



City Clerk
300 LaPorte Avenue
PO Box 580
Fort Collins, CO 80522
970.221.6515
970.221-6295 - fax
fcgov.com/cityclerk

AGENDA

City Council Ad Hoc Committee
Election Code Amendments
November 10, 2016
12:00 p.m. – 1:30 p.m.
City Clerk Large Conference Room
300 LaPorte Avenue, Fort Collins, CO

Committee Members:

Councilmember Bob Overbeck, District 1
Councilmember Kristin Stephens, District 4
Councilmember Ross Cunniff, District 5, Chair

1. Call Meeting to Order
2. Approval of September 14, 2016 Committee Meeting Minutes
3. Suggested Election Code/Charter Changes
 - a. Certifying Election Results (Charter Amendment); Organizational Meeting
 - b. Signature Verification
 - c. Recordkeeping Requirements for Campaign Expenditures and Independent Expenditures
 - d. Amending the District-Precinct Map
 - e. Election Complaints
 - i. Complaint Form
 - f. Canceling a Council Meeting (Charter Amendment)
 - g. Small Issue Committee Disclosure Requirements
4. Other Business
 - a. Redistricting Alternatives: Summary of Other Municipalities' Council Structure
5. Adjournment

September 14, 2016

ELECTION CODE COMMITTEE MEETING

12:00 PM

PRESENT: Overbeck, Stephens, Cunniff, Winkelmann, Knoll, Gonzales, Daggett
CITIZENS PRESENT: Ward Luthi, Mike Sportiello

● **APPROVAL OF JULY 18, 2016 COMMITTEE MEETING MINUTES**

Councilmember Overbeck made a motion, seconded by Councilmember Stephens, to adopt the minutes of the July 18, 2016 Committee meeting. The motion was adopted unanimously.

● **SUGGESTED ELECTION CODE/CHARTER CHANGES**

a. Certifying Election Results (Charter Amendment)

City Clerk Winkelmann stated this Charter Amendment would amend the canvass date to no later than the tenth day following the election.

Councilmember Cunniff requested staff check to ensure nothing in the organizational meeting specified in the Charter is dependent on these dates. Chief Deputy City Clerk Knoll stated the language addresses 'the first regular or special meeting after every biennial election.' The wording could be changed to state "after the certification of the election" or "after the results are final".

City Attorney Daggett stated the two necessary Charter Amendments could be packaged as one.

b. Signature Verification

City Clerk Winkelmann noted these changes will not be brought forth until after the 2017 election.

c. Recordkeeping Requirements for Campaign Expenditures and Independent Expenditures

City Clerk Winkelmann stated this item was discussed at the previous meeting and it was decided that records would need to be produced within 3 business days of a request.

Councilmember Cunniff mentioned the possibility of this regulation being applicable to a small issue committee category.

d. Amending the District-Precinct Map

Councilmember Cunniff stated this issue involves whether there is a practical way to structure the redistricting process such that no citizens are forced to wait 6 years to vote for a City Council member. The Charter currently requires districts to be kept as balanced as possible.

City Clerk Winkelmann noted this would be a Code change.

Councilmember Cunniff suggested staff survey other cities regarding their processes and requested the City Attorney examine a possible stagger in the roll-out of precinct changes.

Councilmember Overbeck asked if the recent redistricting is set. City Clerk Winkelmann replied in the affirmative.

Councilmember Overbeck suggested staff research with the National League of Cities. City Clerk Winkelmann replied some cities in Arizona and California hire consultants to aid in going through the redistricting process so as to avoid splitting communities of interest. However, there is no simple solution in terms of how Fort Collins currently conducts its elections.

City Attorney Daggett stated the criteria used when redistricting emphasizes population as a key factor. Consultants are often more concerned with other considerations such as contiguity, ethnic make-up and communities of interest. The question of staggering districts is a separate question which staff can research.

Councilmember Overbeck asked if staff has looked at increasing the number of districts to 8. City Attorney Daggett replied that might actually make redistricting more difficult because it might require more balancing.

Mike Sportiello discussed an email he sent and stated a Charter amendment could be placed on the 2017 ballot which would change the redistricting process for ensuing elections. He stated he will need to wait 6 years between voting for a Councilmember and argued there are court-supported options to address the issue such as truncating terms for Councilmembers whose district boundaries have changed. He argued the concept of "one person, one vote" trumps other considerations such as continuity.

Councilmember Stephens did not support the use of truncated terms as they would be disruptive to the Council process.

Councilmember Cunniff expressed concern that the use of truncated terms could lead to political game-playing. He suggested examining concurrent terms but noted that would require a one-time truncation of three terms, which could be compensated by allowing those Councilmembers to seek an additional term. Another potential option could be placing all Councilmembers on four-year terms, including the Mayor.

Councilmember Cunniff questioned whether an annexation could trigger redistricting. City Attorney Daggett noted population changes can result from annexations.

