

# Referendum Guidelines

Updated June 2024



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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 referendum. The power of referendum is the power to refer a Council-adopted ordinance to the voters for approval or rejection.

Article X, Section 1 of the Charter states: “The registered electors of the city shall have the power at their option to approve or reject at the polls, any ordinance, or portion of ordinance, adopted by the Council, except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessments.”

This guide is provided to assist electors in exercising the right to refer an ordinance to the voters through the referendum 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

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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 referendum process and elections. A list of terms and their definitions, as applied herein, has been included at the end of this document.

## CONTACT INFORMATION

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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 referendum process, please direct your questions and/or comments to:

Delynn Coldiron, City Clerk  
Dcoldiron@fcgov.com  
970-416-2995

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

# THE REFERENDUM PROCESS

## WHAT IS A REFERENDUM?

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

The referendum process is often confused with the initiative process. The power of initiative is the power of the electors 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.

## WHO CAN USE THE REFERENDUM PROCESS?

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

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

## WHAT KINDS OF ORDINANCES CAN BE REFERRED TO THE VOTERS?

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The City Charter states that the registered electors of the City have the power to approve or reject at the polls any ordinance adopted by the Council except ordinances making the annual property tax levy, making the annual appropriation, calling a special election, or ordering improvements initiated by petition and to be paid for by special assessment. However, Colorado case law indicates that, even under this kind of Charter provision, only those ordinances that are legislative in nature, as opposed to administrative, can be referred.

A legislative ordinance is one that is of permanent or general character, which establishes a new policy or rule of law. An administrative ordinance is one that is more temporary in nature and which carries out existing policy or makes a “business” decision for the City, such as an ordinance that sets utility rates or authorizes the sale of City property.

If you wish to refer a Council-adopted ordinance to a vote of the people, you should check with the City Clerk’s office to determine the City’s position as to whether that particular ordinance is referable. You may also wish to consult with your private attorney, since he or she may have a different opinion as to your ability to refer the ordinance in question.

## BEGINNING OF THE PROCESS: THE NOTICE OF PROTEST

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A referendum is commenced by one or more registered electors filing with the City Clerk within ten days after final passage of the ordinance in question, a written notice of protest against the going into effect of the ordinance. The notice must be brief and need not state any reasons, but must identify the ordinance or part thereof, or code section it proposed to have repealed. There is no form for filing a notice of protest.

## PETITION FORMS

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No later than ten days after the filing of the notice of protest, the proponents of the referendum must present to the City Clerk the final form for the referendum petition. The City Charter requires a referendum petition to contain or have attached to each section, throughout its circulation, the full text of the ordinance sought to be referred, clearly identifying the protested portions if only a partial repeal is sought. In the case of a bond ordinance, the full text of the ordinance need not be set forth, but the petition must contain or have attached to each section, throughout its circulation, the title and summary of the ordinance in question as prepared by the City Clerk. 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 Referred Measure to the Voters” for information on ballot language.)

The form of the referendum 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 protest, 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

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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

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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.

## **SIGNATURE REQUIREMENTS**

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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 a referendum petition is based on the number of ballots cast at the last regular city election (held in April 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.

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 number.

## **SUBMITTAL REQUIREMENTS AND DEADLINES**

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As previously mentioned, all sections of a petition must be filed as one instrument. A petition must be filed no more than 20 days after the City Clerk's approval of the petition for circulation. If a completed petition is not filed within the requisite time after the City Clerk's approval of the petition for circulation, the referendum effort is null and void and the petition cannot be circulated further.

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 a referendum 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**

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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**

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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 within the city limits, but is registered at an address outside of the city limits.
- The individuals 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.

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**

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If a referendum 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, but to be considered, any additional signatures must be submitted within the 20-day period after the City Clerk's approval of the petition form for circulation. 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 referendum petition is null and void and a new petition may not thereafter be filed for referendum of the same ordinance.

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**

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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**

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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 referendum 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, and no further protest regarding the petition may be filed. 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.

A petition for referendum which has been deemed insufficient after protest may not be amended or circulated further and no further protest regarding the petition may be filed.

## COUNCIL ACTION

The City Clerk's certification of a referendum petition automatically suspends the operation of the ordinance in question pending repeal by Council or final determination by the electors. The Council must reconsider the ordinance at the next regular or special meeting of the Council following the receipt of the petition, and adopt an ordinance to repeal the ordinance in question, or part sought to be repealed, on first reading, with second reading no later than the next regular meeting. If the ordinance, or that part sought to be repealed is not repealed by final action on such repealing ordinance, the Council must refer the same to a vote of the registered electors at the next regular or special city election scheduled for any other purpose. Alternatively, the Council may call a special election for that specific purpose.

# THE ELECTION

## **SUBMITTING THE REFERRED MEASURE TO VOTERS**

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Upon ordering an election on any referendum measure, the City Council is required to adopt by resolution, after receiving public input, a ballot title and submission clause for the measure. The submission clause must be brief, and must unambiguously state the principle of the provision sought to be repealed. 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, and shall contain the words “Yes/For” and “No/Against”.

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**

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

If the referred 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 referendum efforts include the formation of a committee (known as an issue committee) to support the repeal of the referred 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 referendums 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**

## SUPPLEMENTAL INFORMATION

### **SIGNATURE REQUIREMENTS**

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At the last regular biennial election on November 7, 2023, 50,699 ballots were cast. The number of valid signatures required on a referendum petition between November 7, 2023 and the next regular biennial election is:

10% of the ballots cast: 5,070