

SUBJECT: **ORDINANCE NO. 1872, SERIES 2024 – AN ORDINANCE
AMENDING CHAPTER 2.17 OF THE LOUISVILLE MUNICIPAL
CODE – 2ND READING – PUBLIC HEARING (advertised *Daily
Camera* 4/21/24)**

DATE: **MAY 7, 2024**

PRESENTED BY: **MEREDYTH MUTH, CITY CLERK**

SUMMARY:

In 2023, the Colorado Legislature passed HB 1245 which made changes to the requirements under the Fair Campaign Practices Act for Municipal Elections. The changes took place on January 1 of this year and include the following:

- Established contribution limits for municipal office:
 - maximum of \$400 in aggregate contributions from an individual to any one City Council candidate;
 - maximum of \$4000 in aggregate from a small donor committee to any one City Council candidate
- Established new filing dates for campaign finance disclosure reports
- Changed the retention requirements for campaign finance reports from one year to ten years
- Requires municipalities to post campaign finance reports on their websites

As a home rule municipality, the City has the option of adopting its own fair campaign election regulations. Staff has concerns about the updated filing dates and retention requirements in the new regulations. The City Council discussed these changes in January and directed staff to bring back an ordinance for consideration that would create campaign finance rules specific to Louisville.

If approved, this ordinance would amend the local campaign finance rules in the following ways:

Reporting Deadlines

The ordinance would establish reporting deadlines for campaign finance disclosures that are specific to Louisville. These deadlines will require reporting three times prior to election day, once after the election, and annually thereafter for any campaign committee that does not terminate following the election.

Retention of Campaign Finance Reports

The ordinance would establish a two-year retention length for campaign finance reports from candidates who are not elected and for those candidates that are elected reports

would be kept for two years after the candidate leaves office.

Duties of the City Clerk

The ordinance would codify existing practices of the City Clerk as it relates to campaign finance reporting including:

- Retaining copies of campaign finance reports as noted above
- Posting campaign finance reports on the website for public viewing
- Notifying candidates of any failure to submit campaign reports. (Once that notice is sent from the Clerk, the onus is on the candidate to ensure they submit requisite reports.)
- Clarifying that the Clerk is not required to verify the accuracy of information in reports in the absence of a third-party complaint.

Nothing in this ordinance would change the existing process for how the City Clerk investigates third-party complaints including notices of violations, hearings, and penalties.

Municipal Campaign Contribution Limits

The ordinance would establish campaign finance donation limits for those running for municipal office. Staff has NOT included a specific donation limit in the ordinance, but rather has left that blank for the City Council to determine.

As noted above, the State limits are:

- maximum of \$400 in aggregate contributions from an individual to any one City Council candidate
- maximum of \$4000 in aggregate from a small donor committee to any one City Council candidate

For reference here is what some other municipalities use:

- Boulder: \$100 per candidate
- Broomfield: \$2,500 for Mayor, \$1,250 for Councilmembers
- Golden: \$1,000 for Mayor, \$500 for Councilmembers from any district, and \$250 for Councilmembers from any ward
- Longmont: \$290 per candidate (adjusted for inflation every two years)

On second reading on May 7 the City Council will have to determine what limits, if any, it would like to include in the ordinance.

FISCAL IMPACT:

None at this time unless the City Council chooses to change any process that would require additional staff time.

SUBJECT: ORDINANCE NO. 1872, SERIES 2024

DATE: MAY 7, 2024

PAGE 3 OF 3

RECOMMENDATION:

Approve the ordinance with any donation limits the Council agrees on.

