

Political Committee Guidelines

Updated October 2020

This document is valid for the April 6, 2021 Regular Municipal Election

COVID-19 STATEMENT

Due to COVID-19, City Hall is closed to the public until further notice. On most weekdays, a limited number of staff may be working in the City Clerk's Office. If planning to file documents with the Clerk's Office, please call ahead (970.221.6515) or email cityclerk@fcgov.com to make arrangements. In many cases, filing documents via email will be acceptable.

Documents requiring notarization should be notarized BEFORE filing them with the City Clerk. Notary services are not available in City Hall until further notice.



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INTRODUCTION

The *Political Committee Guidelines* are furnished as a source of general information about the regulations governing political committees formed for the purpose of supporting or opposing one or more candidates. These guidelines contain basic information and are not intended to be comprehensive in scope or depth. 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.

Collectively, regulations governing political committees in Fort Collins are unique to Fort Collins and are applicable only in the context of a Fort Collins municipal election.

ELECTION ADMINISTRATION

All regular and special municipal elections are administered by the City Clerk's Office under the provisions of the City Code, the City Charter, and Colorado law. In the case of a special municipal election held in conjunction with the Larimer County General or Coordinated Election, the City will contract with Larimer County for the conduct of the election.

All information regarding the conduct of the election and requirements of an issue committee should be obtained from the City Clerk's Office. Other entities, such as Larimer County and the Colorado Secretary of State, play no role in local elections and are not familiar with the requirements of the City Code and Charter. The City Clerk's Office will assist you through the election process as much as possible. However, the City Clerk's Office cannot provide legal advice. You should consult with your own attorney about the application of the law to your individual situation.

The City Clerk's Office is open from 8:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of legal holidays.

ELECTIONEERING

State law prohibits electioneering (to take part actively and energetically in the activities of an election campaign; persuasion of voters in a political campaign) on election day within any polling place, or in any public street or room, or in any public manner within 100 feet of any building in which a polling place is located.

For municipal elections, City Hall is a polling place and electioneering is prohibited within 100 feet of City Hall, Building A, 300 LaPorte Avenue, beginning 15 days prior to election day.

ELECTION SIGNS

Election signs fall within the definition of temporary signs and must meet all standards in Land Use Code Section 3.8.7.3. Permits are not required for placement of non-banner temporary signs on private property; however, some restrictions on size and placement apply. If the temporary sign is a banner, a permit is required. Temporary signs may only be placed upon private property behind the sidewalk and only with the consent of the property owner.

Temporary signs, including election signs, are not allowed on park land, medians, sidewalks, street rights-of-way, in front of City buildings or any other public area owned or controlled by the City of Fort Collins without a permit. The public right-of-way includes the area between the sidewalk and the street, as well as approximately two feet behind the sidewalk. Banners require a permit.

Temporary signs are addressed in the City Code (Section 17-42) and the Land Use Code (Section 3.8.7.3). A temporary sign may be immediately removed if the City Engineer determines it has been placed on public property. The City will attempt to notify the owner that the temporary sign has been removed and will be destroyed within 10 days if not picked up. Any additional temporary signs will be immediately removed and destroyed without notification.

The allowed size and placement of temporary signs allowed in **residential and nonresidential zones** is set out in Land Use Code Section 3.8.7.3(C). The signs cannot include lighting.

IDENTIFICATION OF WRITTEN CAMPAIGN MATERIALS

Whenever a political committee makes an expenditure for the purpose of financing communications expressly advocating a particular result in an election or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, the communication must clearly state that the communication is paid for by the political committee. (City Code Section 7-140).

These forms of communication include, but are not limited to, websites or social media of a political committee that are available to the general public and which required some expenditure of funds, and advertisements placed for a fee on another person's website or social media. **The statement required must be clear and conspicuous in the communication.** The required statement does not apply to communications where including the statement would be impractical, such as:

- (1) Bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed;
- (2) Skywriting, water towers, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable; or
- (3) Checks, receipts, and similar items of minimal value that are used for purely administrative purposes and do not contain a political message.

DOOR-TO-DOOR SOLICITATION

Political solicitations are exempt from the City Code provision prohibiting door-to-door solicitations, except where the occupant of a private residence has chosen to post a **“NO SOLICITATION”** or **“NO TRESPASSING”** sign near the entrance to the premises. Posting of such a sign prohibits *any* kind of solicitation at that residence.

