are there any additional items the Committee is interested in pursuing for this election term?

BACKGROUND / DISCUSSION

None.

ATTACHMENTS

1. Presentation

2024 Election Update and Work Plan Check-In

Delynn Coldiron

City Clerk



Campaign Finance
Enforcement
Campaign
Contributions
Discussed Today

Code Changes (Dec 10)
Eliminate Write-In Candidates
Redistricting
Charter Changes
Reading Petitions

Education Efforts
Ranked Choice Voting
(update today)
Sign Code

Additional Charter
Amendments
Vacancies
Other?

Other Topics – “Bike
Rack”
Oversight Committee
Public Financing of
Campaigns

Campaign Enforcement:

- Reviewed code language today.
- Will make changes based on today's discussion.
- Will prepare information for Council consideration in February.

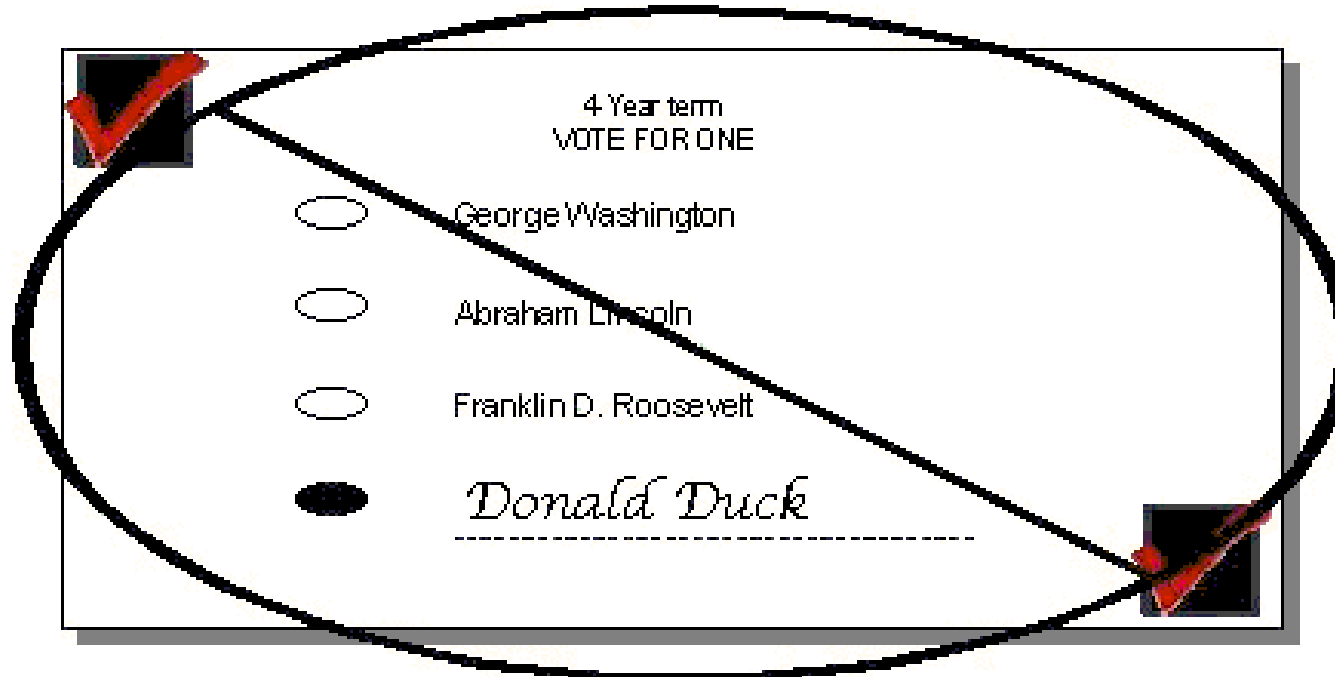
Contribution Limits:

- Discussed today and reviewed proposed code language.
- Will make changes based on today's discussion.



Section 7-103 – Write-in candidates:

- Currently allowed if the candidate has filed an affidavit of intent with the City Clerk.
- The affidavit must be filed no later than the 64th day prior to the election.
- The affidavit must indicate that the person desires and is qualified for the office.



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



Getty Images



Petition Circulation

- Eliminating the provision that circulators have to read a petition when requested to do so.

Charter Changes:

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

Field Trip!

- Designated a staff project team
- Boulder County provided a project manager which was helpful
- Communication is key – bite, snack, meal approach!
- Ensure consistency in messaging for all involved
 - Scripts are helpful!
- Started outreach in April
 - Post-cards (2)
 - Flyer (1)
 - Website – video and practice ballot
 - Local TV
 - Social media
 - Town Hall/League of Women Voters
 - Events (libraries worked well too)
 - FAQs
- Regular meetings with County



[Boulder Practice Tool](#)

[Boulder RCV Video](#)

Willing to share resources!



- Updating website links to new code
- Working with CPIO on streamlined informational brochure

Additional Charter Amendments

- Vacancies
- Other?

Other Topics

- Oversight Committee
- Public Financing of Campaigns

Mail Ballots are out

Annual reports due November 1st

No committees or independent expenditures

November 5 - Ballots due back by 7 pm

November 13 - Overseas/military ballots are due

November 15 - Last day for verification/counting ballots

November 27 – Deadline for County to certify results



Questions?