Councilmember Cunniff suggested staff should research options, including concurrent four-year terms and information regarding other jurisdictions' processes.

Councilmember Stephens supported the inclusion of some type of public process.

Chief Deputy City Clerk Knoll asked if the proposed Code changes could be brought forward for consideration now. Councilmembers Cunniff and Stephens supported moving forward with the Code changes.

City Attorney Daggett noted the next census data which will drive redistricting will occur in 2021.

Chief Deputy City Clerk Knoll noted the consultant contacted by the City Clerk's Office indicated nothing is uncommon or faulty in the current Fort Collins system and it is currently in line with the state statutes.

Mr. Sportiello stated the system is not optimal or even acceptable despite being common.

City Attorney Daggett asked if the Committee would like to consider these options prior to a work session. Councilmembers Cunniff suggested scheduling an Election Committee meeting prior to the December 13 Work Session.

City Clerk Winkelmann suggested the possibility of having two at-large Councilmembers in addition to the 6 district Councilmembers.

Councilmember Stephens encouraged staff to consider that option among others.

e. Election Complaints

City Clerk Winkelmann stated this item will require complaints to be made in writing.

City Attorney Daggett discussed language addressing how the City would respond when it receives a complaint, how a registered elector or candidate can submit a complaint, information to be included in the complaint, the process of the City Manager and City Attorney working to evaluate the complaint and formally decide whether to move forward with an enforcement action, and provides for notice to the complaining party and to the subject of the complaint.

Councilmember Overbeck asked if other communities use similar processes. City Attorney Daggett replied Boulder had a citizen initiative which created a process in its Code. This is not identical to Boulder's Code, but is similar. Other communities have variations on this basic language but some do not include a civil action option.

Councilmember Overbeck asked if a citizen can receive assistance from the City Clerk's Office in filing a complaint. City Attorney Daggett replied there is a fine line between being helpful and being involved in something which may lead to litigation.

Councilmember Overbeck suggested language should make clear the level of assistance which could be provided. City Clerk Winkelmann noted the Code allows for the Human Relations Commission to aid a complainant if necessary and stated she would look into the issue.

Chief Deputy City Clerk Knoll suggested the creation of a form which ensures all necessary information is provided; however, she noted staff would not be able to aid in writing a complaint.

City Attorney Daggett suggested the creation of a guideline document for the process.

Councilmember Cunniff asked Ward Luthi to comment on his experience with the issue. Mr. Luthi replied staff members were very helpful, within somewhat nebulous guidelines, in his experience. He suggested the creation of a statement regarding what the City would like to see in its elections and discussed fundraising difficulties for those without large resources. He expressed concern regarding secret donors and funds and stated individual citizens should have equal input to large organizations.

Councilmember Cunniff questioned the appropriateness of the cap level on civil liabilities and the attorney fee reimbursement. City Attorney Daggett stated attorney fees likely would not be awarded by the court unless the claim was deemed frivolous. Councilmember Cunniff stated he does not want the possibility of attorney fees to have a chilling effect in an asymmetric situation.

City Attorney Daggett stated it is unpredictable which side of a dispute would be the one disadvantaged from a financial standpoint.

Mr. Luthi questioned how election committees prove they have committed funds. Councilmember Cunniff noted the Code addresses the timing of when funds are committed to be spent rather than when a check is actually written. One of the Code adoptions being discussed requires all issue committees and candidate committees to keep their financial records in a way that can be audited.

Councilmember Stephens supported the proposed changes overall and encouraged the formation of a guidelines document as proposed by City Attorney Daggett.

Councilmember Cunniff stated the Code should reflect the City's values of open and accessible government and supported strict and enforceable campaign finance requirements in terms of the amount of money candidates may solicit from an individual and how much an individual might contribute to a candidate.

City Attorney Daggett stated one system that addresses the constitutional limitations on restricting contributions is to have a self-funded campaign support program using public funds.

Councilmember Cunniff asked if that changes anything regarding the First Amendment rights of political action committees. City Attorney Daggett replied it does not provide a way to limit those who do not want to participate.

Councilmember Cunniff stated he personally supports publicly-financed elections; however, Council as a whole may not.

City Attorney Daggett noted this would not deal with the big money that can come in.

Chief Deputy City Clerk Knoll asked if the amount groups spend can be capped or if independent expenditures can be capped. City Attorney Daggett replied there may be some areas in which limitations could potentially be imposed; however, they are likely fairly limited.

Councilmember Cunniff suggested waiting for direction from the full Council prior to examining limitations.

f. Canceling a Council Meeting (Charter Amendment)

City Clerk Winkelmann stated this change would permit the cancellation of a Council meeting in the event of an emergency, natural disaster, or unforeseen circumstances that render the holding of a meeting undesirable or impracticable. It would allow the City Manager, with the agreement of the Mayor, to cancel a City Council meeting and make a reasonable attempt to notify the public of such cancellation prior to the time of the meeting.

