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### **AGENDA**

City Council Ad Hoc Committee  
Election Code Amendments  
December 16, 2015  
3:30 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 November 30, 2015 Committee Meeting Minutes
3. Suggested Election Code Changes
4. Other Business
5. Adjournment
  - a. Next meeting: December 23, 2:00 p.m. - 3:30 p.m.

# Council Election Ad-Hoc Committee Minutes

November 30, 2015

2:00 p.m.

**Members in Attendance:** Kristin Stephens, Bob Overbeck, and Ross Cunniff.

**Also present:** Ann Hutchison, Fort Collins Chamber of Commerce

**Staff in Attendance:** Carrie Daggett, City Attorney; Wanda Winkelmann, City Clerk; Rita Knoll, Chief Deputy City Clerk; Cary Carricato Alton, Paralegal.

A meeting of the City Council Ad-hoc Election Committee (“Committee”) was held on Monday, November 30, 2015, in the City Clerk’s Office Large Conference Room, to consider proposed changes to the Fort Collins Charter and Municipal Code related to elections.

The meeting began at 2:05 p.m. The Board reviewed the Agenda which contained these items:

1. Call Meeting to Order
2. Selection of Committee Chair
3. Discussion Items
  - a. Define Purpose of Committee
    - i. Review Staff Recommended Election Code Changes
    - ii. Committee Identified Issues Related to Election Code
  - b. Suggested Election Code Changes
    - i. Changes due to HB 15-1130 (Uniformed and Overseas Citizens Absentee Voting Act – UOCAVA)
    - ii. Staff Recommended Changes
4. Other Business
5. Adjournment
  - a. Next meeting: December 16, 3:30 p.m. – 5:00 p.m.

City Clerk Winkelmann called the meeting to order and asked the Committee to elect a chair. Councilmember Overbeck nominated Councilmember Cunniff and the Committee approved his selection unanimously. Mr. Cunniff asked the City Clerk to go through the staff recommended changes and point out which ones are optional and which changes are mandatory.

City Clerk Winkelmann indicated that they would first discuss the Staff Recommended Election Code Changes as enumerated in the handout, and then move on to any other items that Council had identified that needed to be modified. Councilmember Cunniff stated that the charge of the Committee from the City Council was along these same lines, and he had no questions about proceeding in this way.

City Clerk Winkelmann moved the discussion to Election Code Changes because of HB15-1130, which is the “UOCAVA” (Uniformed and Overseas Citizens and Absentee Voting Act) bill. City Clerk Winkelmann recommended going through the handout materials provided to the Committee and to discuss each one. She indicated that Rita Knoll was present as the election expert from the Clerk’s Office and City Attorney Carrie Daggett was present to answer legal questions. UOCAVA, which was passed earlier this year by the legislature, impacts the dates of many of the City’s election activities. City Attorney Daggett added that even if the Council chooses not to add the modified timeframes, there might be value in making code changes just to

clarify the timeframes that the City is using and to make sure that we have adopted a local schedule. City Clerk Winkelmann indicated that Leadership Planning Team has expressed that it would prefer to home rule all of the associated election timeframes and this would mean sticking with the City's current practices.

City Attorney Daggett suggested that the City Clerk outline the practices of the City Clerk's Office that promote transparency and voter turnout as they go through the list of changes. City Clerk Winkelmann indicated that beginning in the last election, they mailed a letter to each UOCAVA voter in February that indicated that a municipal election would occur in April, and that they should watch for their ballot. It also described the procedure to be followed if they did not receive their ballot and the procedure to follow if they could not return their ballot before the deadline and still wished to vote. City Clerk Winkelmann stated that the voter had to sign an absentee voter application where they acknowledged that they give up a right to privacy of their vote. She also indicated that the City paid for Fed-Ex for some ballots and allowed people to electronically transmit their ballots after signing an absentee voter application form.

Chief Deputy City Clerk Knoll added that in Fort Collins, there are approximately 650 UOCAVA voters, not all of whom were stationed overseas. She said that she did not have the exact numbers but they had a response somewhere around 40-50 voters.

City Clerk Winkelmann stated that the UOCAVA bill does not allow for the return of ballots electronically, so it was one of the items that the City questioned concerning the bill. She indicated that the City has been accommodating the return of UOCAVA ballots electronically for several elections.

Councilmember Overbeck asked whether the City had been given the opportunity for input into the UOCAVA bill as it was proceeding through the legislature, and Chief Deputy City Clerk Knoll indicated that the City had given input through the Colorado Municipal Clerk's Association. City Clerk Winkelmann indicated that she expected the Clerk's Association and the Colorado Municipal League (CML) to lobby the legislature to fix some issues with the bill during the upcoming legislative session in 2016.

Councilmember Stephens asked what other issues with the bill were being targeted for correction in 2016. City Clerk Winkelmann indicated that besides returning ballots electronically, a correction is needed to a provision related to the cancelling of an election.

The Committee then went through the UOCAVA changes as listed in the handout:

**Item A, Candidate Petitions Due:** If adopted, UOCAVA would require that candidate petitions be due 71-91 days before Election Day rather than the current 40-60 days.

**Item B, Candidate Withdrawal:** If adopted, UOCAVA would require that a candidate withdraw at least 67 days before Election Day as opposed to the current practice of 35 days.

The City Clerk noted that a change like this must be made at least a year before an upcoming election, so these would have to be made before March of 2016.

**Item C, Ballots Mailed:** If adopted, UOCAVA would require that ballots be mailed to overseas voters 45 days before Election Day rather than the 18-22 days under the current practice.

**Item D, Deadline Ballots must be received by to be counted:** If adopted, UOCAVA ballots postmarked by 7:00 p.m. on Election Day would be accepted until 8 days after the Election. City Attorney Daggett pointed out this change would create an issue with the Charter because the Charter requires that all ballots be counted and the Canvass be completed within three (3) days of the election, and creates a direct conflict.

**Items E, Return of Ballot and Absentee Voting:** If adopted, UOCAVA provides that only ballots returned by mail are permissible. The current practice of the City is that electronic ballots are acceptable if the voter fills out an Absentee Voter application.

**Item F, Canvass Due:** If adopted, UOCAVA would require that the date of the canvass be changed in order to count the UOCAVA ballots up to 8 days for finalization the election results. Because it would require a vote to modify the Charter, this would require the issue to be put on the ballot for voter approval.

**Item G, Recall – Date of Election:** If adopted, UOCAVA would require an election 90-120 days after a recall petition is certified. Under the current practice, it is 60-90 days after recall petition is certified. City Clerk Winkelmann indicated this modification would also require a Charter change.

City Clerk Winkelmann indicated that for Items F & G, staff had offered the suggestion of moving those items from the Charter to the Municipal Code so the City could further adapt to any other changes that might come in election law.

**Item H, Recall – Nominating Petitions:** If adopted, UOCAVA would require nominating petitions 71 days before Recall Election Day, and the current practice is 40 days before Recall Election Day.

**Item I, Write-in Candidate:** If adopted, UOCAVA provides for a deadline for write-ins of 67 days before Election Day, and the current practice is 35 days before Election Day.

Councilmember Stephens inquired whether or not the City had received complaints or concerns from UOCAVA voters on the current practices. City Clerk Winkelmann indicated that there really haven't been complaints or concerns, and when there have been issues with someone getting their ballot, the Clerk's Office has made accommodations for those voters. Chief Deputy City Clerk Knoll indicated that all of the UOCAVA voters she worked with were all very complimentary and appreciative of the opportunity to vote.

The Committee asked several other questions concerning other municipalities, but Chief Deputy City Clerk Knoll explained there are not very many other home rule municipalities that have adopted their own election provisions, so staff rarely has a City with whom they can compare notes.

The Committee asked Ms. Daggett to summarize what issues she thought needed clarifying in the present code. Ms. Daggett indicated that it might be helpful to codify expectations for contacting UOCAVA voters, including the specific process for contacting overseas voters. Councilmember Overbeck questioned what kind of resources might be involved with making such a modification. City Attorney Daggett indicated that that could be better estimated after the Committee has reached a consensus about what they would recommend.

Councilmember Cunniff commented that Fort Collins doesn't seem to have the problems that the UOCAVA bill was trying to solve. City Clerk Winkelmann indicated that the argument for adopting UOCAVA she has heard is because it allows the UOCAVA voter's ballot to remain secret. City Clerk Winkelmann indicated that the UOCAVA voters they dealt with in the last election were not concerned about their ballots not being secret.

The Committee then asked questions about the City's experiences in the last election, and asked that the Clerk's Office research the number of notifications concerning the election returned as undeliverable. Staff indicated that this research would be done and provided to the Committee.

