

ORDINANCE NO. 045, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF FORT COLLINS
TO AMEND REQUIREMENTS AND PROCEDURES FOR CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code sets out procedures and requirements for redistricting of Council districts, for the conduct City elections, for disclosure of campaign finance information, and other related matters; and

WHEREAS, in 2015 the City Council formed an ad hoc committee, including Councilmembers Cunniff, Overbeck and Stephens, to review, discuss and recommend the most beneficial changes to the Code and City Charter regarding elections and other related matters; and

WHEREAS, in January 2017, Council made the ad hoc Committee a standing committee of the Council for the purpose of identifying and evaluating ideas for improvements to City election laws and practices and anticipating adjustments that may be needed to adapt to a changing legal and technological environment, for Council consideration; and

WHEREAS, as a result of the Committee's work (as both an ad hoc committee and a standing committee), Ordinance No. 021, 2016, and Ordinance No. 005, 2017 were considered and adopted by the Council to update various provisions of Chapter 7; and

WHEREAS, the Committee continued to meet in 2017 and has recommended additional clarifications and amendments to Chapter 7; and

WHEREAS, staff has also identified potentially confusing Code language regarding the deadlines for submission of filings, and has proposed a clarification to Code Section 7-136, as noted in Section 6 of this Ordinance; and

WHEREAS, the Committee has recommended that the Council amend the registration provisions for candidate committees, issues committees and political committees, and the termination provisions for issues committees and political committees, to improve the effectiveness of related administration and enforcement; and

WHEREAS, the Committee has recommended that an additional, earlier, reporting date be added to the campaign finance disclosure requirements for all committees; and

WHEREAS, in light of these new provisions, staff and the Committee have recommended that obsolete committees formed prior to April 2017 be deemed terminated as set forth below; and

WHEREAS, staff and the Committee have also recommended updates to provide for signature verification in follow up to a recent Charter amendment; and

WHEREAS, these amendments generally improve and clarify the City's campaign finance disclosure and election requirements and processes; and

WHEREAS, the Council desires to enact the recommendations of the Committee and staff in order to clarify and improve the various provisions of Chapter 7, as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 7-20 of the Code of the City of Fort Collins is hereby amended to add a new subsection (10), to read as follows:

Sec. 7-20. Duties of city clerk.

The City Clerk shall:

- (1) Provide forms and instructions to assist candidates and the public in complying with the reporting requirements of Article V;
- (2) Keep a copy of any report or statement required to be filed by Article V for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (3) Make reports and statements filed under Article V available on the City's website no later than the next business day;
- (4) Report complaints received regarding alleged violations of Article V to the City Manager.
- (5) Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in Article VIII;
- (6) Establish procedures for conducting mail ballot elections consistent with the provisions contained in Article VIII, including efforts to inform uniformed and overseas voters of the upcoming election;
- (7) Supervise the conduct of mail ballot elections;
- (8) Employ temporary election workers as needed;
- (9) Take all necessary steps to protect the confidentiality of voted ballots and the integrity of the election; and

(10) Serve as, or designate a qualified employee of the City Clerk to serve as, the City's Designated Election Official, as defined in Section 1-1-104(8), C.R.S., for any election coordinated with Larimer County pursuant to Section 1-7-116, C.R.S.

Section 3. That Section 7-132 of the Code of the City of Fort Collins is hereby amended to add a definition of the term "public announcement," to read as follows:

Sec. 7-132. Definitions.

...

Public announcement shall mean:

- (1) Registration of a candidate committee; or
- (2) A statement made by the candidate signifying an interest in, or exploring the possibility of, seeking the office by means of a speech, advertisement or other communication reported or appearing in public media or in any place accessible to the public, including social media, that a reasonable person would expect to become public.

...

Section 4. That Section 7-132 of the Code of the City of Fort Collins is hereby amended to add a definition of the term "registered agent," to read as follows:

Sec. 7-132. Definitions.

...

Registered agent shall mean a natural person designated by or representing a committee and responsible to receive mailings, respond to inquiries regarding the committee, to receive complaints related to the committee, and timely filing campaign finance reports and other filings required pursuant to this Chapter.

...

Section 5. That Section 7-133 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-133. Candidate affidavit; disclosure statement; failure to file.

(a) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the City Clerk within ten (10) days, that the candidate is familiar with the provisions of this Article.

(b) Each candidate shall file a financial disclosure statement pursuant to § 2-636 with the City Clerk at the same time as filing an acceptance of nomination.

(c) Failure of any person to file the affidavit or disclosure statement required under this Section shall result in the disqualification of such person as a candidate for the office being sought.

(d) The requirements of this Section shall not apply to any elected official who is the subject of recall proceedings.

Section 6. That Section 7-134 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-134. Registration of committees; termination.

(a) All candidate committees, political committees and issue committees shall register with the City Clerk before accepting or making any contributions. Registration must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form:

- (1) The committee's full name, spelling out any acronyms used therein;
- (2) The name of a natural person authorized to act as a registered agent for the committee;
- (3) A current street address, mailing address (if different from the street address), telephone number and email address for the principal place of business of the committee;
- (4) A current mailing address, telephone number and email address for the registered agent;
- (5) The purpose or nature of interest of the committee;
- (6) The date of the election regarding which the committee intends to be active;
- (7) The name and address of the financial institution in which all contributions received by the committee are deposited in a separate account bearing the name of the committee, and documentation of such account reasonably satisfactory to the City Clerk; and
- (8) An acknowledgement and certification signed by the registered agent and, for any candidate committee, the candidate.