City Attorney Daggett noted the current provision does not allow a meeting cancellation until, at the time of the start of a meeting, no Councilmembers arrive.

● **SENATE BILL 16-186: SMALL ISSUE COMMITTEE DISCLOSURE REQUIREMENTS**

City Attorney Daggett stated case law in recent years exists regarding the extent to which small committees that do not pose the same degree of risk of overtaking the election process can be regulated and less burdened in their participation in the election process. Once a committee has reached certain limits, it will no longer be considered a small issue committee and will need to comply with all requirements that would have applied had it started out as a larger committee. Should a committee become full-scale, it will need to file full reports within 15 days of crossing the threshold, or by noon on the Friday prior to the election, whichever is earlier.

City Attorney Daggett noted the 15 days period to begin filing could be shorter if the committee were preparing with reports assuming it may become full-scale.

Councilmember Stephens questioned how many of the committees would have been affected by this in the last election and expressed concern this possibly sets up a bit of confusion in terms of record keeping. Chief Deputy City Clerk Knoll speculated most issue committees spend well in excess of \$5,000. The case which prompted this was an annexation election; therefore, the only voters are those within the area to be annexed.

Councilmember Stephens stated this may help more people get involved in the process but noted it is valuable for records to be kept regardless of the amount of money being collected.

Councilmember Cunniff asked about the \$5,000 limit amount. City Attorney Daggett replied most cases have used \$3,500 and the \$5,000 number has been used to allow room for some growth over time for numbers being discussed in some of the cases.

Councilmember Overbeck suggested the possibility even small amounts need to be reported in the interest of transparency.

Councilmember Stephens stated she would not like the limit to be greater than \$5,000 and questioned whether multiple small issue committees could be started to get around the system. City Attorney Daggett noted the adopted legislation has addressed that possibility by stating committees involving the same people addressing essentially the same issue will be treated as a single committee.

Chief Deputy City Clerk Knoll noted enforcement could be difficult; for example, advertising materials are not required to disclose who pays for them.

Councilmember Cunniff questioned under what circumstances the City would audit a committee's financial records if it has not registered.

Councilmember Cunniff suggested the 15 day requirement should be shortened. City Attorney Daggett replied that window could be made shorter.

Councilmember Cunniff suggested 7 days given records are supposed to be being kept and rules and forms will have been set by the City well in advance of the election.

Councilmember Cunniff requested the City Attorney provide information to the full Council as to whether or not the City is required to adopt small scale issues committee regulations because of the court cases and state law.

- **OTHER BUSINESS**

Councilmember Cunniff noted the committee may want to recommend to the next Council that this committee become a standing committee rather than ad hoc.

- **ADJOURNMENT**

The meeting adjourned at 1:33 PM.

<p>PROPOSED CHANGE A:</p> <p>Consider a Charter Amendment to Amend the Canvass Date. The Canvass Date impacts the Organizational Meeting.</p>	<p>EXPLANATION:</p> <p>Per state statute, Larimer County sends a letter to voters whose ballot was rejected due to problems with the signature. If signature verification is implemented in the April 2019 election, staff recommends a Charter Amendment be placed on the April 2017 ballot that moves the canvass date to 10 days after the election to permit time for letters to be sent.</p>
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CURRENT CHARTER PROVISION:

Article VIII. Elections.

Section 7. Certification of election results.

On the third day after every city election and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections shall complete a certificate declaring the results of the election. The candidate receiving the highest number of votes...

Article II. City Council.

Section 1. - Membership; terms.

(a) *Composition of Council.* The Council shall consist of seven (7) members, including a Mayor and Mayor Pro Tem, elected as provided in this Article.

(b) *Method of election.* The Mayor shall be nominated and elected from the city at large. The remaining six (6) members shall be nominated and elected by Districts. The election of District Councilmembers shall alternate between the election of representatives for Council Districts 1, 3 and 5 and the election of representatives for Council Districts 2, 4 and 6.

(c) *Council district boundaries.* The city shall be divided into six (6) contiguous, reasonably compact districts, each of which shall consist of contiguous, undivided general election precincts and, to the extent reasonably possible, an equal number of inhabitants. The districts shall be numbered consecutively in a clockwise fashion beginning with the northeast district, which shall be District 1. The Council shall establish by ordinance the process for adjusting district boundaries and giving notice of any proposed boundary changes, and the manner of protesting such proposed changes.

(d) *Terms.* Except as otherwise provided in Section 18 of this Article and Section 3(d) of Article IX, the term of office of the Mayor shall be two (2) years, and the term of office of all other members of the Council shall be four (4) years each; provided, however, that all such officers shall serve until their successors have been elected and have taken office. The terms of the Mayor and other members of the Council shall begin when they take the oath of office, which shall occur as the first order of business at the first regular or special Council meeting following their election or appointment.