The Committee expressed a general consensus that the City was dealing with the process in a reasonable way to give every voter an opportunity to vote if they desired to do so.

#### **Staff Recommended Changes – Election Code Amendments**

The Committee then moved on to discuss the staff-recommended changes unrelated to UOCAVA, as follows:

Proposed Change 1: *Amend Section 7-156 to further clarify how a protest of ballot language is filed for ballot language adopted by **ordinance or** (new language) resolution.*

*Amend Section 7-88 to further clarify how a protest of redistricting is filed.*

City Clerk Winkelmann stated this change to clarify how a protest to ballot language could be filed. City Attorney Daggett stated that the process as laid out in the Code is not very clear or detailed, and may be read to suggest that a separate hearing on a protest is required. Ms. Daggett used the example of the protests of the tax questions on the ballot earlier this year. Because it was the first time there had been a ballot language protest, the current process is not very efficient and it created a strange overlap of the protest and the Council consideration of the ballot language. Councilmember Cunniff asked about the differences between the state process and our current process. City Attorney Daggett described the state process to some extent, but indicated that she would look at the state process of setting a ballot title a little more closely and provide additional information. Chief Deputy City Clerk Knoll indicated that staff would have to be very mindful of the timeframes under a formal protest procedure. City Attorney Daggett indicated that staff could come back with suggestions about how a protest could be set up, and Councilmember Cunniff indicated that he thought that would be a good idea.

Proposed Change 2: *Add a provision to Article VII, Section 7 pertaining to Mail Ballot Elections that prescribes the order items appear on the ballot.*

Staff would recommend the following order:

1. City-initiated TABOR measures;
2. Citizen-initiated TABOR measures;
3. City-initiated measures;
4. Citizen-initiated or referred measures.

In the event of multiple citizen initiated measures, they would appear in the order they were received.

Proposed Change 3: *Amend Section 7 regarding election workers to address appointment, compensation and oath of office.*

City Clerk Winkelmann indicated that the City Clerk's Office just wants to clean up this provision in the Code. She said that during the recount was really the first time they had used election workers. It went smoothly and the City Clerk expects to use them in the future.

Proposed Change 4: *Pending further Council direction, Amend Section 7-191 to state that: a) signature verification of returned ballots will not occur; or b) establish a process for signature verification.*

City Clerk Winkelmann indicated that the Code does not require signature verification. The election workers look at the signatures, but don't verify them against a signature database. The Committee discussed the additional cost and time consumption to do this. The Clerk outlined the current process for reviewing ballots. Councilmember Cunniff asked for statistics from the County on how often they reject ballots because of signature verification. Chief Deputy City Clerk Knoll indicated that they would follow up on this issue.

Proposed Change 5: *Review Section 7-135 regarding campaign contribution limits for Council candidates.*

City Clerk Winkelmann indicated that her office has polled other municipalities for information about contribution limits. Councilmember Stephens asked how long it had been since these provisions were amended. Chief Deputy City Clerk Knoll indicated that they were modified in 2001.

Councilmember Stephens indicated that she felt it was time to amend them, and she is still for a limit, but it is difficult to run a campaign on the current numbers. She wanted to know how Loveland adjusts its amount every 5 years. Councilmember Cunniff indicated that he will discuss this item further, but wasn't sure that a change was necessary at this point and time.

Councilmember Cunniff asked for the minutes from the meeting in 2001 where the amounts were modified.

Proposed Change 6: *Amend Section 7-137 to remove the requirement of publishing 14-days prior to the election campaign finance reports and 30-days after the election campaign finance reports on the newspaper and add a provision that all reports be posted online.*

City Clerk Winkelmann indicated this was just a provision to remove the publication requirement because during the last election it cost the City \$10,000 in publication costs. City Clerk Winkelmann indicated that the City publishes these reports online and the requirement to publish in the newspaper is antiquated. The City contacted other municipalities to find out how they handle publishing. Councilmember Overbeck expressed an interest in publication of a notice providing information to the public regarding how to go online to review the reports and perhaps a hyperlink in the digital form of the paper, but forgoing publication of the entire reports as is presently done. Ms. Winkelmann indicated that staff would return with some options.

Proposed Change 7: *Amend Section 7-136 to change the requirement that reports are filed on the Friday before the Election Day to be filed by noon on the Friday before the election.*

Staff is recommending putting a noon deadline for filing the reports due the Friday before the election so the information can be posted online the same day. Sometimes reports are not coming in until 5:00 p.m. and staff won't always be able to post them that day. The Committee liked this idea because it gives citizens the weekend to review the reports.

Proposed Change 8: *Clarify whether members of City Council can accept a wage lower than the amount outlined in the code.*

Every election, staff is asked if a candidate can accept a lower wage than in the Code, or forego the Council wages altogether. Although staff is not certain of the basis for the concern, it has been assumed this might apply to persons running for office and on social security or disability and cannot make over a certain amount per month and still maintain their benefits.

City Attorney Daggett indicated that the Code states that the City "shall" pay. There is also a provision in the Code for changing salaries during a current term, so it would have to a change that applied to a future Council. Ms. Daggett indicated this is part of the Charter, so it would take voter approval to change it.

Councilmember Overbeck and Councilmember Stephens both expressed some interest in encouraging all who are interested in running for City Council to run, and concern about the salary as a barrier to participation.

Councilmember Cunniff indicated that running for office means you explicitly accept employment by the citizens of the city, so that if there is a problem or conflict, it is up to the candidate to work it out.

Proposed Change 9 (only if UOCAVA fully implemented): *Amend Section 7-192 to state that an eligible voter has eight days after Election Day to correct deficiencies causing his/her ballot to be rejected (as long as the ballot was originally received by 7 p.m. on Election Day), such as a missing signature on the return envelope. Include a statement that the elector cannot change his ballot in the process of correcting the deficiency.*

Staff recommends this change only in the event UOCAVA is fully implemented. Chief Deputy City Clerk Knoll indicated there were only approximately 80 ballots in the last election not signed, and the Clerk gave people the opportunity to correct them before 7:00 p.m. on Election Day. She indicated that they did not keep track of how many people came in to correct their unsigned ballots, but they intend to keep this statistic during the next election. The Committee generally agreed that they would wait to discuss this issue until deciding what to recommend on UOCAVA.

Proposed Change 10 (only if UOCAVA fully implemented): *Amend Section 7-193 to include a provision about the release of results on Election Day.*

If the City implements UOCAVA, staff would recommend a provision which allows the City to release preliminary results of the election prior to the finalization of Election results. The Committee agreed they would discuss this recommendation after deciding what to recommend about UOCAVA.

Proposed Change 11: *Insert a section to address recount procedures.*

Because of the recount that took place during the last election and the Clerk's experience with the statutory recount provision, staff would recommend a change to the City Code to outline the recount procedure. Staff is in the beginning stages of crafting this procedure and expects to have something for the Committee to review at the next meeting.

Proposed Change 12: *Amend Section 7-143 to add a deadline for the filing of election complaints.*

City Clerk Winkelmann stated that the City does not have a deadline for filing of election related complaints, and would like to outline this. Staff recommends 45 days from the date of the Election Certification so there is a date certain that all complaints must be filed.

Councilmember Cunniff inquired regarding the proper jurisdiction for election related complaints and City Attorney Daggett explained that the question had been raised and that there is disagreement about whether the proper jurisdiction is in the municipal court only or some other jurisdiction. Ms. Daggett indicated there is room for looking at what we might think would work best and specifically spelling out where a complaint would be heard.

The Committee generally agreed that the 45 days from the Election Certification would be the appropriate amount of time for lodging complaints.

Proposed Change 13: *Amend Section 7-134 to establish the termination of a campaign committee.*

Staff recommends that because the City does not have a provision related to termination of campaign committees, that the Code be amended to include a deadline to terminate within six (6) months of election certification.

There was discussion about what it means to terminate a committee and if the requirements of doing so meant zeroing out the funds associated. Chief Deputy City Clerk Knoll confirmed that it would require zeroing out funds. She described the problems associated with allowing them to continue indefinitely; including issues with enforcement and tracking, no actual termination ever occurring, and no ability to contact the person or persons associated with the committee.

Chief Deputy City Clerk Knoll indicated there are several municipalities that have deadlines to terminate. The committee discussed the issues with requiring termination for candidates who decide they will run for another term. Councilmember Cunniff suggested that it be an option for those not filing reports as required, there be an administrative termination after a certain period of time.

Staff agreed that they would come back with options for this process at a future meeting. Staff further agreed that they would update and bring to the next meeting the data available on the number of campaign committees that had not terminated for the years they have available data.