ATTACHMENT(S):

1. Ordinance

STRATEGIC PLAN IMPACT:

☐	 Financial Stewardship & Asset Management	☒	 Reliable Core Services
☐	 Vibrant Economic Climate	☐	 Quality Programs & Amenities
☐	 Engaged Community	☐	 Healthy Workforce
☐	 Supportive Technology	☐	 Collaborative Regional Partner

**ORDINANCE NO. 1872
SERIES 2024**

**AN ORDINANCE AMENDING CHAPTER 2.17 OF THE LOUISVILLE CONCERNING
MUNICIPAL CAMPAIGN FINANCE REGULATIONS**

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, the City Council previously adopted Chapter 2.17 of the Louisville Municipal Code, which explicitly adopted the provisions of Article XXVIII of the Colorado Constitution, entitled Campaign and Political Finance, and C.R.S. Title 1, Article 45, entitled the Fair Campaign Practices Act ("FCPA"); and

WHEREAS, pursuant to its home rule authority and State law, including C.R.S. § 1-45-116, the City may adopt local campaign finance rules that supersede the FCPA; and

WHEREAS, City Council finds it to be in the best interest of the City to adopt certain amendments to the FCPA as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 2.17 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

**Chapter 2.17
Municipal Campaign Finance**

- Sec. 2.17.010. Definitions
- Sec. 2.17.020. Applicable law for campaign finance in City elections
- Sec. 2.17.030 Reporting deadlines for campaign finance disclosures
- Sec. 2.17.040 Municipal campaign contribution limits
- Sec. 2.17.050 Duties of City Clerk
- Sec. 2.17.03~~60~~ Third party complaints
- Sec. 2.17.04~~70~~ Enforcement by City Clerk
- Sec. 2.17.05~~80~~ Rules and regulations

Sec. 2.17.010. Definitions.

For the purposes of this Chapter the following terms, phrases, words, and their derivatives shall have the meanings given in this section:

Article XXVIII shall mean Article XXVIII of the Colorado Constitution, entitled Campaign and Political Finance, as amended from time to time.

Candidate shall mean any person who seeks nomination or election to the office of City Council at any election. A person is a candidate if the person has filed a nominating petition with the City Clerk for the office of City Council. Candidate shall also mean any elected official who is the subject of recall proceedings pursuant to the City Charter.

City Clerk shall mean the City Clerk of the City of Louisville or that person's designee.

FCPA shall mean the Fair Campaign Practices Act, C.R.S. Section 1-45-101, et seq., as amended from time to time.

Sec. 2.17.020. Applicable law for campaign finance in City elections.

Article XXVIII and the FCPA shall apply to and govern all City elections except to the extent that a direct and irreconcilable conflict with the provisions of this Chapter exists, in which case the provisions of this Chapter shall prevail.

Sec. 2.17.030. Reporting deadlines for campaign finance disclosures.

The reports required by C.R.S. § 1-45-108 shall be filed with the City Clerk on the fiftieth (50th) and twenty-fifth (25th) days prior to the City election; the Friday before the City election; thirty (30) days after the City election; and on each December 1 until the committee files a termination report with the City Clerk. If the reporting day is on a weekend or a legal holiday, the report shall be filed by the close of the next business day.

Sec. 2.17.040. Municipal campaign contribution limits.

A. No person or political committee shall make aggregate contributions of more than \$ _____ to any one candidate committee during an election cycle.

B. No small donor committee shall make contributions of more than \$ _____ to any one candidate committee during an election cycle.

C. No candidate committee shall accept any contributions from any person, political committee or small donor committee that have an aggregate amount or value in excess of the amounts listed in Subsections A or B. Any contribution or portion thereof that exceeds the limits in Subsections A or B shall be returned to the contributor within seventy-two hours of receipt.

D. The limits imposed in this Section shall not apply to contribution of a candidate's personal funds to the candidate's own campaign.

Sec. 2.17.050. Duties of the City Clerk.

The City Clerk shall:

A. Develop a filing and indexing system consistent with the purposes of the FCPA and this Chapter.

B. Keep a copy of any report or statement required to be filed by the FCPA and this Chapter for a period of two years from the date of filing. In the case of candidates who were elected, each such candidate's reports and filings shall be kept until two years after the candidate leaves office.

C. Make reports and statements required to be filed under the FCPA and this Chapter publicly available on the City's website or for in-person public inspection. The City Clerk may charge applicable copying and research and retrieval fees when such reports are requested through an open records request.