Section 4. - Organization.

The Mayor shall preside at meetings of the Council and shall be recognized as head of the city government for all ceremonial purposes and by the Governor of the state for purposes of military law. The Mayor shall execute and authenticate legal instruments requiring the signature of the Mayor. The Mayor shall also perform such other duties as may be provided by ordinance which are not inconsistent with the provisions of this Charter.

At the first regular or special meeting after every biennial election, the Council shall elect a Mayor Pro Tem for a two (2) year term from among the members of the Council to act as Mayor during the absence or disability of the Mayor. If a vacancy occurs in the position of Mayor, the Mayor Pro Tem shall become Mayor as provided in Section 18(b) below.

SUGGESTED AMENDMENT:

Article VIII. Elections

Section 7. - Certification of election results.

No later than ~~On~~ the tenth ~~third~~ day after every city election and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections shall complete a certificate declaring the results of the election. The candidate receiving the highest number of votes... In the event of a mandatory recount or recount by request, the Board of Elections shall complete an amended certificate declaring the results of the election no later than the fifth day after the completion of the recount.

Article II. City Council

Section 1. - Membership; terms.

(a) *Composition of Council.* The Council shall consist of seven (7) members, including a Mayor and Mayor Pro Tem, elected as provided in this Article.

(b) *Method of election.* The Mayor shall be nominated and elected from the city at large. The remaining six (6) members shall be nominated and elected by Districts. The election of District Councilmembers shall alternate between the election of representatives for Council Districts 1, 3 and 5 and the election of representatives for Council Districts 2, 4 and 6.

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(d) *Terms.* Except as otherwise provided in Section 18 of this Article and Section 3(d) of Article IX, the term of office of the Mayor shall be two (2) years, and the term of office of all other members of the Council shall be four (4) years each; provided, however, that all such officers shall serve until their successors have been elected and have taken office. The terms of the Mayor and other members of the Council shall begin when they take the oath of office, which shall occur as the first order of business at the first regular or special Council meeting following ~~their election or appointment.~~ the final certification of election results or their appointment.

Article II. City Council

Section 4. - Organization.

The Mayor shall preside at meetings of the Council and shall be recognized as head of the city government for all ceremonial purposes and by the Governor of the state for purposes of military law. The Mayor shall execute and authenticate legal instruments requiring the signature of the Mayor. The Mayor shall also perform such other duties as may be provided by ordinance which are not inconsistent with the provisions of this Charter.

At the first regular or special meeting after ~~every biennial~~ final certification of a City election, the Council shall elect a Mayor Pro Tem for a two (2) year term from among the members of the Council to act as Mayor during the absence or disability of the Mayor. If a vacancy occurs in the position of Mayor, the Mayor Pro Tem shall become Mayor as provided in Section 18(b) below.

PROPOSED CHANGE B:

Conduct signature verification beginning with the 2019 municipal election.

(Note: this change is dependent upon the Charter Amendment in Proposed Change A)

EXPLANATION:

House Bill 16-1070 requires that after March 30, 2018, access to the digitized signatures contained in the statewide voter registration system must be made available to municipal clerks.

CURRENT CODE PROVISION:

Sec. 7-190. - Voting and return of ballots.

(a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the return envelope and comply with the instructions provided with the ballot.
(b) The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the office of the City Clerk or any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector may provide the necessary postage or, if not so paid by the elector, the cost of return postage shall be paid by the City. In order to be counted, the ballot must be received at the office of the City Clerk or a designated depository prior to 7:00 p.m. on election day.
(c) Ballots received by the City Clerk after 7:00 p.m. on election day shall not be counted, but shall be preserved in accordance with § 7-195 below.

Committee feedback: Consider these code amendments if the Canvass Date Charter Amendment passes (proposed Change A).

Sec. 7-191. - Receipt and qualification of ballots; signature verification not required.

(a) All ballots, including undeliverable ballots, shall be marked to indicate the date the ballot was received by the City Clerk.
(b) Upon receipt of a voted ballot, an election worker shall first qualify the submitted ballot based on a visual inspection of the self-affirmation signature on the return envelope compared to the name of the elector printed on the envelope to determine whether the ballot was submitted by said elector. Comparison of the signature on the return envelope to any signature image, including those signature images in the statewide voter registration system, is not required. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot, and shall prepare the ballot for counting in accordance with § 7-193 below.
(c) If an election worker is unable to qualify the ballot as set forth in Subsection (b) above, the ballot shall be rejected and the reason for rejection shall be indicated in the poll book. Rejected ballots shall remain unopened and shall be securely stored separate from qualified ballots unless such ballots are corrected as provided in § 7-192 below.
(d) If an election worker determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the City Clerk shall not count any ballot cast by the elector.

SUGGESTED AMENDMENT:

Sec. 7-190. - Voting and return of ballots.