(b) A registered committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee, or any change in financial institution or account.

(c) Any candidate committee, political committee, or issue committee that has registered with the City Clerk, but has not engaged in any election activities or reported any contributions accepted or expenditures made, may terminate at any time by filing an amended committee registration indicating the nature of the amendment is termination of the committee and verifying that no contributions have been received or expenditures made since registration occurred pursuant to § 7-134. Alternatively, the committee shall file a campaign report indicating no contributions have been received or expenditures made, and indicating it is a termination report.

(d) Any political committee or issue committee that has not taken the necessary steps to terminate pursuant to Subsection (c) above must have properly disposed of all funds and must file a termination report no later than sixty (60) days after the election.

Section 7. That Section 7-136(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(c) Reports shall be filed with the City Clerk as follows:

(1) All committees must file reports on the following dates:

- a. the thirty-fifth (35th) day before the election;
- b. the twenty-first (21st) day before the election;
- c. the fourteenth (14th) day before the election;
- d. no later than noon on the Friday before the election;
- e. the thirtieth (30th) days-after the election; and
- f. the sixtieth (60th) day after the election.

(2) Candidate committees that continue in operation must file a report 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.

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

Section 8. That Section 7-136(f) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(f) A report required to be filed by this Section is timely if the paper report is received by the City Clerk not later than the close of business on the date due or if the report is filed electronically not later than midnight Mountain Standard Time on the date due. Notwithstanding the foregoing, the report that is due by noon on the Friday before the election must be filed by noon regardless of the manner of filing.

...

Section 9. That Section 7-136(i)(2) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

(i) Except as specified in this Subparagraph (i), the disclosure requirements specified in this Article shall not apply to a small-scale issue committee. Any small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

...

(2) Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars (\$200.) and five thousand dollars (\$5,000.) shall register with the City Clerk within ten (10) business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars (\$200.). The registration required by this subparagraph must be on a form provided by the City Clerk and must include the following, together with any other information required to complete the registration form:

- a. The committee's full name, spelling out any acronyms used in the name;
- b. The name of a natural person authorized to act as a registered agent of the committee;
- c. A current street address, mailing address (if different from the street address), telephone number and email address for the principal place of business of the committee;
- d. A current mailing address, telephone number and email address for the registered agent;
- e. The purpose or nature of interest of the committee;
- f. The date of the election regarding which the committee intends to be active;

g. The name and address of the financial institution in which all contributions received by the committee are deposited in a separate account bearing the name of the committee, and documentation of such account reasonably satisfactory to the City Clerk; and

h. An acknowledgement and certification signed by the registered agent and, from any candidate committee, the candidate.

Section 10. That Section 7-136(i) of the Code of the City of Fort Collins is hereby amended to add a new subparagraph (3), to read as follows:

- (3) A registered small-scale issue committee must promptly provide updated address, telephone and email information to the City Clerk upon the change of such information for the committee or the registered agent of the committee, or any change in financial institution or account.

Section 11. That Section 7-136 of the Code of the City of Fort Collins is hereby amended to add a new subsection (m) to read as follows:

Sec. 7-136. - Disclosure; filing of reports.

...

- (m) Any political committee or issue committee formed prior to July 1, 2017, will be deemed to have been formed for an election held prior to said date, and shall be deemed terminated and shall cease to operate as a committee as of April 13, 2018, except that any such terminated committee and persons responsible for the operation of such committee shall continue to be subject to the limitations on disbursement of funds set forth in § 7-138.

Section 12. That Section 7-190 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the return envelope and comply with the instructions provided with the ballot.

- (b) The eligible elector may return the marked ballot to the City Clerk by United States mail or by depositing the ballot at the office of the City Clerk or any place designated by the City Clerk. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector may provide the necessary postage or, if not so paid by the elector, the cost of return postage shall be paid by the City. In order to be counted, the ballot must be received at the office of the City Clerk or a designated depository prior to 7:00 p.m. on election day.

(c) Ballots received by the City Clerk after 7:00 p.m. on election day shall not be counted, except as provided in § 7-191 and § 7-192, but shall be preserved in accordance with § 7-195.

Section 13. That Section 7-191 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-191. Receipt and qualification of ballots; signature verification.

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

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

(c) Beginning with the April 2019 regular municipal election, election workers shall compare the elector's self-affirmation signature on the return envelope with the elector's digitized signature(s) in the statewide voter registration system in accordance with the provisions of Section 31-10-910.3, C.R.S.

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

(e) If an election worker determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the City Clerk shall count the first ballot received from the elector and shall reject all subsequent ballots received from that elector.

Section 14. That Section 7-192 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7-192. Rejected ballots.

(a) Beginning with the April 2019 municipal election, the City Clerk shall follow the procedures set forth in Section 31-10-910.3, C.R.S., for deficient and discrepant signatures on return envelopes.

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

Introduced, considered favorably on first reading, and ordered published this 20th day of March, A.D. 2018, and to be presented for final passage on the 3rd day of April, A.D. 2018.

Mayor Pro Tem

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of April, A.D. 2018.

Mayor

ATTEST:

City Clerk