

Sec. 7-145. - Allegation of campaign violation.

- a) **Filing a Complaint:** Any candidate or registered elector of the City ("complainant") who has reasonable, good faith belief, based on factual information, that any person, candidate, candidate committee, issue committee, small-scale committee, or political committee has violated [Chapter 7](#), Article V, of this Code may file a written complaint with the City Clerk, no later than sixty (60) days after the date of the alleged violation.
 - 1) The complaint must contain:
 - a. The name of the alleged violator;
 - b. The Code provision allegedly violated;
 - c. A brief statement or description of the offense allegedly committed and the basis for the allegation;
 - d. All documentation or other factual evidence known to the complainant to support the allegation;
 - e. Identification of any witnesses or persons with relevant knowledge; and
 - f. The name, address and telephone number of the complainant.
- b) **Complaint Process:** All complaints filed under this section will be reviewed in the following manner, however if a complaint is dismissed at any stage it will end at that stage and will not proceed to the next:
 - 1) Preliminary Review for Sufficiency;
 - 2) Separation of Criminal Complaints from Civil Infractions, only Civil Infractions proceed to the next stage;
 - 3) Review for Credible Evidence;
 - 4) Investigation; and
 - 5) Referral to Municipal Court.
- c) **Preliminary Review for Sufficiency:** The City Clerk, in consultation with the City Attorney, will conduct a preliminary review to determine whether the complaint is sufficient and notify both the complainant and respondent within three (3) working days of receipt of the complaint. A sufficient complaint must comply with the following:
 - 1) Was timely filed under [§ 7-145\(a\)](#);
 - 2) Contains the information required by [§ 7-145\(a\)\(1\)](#); and
 - 3) Properly alleges a violation of Chapter 7, Article V, of this Code.
- d) **Insufficient Complaints:** If the City Clerk, in consultation with the City Attorney, determines that the complaint is insufficient, the City Clerk will:
 - 1) Notify the complainant that the complaint has been dismissed and provide a brief explanation of the determination; and
 - 2) Forward the complaint to the person who is the subject to the complaint ("respondent") and notify them that the complaint has been dismissed.
- e) **Conflict:** If the respondent to a sufficient complaint is a candidate for an elected position for municipal office or if the City Clerk, in consultation with the City Attorney, determines internal review of a sufficient complaint may raise conflict concerns, the City Attorney will retain special legal counsel to conduct the evaluation of the complaint using the process described below.
- f) **Criminal Complaints:** If the City Clerk, in consultation with the City Attorney, determines that the complaint is sufficient and alleges a criminal violation as set forth in [§ 7-143\(b\)](#), the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in this Division 2.

- g) **Civil Infractions:** For sufficient complaints that do not allege a criminal violation, the complaints will be subject to a civil infraction process as follows:
- 1) The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction and of the presumptive fine in accordance with § 7-143(a).
 - 2) Upon receipt of the complaint and at any time prior to filing of the complaint with Municipal Court, the respondent may:
 - a. Pay the fine; or
 - b. Provide any responsive information to the City Clerk regarding the allegations in the complaint.
 - 3) **Review for Credible Evidence:** After providing notice to the respondent of the complaint, the City Clerk, in consultation with the City Attorney, will determine whether the complainant has provided credible evidence to support a finding that the respondent violated this Article so as to warrant further investigation. If the City Clerk determines that the complaint does not contain credible evidence or that the allegation does not warrant further investigation, the Clerk will dismiss the complaint and notify both the respondent and the complainant of the dismissal and the reason for the dismissal.
 - 4) **Cure:** Upon receipt of the complaint up until the initiation of an investigation, the respondent may provide evidence of a cure. A “cure” is defined to include evidence of substantial compliance with the applicable law. Upon receipt of evidence of a cure, the City Clerk, in consultation with the City Attorney, will determine whether the provided evidence sufficiently cures the violation. If a cure is found, the City Clerk will dismiss the complaint. The City Clerk will notify both the respondent and the complainant. When reviewing the evidence, the City Clerk, in consultation with the City Attorney, will consider the following:
 - a. The extent of the respondent's noncompliance;
 - b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
 - c. Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.
 - 5) **Investigation:** If the City Clerk, in consultation with the City Attorney, determines that the complaint contains credible evidence and warrants further investigation, the City Attorney will arrange for any necessary outside or internal investigators to assist in conducting an investigation. The City Clerk will notify the respondent and complainant that an investigation has begun, that they may be contacted for an interview or other information gathering. Any additional information that either the respondent or complainant wants to provide must be received by the City Clerk within ten (10) business days. Documentation must be received within the ten (10) working days in order to be considered during the investigation.
 - 6) **Payment of Civil Fine:** Upon receiving payment of the presumptive fine, the City Clerk will close the complaint and notify the respondent and complainant.
 - 7) Based on the outcome of the investigation the City Clerk, in consultation with the City Attorney, will determine whether a violation under [Chapter 7](#), Article 5, of this Code occurred.
 - 8) If it is determined that a violation did occur, the complaint will be filed with the Municipal Court. If the City Clerk, in consultation with the City Attorney,

determines that a violation under Chapter 7, Article 5 did not occur, the City Clerk will dismiss the complaint and notify the complainant and respondent of the dismissal and the reason for the dismissal.

- 9) **Referral to Municipal Court:** Any complaint filed with the Municipal Court under this Section will be governed by Article V of [Chapter 19](#) of this Code.
- 10) A complainant or any other nonrespondent will 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.
- 11) Any person that commits a violation of this Article will be personally liable for the penalties imposed. Any candidate will be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.