

Initiative Guidelines

Updated April 2023



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INTRODUCTION

The City of Fort Collins, Colorado is a home rule municipality. As such, the citizens of Fort Collins have adopted local provisions in the Charter of the City of Fort Collins (hereafter the “Charter”) relating to initiatives.

Article X, Section 1 of the Charter states: “The registered electors of the city shall have the power at their option to propose ordinances or resolutions to the Council, and if the Council fails to adopt a measure so proposed, to adopt or reject such ordinance or resolution at the polls.”

This guide is provided to assist electors in exercising the right to initiate an ordinance or resolution through the “initiative process”. The information contained herein is basic in nature and is not intended to be comprehensive in scope or depth, nor is it to be construed as legal advice. If you have questions regarding the interpretation of applicable laws and regulations for your particular situation, you may wish to consult with a private attorney who can provide you with that interpretation. If there is any inconsistency between these guidelines and the applicable provisions of the City Code, City Charter, or state law, the provisions of the Code, Charter, or state law take precedence.

HOW TO USE THIS GUIDE

The information provided herein is presented, to the extent possible, in the order of occurrence of actions and events. The Guide contains terminology not commonly used by the general public, and as such, may be interpreted differently by different individuals. However, such terminology has very specific meaning within the context of the initiative process and elections. A list of terms and their definitions, as applied herein, has been included at the end of this document.

CONTACT INFORMATION

All questions or comments regarding this Guide should be directed to the City Clerk’s Office. Although the entire staff of the City Clerk’s Office has varying levels of familiarity with the initiative process, please direct your questions and/or comments to:

Anissa Hollingshead, City Clerk
ahollingshead@fcgov.com
(970) 221-6515

Rita Knoll, Chief Deputy City Clerk
rknoll@fcgov.com
(970) 221-6516

The City Clerk’s Office is located at 300 LaPorte Avenue. Mail should be addressed to PO Box 580, Fort Collins, CO 80522.

THE CITIZEN INITIATIVE PROCESS

WHAT IS A CITIZEN INITIATIVE?

The citizen initiative process is the direct power of the voters to propose a **new** legislative measure or course of action, in the form of an ordinance or resolution, and secure its submission to the City Council or the electorate for approval.

The initiative process is often confused with the referendum process. The power of referendum is the power of the electors to refer any ordinance adopted by the City Council to a vote of the people.

WHO CAN USE THE CITIZEN INITIATIVE PROCESS?

The citizen initiative process is available to all registered electors within the Fort Collins city limits.

The City Council also has the power of initiative under the City Charter. However, the term “initiative” will be used herein solely to refer to the **citizen’s** power of initiative.

BEGINNING OF THE PROCESS: THE NOTICE OF INTENT

An initiative is commenced by one or more registered electors filing with the City Clerk a written notice of intent to circulate an initiative petition. The notice must contain, or have attached to it, the full text of the proposed ordinance or resolution and must state whether a special election is requested. There is no form for filing a notice of intent.

PETITION FORMS

The City Charter requires an initiative petition to contain or have attached to each section, throughout its circulation, the full text of the proposed ordinance or resolution. The petition must contain a general statement of purpose which fairly and accurately summarizes the proposed ordinance or resolution, indicating that the petition is to be circulated in support of the initiated ordinance or resolution, and specifying whether a special election is requested. The petition must designate by name and address at least three, but no more than five persons who will act as petition representatives. The petition must also contain an affidavit to be completed by the petition circulator. (**Note:** It is **not** the responsibility of the petition representatives to draft ballot language. See below “The Election - Submitting the Initiative to the Voters” for information on ballot language.)

The form of the initiative petition is prescribed by ordinance of the Council. The petition form contains warning language printed in red ink. Therefore, it is necessary to assemble petition sections using original forms provided by the City Clerk. Alternate methods of assembling petition sections, such as assembling one original and having color copies made or obtaining the electronic file (in Pagemaker format) for printing color originals, may be available. It is recommended that you consult with the City Clerk’s Office as early as possible on options for assembling petition sections.

A petition may be circulated and signed in sections, provided that each section contains all required information and is securely fastened at the top. (A typical method of fastening each section is by stapling across the top.) All sections must be filed as one instrument.

Upon receipt of a notice of intent to circulate an initiative petition, the City Clerk will provide blank petition forms to be used in assembling petition sections. The City Clerk will need to know how many petition sections you plan to assemble, and how many signature lines you want to include in each section (each section can contain up to 100 signature lines, in increments of 10).