Proposed Change 14: *Amend Section 7 to state that the Municipal Election Code (MEC) and Uniform Election Code (UEC) will be followed when our Code or Charter are silent on an election issue.*

Staff recommends that the Code expressly state the controlling authorities for election questions that arise that are not specifically spelled out in our Code, particularly in light of related questions that have been raised about this issue.

### **Other Business**

There was no other business to be discussed at this meeting. The next meeting of the Committee will take place on December 16, 3:30 p.m. – 5:00 p.m.

Meeting adjourned at 3:29 p.m.

**Election Code Amendments Due to UOCAVA (Uniformed and Overseas Citizens Absentee Voting Act): HB15-1130**

- Amended the dates that ballots must be mailed to UOCAVA voters, which means all other deadlines must be changed.

Election Activity	Current Practice	UOCAVA - Change Will Require	UOCAVA "Light"
<p>A. Candidate Petitions Due</p> <p><b>Sec. 7-116. - Nomination of candidates; withdrawal from candidacy.</b>                      A nominating petition required pursuant to Article VIII of the Charter may not be circulated earlier than sixty (60) days before the election and must be filed with the City Clerk not later than forty (40) days before the election. A person who has been nominated may, not later than thirty-five (35) days before the election, withdraw by filing with the City Clerk a request therefor in writing, and no name so withdrawn shall be placed upon the ballot.</p> <p>Article VIII, Section 3 requires that "such time frame shall not be changed within one year immediately prior to the election."</p>	60 – 40 days before Election Day	91 - 71 days before Election Day	91 - 71 days before Election Day
<p>B. Candidate Withdrawal</p> <p><b>Sec. 7-116. - Nomination of candidates; withdrawal from candidacy.</b>                      A nominating petition required pursuant to Article VIII of the Charter may not be circulated earlier than sixty (60) days before the election and must be filed with the City Clerk not later than forty (40) days before the election. A person who has been nominated may, not later than thirty-five (35) days before the election, withdraw by filing with the City Clerk a request therefor in writing, and no name so withdrawn shall be placed upon the ballot.</p> <p>Article VIII, Section 3 requires that "such time frame shall not be changed within one year immediately prior to the election."</p>	35 days before Election Day	67 days before Election Day	67 days before Election Day
<p>C. Ballots Mailed</p> <p><b>Sec. 7-186. - Mailing of ballots; exception.</b>                      (a) No sooner than twenty-two (22) days before an election, and no later than fifteen (15) days before an election, the City Clerk shall mail to each active registered elector, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet marked "Do not forward. Address correction requested.", or other similar statement that is in accordance with United States postal service regulations.</p>	22 – 15 days before Election Day (typically on the 18 <sup>th</sup> day)	45 days before Election Day for UOCAVA voters; 22 – 15 days before Election Day (typically on the 18 <sup>th</sup> day) for all other voters	45 days before Election Day for UOCAVA voters; 22 – 15 days before Election Day (typically on the 18 <sup>th</sup> day) for all other voters
<p>D. Deadline Ballots Must be Received in Order to be Counted</p> <p><b>Sec. 7-190. - Voting and return of ballots.</b>                      (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.</p>	7 p.m. Election Day	8 Days after Election Day for UOCAVA Voters (as long as ballot is postmarked by 7 p.m. Election Day),	7 p.m. Election Day (to coincide with the Charter Provision re: canvass)

Election Activity	Current Practice	UOCAVA - Change Will Require	UOCAVA "Light"
<p>E. Return of Ballot</p> <p><b>Sec. 7-189. - Absentee voting.</b>  (d) If an eligible elector requests delivery of an absentee ballot to an address outside of the United States and it appears unlikely in the judgment of the City Clerk that the absentee ballot will be delivered to the elector in sufficient time to allow the elector to vote the ballot and return it to the City Clerk before 7:00 p.m. on election day, the City Clerk is authorized to use any reasonable method to provide the elector an opportunity to vote, provided that the method is acceptable to the elector and the elector acknowledges in writing that he or she has agreed to vote in the method offered and has further agreed that the City Clerk may transfer the elector's vote to an official ballot for counting purposes.</p>	Electronic receipt permissible	Bill provides that only ballots returned by mail are permissible.	Electronic receipt permissible (continue current practice)
<p>F. Canvass Due <b>(Charter)</b></p> <p><b>Article VIII, Section 7. - Certification of election results.</b>  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 for a particular office shall be declared elected to that office. In event of a tie, the selection shall be made by the Board of Elections by lot after notice to the candidates affected. In case the candidate elected fails to qualify within sixty (60) days after the date of issuance of the certificate of election, the candidate with the next highest vote shall be elected, and the candidate failing to qualify shall forfeit his or her office whether or not such candidate has taken the oath of office. If there is no other elected successor who qualifies, the office shall be deemed vacant, and shall be filled by appointment by the remaining members of the Council, as provided in Article II, Section 18.</p>	3 days after Election Day	Certification occurs after receipt of all ballots.  ?Move to Code via Charter Change?	3 days after Election Day (continue current practice)
<p>G. Recall – Date of Election <b>(Charter)</b></p> <p><b>Article IX, Section 1. - The recall.</b>  (c) Call of election. A recall election shall be for the dual purposes of voting on the recall of the officer sought to be removed and the election of a successor. Upon the City Clerk's presentation of a petition certified sufficient for recall, the Council shall set a date for the election which shall be held on a Tuesday not less than sixty (60) nor more than ninety (90) days from the date of presentation of the certified petition to Council. However, if any other city election is to occur within ninety (90) days from the presentation of the certified petition to Council, the recall election shall be postponed and consolidated with such other city election. The order setting a date for the recall election shall not become effective until five (5) days from the presentation of the certified petition to Council. If the officer resigns within the five-day period, the vacancy may be filled by appointment. If a vacancy occurs in the affected office after the effective date of the order, the election to fill the vacancy shall nevertheless proceed.</p>	60 – 90 days after recall petition is certified	90 - 120 days after recall petition is certified  ?Move to Code via Charter Change?	90 - 120 days after recall petition is certified
<p>H. Recall – Nominating Petitions</p> <p><b>Sec. 7-117. - Recall elections; nomination of candidates.</b>  Anyone desiring to become a candidate at a recall election shall do so by nominating petition as required in Article VIII of the Charter. All nominating petitions for such candidates shall be filed with the Office of the City Clerk no later than forty (40) days prior to the date of the recall election.</p>	40 days before Recall Election Day	71 days before Recall Election Day	71 days before Recall Election Day
<p>I. Write-in Candidate</p> <p><b>Sec. 7-103. - Write-in candidates.</b>  No write-in vote for a candidate for City Council office shall be counted unless the person whose name appears as the write-in vote has filed an affidavit of intent with the City Clerk, no later than the close of business thirty-five (35) days before the election, indicating that such person desires and is qualified for the office.</p>	35 days before Election Day	67 days before Election Day	67 days before Election Day

## Election Code Amendments – Staff Recommendations

<b>PROPOSED CHANGE 1:</b>  Amend Section 7-156 to further clarify how a protest of ballot language is filed for ballot language adopted by <b>ordinance or (new language)</b> resolution.  Amend Section 7-88 to further clarify how a protest of redistricting is filed.	<b>CURRENT CODE PROVISION:</b>  <b>Sec. 7-156. - Protests of proposed ballot title and/or submission clause.</b> Any registered elector desiring to protest a proposed ballot title and/or submission clause for any initiated or referred measure <del>may shall</del> file a <b>notice of protest</b> <del>written protest in the office of with</del> the City Clerk. <del>Said notice of protest shall be filed</del> no later than 12:00 p.m. on the Monday immediately preceding the date upon which the City Council will consider the <b>ordinance or</b> resolution setting the ballot title and submission clause. <del>The</del> Such notice of protest shall <b>be on a form available from the City Clerk, shall be signed by the protestors, and shall set forth:</b> (1) the name, address, and phone number of the protestor; (2) the title of the ordinance or resolution being protested; (3) <del>set forth</del> with particularity the grounds of the protest; (4) <b>any other information required by the City Clerk.</b> Such protest shall be heard, considered and resolved by the City Council prior to the adoption of said <b>ordinance or</b> resolution.  <b>Sec. 7-88. - Protest procedure.</b> Any registered elector desiring to protest the manner of redistricting proposed in any such redistricting ordinance <del>may shall</del> file a written protest <del>in the office of with</del> the City Clerk. <del>Said notice of protest shall be filed</del> no less than seven (7) days prior to the date upon which the proposed redistricting ordinance is to be heard by the City Council on first reading. <del>Such</del> <del>The</del> notice of protest shall <b>be on a form available from the City Clerk, shall be signed by the protestors, and shall set forth</b> (1) the name, address, and phone number of the protestor; (2) the title of the redistricting ordinance being protested; (3) <del>set forth</del> with particularity the grounds of the protest; (4) <b>any other information required by the City Clerk.</b> Such protest shall be heard, considered and resolved by the City Council no later than the date of second reading of the proposed redistricting ordinance.
<b>EXPLANATION:</b>  Staff is recommending the addition of language to clarify Sections 7-88 and 7-156 to add the requirement that a formal Notice of Protest be filed with the City Clerk.  <b>Committee Comments:</b>  <ol style="list-style-type: none"> <li>1. Agree that an updated process is needed.</li> <li>2. Staff to propose options for the process.</li> </ol>	