D. Upon request by the Secretary of State or in response to any order issued by a court of competent jurisdiction, transmit records and statements filed under the FCPA and this Chapter to the Secretary of State or as otherwise directed by court order.

E. Notify any candidate who has failed, or whose candidate committee has failed, to fully comply with the provisions of this Chapter. The City Clerk's notification obligations shall be deemed fulfilled if the City Clerk sends written notice to the candidate's designated e-mail address or mailing address.

F. Process complaints of apparent or possible violations of Article XXVIII, the FCPA or this Chapter according to Section 2.17.060 of this Code.

G. The City Clerk shall not be required to verify the accuracy of any information contained in reports filed pursuant to the FCPA and this Chapter.

Sec. 2.17.030 060. Third party complaints.

A. Any person who believes a violation of Article XXVIII, or the FCPA or this Chapter has occurred related to a City election may file a written complaint with the City Clerk.

B. Complaints must be filed no later than ninety (90) calendar days after the complainant knew or should have known by the exercise of reasonable diligence of the alleged violation.

C. A written complaint filed with the City Clerk shall include the following information:

1. The name, address, e-mail address, telephone number and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, e-mail address, telephone number and signature).

2. The name and, if known, the telephone number and address of the person alleged to have committed a violation (the "respondent").

3. The particulars of the violation and any available documentation or evidence supporting the allegation.

D. If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the City Clerk that the complaint was incomplete.

E. If the City Clerk determines that the complaint was not timely filed, has not specifically identified a violation of Article XXVIII, ~~or~~ the FCPA or this Chapter, or that the complainant did not assert facts or provide information sufficient to support the alleged violations, the City Clerk will dismiss the complaint and notify the complainant and respondent of the reasons for dismissal. The City Clerk's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.

F. If the complaint is not dismissed pursuant to Subsection E, the City Clerk shall issue notice to the respondent by personal service, regular mail or electronic mail. The notice of violation shall:

1. Cite the section or sections of Article XXVIII, ~~or~~ the FCPA or this Chapter the person allegedly violated and a general description of the violation.

2. Allow seven (7) business days for the correction of the violation or submission of a written statement explaining the reason that supports a conclusion that a violation was not committed.

3. Set forth the applicable civil fine for each violation, except that no such fine shall be due or payable if the person cures the violation within seven (7) business days of the date of the notice of violation.

4. Allow fourteen (14) business days for submission of a written request for an informal hearing before a hearing officer.

G. In the event the violation cannot be cured by complying with the reporting requirements in Article XXVIII, ~~or~~ the FCPA or this Chapter, the person shall propose an alternative resolution to cure the violation to the City Clerk. The

City Clerk shall have the discretion to accept, recommend an alternative, or decline the proposed alternative resolution. Acceptance of an alternative resolution by the City Clerk is deemed to be a cure of the violation if made within seven (7) business days of the date of the notice of violation.

H. If the person fails to cure or otherwise remedy the violation, the person shall within fourteen (14) days of the date of the notice of violation either pay the fine or contest the violation by submitting to the City Clerk a written request for hearing.

I. Upon timely receipt of a written request for a hearing, the City Clerk shall forward the request to a hearing officer to hear and determine the complaint.

J. An informal hearing shall be scheduled as soon as practicable but, unless an enlargement of time is granted, the hearing shall be held within thirty (30) days of the referral of the complaint to the hearing officer. Upon written motion, the hearing officer may grant the respondent a continuance upon a showing of good cause.

K. Notice of the hearing and any applicable rules governing the hearing process shall be sent to the complainant and to the respondent, who shall also receive a copy of the entire complaint received by the City Clerk within two (2) business days of the date of the referral to the hearing office.

L. Upon the request of either party, the hearing officer may issue an administrative subpoena requiring the attendance of a witness or party in relation to an alleged campaign finance violation, which shall be served on the party to whom it is directed by the requesting party pursuant to Rule 4 of the Colorado Rules of Civil Procedure. It shall be unlawful for a witness or party to fail to comply with such subpoena, and any person convicted of a violation hereof shall be punished in accordance with Section 1.28.010 of this Code.