The City Code sections relating to noncommercial door-to-door solicitation may be found in [Chapter 15, Article IV, Division 1 of City Code](#).

LITTERING

Campaign material is not exempt from littering prohibitions. Campaign materials must be securely placed or deposited so as to prevent them from being blown or scattered by the wind. It is not permissible to place campaign materials in any fashion on motor vehicles without the vehicle owner's permission.

PENALTIES

Failure to comply with the City Code and Land Use Code provisions relating to door-to-door solicitations and temporary signs is a misdemeanor and, upon conviction, punishable by a fine not to exceed \$2,650 or by imprisonment not to exceed 180 days, or both. [City Code Section 1-15]

CAMPAIGN REPORTING REQUIREMENTS

GENERAL

The Fort Collins City Council has established campaign finance provisions to be applied to local elections in lieu of any state laws on the subject. The local provisions have been codified in [Chapter 7, Article V of the City Code](#).

POLITICAL COMMITTEES

The City Code defines a *political committee* as:

- (1) Two (2) or more persons who are elected, appointed or chosen, or have associated themselves, for the purpose of accepting contributions or making expenditures to support or oppose (1) or more candidates; or
- (2) Any person that has accepted contributions for the purpose of supporting or opposing (1) or more candidates.

“Political committee” does not include candidate committees as otherwise defined in Section 7-132 of the City Code.

“Person” is defined as any individual, partnership, committee, association, corporation, labor organization or other organization or group of persons.

REGISTRATION

All political committees are required to register with the City Clerk before accepting contributions or making expenditures.

All contact information provided on the registration form, including e-mail and website addresses, will be provided to the general public and posted on the City’s election website with other election-related information.

A Committee Registration form is available for download from the City’s website.

BANK ACCOUNTS

All contributions received by a political committee must be deposited and maintained in a financial institution in a separate account, the title of which must include the name of the committee. Documentation of the account, satisfactory to the City Clerk, is required with the committee registration.

Note: Although the City Code requires that the account include the name of the committee, it may be necessary to open an account as a personal checking account that indicates it is for committee purposes due to documentation required for formal non-profit organization accounts.

CAMPAIGN REPORTS

All political committees are required to report to the City Clerk their contributions and contributions in kind received, including the name and address of each person who has made contributions or contributions in kind expenditures made, and obligations entered into by the committee. **ALL contributions and expenditures, regardless of amount, must be reported.**

Reports are due on:

- the 35th day before the election
- the 21st day before the election
- the 14th day before the election
- by noon on the Friday before the election
- the 35th day after the election
- the 70th day after the election, and
- annually on April 1 until such time as a termination report is filed.

If the reporting day falls on a weekend or legal holiday, the report must be filed by the close of the next business day.

All reports must be submitted on forms and in the format provided by the City Clerk and must be complete in all respects.

The City Clerk's Office may contact the committee's registered agent if clarification is needed about any report filed. Any report that the City Clerk deems to be incomplete or inconsistent with the requirements for reporting will be accepted on a conditional basis and will be subject to the process and penalties in City Code Section 7-143. See Complaints (page 10) for more details.

Reports must be current in all respects as of two days prior to the filing date.

A campaign report is considered timely if the paper report is received by the City Clerk's office by the end of the business day on the date due or if a copy is filed electronically not later than midnight MST on the date due. The report due by noon on the Friday before the election is due by noon, regardless of the manner of filing.

All campaign reports will be published on the City's website.

Campaign Report forms, in Excel format, are available for download from the City's website.

The forms are provided in Excel format and must be completed in Excel. Do not convert the form to any other program.

Reports must be submitted in Excel. No other format will be accepted. Reports that were converted to, or created in, other formats and then converted to Excel will not be accepted. The City Clerk may reject any report that is found not in compliance with the original design and formatting of the report forms.

RESTRICTIONS ON POLITICAL COMMITTEE ACTIVITIES

Political committees can only make direct expenditures and are prohibited from making contributions to candidate committees.

Political committees are prohibited from coordinating its expenditures with any other committee.

These restrictions are different than those contained in the Fair Campaign Practices Act and those that may be used by other municipalities.