(a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the return envelope and comply with the instructions provided with the ballot.
(b) The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the office of the City Clerk or any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector may provide the necessary postage or, if not so paid by the elector, the cost of return postage shall be paid by the City. In order to be counted, the ballot must be received at the office of the City Clerk or a designated depository prior to 7:00 p.m. on election day.
(c) Ballots received by the City Clerk after 7:00 p.m. on election day shall not be counted **except as provided in § 7-191 below**, but shall be preserved in accordance with § 7-195 below.

Sec. 7-191. - Receipt and qualification of ballots; signature verification **not required.**

(a) All ballots, including undeliverable ballots, shall be marked to indicate the date the ballot was received by the City Clerk.

(b) Upon receipt of a voted ballot ~~in an election conducted prior to April 2019~~, an election worker shall first qualify the submitted ballot based on a visual inspection of the self-affirmation signature on the return envelope compared to the name of the elector printed on the envelope to determine whether the ballot was submitted by said elector. Comparison of the signature on the return envelope to any signature image, including those signature images in the statewide voter registration system, is not required. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot, and shall prepare the ballot for counting in accordance with § 7-193 below.

(c) ~~Beginning with the April 2019 municipal election, provided that the City Clerk has been given access to digitized signatures in the statewide voter registration system for each elector, election workers shall compare the elector's self-affirmation signature on the return envelope with the elector's digitized signature(s) in the statewide voter registration system in accordance with the provisions of Section 31-10-910.3, C.R.S.~~

(~~e~~d) If an election worker is unable to qualify the ballot as set forth in Subsection (b) ~~or (c)~~ above, the ballot shall be rejected and the reason for rejection shall be indicated in the poll book. Rejected ballots shall remain unopened and shall be securely stored separate from qualified ballots unless such ballots are corrected as provided in § 7-192 below.

(~~e~~e) If an election worker determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the City Clerk shall ~~not~~ count ~~any~~ the first ballot ~~cast~~ received by the elector ~~and shall reject all subsequent ballots received from that elector.~~

Sec. 7-192. - Rejected ballots.

~~The City Clerk is authorized, but not required, to make a reasonable effort to allow an eligible elector whose ballot has been rejected to correct the deficiency causing rejection.~~

(a) *Unsigned return envelopes.* Beginning with the April 2019 municipal election, the City Clerk shall, within three (3) days after receipt of a ballot returned in an unsigned return envelope, but in no event later than two (2) days after election day, send to the eligible elector at the mailing address indicated in the registration records a letter explaining the deficiency and instructing the eligible elector how to correct the deficiency. If the elector appears in the office of the City Clerk no later than the close of business on the eighth day after the date of the election to sign the return envelope, and if the ballot is otherwise valid, the ballot shall be counted.

b) No elector shall be allowed to correct a deficiency without first producing valid proof of identification. No elector shall be allowed to open, change, or alter his or her ballot while in the process of correcting the deficiency.

PROPOSED CHANGE C:

Add expenditure recordkeeping requirements for campaign committees and independent expenditures

EXPLANATION:

Presently there is not a requirement in the code for the recordkeeping of receipts for expenditures by committees or independent expenditures. This is a suggested improvement as a result of an election complaint.

CURRENT CODE PROVISION:**Sec. 7-135. Campaign contributions.**

(f) Recordkeeping. All contributions received by a candidate committee, issue committee or political committee shall be deposited and maintained in a financial institution in a separate account whose title shall include the name of the committee. All records pertaining to such accounts shall be maintained by the committee for ninety (90) days following any election in which the committee received contributions unless a complaint has been filed under Subsection 7-143(a) alleging a violation of the provisions of this Article, 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 at any hearing held pursuant to this Article.

SUGGESTED AMENDMENT:**Sec. 7-135. Campaign contributions/**expenditures**.**

(f) *Recordkeeping.*

(1) All contributions 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 whose title shall include the name of the committee. All records pertaining to **contributions and related ~~such~~** accounts shall be maintained by the committee for **ninety (90) days one year** following any election in which the committee received contributions unless a complaint has been filed under Subsection 7-143(a) alleging a violation of the provisions of this Article, 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 **at any hearing held pursuant to in connection with any investigation or other action to enforce the terms** of this Article.

(2) All expenditures shall be documented and all records pertaining to said expenditures, including but not limited to invoices, receipts, and instruments of payment, shall be maintained by the committee for one year following any election in which the committee expended the funds unless a complaint has been filed under Subsection 7-143(a) alleging a violation of the provisions of this Article, 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 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 **at any hearing held pursuant to** this Article.

Sec. 7-139. - Independent expenditures.

Any person or political committee making independent expenditures totaling more than one hundred dollars (\$100.) shall deliver notice in writing of such independent expenditures to the City Clerk no later than three (3) business days after the day that such funds are obligated. Said notice shall include the following information:

- (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; ~~and~~

(6) The date the funds were obligated; ~~and~~

(7) Copies of receipts, invoices, or other documentation related to the independent expenditure.