<b>PROPOSED CHANGE 2:</b>  Add a provision to Article VIII Section 7 pertaining to Mail Ballot Elections that prescribes the order items appear on the ballot.	<b>CURRENT CODE PROVISION:</b>  No code provision.  <b>Sec. 7-185. - Form of ballots.; order of items on the ballot.</b> (a) The top portion of each ballot shall be divided by a perforated line. The portion above the perforated line shall be known as the ballot stub and shall have printed on it a sequential ballot number. The ballot stub may also have printed on it other information, including but not limited to the precinct number, Council district number, job sequencing information used by the printer or instructions. (b)The ballot shall contain the following warning: "WARNING:  Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both."  (c) The return envelope shall have printed on it a self-affirmation substantially in the following form: "I state under penalty of perjury that I am an eligible elector; that my name and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accordance with the provisions of the Code of the City of Fort Collins."  (d)The signing of the self-affirmation on the return envelope shall constitute an affirmation by the voter, under penalty of perjury, that the facts stated in the self-affirmation are true.  (e) Items on the ballot shall appear in the following order: <ol style="list-style-type: none"> <li>1. City-initiated TABOR measures;</li> <li>2. Citizen-initiated TABOR measures in the order certified by the City Council;</li> <li>3. City-initiated measures;</li> <li>4. Citizen-initiated or referred measures in the order certified by the City Council.</li> </ol>
<b>EXPLANATION:</b>  Our Code does not outline the order items are to appear on the ballot. Staff recommends the following order: <ol style="list-style-type: none"> <li>1. City-initiated TABOR measures;</li> <li>2. Citizen-initiated TABOR measures;</li> <li>3. City-initiated measures;</li> <li>4. Citizen-initiated or referred measures.</li> </ol> <b>Committee Comments:</b>  <ol style="list-style-type: none"> <li>1. Agree with staff's recommendation.</li> <li>2. State that citizen-initiated items are placed on the ballot in the order they were received.</li> </ol>	

<b>PROPOSED CHANGE 3:</b>	<b>CURRENT CODE PROVISION:</b>
Amend Section 7 regarding election workers to address appointment, compensation, and oath of office.	<b>Division 3 – Election Workers</b>
<b>EXPLANATION:</b>	<b>Sec. 7-41. - Appointment.</b>
Staff is recommending that Sections 7-41 and 7-42 be amended to permit the City Clerk to appoint election workers and compensate them accordingly. Staff is also recommending the addition of Section 7-43 requiring election workers to take an oath of office.	The City Clerk shall appoint <del>judges workers for each precinct in accordance with the provisions of Article III, Division 2 of this Chapter.</del> to participate in the conduct of the election. (Code 1972, § 9-2; Ord. No. 063, 2007, § 2, 5-15-07)
<b>Committee Comments: Agree with staff's recommendation.</b>	<b>Sec. 7-42. - Compensation.</b>
	<del>Pursuant to the recommendation of the City Clerk, the judges of the</del> Election workers shall receive compensation for <del>their services as a judge at any</del> participating in the conduct of the election in an amount established by the City Clerk based on a review of comparable types of work <del>Council by resolution. The City Clerk shall select one (1) of the election judges in each precinct to deliver the election returns, registration book or list and other election papers and supplies to the City Clerk. The judges selected shall be paid an additional amount as set by the City Council for the performance of such service.</del>
	<b>Sec. 7-43. – Oath of Office.</b>
	Each election worker shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the Charter and ordinances of the City.

<b>PROPOSED CHANGE 4:</b>	<b>CURRENT CODE PROVISION:</b>
Pending further Council direction, Amend Section 7-191 to state that: a) signature verification of returned ballots will not occur; or b) establish a process for signature verification.	<b>Sec. 7-191. - Receipt and qualification of ballots.</b>
<b>EXPLANATION:</b>	b) Upon receipt of a voted ballot, an election worker shall first qualify the submitted ballot by examining the return envelope to determine whether the ballot was submitted by an eligible elector who has not previously voted in the election and whether the self-affirmation on the envelope is signed and completed by the eligible elector to whom the ballot was issued. 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.
The issue of signature verification was raised during the April 2015 election. Presently the Secretary of State is not authorized to release signature files to municipalities (unless an agreement is in place between the municipality and the county, such as exists in Colorado Springs), nor does Fort Collins have the equipment to conduct such verification electronically. 2016 legislation regarding signature verification is expected.	
<b>Committee Comments: Provide information on the County's election: Q – how many ballots are rejected due to signature failure? A – Received 82,001 mail ballots and ultimately rejected 444 (for a .54% rejection rate).</b>	

<b>PROPOSED CHANGE 5:</b>	<b>CURRENT CODE PROVISION:</b>
Review Section 7-135 regarding campaign contribution limits for Council candidates.	<b>SEE TABLE AT THE END OF THIS DOCUMENT FOR INFORMATION ON OTHER MUNICIPALITIES' PROVISIONS</b>
<b>EXPLANATION:</b>	<b>Sec. 7-135. - Campaign contributions.</b>
Councilmember Overbeck requested a review of campaign contribution limits.	(a) <i>Limits.</i> 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.
<b>Committee Comments: Obtain information from Loveland and Longmont about how their limit is adjusted (table at the end of the document amended to include this information). Provide ordinance and minutes when last amended.</b>	

<p><b>PROPOSED CHANGE 6:</b></p> <p>Amend Section 7-137 to remove the requirement of publishing 14-day prior to the election campaign finance reports and 30-day after the election campaign finance reports in the newspaper and add a provision that all reports be posted online.</p>	<p><b>CURRENT CODE PROVISION:</b> <b>SEE TABLE AT END OF THIS DOCUMENT FOR INFORMATION ON OTHER MUNICIPALITIES' PROVISIONS</b></p>
<p><b>EXPLANATION:</b></p> <p>The Code mandates publication (in the newspaper) of 14-day and 30-day campaign reports. Staff recommends removing this requirement and adding a provision that these reports be posted online (current practice). Costs for publication: \$10K in '15</p> <p><b>Committee Comments:</b></p> <p><b>Publish a notice in the newspaper where the reports can be found. This notice could be included in the <i>Notice of Election</i>.</b></p>	<p><b>Sec. 7-137. - Reports to be public record.</b></p> <p>(a) Upon receipt of any campaign report submitted pursuant to this Article, the City Clerk shall make available such report for public inspection <b>and as soon as practicable post the report on the City's website. A notice shall be published in a newspaper of general circulation stating campaign reports are posted on the City's website. The campaign report filed with the City Clerk fourteen (14) days prior to the election pursuant to § 7-136 above shall be published by the City Clerk in a newspaper of general circulation in the City, which publication shall occur no less than seven (7) days prior to the election. The campaign report filed with the City Clerk thirty (30) days after the election pursuant to § 7-136 above shall also be published by the City Clerk in a newspaper of general circulation in the City, which publication shall occur no more than seven (7) days after the City Clerk's receipt of the report.</b></p> <p>(b) No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.</p> <p><b>Sec. 7-184. - Notice of election.</b></p> <p>(a) No later than twenty (20) days before an election conducted pursuant to this Article, the City Clerk shall provide notice by publication of a mail ballot election, which notice shall state, as applicable for the particular election for which the notice is provided, the following:</p> <ol style="list-style-type: none"> <li>(1) The date of the election;</li> <li>(2) The hours during which the polls will be open on election day;</li> <li>(3) The address of the walk-in location for the delivery of mail ballots and the receipt of replacement ballots, and the hours during which the walk-in location will be open;</li> <li>(4) The address of the location for the application for, and the return of, absentee ballots and the hours during which the office will be open.</li> </ol> <p>(b) The notice required to be given by this Section shall be in lieu of the notice requirements set forth in Section 31-10-501(1), C.R.S.</p> <p><b>(c) Such other information that may be useful to voters regarding the conduct of the election or related to disclosures required in this Chapter.</b></p>