APPROVAL OF FORM FOR CIRCULATION

Before circulation of the petition can begin, the City Clerk must approve the form of the petition. The City Clerk will examine each petition section to determine that it contains all required information (and *only* that information), that each section is numbered and the pages within each section are numbered, and that each section is securely fastened at the top. Any irregularities in the petition sections, if found, will be identified and the petition representatives will be given an opportunity to correct the irregularities. The City Clerk will prepare a certificate of approval, which will contain a list of the section numbers that have been approved for circulation. The date of the certificate of approval shall start the running of the time periods provided for circulation and filing of the petition.

If the petition representatives determine during the circulation period that more petition sections are needed, additional sections may be submitted to the City Clerk for approval. However, additional sections are subject to the original time periods started with the approval of the first petition sections.

A sample petition section is provided at the end of this guide.

CIRCULATORS

Only persons who are eighteen years of age or older may circulate a petition for signatures. Each petition section must be carried by only one circulator, but a circulator may carry more than one petition section.

Nothing prohibits circulators from being paid to circulate a petition. Circulators do not have to be registered electors.

Circulators are prohibited from paying or offering to pay any money or other thing of value to any person for the purpose of inducing or causing the person to sign a petition.

Circulators are required to complete an affidavit, attached to each petition section, after the petition has been circulated. The affidavit must be signed, under oath, before a notary public. No additional signatures should be obtained on a petition section after completion of the affidavit.

Upon the request of any person to whom the petition is presented for signature, a petition circulator is required to read aloud the entire text of the initiated measure.

SIGNATURE REQUIREMENTS

Only registered electors (persons registered to vote in city elections who reside within the city limits) may sign a petition. Each signer must sign his or her own signature, followed by the printed name, residence address, and date of signing. No person shall sign more than once (on the same section or on different

sections). If the City Clerk finds more than one signature of the same person, the first signature verified will be counted and all other signatures of that person will be rejected.

The number of signatures required on an initiative petition depends on the type of election requested. If the petition representatives are willing to have the initiative placed on a regularly-scheduled election (held in November of odd-numbered years), the petition must contain valid signatures equal in number to 10% of the total ballots cast in the last regular city election. If the petition requests a special election, the number of signatures must equal 15% of the total ballots cast in the last regular city election.

Based on statistics from prior petition efforts, 30-50% of the signatures on a petition are rejected for various reasons. Therefore, it is recommended that the total number of signatures collected far exceed the required amounts.

SUBMITTAL REQUIREMENTS AND DEADLINES

As previously mentioned, all sections of a petition must be filed as one instrument. A petition must be filed no more than 60 days after the City Clerk's approval of the form for circulation. If the next regular city election is approaching, the petition must be filed at least 90 days prior to the date of the next election. If the petition requests a special election in conjunction with a Larimer County General Election (held on the first Tuesday after the first Monday in November), the Charter requires the City Clerk to establish a submittal deadline for the petition that will enable the measure to be considered at such election.

At the time the petition is filed, the City Clerk will prepare a receipt for the petition, which will include a listing of all petition sections filed (by section number). It is very common that the petition will not contain all of the sections approved for circulation, usually because some petition circulators fail to return sections to the petition representatives in time to meet the filing deadline.

There are many actions required to move an initiative through the process to placement on the ballot. Therefore, it is imperative that you consult with the City Clerk during your planning process to determine when you must start your efforts and what dates are critical to the success of your effort.

VERIFICATION AND CERTIFICATION OF THE PETITION

EXAMINATION OF THE PETITION

When a petition is filed with the City Clerk, the Clerk has five working days to examine the petitions to determine if the petition is signed by the requisite number of registered electors and that the petition contains the required particulars and affidavits.

The City Clerk's Office uses a very detailed process for the examination of petitions. An Access database is used to check signatures against the voter registration records maintained by the Larimer County Elections Office. The database allows staff to search by name or address, or a portion of either one. This feature is useful when the handwriting of the signer is difficult to read. If the signer is found in the database, the information on the signature line is compared to the information in the database. Each signature line is assigned a code reflecting the results of the examination. Any discrepancy in information, such as a different address, or other information supporting the assigned code, is noted on the petition. If it can be determined that a signature on a petition is similar to a name in the voter registration database, with an address matching the address in the voter registration database, and no other similar names are found at the same address or any other address, an assumption will be made that a match has been found and the signature will be counted as valid.

Throughout the examination of the petition, the findings for each petition section are entered into a spreadsheet, and the total number of valid and rejected signatures are monitored. As soon as the requisite number of valid signatures is reached, the examination is stopped.