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. All independent expenditures shall be documented and all records pertaining to independent expenditures including but not limited to invoices, receipts, and instruments of payment shall be maintained for one year following any election in which the funds were expended unless a complaint has been filed under Subsection 7-143(a) alleging a violation of the provisions of this Article, 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.

PROPOSED CHANGE D:

Amend Sections 7-71 and 7-87 to clarify when the City Clerk recommends amending the District-Precinct map.

EXPLANATION:

The recent redistricting effort prompted staff to review the process for recommending amendments.

CURRENT CODE PROVISION:

Sec. 7-71. - Precinct map.

The boundaries of the election precinct map entitled "District-Precinct Map

Committee feedback: Bring this Amendment forward for the Council's consideration.

by fixed and established as shown on the City Clerk.

Sec. 7-87. - Redistricting; notice.

(a) The City Council shall, by ordinance, amend the boundaries of the foregoing districts as necessary to comply with the provisions of Article II, Section 1(c) of the Charter. The City Clerk shall cause to be published twice, in a local newspaper of general circulation in the City, notice of the date, time and place of the City Council's consideration of any such redistricting ordinance. The first such notice shall be published no less than fourteen (14) days prior to the date of first hearing of the redistricting ordinance, and the second notice shall be published no less than ten (10) days prior to the date of the first reading of the same.

(b) Not more than eighteen (18) months after the official decennial publication of the United States Census concerning the population of the City of Fort Collins, the City Clerk shall recommend to the City Council any district boundary changes necessary to ensure that, to the extent reasonably possible, there is no more than a ten-percent deviation between the most populous and the least populous district.

(c) Not less than once every five (5) years after making the determination required under Subsection (b) above, the City Clerk shall again review the district boundaries to determine whether the maximum deviation between the most populous and the least populous district meets the standard described in Subsection (b) above. If the standard in Subsection (b) above is not met, the City Clerk shall recommend to the City Council any district boundary changes necessary to ensure that the districts conform to such standard.

(d) Any changes to district boundaries shall be established by ordinance no less than one hundred twenty (120) days before a regular municipal election.

SUGGESTED AMENDMENT:

Sec. 7-71. - Precinct map/amendment.

(a) The boundaries of the election precincts as herein created in the City are hereby fixed and established as shown on the map entitled "District-Precinct Map," which map is on file in the office of the City Clerk.

(b) Upon notice by Larimer County that its precinct boundaries have been amended, the City Clerk shall review precinct boundaries and recommend to City Council any precinct boundary changes to ensure they match Larimer County's precincts.

Sec. 7-87. - Redistricting; notice.

(c) Not less than once every ~~five (5)~~ six (6) years after making the determination required under Subsection (b) above, the City Clerk shall again review the district boundaries to determine whether the maximum deviation between the most populous and the least populous district meets the standard described in Subsection (b) above. If the standard in Subsection (b) above is not met, the City Clerk shall recommend to the City Council any district boundary changes necessary to ensure that the districts conform to such standard.

(d) The need to amend precinct boundaries pursuant to Section 7-71(b) shall automatically cause the City Clerk to review current population deviations, regardless of how long it has been since the last review. If the deviation is found to exceed ten percent, the City Clerk shall recommend that the City Council make boundary adjustments, and present the Council with possible redistricting options that to the maximum extent possible equalize the population in each district, subject to the requirements for contiguity and compactness set forth in Article II, Section 1(c) of the Charter, with a maximum permissible deviation of ten percent between the most populous and least populous district.

(ed) Any changes to district boundaries shall be established by ordinance no less than ~~one hundred twenty (120) days~~ one hundred eighty (180) before a regular municipal election.

PROPOSED CHANGE E:

Clarify that election complaints shall be received in writing.

New for 11/10 Meeting: Clarify a process for election complaints and create a form for the filing of election complaints.

EXPLANATION:

Presently, the code does not require election complaints to be received in writing.

CURRENT CODE PROVISION:

Sec. 7-20. - Duties of City Clerk.

The City Clerk shall:

- (1) Provide forms and instructions to assist candidates and the public in complying with the reporting requirements of Article V;
- (2) Keep a copy of any report or statement required to be filed by Article V for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (3) Make reports and statements filed under Article V available on the City's website no later than the next business day;
- (4) Report apparent violations of Article V to the City Manager.

Sec. 7-143. - Violations and penalties.

- (a) Any person who knowingly violates or fails to comply with any of the provisions of this Article commits a misdemeanor and is subject to a fine or imprisonment in accordance with [§ 1-15](#).
- (b) Failure to comply with the provisions of this Article shall have no effect on the validity of any election.

SUGGESTED AMENDMENT:

Sec. 7-20. - Duties of City Clerk.