<p><b>PROPOSED CHANGE 7:</b></p> <p>Amend Section 7-136 to change the requirement that reports are filed on the Friday before the Election Day to filed by noon on the Friday before the election.</p>	<p><b>CURRENT CODE PROVISION:</b></p>
<p><b>EXPLANATION:</b></p> <p>This would facilitate the receipt and posting of reports on the City's website by close of business on the Friday before the election.</p> <p><b>Committee's Comments: agree with staff's recommendation</b></p>	<p><b>Sec. 7-136. - Disclosure; filing of reports.</b></p> <p>(c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and <b>by noon</b> 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.</p>

<p><b>PROPOSED CHANGE 8:</b></p> <p>Clarify whether members of City Council can accept a wage lower than the amount outlined in the code.</p>	<p><b>CURRENT CHARTER PROVISION:</b></p>
<p><b>EXPLANATION:</b></p> <p>The question arises every election from citizens/candidates whether a Councilmember can refuse his/her pay or accept a lower wage.</p> <p><b>Committee's Comments: need additional discussion.</b></p>	<p><b>Article II, Section 3. - Compensation of members.</b></p> <p>Commencing in 1998, the compensation for all Councilmembers except the Mayor shall be five hundred dollars (\$500.) per month and the compensation of the Mayor shall be seven hundred fifty dollars (\$750.) per month. These amounts shall be adjusted annually thereafter for inflation in accordance with the Denver/ Boulder Consumer Price Index.</p>

<b>PROPOSED CHANGE 9: ONLY IF UOCAVA FULLY IMPLEMENTED</b>	<b>CURRENT CODE PROVISION:</b>
Amend Section 7-192 to state that an eligible voter has eight days after Election Day to correct deficiencies causing his/her ballot to be rejected (as long as the ballot was originally received by 7 p.m. on Election Day), such as a missing signature on the return envelope. Include a statement that the elector cannot change his ballot in the process of correcting the deficiency.	<b>Sec. 7-192. - Rejected ballots.</b> 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. No elector shall be allowed to correct a deficiency without first producing valid proof of identification. <b>Electors shall have eight days after the Election Day to correct the deficiency causing the ballot to be rejected as long as the ballot was received by 7:00 p.m. on Election Day. No elector shall be allowed to open, change, or alter his or her ballot while in the process of correcting the deficiency.</b>
<b>EXPLANATION:</b>  Since final ballot tabulation cannot occur until the UOCAVA provisions have been met, staff recommends also allowing voters to correct unsigned ballot envelopes during the same period, as is currently allowed in County elections.	
<b>Committee comments: only consider if UOCAVA fully implemented</b>	

<b>PROPOSED CHANGE 10: ONLY IF UOCAVA FULLY IMPLEMENTED</b>	<b>CURRENT CODE PROVISION:</b>
Amend Section 7-193 to include a provision about the release of results on Election Day.  <b>Update: Staff is recommending amendment regardless of UOCAVA implementation</b>	<b>Sec. 7-193. - Counting mail ballots.; release of preliminary election results.</b> Counting of mail ballots may begin fourteen (14) days prior to the election and continue until counting is completed. The City Clerk shall take all precautions necessary to ensure the secrecy of the <del>counting procedures</del> <b>votes cast and counted</b> , and no information concerning the <del>same count</del> <b>same count</b> shall be released by election workers <del>until after 7:00 p.m. on election day</del> <b>after 7:00 p.m. on Election Day provided they are clearly marked as unofficial.</b> Final results shall be released upon final certification of the election.
<b>EXPLANATION:</b>  Since the final election results cannot be certified until the UOCAVA ballots are tallied, staff recommends including a Code provision that permits the Clerk to release preliminary results on Election Day (or as soon as practicable).	
<b>Committee comments: only consider if UOCAVA fully implemented</b>	

<b>PROPOSED CHANGE 11:</b>	<b>CURRENT CODE PROVISION: No Code provision.</b>
Insert a section to address recount procedures.	<b>Section 7-##. Recounts.</b> <b>(a) Mandatory recounts.</b> The City Clerk shall conduct a recount of the votes cast in any election if it appears, as evidenced by the survey of returns, that the difference between the highest number of votes cast in the election and the next highest number of votes cast in the election is less than or equal to one-half of one percent of the highest number of votes cast in the election. In the event of a mandatory recount, the following procedures shall be used: (1) The recount process shall be completed no later than the fifteenth day following the certification of election results, and shall be paid for by the City. (2) The City Clerk shall give notice of the recount to all candidates and, in the case of a ballot issue or question, to any petition representatives identified pursuant to Article X, Section 5(e) of the Charter that are affected by the result of the election. Such notice shall be given by certified mail or by other means reasonably expected to notify the affected candidates or petition representatives. (3) Any affected candidate or his or her designee or petition representative shall be allowed to be present during and observe the recount.
<b>EXPLANATION:</b>  Because the issue of recount is not addressed in the City Code, staff relied on Title 31 (specifically 31-10-1207) to conduct the recount.	
<b>Committee comments: staff is asked to bring back options</b>	<b>(b) Recounts by request.</b> Whenever a recount of the votes cast in an election is not required pursuant to subsection (a) above, any candidate for office or a ballot issue or question, any eligible elector, may submit to the City Clerk a written request for a recount at the expense of the party making the request. (1) This request, together with that amount determined by the City Clerk to be the preliminary estimated cost of the recount, shall be filed with the City Clerk within five days [or 7 days <b>for full UOCAVA</b> ] after the certification of election results. (2) Before conducting the recount, the City Clerk shall give notice of the recount in accordance with the provisions of subsection (a).

	<p>(3) The funds paid to the City Clerk for the recount shall be in one certified check and shall be placed in escrow for payment of all expenses incurred in the recount.</p> <p>(4) If, after the recount, the result of the election is reversed in favor of the party that requested the recount or if the amended election count is such that a recount otherwise would have been required pursuant to subsection (a), the payment for expenses shall be refunded to the party who requested the recount.</p> <p>(5) Within sixty days after the final certification of election results, the City Clerk shall prepare and deliver to the party who requested the recount the final costs for the recount. Any additional amount due shall be paid by the party who requested the recount in one certified check within 30 days of receipt of the final costs. Any refund due shall be refunded within 60 days.</p> <p>(6) Any recount of votes conducted pursuant to this subsection (b) shall be completed no later than the fifteenth day after the certification of election results.</p> <p>(c) <i>Recount procedures.</i> In addition to the applicable procedures described above, the City Clerk shall be responsible for conducting the recount, shall determine the method and procedures for conducting the recount, and shall be assisted by the Board of Elections, as outlined in Article VIII, Section 5 of the Charter. If a member of the Board of Elections is not available to participate in the recount, another person shall be appointed by the City Clerk.</p> <p>(1) The City Clerk may appoint election workers to assist with the recount, whether or not such workers served as workers in the election. Persons assisting in the conduct of the recount shall be compensated as provided in Section 7-42 and shall take an oath of office as provided in Section 7-43 (suggested new section).</p> <p>(2) After a recount conducted pursuant to this section has been completed, an amended certificate of election shall be completed by the Board of Elections, and the results of such amended certificate shall become final.</p>
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<b>PROPOSED CHANGE 12:</b>	<b>CURRENT CODE PROVISION:</b> <b>SEE TABLE AT THE END OF THIS DOCUMENT FOR INFORMATION ON OTHER MUNICIPALITIES' PROVISIONS</b>
Amend Section 7-143 to add a deadline for filing of election complaints.	<p><b>Sec. 7-143. - Violations and penalties</b></p> <p>(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.</p> <p>(b) Failure to comply with the provisions of this Article shall have no effect on the validity of any election.</p> <p><b>Article I</b></p> <p><b>The reporting of apparent violations of this Chapter shall be in writing and shall be filed no later than forty-five (45) days after election results are certified</b></p>
<b>EXPLANATION:</b>	
<p>Our code does not contain a deadline for the filing of election complaints. Staff is recommending a deadline of 45 days after the final certification of election results.</p> <p><b>Committee comments:</b> agree with staff's recommendation</p>	

<b>PROPOSED CHANGE 13:</b>	<b>CURRENT CODE PROVISION:</b>
Amend Section 7-134 to establish the termination of a campaign committee.	<b>No Code provision.</b>
<b>EXPLANATION:</b>	
<p>Our code does not address termination of a committee within a specific timeframe. Staff recommends requiring committees to terminate within six months after election results have been certified.</p> <p><b>Committee comments:</b> staff is asked to bring back more information on this item, such as the number of open committees vs. those that have terminated</p>	