As earlier stated, the City Clerk has five working days to complete the examination. Although it is not unusual for the examination to take less time, the full five days will be used if necessary to complete a thorough examination. If the petition appears to be insufficient, a sampling of rejected signatures will be reexamined in an effort to reverse the rejection.

REASONS FOR REJECTING SIGNATURES

There are many reasons why signatures, and sometimes even entire petition sections, are rejected. Following is a list of the most common reasons for rejecting individual signatures:

- The individual is not registered to vote at the address given on the petition.
- The individual listed an address that is different than the address in the voter registration records.
- The individual does not appear in the voter registration records.
- The individual failed to provide a residence address.
- The individual listed an address outside of the Fort Collins city limits.

- The individual signed more than once. (Only the first signature verified is counted, and all other signatures by that individual are rejected.)
- The signature is illegible and cannot be verified.
- The individual's date of registration is later than the date he or she signed the petition.
- There are multiple individuals with the same name registered, but none are registered at the address listed.

OR

There are multiple individuals registered with the same name at the same address, but it cannot be determined which individual signed the petition.

Whole petition sections, and the signatures contained therein, may be rejected because:

- The petition section was circulated by an individual who is not 18 years of age or older.
- The petition section does not contain a signed and properly notarized affidavit. (Common notary problems include absence of notary's commission expiration date and/or seal.)
- The petition section appears to have been disassembled/ reassembled after the Clerk's approval of the form of the petition. (This indicates the possibility that a portion of the required information required to be attached to the petition section during its circulation was removed.)

The reasons listed above are common examples, based on actual experiences, and should not be construed as limiting the possible reasons for rejection.

A detailed accounting of the number of valid signatures on each petition section, as well as the number of rejected signatures, and the reasons therefor, will be prepared and will be provided upon request.

INSUFFICIENT PETITION

If an initiative petition is deemed insufficient after the examination or following protest proceedings (described below), the City Clerk will prepare a certificate of insufficiency, specifying the particulars of insufficiency, and will notify all of the petition representatives of such insufficiency, both verbally and by providing copies of the certificate of insufficiency. An insufficient petition may be amended by the submission of additional signatures collected after the City Clerk approved the form of the petition and within 15 days of the date of the Clerk's certificate of insufficiency. Such signatures must be collected consistent with the requirements for collecting petition signatures as described in Article X of the City Charter. Within 5 days of the filing of an amended petition, the Clerk must examine the amended petition and certify the results. If the amended petition is still insufficient, or if no amendment was made before the expiration of the time permitted for amendment, the petition shall be null and void without prejudice to the filing of a new petition for the same purpose.

The only acceptable amendment of a petition is the submission of additional signatures on petition sections not previously submitted for examination. Nothing prohibits the collection of additional signatures during the period that the City Clerk is examining the petition. Amendments to previously submitted petition

sections will not be accepted, since such amendment would take place after execution and notarization of the circulator's affidavit.

SUFFICIENT PETITION/CERTIFICATION OF PETITION

When a petition or amended petition is deemed sufficient, whether following the sufficiency determination by the City Clerk in the absence of a protest, or following protest proceedings, the City Clerk is required to certify and present the certified petition to the City Council at the next regularly scheduled meeting. The Clerk's certification is the final determination as to the sufficiency of the petition, subject only to the protest procedure described below.

PROTESTS

Any registered elector may protest a determination by the City Clerk that a petition is either sufficient or insufficient by filing a written protest, under oath, in the City Clerk's office within 10 days of the original filing of the petition. The protest must set forth with particularity the grounds of protest and the names and defects in form protested. (Disagreeing with the subject of the initiative petition is not a valid reason for protest.)

If a protest is filed, the City Clerk must set a hearing date within 7 days of filing of the protest. At least 5 days prior to the hearing, the Clerk is required to mail a copy of the protest to all of the designated petition representatives, together with a notice of the time for hearing.

The City Manager will appoint a hearing officer for all protest hearings, who has the power to issue subpoenas to compel the attendance of witness and the production of documents. All records and hearings are public, and all testimony must be given under oath. The hearing must be summary in nature, and concluded within 30 days after the petition was filed. Within 10 days after the hearing is concluded, the hearing officer must decide and certify the results of the hearing. The City Clerk will make the final determination regarding the sufficiency or insufficiency of a petition and will base such determination on the protest hearing results certified by the hearing officer.

If the results of the protest hearing result in the petition being deemed insufficient, the petition representatives have an opportunity to amend the petition as described above under "Insufficient Petition".

