

Information About Legislative and Quasi-Judicial City Council Proceedings for FCGOV.COM

Please note that this information is not legal advice and those seeking legal advice on any of the topics addressed should consult with their legal counsel.

Certain City Council decisions are legally characterized as “administrative” or “legislative” and others are legally characterized as “quasi-judicial.” (In addition, a number of City boards and commissions such as the Planning and Zoning Board, Zoning Board of Appeals, and Landmark Planning Commission, also make quasi-judicial decisions as part of their responsibilities.)

The law requires special procedures for quasi-judicial matters. The following information addresses common questions about legislative and quasi-judicial procedures:

I. City Council Administrative and Legislative Matters

City Council typically operates as a policy-making body.

- In its administrative and legislative capacities, the Council gathers information at public hearings, as well as from informal conversations and correspondence with community members, information prepared by City staff, and other sources.
- The Council then approves an action or deliberates and implements a citywide policy by adopting a resolution or ordinance.
- Examples of Council legislative actions include reviewing and adopting City Plan, the City budget, and amendments to the Municipal Code.
- *Ex parte* communications (described below) are permitted for legislative matters.

II. City Council Quasi-Judicial Matters

Less frequently, the Council makes decisions regarding “quasi-judicial” matters and in doing so, acts in a manner like a judge in a court of law.

- In a quasi-judicial proceeding, the Council applies established City Code or Land Use Code standards to facts presented at a public hearing to reach a decision.
- Examples of quasi-judicial decisions include designating Fort Collins landmarks, appeals to City Council under City Code Chapter 2, Article II, and zonings or rezonings of 640 acres in size or less.
- Quasi-judicial decisions generally affect the rights of a specific person, or few specific persons, and are not applicable citywide.

III. Special Rules for Quasi-Judicial Decisions

In making quasi-judicial decisions, the right to due process (a constitutionally fair procedure) and good legal practices generally require that Council follow certain rules, including:

- The Council must provide advance notice and a reasonable opportunity for interested parties to present evidence and argument at a public hearing.
 - “Interested parties” may be specified, as in the case of an appeal to City Council

pursuant to City Code Chapter 2, Article II.

- The Council must make a record of the proceeding that includes all the information it considers in making its decision.
 - City staff collects all letters, emails and documents submitted before the hearing and includes them in the record of the hearing for Council to consider in making its decision.
 - If the Council decision is appealed, a reviewing court will review whether evidence in the record supports the Council decision.
- The Council must avoid *ex parte* contacts and Council should only receive information that is presented at the public hearing and through the record compiled by City staff, described above.
 - ***Ex parte*** contacts are communications between a Councilmember and an interested party or member of the public outside of the public hearing where a quasi-judicial matter will be decided.
 - *Ex parte* contacts can deny due process and be unfair to supporters or opponents of a quasi-judicial matter because the information communicated is not part of the record and one side is not present to hear, consider, and rebut statements being made to such Councilmember.
 - Courts generally regard *ex parte* contacts with suspicion and such contacts may provide the legal basis for overturning a decision.
 - The prohibition on *ex parte* communications promotes transparent, impartial decisions by ensuring the disclosure of all evidence and argument presented to the Council for its deliberation and decision.
 - The rule also gives everyone involved in a quasi-judicial proceeding a fair chance to respond to all of the information that may affect Council's decision.

IV. Participating in a Quasi-Judicial Decision

While *ex parte* communications are prohibited, members of the public can still provide information and argument to Council by either speaking at the public hearing or providing information in advance to be included in the materials that staff prepares for Council as part of the public hearing record.

Some quasi-judicial hearings, such as appeals to Council under City Code Chapter 2, Article II, require that you qualify as a "party-in-interest" in order to submit materials for consideration or speak to Council about the matter.

If you wish to speak at a public hearing on a quasi-judicial matter before the City Council or provide information prior to the Council's public hearing, please contact the [City Clerk's Office](#) for further information.