<b>PROPOSED CHANGE 14:</b>	<b>CURRENT CODE PROVISION:</b>  <b>No Code provision.</b>  <b>Sec. 7-182. – Mail ballot elections authorized.</b> The City Clerk is hereby authorized to conduct any regular or special municipal election which is not coordinated with the County pursuant to Section 1-7-116, C.R.S., by mail ballot in accordance with the provisions of this Article.  <b>Article I</b> <b>Unless otherwise provided by the Charter or this Code, such elections shall be conducted under the provisions of the Colorado Municipal Election Code (Title 31) and Uniform Election Code (Title 1).</b>
Amend Section 7 to state that the Municipal Election Code (MEC) and Uniform Election Code (UEC) will be followed when our Code or Charter are silent on an election issue.	
<b>EXPLANATION:</b>  Our code does not address the reliance on the MEC first and then the UEC when a provision is not included.  <b>Committee comments:</b> agree with staff's recommendation	

<b>PROPOSED CHANGE 15:</b> <b>ADDED SINCE NOV. 30 MEETING</b>	<b>CURRENT CODE PROVISION:</b>  <b>Sec. 7-183. - Duties of the City Clerk.</b> The City Clerk shall: (1) Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in this Article; (2) Establish procedures for conducting mail ballot elections consistent with the provisions contained in this Article, <b>including efforts to inform uniformed and overseas voters of the upcoming election;</b> (3) Supervise the conduct of mail ballot elections; (4) Employ temporary election workers as needed; and (5) Take all necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.
Add a section to the duties of the City Clerk to codify actions taken to inform UOCAVA voters of the upcoming election.	
<b>EXPLANATION:</b>  For the first time, letters were mailed to UOCAVA voters informing them of the upcoming April election and providing them alternate means to return their ballot.  <b>Committee comments:</b> Memorialize procedure to notify UOCAVA voters of upcoming election	

Municipality	Suggested Change #5 Candidate Contribution Limits	Suggested Change #6 Publishing Campaign Reports	Suggested Change #12 Deadline for filing Election Complaints
Commerce City	None	No code provision; practice is to publish online immediately upon receipt	No code provision
Aurora	None	No code provision; publish online	Follows Title 31-10-1303: ten days after the expiration a recount must be filed or ten days after a recount concluded.
Rifle	None	No requirement	No code provision
Grand Junction	None	No requirement; available for public inspection	No code provision
Windsor	None	No requirement	No code provision
Greenwood Village	\$2,000	No requirement; not published online	Code refers to Title 31-10-1301
Greeley	None	No requirement	No code provision
Longmont <sup>1</sup>	\$230 from any natural person; \$590 from any person other than a natural person (LLC, corporation, etc.). Adjusted every 2 years by Boulder/Longmont CPI.	Reports published online within 24 hours after receipt.	For election procedural complaints: state statutes.  For complaints related to Longmont Fair Campaign Practices Act: tickets for violations cannot be issued no more than 90 days after the election or required date of filing
Loveland <sup>2</sup>	\$115; adjusted every 5 years.	Publish 14 day and 30 day report	No code provision

**1 2.04.204. - Contributions.**

A. No person shall act as a conduit for a contribution.

B. Notwithstanding any other section of this Act to the contrary, a candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule.

C. All contributions received by a candidate committee, issue committee or political committee shall, within seven business days after receipt, be deposited 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 90 days following any municipal election in which the committee received contributions unless a ticket is issued by the city clerk for a violation of this Act, in which case they shall be maintained until final disposition of the ticket and any consequent litigation. Such records shall be subject to inspection at any hearing held under this Act.

D. No candidate committee, political committee or issue committee shall accept a contribution, or make an expenditure, in currency or coin exceeding \$100.00.

E. No person shall make a contribution to a candidate committee, 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 made to any candidate committee, issue committee or political committee, nor shall any person make such reimbursement except as provided in subsections B. and G. of this section.

F. Contribution limits.

1. A natural person shall not contribute more than \$200.00 to any one candidate committee for an election or special election, except that this limit shall not apply to contributions by a candidate to the candidate's own committee.
2. Persons, other than natural persons, shall not contribute more than \$500.00 to any one candidate committee for an election or special election.
3. Commencing with the election cycle that begins two years after the effective date of the ordinance from which this section is derived, and every two years thereafter, the contribution limits set forth in this subsection shall increase by adding an inflationary adjustment, rounded to the nearest ten dollars, which shall be equal to the inflation increase as defined by the Consumers Price Index for All Urban Consumers for the Denver-Boulder-Greeley Metropolitan Area, as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor ("CPI"). If publication of the CPI is discontinued, any similar index published for the Longmont area and recognized by the financial community as a substitute for the CPI shall be used in its place. In no event shall the contribution limits be decreased.

2 (b) Adjustment of limits. At the beginning of each calendar year in those years ending in the numeral five (5) or the numeral zero (0), as there becomes available from the Bureau of Labor Statistics of The United States Department of Labor the necessary Consumer Price Index data, the City Clerk shall determine and the City Council approve, unless the City Clerk is determined by the City Council to have acted arbitrarily or capriciously, an adjustment to the limits set forth in Subsection (a) of this Section in proportion to the rise or fall of the Consumer Price Index since the last such adjustment or, in the case of 2010, since enactment of this Article.

If any such adjustment amount is not a multiple of five dollars (\$5.00) such amount shall be adjusted to the nearest multiple of five dollars (\$5.00).

Each amount so adjusted shall be in effect until the next adjustment.

ORDINANCE NO. 121, 2000  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 7-127 OF THE CODE OF  
THE CITY OF FORT COLLINS RELATING TO  
CAMPAIGN CONTRIBUTION LIMITS

WHEREAS, Article VIII, Section 8 of the Charter of the City of Fort Collins provides that the City Council shall act by ordinance to establish a limit on the amount that any person or entity may contribute in support of a candidate for Council on the ballot at any City election; and

WHEREAS, Section 7-127 of the Code of the City of Fort Collins provides that no person may make contributions in excess of fifty dollars (\$50.00) to any candidate or authorized committee of such candidate; and

WHEREAS, the Council has determined that Section 7-127 of the City Code should be amended to increase the contributions limits.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 7-127 of the Code of the City of Fort Collins be amended to read as follows:

**Sec. 7-127. Limits.**

(a) No person may make contributions or contributions in kind totalling more than one hundred dollars (\$100.) to any candidate for the office of Mayor or the candidate committee of such candidate. No person may make contributions or contributions in kind totalling more than seventy five dollars (\$75.) to any candidate for the office of Councilmember or the candidate committee of such candidate. These limitations shall apply to all contributions or contributions in kind, whether made directly to a candidate or candidate committee or indirectly via earmarked gifts passed through an intermediary, except that these limitations shall not apply to:

- (1) Contributions or contributions in kind made by a candidate to his or her own candidate committee;
- (2) Independent expenditures;
- (3) 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

- (4) The value of volunteer services provided without compensation by individuals volunteering their time on behalf of a candidate or a candidate committee.

(b) For the purposes of this Section, the following definitions shall apply:

*Candidate* shall mean any person who seeks nomination or election to the office of Mayor or Councilmember at any city election. A person is a candidate if the person has publicly announced an intention to seek such election or has filed nominating petitions for the office of Mayor or Councilmember or has been chosen to fill any vacancy in the office of Mayor or Councilmember.

*Candidate committee* shall mean a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.

*Contribution* shall mean:

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

Contribution shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, issue committee, or political party.

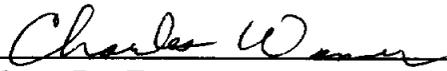
*Contribution in kind* shall mean the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate

committee for the purpose of influencing the nomination, retention, election, or defeat of any candidate. Personal services shall be considered a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used. Contribution in kind shall not include an endorsement of a candidate by any person and shall not include the payment of compensation for legal and accounting services rendered to a candidate if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this section or the provisions of the state Fair Campaign Practices Act.

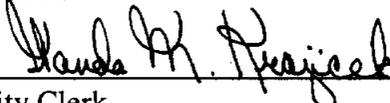
*Independent expenditure* shall mean payment of money by any person for the purpose of advocating the election or defeat of a candidate, which expenditure is not controlled by, or coordinated with, any candidate or any agent of such candidate. "Independent expenditure" shall include expenditures for political messages which unambiguously refer to any specific public office or candidate for such office, but shall not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business and political messages sent solely to their members.

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

Introduced, considered favorably on first reading, and ordered published this 19th day of September, A.D. 2000, and to be presented for final passage on the 3rd day of October, A.D. 2000.

  
\_\_\_\_\_  
Mayor Pro Tem

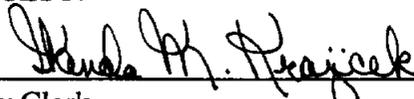
ATTEST:

  
\_\_\_\_\_  
City Clerk

Passed and adopted on final reading this 3rd day of October, A.D. 2000.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

September 5, 2000

services or goods are to be provided rather than when the bill is actually paid. He noted that a definition could be included in the ordinance for Second Reading.

