

CITY COUNCIL COMMUNICATION



MEETING DATE: July 12, 2022

ITEM NUMBER: 12.B

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: General Business

PRESENTED BY:

Dawn Quintana, City Clerk's Office, dawn.quintana@longmontcolorado.gov

SUBJECT/AGENDA TITLE:

Amendments to the Longmont Fair Campaign Practices Act

EXECUTIVE SUMMARY:

At the March 1, 2022 Council Meeting, Council directed staff to bring back an amendment to the Longmont Fair Campaign Practices Act (LFCPA) including the addition of the word 'street' in Section 2.04.207(A) of the Longmont Municipal Code along with other changes identified by the Clerk that may be needed.

Attached is a redline of the Longmont Fair Campaign Practices Act showing the following possible changes for Council's consideration:

- 1 (Council Directed) – Addition of the word 'street' in Section 2.04.207(A), providing clarity that an e-mail address does not suffice
- 2 (Clerk suggested) – Addition of wording to include ballot measures in the Electioneering communication and Independent Expenditure reporting requirements, as code is currently not inclusive of electioneering on ballot measures
- 3 (Clerk suggested) – Amendments to Section 2.04.211 Violations, allowing a period to cure issues prior to an official violation being issued

Additionally, a small group of residents has suggested changes be made to contribution rules for LLCs so that the LFCPA is more in line with the statute. Staff has included sample language from another municipality that is in line with statutory language and requests Council direction on whether or not such changes are desired and should be included in the ordinance to be brought back.

Staff is seeking council direction on these proposed amendments. Any changes would be brought back in ordinance form for first reading on July 26 and second reading on August 9 in order for the changes to be in place prior to the end of the Candidate Nomination period on August 29, 2022.

COUNCIL OPTIONS:

1. Approve all proposed amendments to the LFCPA
2. Approve some of the proposed amendments to the LFCPA
3. Provide other direction to staff
4. Make no changes to the LFCPA

RECOMMENDED OPTIONS:

Staff recommends Council approve Items 1-3 and seeks Council direction as to whether or not Council would like to see additional regulations regarding LLC contributions added to the Longmont Fair Campaign Practices Act.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

N/A

BACKGROUND AND ISSUE ANALYSIS:

In April 2019, City Council updated the Longmont Fair Campaign Practices Act. The 2019 and 2021 Council elections provided opportunity to work under the new reporting requirements added in the 2019 revision and, as a result, staff kept track of possible revisions that would add clarity after the latest update to the code.

At the March 1, 2022 Council Meeting, Council directed staff to bring back an amendment to the Longmont Fair Campaign Practices Act (LFCPA) including the addition of the word 'street' in Section 2.04.207(A) of the Longmont Municipal Code along with other changes identified by the Clerk that may be needed.

Below is a brief explanation of the proposed updates in layman's terms with the attached redline showing the proposed changes as they would be codified.

Item 1 (Council directed) - Addition of the word 'street' in Section 2.04.207(A)

The addition of this word, would make it distinctly clear that all committees shall report the street address of contributors, without exception.

Item 2 (Clerk requested) – Addition of wording to include ballot measures in the Electioneering communication and Independent Expenditure reporting requirements

When the LFCPA was amended in April 2019, reporting requirements were modified to eliminate the need for candidates to file both periodic Contribution and Expenditure reports and Electioneering Communication reports because this was deemed redundant. However, in the definition of an Electioneering Communication under 2.04.203 Definitions, electioneering communications for ballot measures was not added such that Electioneering Communications for or against ballot measures are not currently required to file disclosures at all. Also, staff proposes adding language to include reporting requirements for electioneering communications related to ballot measures.

Item 3 (Clerk requested) – Amendments to Section 2.04.211 Violations

The implementation of a seven-day cure period (a change made in 2019) has been very successful and the vast majority of possible violations of the LFCPA are resolved by simply asking the person to fix the problem without the need for the issuance of a formal Notice of Violation. The challenge with how the code is currently written is that it requires a cumbersome process to issue a Notice of Violation first to begin the process. The Clerk is recommending this be reversed by first offering seven days to cure a possible violation and then issuing a Notice of Violation if the issue is not or cannot be cured.

Amendments proposed by residents to regulate contributions made by LLCs

Staff has been approached by a small group of residents asking for an amendment to the LFCPA to regulate contributions made by LLCs. Staff has reviewed the wording in statute and in other area municipalities and has found that the language in Fort Collins' code is relatively easy to read and understand and provides virtually the same limitations as those in statute whereby LLC contributions are attributed to the members of the LLC. The Fort Collins code is copied below for informational purposes so that Council and the public can see how another municipality has codified regulations on contributions by LLCs. Staff would need Council direction on whether or not to include these or similar changes.

H. *Limited Liability Company Contributions.* A limited liability company may make contributions or contributions in kind to candidate committees or political committees subject to the following requirements and all other applicable limits of this Section:

1. Any contribution from an limited liability company shall count against contribution limits for both the limited liability company itself and the individual members of the limited liability company as apportioned according to subsection (2)(b) below. The amount a person contributes as an individual member of the limited liability company shall count towards the aggregate contribution limit for that person in Subsection (F) herein.

2. The limited liability company shall provide the candidate committee for an election or special election with a written statement affirming the permissibility of the contribution on a form provided by the City Clerk. The affirmation shall include:

- a. The name and street address of the limited liability company and each limited liability company member;

- b. Information on how the contribution is attributed among the limited liability company members, which attribution must reflect the capital each member has invested in the limited liability company relative to the total amount of capital invested in the company as of the date of the

contribution and for a single member limited liability company, the contribution shall be attributed to that single member.

3. No candidate committee for an election or special election shall accept a contribution from a limited liability company unless the limited liability company provides the written affirmation in compliance with this section before the contribution is deposited by the committee.

4. The candidate committee for an election or special election receiving the contribution shall:

a. List both the individual limited liability company members' names and the name of the limited liability company as contributors on disclosure reports; and

b. Retain the affirmation statements for one (1) year after the date of the election; provider however, in the event a complaint is filed against the committee, the committee must maintain the affirmations until the final disposition of the complaint.

ATTACHMENTS:

Att 1 – Redline of LF CPA