The City Clerk shall:

... (4) Report ~~apparent~~ **complaints received regarding alleged** violations of Article V to the City Manager.

Article V.5 Complaints Related to Election Procedures and Regulations

Sec. 7-145. – Allegation of Election Procedure 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 candidate, candidate committee, or issue committee may file a written complaint to the City Clerk, no later than 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 and address of the complainant.

- (c) The City Clerk will forward the complaint to the City Attorney, who will evaluate the complaint for probable cause.

Sec. 7-146. – Evaluation of Election Procedure Complaint

- (a) If the City Attorney determines that no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements of Sec. 7-145 were not met by the complainant, the City Attorney shall so notify the City Clerk, who will, in turn, notify the complainant 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. 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.

Sec. 7-147. – Action by Complainant

- (a) After having received written notification from the City Clerk that the City Attorney determined filing a summons and complaint is inappropriate, or after 180 days of filing the complaint, whichever is first, the complainant may bring a civil action in District Court.
- (b) The complainant has 1 year from the date of the violation to bring such suit.
- (c) The complainant may sue to compel compliance with this ordinance consistent with Subsection (c), below, provided however, that such complainant first files a complaint with the City Clerk, pursuant to 7-145, and otherwise exhausts his or her administrative remedies.
- (d) Any candidate, who knowingly violates this Chapter, shall be civilly liable to any other candidate in an amount up to \$2,000 [open to suggestions on amount], or, if applicable, three times the amount by which the contribution or expenditure limit was exceeded, whichever is greater.
- (e) Reasonable attorneys' fees for the prevailing party may [or may not – need to decide] be collected.
- (f) In determining the amount of civil liability, the court may take into account the seriousness of the violation and culpability of the defendant.

Sec. 7-148. – 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.

Sec. 7-149. – Complaint Not Required for City Action

Notwithstanding the above, nothing in this Article shall be read to preclude the City from pursuing an action, civil or criminal, against any person, candidate committee, or issue committee, for any violation of this Chapter, regardless of whether a complaint had been filed pursuant to this Article.

Sec. 7-150. – 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.

PROPOSED CHANGE F:	EXPLANATION:
Consider a Charter Amendment that would permit the cancellation of a Council meeting in the event of an emergency, natural disaster, etc.	The February 2 City Council meeting was cancelled due to inclement weather. In accordance with Charter Article II Section 11, the City Clerk is authorized to adjourn a meeting. On February 2, this meant travel to City Hall to announce that the meeting was cancelled.

CURRENT CHARTER LANGUAGE:	<div style="border: 1px solid black; background-color: yellow; padding: 2px; display: inline-block; margin-bottom: 5px;">Committee feedback: Bring this Charter Amendment forward at the December Work Session.</div>
Section 11. - Meetings, quorum, executive session.	The Council shall hold regular meetings at such time and place as it may prescribe by ordinance and shall prescribe the manner in which special meetings may be called. Notice of any special meeting shall be given to all Councilmembers no less than one (1) day prior to such meeting. All meetings shall be open to the public. A majority of the members of Council shall constitute a quorum sufficient to transact business. A smaller number can adjourn a meeting to a later date and time, and in the absence of all members, the City Clerk may adjourn any meeting for not longer than one (1) week.

SUGGESTED AMENDMENT:
<p>Section 11. - Meetings, quorum, executive session.</p> <p>The Council shall hold regular meetings at such time and place as it may prescribe by ordinance and shall prescribe the manner in which special meetings may be called. Notice of any special meeting shall be given to all Councilmembers no less than one (1) day prior to such meeting. All meetings shall be open to the public. A majority of the members of Council shall constitute a quorum sufficient to transact business. A smaller number can adjourn a meeting to a later date and time, and in the absence of all members, the City Clerk may adjourn any meeting for not longer than one (1) week.</p> <p style="color: red;">In the event of an emergency, natural disaster, or unforeseen circumstances that render the holding of a meeting undesirable or impracticable, the City Manager may, with agreement of the Mayor, cancel a City Council meeting and shall make a reasonable attempt to notify the public of such cancellation before the scheduled time of the meeting.</p>

PROPOSED CHANGE G: (NEW)	EXPLANATION:
Amend the code to address small scale issue committees.	This is being brought forward as a result of Senate Bill 16-186: Small Issue Committee Disclosure Requirements

CURRENT CODE LANGUAGE: None

SUGGESTED AMENDMENT:
<p>7-132 Definitions</p> <p>...</p> <p><i>Issue committee</i> shall not include political committees, small-scale issue committees, or candidate committees as otherwise defined in this Section.</p> <p>...</p> <p style="color: red;"><i>Small-Scale issue committee</i> means an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.</p>

The following are treated as single small-scale issue committees:

- a. All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, or controlled by a single corporation or its subsidiaries;
- b. All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; or
- c. All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

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 contributions or contributions in kind in the amount of twenty dollars (\$20.) or more; expenditures made; and obligations entered into by the committee.