COUNCIL ACTION

Upon the City Clerk's presentation of an initiative petition certified to contain a sufficient number of signatures, the City Council shall either:

- (1) Adopt the proposed ordinance or resolution without alteration within 30 days (unless an election is required for passage of the measure under Article X, Section 20 of the Colorado Constitution); or
- (2) Submit such proposed measure in the form petitioned for, to the registered electors of the city at the next regular city election. If the petition requests a special election, and contains the requisite number of signatures for a special election, the Council shall call a special election to be held on a Tuesday within 120 days from the date of the City Clerk's presentation of the petition. If any other regular or special city election is to occur with the 120 period, the initiative measure must be consolidated with such other election.

All ordinances submitted to the Council by initiative petition and adopted by the Council without the vote of the electors are subject to the referendum in the same manner as other ordinances.

SUBMITTING THE INITIATIVE TO VOTERS

Upon ordering an election on any initiative measure, the City Council is required to adopt by resolution, after receiving public input, a ballot title and submission clause for each measure. The ballot title must contain information identifying the measure as a city-initiated or citizen-initiated measure. The submission clause must be brief, and must unambiguously state the principle of the provision sought to be added. In addition, the submission clause must not conflict with the language selected for any petition previously filed for the same election.

The official ballot shall have printed on it the ballot title and submission clause “Yes/For” and “No/Against”. Pursuant to Article X, Section 20 of the state Constitution, the appropriate vote for measures involving tax or bonded debt increases is “Yes” or “No”.

Any registered elector may protest a proposed ballot title and/or submission clause by filing a written protest with the City Clerk. The notice of protest must be filed no later than 12:00 p.m. (noon) on the Monday before the Tuesday Council meeting at which the City Council will consider the resolution setting the ballot title and submission clause. The notice of protest shall set forth with particularity the grounds of the protest. The City Clerk will provide copies of the notice of protest to the City Council prior to the Tuesday meeting. The protest must be heard, considered and resolved by the City Council prior to the adoption of the resolution setting the ballot title and submission clause.

The proposed resolution setting the ballot title and submission clause is drafted by the City Attorney and is available to the public on the Thursday immediately preceding the Tuesday Council meeting.

AFTER THE ELECTION

If a majority of the registered electors voting on the initiative measure vote in favor of the measure, it is adopted as an ordinance or resolution of the City upon certification of the election results. Certification occurs 3 days after the election.

If the initiative measure is an ordinance amending provisions of the City Code, Land Use Code, or City Charter, the ordinance will be forwarded to the City’s codifier for inclusion in the appropriate document.

CAMPAIGN REGULATIONS

Most initiative efforts include the formation of a committee (known as an issue committee) to support the passage of the ballot measure. There are very specific regulations with regard to issue committees and campaigns as set forth in Chapter 7 of the City Code.

A separate document entitled “Issue Committee Guidelines” is also available in the City Clerk’s Office. It contains all of the regulations relating to issue committees, including all reporting forms.

DEFINITIONS

Ordinance – A municipal law or regulation adopted as an ordinance of the City under the provisions of the City Charter.

Resolution – A formal expression of a decision, opinion, policy or directive of the City, expressed in a formally drafted document and voted upon by the City Council, that does not have the force of law.

Registered elector – A person residing in the city who has registered to vote in city elections in the manner required by law.

Petition – a formal document, addressed to the City Council, requesting the enactment of an ordinance or resolution, which is signed by a requisite number of registered electors of the city of Fort Collins.

Petition representative – A registered elector who shall represent the signers of a petition in all matters affecting the petition.

Circulator – A person who is 18 years of age or older, who carries one or more sections of a petition for the purpose of obtaining signatures in support of the subject of the petition from registered electors of the city of Fort Collins.

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

Issue committee – Two or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question; or any partnership, committee, association, corporation, labor organization or other organization or group of persons that has accepted contributions or made expenditures to support or oppose any ballot issue or ballot question.

CITY CHARTER AND CODE PROVISIONS

Relevant provisions relating to elections and initiatives can be found in Article X of the City Charter and Chapter 7 of the Code of the City of Fort Collins.

**SAMPLE PETITION
FORMS**

SIGNATURE REQUIREMENTS

At the last regular biennial election on April 6, 2021, 42,283 ballots were cast. The number of valid signatures required on an initiative petition for the next regular biennial election on November 7, 2023 is:

For the November 7, 2023 Election

10% of the ballots cast: 4,228

For a special election to be held at any other time, the signature requirement is:

For a Special Election

15% of the ballots cast: 6,342