RECORDKEEPING

All records pertaining to contributions and related accounts must be maintained by the committee for one (1) year following any election in which the committee received contributions unless a complaint has been filed under Section 7-145(a) of the City Code alleging a violation of the provisions of Chapter 7, Article V of the City Code or the committee has received notice of an investigation or prosecution of a violation of this Article by the City or other law enforcement authority, in which case they must be maintained until final disposition of the complaint and any consequent court proceedings. Such records are subject to inspection in connection with any investigation or other action to enforce the terms of Chapter 7, Article V of the City Code. (See Complaints, page 10)

All expenditures must be documented and all records pertaining to those expenditures, including but not limited to invoices, receipts, instruments of payment, and copies of any public communications produced as a result of the expenditure, must be maintained by the committee for one (1) year following any election in which the committee expended the funds unless a complaint has been filed under Subsection 7-145(a) alleging a violation of the provisions of Chapter 7, Article V, or the committee has received notice of an investigation or prosecution of a violation of Chapter 7, Article V, in which case they must be maintained until final disposition of the complaint and any consequent court proceedings. Documentation must include the name and address of the vendor(s) or payee(s) providing the property, materials, or services and the amount of the expenditure. The records shall be made available within three (3) business days upon request of the City and subject to inspection in connection with any investigation or other action to enforce the terms of Chapter 7, Article V.

CONTRIBUTION AND EXPENDITURE LIMITS

Contributions or contribution in kind (individual or aggregate) to a political committee are limited to a total of no more than \$100. There are no limits on the amount of expenditures made by a political committee. However, contributions and expenditures must be reported as noted earlier in this Section.

LIMITED LIABILITY COMPANY CONTRIBUTIONS

A limited liability company ("LLC") may make contributions or contributions in kind to a political committee subject to the maximum amount that can be contributed to a political committee (\$100) and in compliance with the following requirements:

- (1) Any contributions from an LLC shall count against contribution limits for both the LLC itself and the individual members of the LLC as apportioned accordingly. The amount a person contributes as an individual member of the LLC counts towards the aggregate contribution limit that person may make to a political committee.
- (2) The LLC must provide the political committee with a written statement affirming the permissibility of the contribution on a form provided by the City Clerk. The affirmation will include:
 - a. The name and address of the LLC and each LLC member;
 - b. Information on how the contribution is attributed among the LLC members, which attribution must reflect the capital each member has invested in the LLC relative

to the total amount of capital invested in the company, or the percentage of ownership each member has in the LLC as of the date of the contribution.

- (3) No political committee shall accept a contribution from an LLC unless the written affirmation statement is provided before the contribution is deposited by the committee.
- (4) The political committee receiving the contribution must:
 - a. List both the individual LLC members' names and the name of the LLC as contributors on disclosure reports; and
 - b. Retain the affirmation statements for one (1) year after the end of the election; provided, however, in the event a complaint is filed against the committee, the committee must maintain the affirmations until final disposition of the complaint.

"Limited liability company" shall have the same meaning as "domestic limited liability company" as defined in Section 7-90-102(15), C.R.S., or "foreign limited liability company" as defined in Section 7-90-102(24), C.R.S.

REPORTS ARE PUBLIC RECORD

Any report submitted pursuant to Article V, Chapter 7 of the City Code will be made available for public inspection. In addition, all campaign reports will be available on the City's website under the link for upcoming election.

No information contained in any campaign report may be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

TERMINATION OF A POLITICAL COMMITTEE

A political committee must properly dispose of all remaining funds and must file a termination report by the 70th day after the election.

UNEXPENDED CAMPAIGN CONTRIBUTIONS

Any unexpended contributions may be donated to any charitable organization recognized by the Internal Revenue Service, returned to the contributor, or used to pay for the cost of a recount requested by the committee's registered agent (City Code Section 7-46). Funds on hand following the election may not be used for any other purpose.

COMPLAINTS, CAMPAIGN VIOLATIONS AND PENALTIES

Any candidate or registered elector of the City who has reason to believe a violation of Chapter 7, Article V, of the City Code, has occurred by any candidate, candidate committee, issue committee, small-scale issue committee or political committee may file a written complaint with the City Clerk, no later than sixty (60) days after the alleged violation has occurred.

The complaint must contain:

- (1) The name of the alleged violator;
- (2) The Code provision allegedly violated;
- (3) A brief statement or description of the offense allegedly committed and the basis for the allegation;
- (4) Identification of any relevant documents or other evidence;
- (5) Identification of any witnesses or persons with relevant knowledge; and
- (6) The name, address, and telephone number of the complainant.

Allegations of civil infraction(s)

The City Clerk will forward the complaint to the subject of the complaint, referred to in the City Code as the “respondent” by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction.