Mayor Martinez asked if a verbal order would trigger the need to file a report. City Attorney Roy stated that there would have to be a written statement received before the person ordering the services or goods would be obligated to file a report.

Councilmember Mason expressed a concern that the burden is placed on the candidates to be notified by checking the web and favored the original language wherein the City Clerk would notify all of the candidates. City Clerk Krajicek stated that the original language required that the person making the independent expenditure notify the other candidates in the affected race. City Manager Fischbach stated that the person making the independent expenditure could be required to notify the candidates and the time the City Clerk is notified.

Mayor Martinez stated that he would favor having the information available to public inspection in the City Clerk's Office.

Councilmember Mason favored asking the City Clerk to notify all candidates in the race. City Manager Fischbach expressed a concern regarding staff workload.

Councilmember Byrne suggested keeping the requirement simple and spoke in favor of keeping the information available for public inspection in the City Clerk's Office and on the web.

Councilmember Byrne made a motion, seconded by Councilmember Wanner, to adopt Ordinance No. 125, 2000 on First Reading and to include a definition of when funds are obligated upon Second Reading. The vote on the motion was as follows: Yeas: Councilmembers Byrne, Martinez, Mason and Wanner. Nays: None.

THE MOTION CARRIED

**Items Relating to Elections**  
**Withdrawn to September 19, 2000**

The following is staff's memorandum on this item.

***“Executive Summary***

- A. *First Reading of Ordinance No. 121, 2000, Amending Section 7-127 of the City Code Relating to Campaign Contribution Limits.*
- B. *First Reading of Ordinance No. 122, 2000, Amending Section 7-129 of the City Code Relating to Election Campaign Reports.*

September 5, 2000

*At its June 27, 2000 Study Session, Council discussed the current limit (\$50) imposed on campaign contributions. The consensus of the Council was that the limits should be increased to \$100 for Mayoral candidates and \$75 for District candidates. If adopted, this Ordinance will implement those increases and will become effective well in advance of campaign periods for the April 2001 election. The Ordinance will also conform several of the definitions in this Section to those contained in the Fair Campaign Practices Act (FCPA).*

*In addition, staff is proposing an amendment to the Code relating to the filing of an additional campaign report in response to a recent amendment to the FCPA. If adopted, the second Ordinance will provide that the additional report be current as of five (5) days prior to the filing date, rather than two (2) days as currently stated in the City Code.*

## **BACKGROUND:**

### ***Campaign Contribution Limits:***

*The City Code presently imposes a \$50 limit on the amount of campaign contributions made by any one person to a candidate's campaign in a City election. The imposition of a limit on campaign contributions has been consistently upheld by the courts. However, the U.S. Supreme Court has recently held that a campaign contribution limit must not be so unreasonably low as to dramatically affect the funding of campaigns and prevent candidates and political committees from amassing the resources necessary for effective advocacy. While there is no indication that the \$50 limitation imposed by the City of Fort Collins has this effect on local elections, the amount of the limitation has not been increased since December 1986.*

*A survey of eleven other Colorado cities (Arvada, Aspen, Aurora, Boulder, Colorado Springs, Grand Junction, Greeley, Lakewood, Longmont, Loveland, and Thornton) revealed that seven of the cities have no limit on campaign contributions. Of the remaining four, two have limits of \$100, while the other two have limits of \$750 for Mayoral candidates and \$500 for all other Councilmembers.*

*Staff has also included amendments to the definitions contained in Section 7-127 of the Code in order to conform the definitions, insofar as applicable, to the definitions contained in the FCPA.*

### ***Election Campaign Reports:***

*The FCPA, as recently amended by House Bill 00-1095, provides that the reporting periods for all reports required to be filed with the municipal clerk shall close five (5) calendar days prior to the effective date of filing. Section 7-129 of the City Code requires an additional campaign report, and requires that it be current as of two (2) days prior to the filing date. Staff recommends that the reporting period for the additional report should be consistent with the reporting periods contained in the FCPA in order to eliminate any possibility for confusion."*

City Manager Fischbach introduced the agenda item.

September 5, 2000

City Clerk Krajicek presented background information regarding the agenda item.

Councilmember Mason expressed a concern with the change in reporting and favored retaining a two-day filing requirement for reports to the City Clerk for all reports relating to the local elections. City Attorney Roy stated that the matter would need to be researched.

Mayor Martinez asked about the benefit of having a two-day report. City Attorney Roy stated that it would be a more recent report just prior to the election.

Councilmember Mason stated that the trend is toward requiring more timely reports to make current information more readily available.

Mayor Martinez asked about the required reports. City Clerk Krajicek outlined the reporting requirements.

Councilmember Byrne requested clarification regarding the current reporting requirements. City Clerk Krajicek outlined the reporting schedule. City Manager Fischbach suggested that the agenda item be withdrawn to allow time for additional staff work.

City Attorney Roy stated that the City, as a Home Rule City, could have a local requirement that all reports be current as of two days prior to the date of filing the report.

#### Other Business

Councilmember Byrne expressed a concern that the Council monitor how well City Plan is working. He noted concerns regarding the ability of the City to make the necessary improvements on Vine Drive and the School District's consideration of a Timnath location for a high school site rather than a location in northeast Fort Collins.

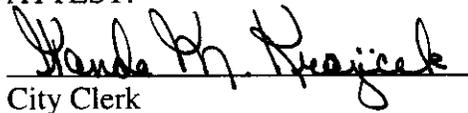
Councilmember Mason asked if the School District has responded to a City staff memo expressing staff's opinion concerning the location of the proposed new high school. City Manager Fischbach stated that he will provide this information to the Council.

#### Adjournment

The meeting adjourned at 7:05 p.m.

  
Mayor Pro Tem

ATTEST:

  
City Clerk

September 19, 2000

Plan, the City Plan amendment process, and significant recommended changes to the Land Use Code.

**Items Relating to Elections,  
Adopted on First Reading**

The following is staff's memorandum on this item.

**"Executive Summary**

- A. *First Reading of Ordinance No. 121, 2000, Amending Section 7-127 of the City Code Relating to Campaign Contribution Limits.*
- B. *First Reading of Ordinance No. 122, 2000, Amending Section 7-129 of the City Code Relating to Election Campaign Reports. (Options A and B)*

*These ordinances were presented for Council consideration on September 5, 2000, and after discussion, consideration was postponed until September 19, 2000. Staff has made revisions to Ordinance No. 122, 2000, in accordance with the direction received on September 5.*

*At its June 27, 2000 Study Session, Council discussed the current limit (\$50) imposed on campaign contributions. The consensus of the Council was that the limits should be increased to \$100 for Mayoral candidates and \$75 for District candidates. If adopted, this Ordinance (Item A) will implement those increases and will become effective well in advance of campaign periods for the April 2001 election. The Ordinance will also conform several of the definitions in this Section to those contained in the Fair Campaign Practices Act (FCPA).*

*On September 5, Councilmember Mason asked that an option be brought forward requiring that all campaign reports that are filed with the Municipal Clerk, either under the FCPA or the City Code, be current as of two days prior to the filing date. Accordingly, two options of Ordinance No. 122, 2000 (Item B) are being presented for Council's consideration. Option "A" is essentially the same as the Ordinance presented to the Council at the September 5 meeting. It would make the requirement for the additional campaign report that is required under the City Code consistent with the state requirement, that is, the report would have to be current as of five (5) days prior to the filing date. Option "B" would require that all reports filed with the City Clerk be current as of two (2) days prior to the filing date.*

**BACKGROUND:**

***Campaign Contribution Limits:***

*The City Code presently imposes a \$50 limit on the amount of campaign contributions made by any one person to a candidate's campaign in a City election. The imposition of a limit on campaign contributions has been consistently upheld by the courts. However, the U.S. Supreme Court has recently held that a campaign contribution limit must not be so unreasonably low as to dramatically affect the funding of campaigns and prevent candidates and political committees from amassing the resources necessary for effective advocacy. While there is no indication that the \$50 limitation imposed by the City of Fort Collins has this effect on local elections, the amount of the limitation has not been increased since December 1986.*

*A survey of eleven other Colorado cities (Arvada, Aspen, Aurora, Boulder, Colorado Springs, Grand Junction, Greeley, Lakewood, Longmont, Loveland, and Thornton) revealed that seven of the cities have no limit on campaign contributions. Of the remaining four, two have limits of \$100, while the other two have limits of \$750 for Mayoral candidates and \$500 for all other Councilmembers.*

*Staff has also included amendments to the definitions contained in Section 7-127 of the Code in order to conform the definitions, insofar as applicable, to the definitions contained in the FCPA.*

***Election Campaign Reports:***

*The FCPA, as recently amended by House Bill 00-1095, provides that the reporting periods for all reports required to be filed with the municipal clerk shall close five (5) calendar days prior to the effective date of filing. Section 7-129 of the City Code requires an additional campaign report, and requires that it be current as of two (2) days prior to the filing date. On September 5, staff recommended that the reporting period for the additional report be changed to five (5) days prior to the filing date to be consistent with the reporting periods contained in the FCPA in order to eliminate any possibility for confusion.*

*On September 5, Councilmember Mason asked that an option be brought forward requiring that all campaign reports that are filed with the Municipal Clerk, either under the FCPA or the City Code, be current as of two days prior to the filing date. Accordingly, two options are being presented for Council's consideration. Option "A" is essentially the same as the Ordinance presented to the Council at the September 5 meeting. It would make the requirement for the additional campaign report that is required under the City Code consistent with the state requirement, that is, the report would have to be current as of five days prior to the filing date. Option "B" would require that all reports filed with the City Clerk be current as of two days prior to the filing date."*

City Clerk Krajicek presented background information regarding the proposed Ordinances. She noted that there are two options presented regarding Ordinance No. 122, 2000.