(b) For purposes of complying with the requirements of this Section, an issue committee consisting of an organization whose primary purpose is not to support or oppose ballot issues shall report only those contributions accepted, expenditures made and obligations entered into for the purpose of supporting or opposing a ballot issue or ballot question. Such issue committee shall not be required to report donations, membership dues or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a ballot issue or ballot question.

(c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and no later than noon on the Friday before the election, thirty (30) days after the election, and 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. 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 received, the total of expenditures made during the reporting period and the name and address of the financial institution used by the committee or party.

(e) All reports shall be submitted on forms provided by the City Clerk and shall be complete 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 Article is timely if the paper report is received by the City Clerk not later than the close of business on the date due or if the report is filed electronically not later than midnight Mountain Standard Time on the date due.

(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 the committee treasurer shall be notified in writing as to any deficiencies found. Such notice may be delivered in person, by mail, by fax, or, if an electronic mail address is on file with the City Clerk, by electronic mail. The committee treasurer shall have seven (7) business days from the date of delivery of such notice to file an amended report that cures the deficiencies. Any such amended report shall supersede the original report

filed for the reporting period.

(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) Notwithstanding any other provision of law, the disclosure requirements specified in this Chapter shall not apply to a small-scale issue committee. Any small-scale issue committee shall disclose or file reports about the contributions 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 or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred dollars is not required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.

(2) Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars and five thousand dollars shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars. The registration required by this subparagraph must include a statement listing:

- 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 street address for the principal place of business of the committee;
- d. The purpose or nature of interest of the committee; and
- e. The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.

(j) Except as required by 7-135(f)(2), no small-scale issue committee described in subsection (i)(2) is required to make any disclosure about any contributions or expenditures it has made or received.

(k) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the

committee shall report to the appropriate officer, for each particular contribution or expenditure accepted or made, the name and address of each person who has made such contribution and the amount of each specific contribution and expenditure accepted or made by the committee.

(l) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds five thousand dollars in compliance with all applicable requirements under this article pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

(m) Within seven days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee under this article, the committee through its registered agent, shall report this change in the committee's status to the City Clerk.

For City Clerk's Use Only: Date Filed: _____ Initials: _____

Return this completed form to:

City Clerk's Office, 300 LaPorte Avenue, Fort Collins, CO 80521, or email to cityclerk@fcgov.com

NOTICE OF ELECTION COMPLAINT

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:

An election complaint, in accordance with Section 7-145, must be filed with the City Clerk no later sixty (60) days after the alleged violation has occurred.

GROUND FOR ELECTION COMPLAINT

Name of alleged violator(s):	Date(s) of alleged violation:
Code provision allegedly violated:	
Detailed description of the offense allegedly committed:	
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 form must be completed for each Election Complaint****

For City Clerk's Use Only

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

Summary of Colorado Municipalities – Councilmembers, Terms, Redistricting

Municipality	# Council	Terms	Redistricting
Centennial	<u>9 Members</u> <ul style="list-style-type: none"> • 4 Districts • 2 from each District • 1 Mayor 	4 year terms, staggered.	In 2010 and then beginning with the Regular City Election held in 2013, the Election Commission shall review district boundaries within the City at least every four (4) years during the six (6) months immediately following a Regular City Election.
Aurora	<u>11 Members</u> <ul style="list-style-type: none"> • 6 Wards • 4 at large • 1 Mayor 	4 year terms, staggered.	Review ward boundaries prior to elections in years ending in 3 and 9
Greeley	<u>7 Members</u> <ul style="list-style-type: none"> • 4 Districts • 2 at large • 1 Mayor 	The Mayor, two (2) Council Ward seats and one (1) Council at-large seat shall be elected at every general municipal election.	The City Council shall not more often than once in four (4) years, by ordinance, readjust the ward boundaries, so as to comprise compact and contiguous territory, and so as to contain, as nearly as possible, an equal number of inhabitants.
Englewood	<u>7 Members</u> <ul style="list-style-type: none"> • 4 Districts • 3 at large • Mayor chosen from Council 	4 year terms, staggered.	Districts reviewed every 4 years. 15% variance
Thornton	<u>9 Members</u> <ul style="list-style-type: none"> • 4 Wards • 2 from each Ward • 1 Mayor 	4 year terms, staggered.	The Council shall change the boundaries of such wards to reflect population shifts at least once every ten (10) years.
Colorado Springs	<u>10 Members</u> <ul style="list-style-type: none"> • 6 Districts • 1 from each District • Mayor and 3 Council at large 	4 year terms, staggered	At least one hundred twenty (120) and not more than one hundred fifty (150) days before any City election at which district members of Council are to be elected, the City Clerk shall divide the City into six election districts

Presented to: Election Code Committee, November 10, 2016 Meeting