The City Clerk will also forward the complaint to the City Attorney, who will review the complaint to determine whether the complaint is adequate in that it, (1) was timely filed; (2) contains the information required to be contained in a complaint; and (3) alleges sufficient facts to support a factual and legal basis for the alleged violations. If the City Attorney determines that the complaint fails to satisfy any of the required elements, the City Attorney will notify the City Clerk who will, in turn, notify the complainant and respondent in writing.

If the City Attorney determines that the complaint satisfies all three elements described in the previous paragraph, the City Attorney will notify the City Clerk who will, in turn, notify the respondent in writing of the following:

1. The presumptive penalty in accordance with the following chart:

Code Section	Penalty Amount
7-134 – Registration of committees; termination	\$150 first offense \$300 each subsequent offense
7-135 – Campaign contributions/expenditures	\$100 first offense \$200 each subsequent offense
7-136 – Disclosure; filing of reports	\$100 first offense \$200 each subsequent offense
7-137(b) – Reports to be public record	\$50 first offense \$100 each subsequent offense
7-138 – Unexpended campaign contributions	\$100 first offense \$200 each subsequent offense
7-139 – Independent expenditures	\$100 first offense \$200 each subsequent offense
7-140 – Responsibility for communications	\$50 first offense \$100 each subsequent offense
7-141 – Expenditures for political advertising; rates and charges	\$50 first offense \$100 each subsequent offense

2. The seven day period from the date of the notice for the respondent to submit written evidence to the City Clerk of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials, or proof that the violation has been corrected. The respondent's written response is due to the City Clerk no later than 5:00 p.m. on the seventh (7th) day. In the event the seventh day is a City holiday, the response is due no later than 5:00 p.m. the next business day.

Upon receipt of the respondent's written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time up to seven additional days to file an amended response regarding cure in order to respond to any such request.

After the period for cure has expired, the City Attorney will determine whether the respondent has cured any violation alleged in the complaint and, if so, whether the respondent has substantially complied with its legal obligations under Chapter 7, Article V, of the City Code. In determining whether the respondent has substantially complied with its legal obligations, the City Attorney will consider:

- (1) The extent of the respondent's noncompliance;
- (2) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
- (3) Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.

If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations, the City Attorney will notify the City Clerk who, in turn, will notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.

If the City Attorney determines the respondent *has not* cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court. If the City Attorney files a complaint with the Municipal Court, the matter shall be governed by Article V of Chapter 19 of the City Code.

A complainant or any other nonrespondent shall not be a party to the City Attorney's initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.

Any person that commits a violation shall be personally liable for the penalties imposed.

Allegations of criminal violation(s)

Complaints that allege a criminal violation will be forwarded to the respondent and the City Attorney, who will evaluate the complaint for probable cause.

The following criminal violations, if found guilty, are misdemeanors and subject to a fine or imprisonment in accordance with Section 1-15 of the City Code:

- (1) Knowingly violating Section 7-136 of the City Code (disclosure and filing reports) with the intent to fraudulently misrepresent campaign contributions or expenditures on a disclosure report;
- (2) Knowingly violating Section 7-142 of the City Code (encouraging withdrawal from a campaign); or
- (3) Being found liable for a violation after the person has been found liable for two or more violations under Chapter 7, Article V of the City Code in a single election cycle.

If the City Attorney determines no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements for filing a complaint were not met by the complainant, the City Attorney will notify the City Clerk, who will then notify the complainant and respondent in writing.

If the City Attorney determines probable cause does exist, the City Attorney may notify Fort Collins Police Services, who, in consultation with the City Attorney, may file and serve a summons and complaint to the respondent.

The City Attorney retains prosecutorial discretion on whether to ultimately file criminal charges. If the City Attorney determines filing a summons and complaint is inappropriate, the City Attorney will notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

Any person that commits a violation shall be personally liable for the penalties imposed.

CONFLICTS OF INTEREST

In the event the City Attorney determines a complaint or alleged violations poses a conflict of interest, the City Attorney may take appropriate action in accordance with the Code and general practices of the City, including, but not limited to, hiring special counsel to carry out the review and determinations required, if deemed necessary and advisable under the circumstances.

COMPLAINT NOT REQUIRED FOR CITY ACTION

Nothing in the complaint provisions precludes the City from pursuing an action, civil or criminal, against any person, candidate, candidate committee, issue committee, small-scale issue committee or political committee for any violation of Chapter 7 of the City Code, regardless of whether a complaint had been filed pursuant to Chapter 7, Article V.