



MEMORANDUM

TO: Mayor P.T. Wood, Salida City Council

FROM: Geoffrey Wilson, Asst. City Attorney

CC: Nina P. Williams, City Attorney

DATE: November 30, 2020

RE: **Complaint and hearing process for election complaints**

Introduction

The attached draft ordinance creates a process for reviewing and conducting hearings on complaints alleging violation of the campaign finance laws in City elections.

Prior to 2019, complaints alleging violations of Art XXVIII of the Colorado Constitution or the State Fair Campaign Practices Act (FCPA) in municipal elections were filed with the Secretary of State. During its 2019 regular session, the Colorado General Assembly enacted SB19-232, which changed this process, providing instead that “any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the ...municipality.” (codified at C.R.S. 1-45-111.7(9)(b))

The passage of SB19-232 has resulted in municipalities across Colorado adopting local complaint procedures, in order to address campaign finance complaints that may arise in their local elections. Many of these ordinances adopt a procedure similar to that set forth by the General Assembly in SB19-232 for processing such complaints in State elections.

Proposed Code Amendment

The proposed amendment to the City Code is modeled after the complaint process set forth in SB19-232 for complaints filed with the State, as well as various municipal ordinances implementing local complaint processes in the wake of the State legislation. This complaint process will address alleged violations of the campaign finance laws; complaints alleging violations of other election codes governing City elections will be pursued under those Codes, and applicable City ordinances. The proposed ordinance includes the following elements:

- Creates a detailed process for filing a complaint in writing, followed by initial review by the municipal clerk.
- Authority of the clerk to dismiss the complaint, provide an opportunity to cure deficiencies in the complaint, or set the complaint for a hearing.
- A process for the conduct of a hearing by an independent hearing officer.
- Authority of the hearing officer to impose penalties of at least twice the amount contributed, received or spent unlawfully, a daily civil penalty for delinquent filings, as well as other penalties.