*September 19, 2000*

Councilmember Kastein asked for clarification regarding the filing date and the dates reports would be required to be on file in the City Clerk's Office. City Clerk Krajicek spoke regarding the filing deadlines.

Councilmember Weitkunat asked about the benefit of changing the requirement to two days prior to the filing date. City Clerk Krajicek spoke regarding prior discussions regarding this option.

Councilmember Mason spoke regarding the national trend toward more immediate reporting.

Councilmember Kastein asked about the reasons for requiring reports to be current as of two days rather than five days before the filing date.

Councilmember Mason stated that the two-day requirement would mean a more accurate picture of contributions and expenditures.

Councilmember Kastein asked which requirement would be easier for administrative purposes. City Clerk Krajicek stated that she would recommend that the requirements be consistent.

Councilmember Byrne asked about timeliness if reports are filed by mail.

Councilmember Weitkunat stated that the two-day requirement could be too short because of the hectic pace of the short campaign periods and because the two-day deadline would fall on a Sunday.

Councilmember Byrne made a motion, seconded by Councilmember Weitkunat, to adopt Ordinance No. 121, 2000 on First Reading.

Mayor Pro Tem Wanner stated that he would vote against the motion because the requirements could stay as they are.

The vote on the motion was as follows: Yeas: Councilmembers Bertschy, Byrne, Kastein and Weitkunat. Nays: Councilmembers Mason and Wanner.

#### THE MOTION CARRIED

Councilmember Mason made a motion, seconded by Councilmember Bertschy, to adopt Ordinance No. 122, 2000 (Option B) on First Reading.

Councilmember Mason spoke in favor of the motion.

Councilmember Weitkunat stated that she would oppose the motion because of the additional reporting burden it would impose.

*September 19, 2000*

Councilmember Bertschy spoke in favor of the motion to increase the accuracy of reporting.

Councilmember Byrne spoke regarding accountability of candidates and stated that he would support the motion.

The vote on the motion was as follows: Yeas: Councilmembers Bertschy, Byrne, Mason and Wanner. Nays: Councilmembers Kastein and Weitkunat.

THE MOTION CARRIED

### **Other Business**

City Manager Fischbach presented background information regarding the reasons for proposed Resolution 2000-119 relating to attendance of members at boards and commissions meetings and Resolution 2000-120 reappointing Glen Colton to the Planning and Zoning Board.

Councilmember asked about notification to boards and commissions regarding the change in the rules regarding meeting attendance. City Manager Fischbach stated that Resolution 2000-19 will be sent to all boards and commissions liaisons and chairpersons.

Councilmember Bertschy made a motion, seconded by Councilmember Byrne, to adopt Resolution 2000-119. The vote on the motion was as follows: Yeas: Councilmembers Bertschy, Byrne, Kastein, Mason, Wanner and Weitkunat. Nays: None.

THE MOTION CARRIED

Councilmember Mason made a motion, seconded by Councilmember Kastein, to adopt Resolution 2000-120. The vote on the motion was as follows: Yeas: Councilmembers Bertschy, Byrne, Kastein, Mason, Wanner and Weitkunat. Nays: None.

THE MOTION CARRIED

Councilmember Kastein reported on a meeting of the Poudre School District subcommittee.

Councilmember Byrne requested information regarding long range planning and policy changes relating to annexations east of I-25.

Councilmember Byrne requested that the City look at ways of minimizing the impact of energy cost increases on City operations. City Manager Fischbach stated that energy issues can be discussed by the budget committee.

October 3, 2000

The vote on the motion was as follows: Yeas: Councilmembers Kastein, Martinez and Weitkunat.  
Nays: Councilmembers Byrne, Mason and Wanner.

THE MOTION FAILED TO PASS

**Items Relating to Elections,  
Adopted on Second Reading**

The following is staff's memorandum on this item.

**“Executive Summary**

- A. *Second Reading of Ordinance No. 121, 2000, Amending Section 7-127 of the City Code Relating to Campaign Contribution Limits.*
- B. *Second Reading of Ordinance No. 122, 2000, Amending Section 7-129 of the City Code Relating to Election Campaign Reports.*

*At its June 27, 2000 Study Session, Council discussed the current limit (\$50) imposed on campaign contributions. The consensus of the Council was that the limits should be increased to \$100 for Mayoral candidates and \$75 for District candidates. Ordinance No. 121, 2000, which was adopted on First Reading on September 19, 2000 by a 4-2 vote, implements those increases which will be effective well in advance of campaign periods for the April 2001 election. Ordinance No. 121, 2000, also conforms several of the definitions in this Section to those contained in the Fair Campaign Practices Act (FCPA).*

*Ordinance No. 121, 2000 has been amended on Second Reading to delete reference to the candidate receiving contributions, since the definition of “candidate committee” includes the candidate. In addition, a provision relating to independent expenditures previously adopted in Ordinance No. 125, 2000, has been incorporated in this Ordinance.*

*On September 5, Councilmember Mason asked that an option be brought forward requiring that all campaign reports that are filed with the Municipal Clerk, either under the FCPA or the City Code, be current as of two days prior to the filing date. Ordinance No. 122, 2000, which was adopted on First Reading on September 19, 2000 by a 4-2 vote, amends Section 7-129 of the Code, requiring that all reports filed with the City Clerk be current as of two (2) days prior to the filing date.”*

City Manager Fischbach stated that staff recommends final approval of the Ordinances.

October 3, 2000

Councilmember Mason made a motion, seconded by Councilmember Wanner, to adopt Ordinance No. 121, 2000 on Second Reading. The vote on the motion was as follows: Yeas: Councilmembers Byrne, Kastein, Martinez, Mason, Wanner and Weitkunat. Nays: None.

**THE MOTION CARRIED**

Councilmember Mason made a motion, seconded by Councilmember Wanner, to adopt Ordinance No. 122, 2000 on Second Reading.

Councilmember Weitkunat stated that she will oppose the Ordinance because the two-day requirement is not in accordance with State requirements and places a burden on candidates.

The vote on the motion was as follows: Yeas: Councilmembers Byrne, Mason and Wanner. Nays: Councilmember Kastein, Martinez, Weitkunat.

**THE MOTION FAILED TO PASS**

Councilmember Byrne made a motion, seconded by Councilmember Wanner, to reconsider the vote on Ordinance No. 122, 2000. The vote on the motion was as follows: Yeas: Councilmembers Byrne, Martinez, Mason, Wanner and Weitkunat. Nays: Councilmember Kastein.

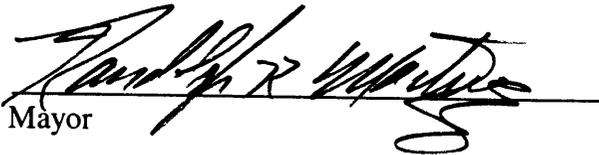
**THE MOTION CARRIED**

Councilmember Byrne made a motion, seconded by Councilmember Wanner, to adopt Ordinance No. 122, 2000 on Second Reading with an amendment to change the requirement to three working days. The vote on the motion was as follows: Yeas: Councilmembers Byrne, Martinez, Mason, Wanner and Weitkunat. Nays: Councilmember Kastein.

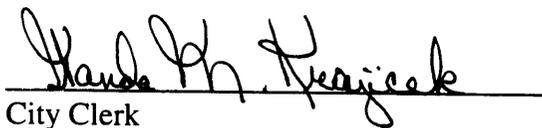
**THE MOTION CARRIED**

**Adjournment**

The meeting adjourned at 9:55 p.m.

  
Mayor

ATTEST:

  
City Clerk