M. At the hearing, the complainant and the respondent shall be allowed to be heard. The complainant shall have the burden of proof by proving the alleged violation by a preponderance of the evidence.

N. Following the hearing, the hearing officer shall issue a decision within fourteen (14) business days. The decision may be issued orally at the conclusion of the hearing or may be issued in writing, at the discretion of the hearing officer.

O. If the hearing officer determines that a violation has occurred, the hearing officer's decision shall include any appropriate order, sanction or relief authorized hereunder and may include, without limitation, sanctions as follows:

1. Impose the civil penalties set forth in Subsection P; except the hearing officer may increase or reduce the penalties upon a finding of good

cause or excusable neglect based on evidence presented at the hearing.

2. Order disclosure of the source and amount of any undisclosed contributions or expenditures.

3. Order the return to the donor of any contribution made which was the subject of the violation.

P. Civil fines for violations of Article XXVIII, ~~or the FCPA~~ or this Chapter, are set forth below. Candidates shall be personally liable for fines imposed against the candidate's committee. In no event shall the maximum total combined fines for all violations of this section by a single person, candidate, or committee during a single election cycle exceed \$999.00.

1. Failure to file a report required by Article XXVIII or the FCPA, other than independent expenditures, if not cured within seven business days of notice of violation issued by the City Clerk: \$400.00

2. Failure to file a report for independent expenditures: \$200.00

3. After notification by the City Clerk, failure to cure a report/violation within the specified time period: \$499.00

4. Accepting a contribution prohibited by Article XXVIII, ~~or the FCPA~~ or this Chapter: \$400; except that it shall not be considered a violation if the contribution is returned within 72 hours of its receipt. Each prohibited contribution accepted shall be a separate violation.

5. Acting as a conduit in violation of Article XXVIII or the FCPA,: \$400.00 for each violation

6. Failing to disclose a contribution or expenditure, including obligations entered into by the committee: \$100.00 for each violation

7. Failure to timely file a candidate affidavit: \$100.00

8. Failure to file a candidate committee, political committee or issue committee statement of registration: \$100.00

9. Failure to deposit funds in a separate account in a financial institution: \$100.00

10. Accepting coin or currency in excess of the limits set by Article XXVIII or the FCPA: \$50.00 for each violation

11. Use of unexpended campaign funds in violation of Article XXVIII

or the FCPA: \$400.00

12. Encouraging withdrawal from a campaign: \$499.00

13. Any violation of Article XXVIII, ~~or~~ the FCPA or this Chapter, not otherwise set forth herein: \$100.00 per violation

Q. The City Clerk shall reconcile all fines issued during an election cycle, including any judgment entered by the hearing officer, and adjust the amount due such that no single person, candidate, or committee owes more than \$999.00 during a single election cycle.

R. If the civil fine is not paid when due or upon entry of a civil judgement by the hearing officer, the City may commence procedures to collect the fine, including commencement of a civil action to collect the fine. A person found to be in violation of this Chapter shall be responsible for all costs of collection, including reasonable attorney fees.

S. All decisions by the hearing officer shall be final subject only to judicial review pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 2.17.040 070. Enforcement by City Clerk.

If the City Clerk believes that a violation of the Article XXVIII, ~~or~~ the FCPA or this Chapter has occurred, the City Clerk may commence enforcement proceedings in accordance with the procedures set forth in Section 2.17.030 ~~2.17.060~~ of this Code.

Sec. 2.17.050 080. Rules and regulations.

The City Clerk is authorized to adopt such rules and regulations consistent with the provisions hereof as may be required to implement this Chapter.

Section 2. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this _____ day of _____, 2024.

Christopher M. Leh, Mayor

ATTEST:

Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2024.

Christopher M. Leh, Mayor

ATTEST:

Meredyth Muth, City Clerk