

ARTICLE 2-4 City Council

Sec. 2-4-10. Election of members, term and challenges to qualifications.

- (a) The election of the Mayor and eight (8) Council members shall be governed by the Colorado Municipal Election Code, except as otherwise provided by the City Charter, or by ordinance not in conflict with the Charter.
- (b) Council seats regularly expiring in accordance with this Section shall be elected to serve four-year terms. The terms of office of the Mayor and Council members shall be governed by the City Charter or by ordinance not in conflict with the Charter.
- (c) (1) All petitions of nomination and affidavits which are in apparent conformity with the provisions of C.R.S. § 31-10-302, as determined by the City Clerk, are valid unless objection thereto is duly made in writing within three (3) business days after filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. The Clerk shall decide objections within forty-eight (48) hours after the same are filed, and any objections sustained may be remedied or defect cured upon the original petitions, by an amendment thereto, or by filing of a new petition within three (3) business days after the objection is sustained, but in no event later than the ~~eighteenth (18th)~~sixty-fourth (64th) day before the day of election. The Clerk shall pass upon the validity of all objections as to form, and the Clerk's decisions upon matters of form shall be final.
- (2) Any registered elector of the City may file with the City Clerk a verified written notice of protest challenging the qualifications of the Mayor or any member of the City Council as set forth in Section 4.7, Qualifications, of the Charter, which notice of protest shall include a statement of the grounds upon which such protest is based, the name, address, e-mail address, telephone number and signature of the protestor (if the protestor is represented by legal counsel, include the counsel's name, address, e-mail address, telephone number and signature along with the name, address, e-mail address, telephone number and signature of the protestor), and documentation or other evidence supporting the allegation that is the subject of the protest.
 - a. No protest shall be filed prior to the date of appointment or the date of issuance of the certificate of election of the Mayor or the Councilmember, whichever is applicable, nor shall any such protest, other than a protest as provided in (b) below, be filed more than fifteen (15) days after said date.
 - b. A verified written notice of protest challenging the qualifications of the Mayor or any member of the City Council to continue to serve in the office of Mayor or Councilmember on the grounds that the Mayor or Councilmember is no longer qualified to serve because the Mayor or Councilmember is not a resident of the City or of his or her respective ward, has been convicted of a felony, or is an employee of the City, may be filed with the City Clerk after the fifteen (15) day limitation provided in (2)(a) above. A protest pursuant to this Subsection (2)(b) shall be filed with the City Clerk within fifteen (15) days of the removal of the Mayor or Councilmember from the City or from his or her ward, being convicted of a felony, or the acceptance of a position as an employee of the City. If the Mayor or Councilmember has failed to disclose his or her disqualification as provided herein, the period for filing the protest may be extended upon the approval of the City Council.
- (3) Within five (5) business days of the date of the City Clerk's receipt of any verified written protest challenging the qualifications of the Mayor or Councilmember, the City Clerk shall set a date for a

hearing of such protest by the City Council in accordance with Subsection 4.7(E) of the Charter as expeditiously as possible; and shall mail, by certified mail, return receipt requested, a notice of the time, date and place of such hearing, together with a copy of the notice of protest and the statement of the grounds upon which such protest is based, to all members of the City Council including the Mayor and to the person filing the notice of protest and the protestor's legal counsel, if any.

- (4) The City Council shall adopt and incorporate by amendment into the City Council Rules of Procedure, written rules for consideration of protests that create a process that is fair both to the person who submitted the protest and the person who is the subject of the protest, which rules may include, by way of illustration and not limitation, the following:
- a. Allow the City Council, at its discretion, to make a finding solely on the basis of the documents submitted and written arguments without holding a hearing, if it determines that there is no significant discrepancy in the facts as presented by the protestor and the person who is the subject of the protest; and the City Council determines that no additional information is required in order to render a decision. Notwithstanding the foregoing, the person against whom the protest is filed retains the right to request a hearing, which shall be open to the public.
 - b. Require the City Council to hold hearings on protests at meetings which are open to the public, which protests have not been dismissed pursuant to Subparagraph (c)(4)a. above.
 - c. Allow any person who is the subject of a protest to designate legal counsel if he or she wishes to be represented, to present evidence, and to cross-examine witnesses.
 - d. Provide that the City Council deliberations on protests may be conducted in executive session.
 - e. Allow the City Council to dismiss a protest if the person who submitted it does not appear at the hearing scheduled therefor, provided, the rules shall require the City Council to schedule the hearing at a time that is reasonably convenient to both the person who submitted the protest and the subject of the protest.
 - f. Require the City Council to base a finding that the Mayor or Councilmember is not qualified to serve as required by the Charter, upon clear and convincing evidence.
 - g. Require that findings be made only by a majority of the participating members of the City Council, including the Mayor.
- (5) The City Council shall appoint and retain special counsel to provide legal advice to the City Council in relation to the hearing and consideration of the protest and for the preparation of all findings and decisions of the City Council.
- (6) The City Council may appoint and, if necessary, retain, an investigator to undertake such tasks as may be required to facilitate the City Council's consideration of the protest. Depending upon the nature of the protest, said investigation may be conducted by the Brighton Police Department.
- (7) In order to resolve any protest filed under the provisions of this Section, the City Council shall have the power to subpoena witnesses pursuant to Rule 4 of the Colorado Rules of Civil Procedure, administer oaths and require the production of evidence. At the hearing on the protest, the City Council shall receive such evidence as may be offered by the Councilmember(s) affected by such protest and the person(s) filing the protest, and such other evidence the City Council may consider relevant and necessary to a determination of the protest. Within no more than forty-five (45) days from the date of filing of the notice of protest, the City Council shall mail, by certified mail, return receipt requested, written findings to all members of the City Council and to the person filing the protest. The City Council shall pass upon the validity of all objections and protests, whether of form or substance, and the City Council's decisions upon matters of form shall be final. The City Council's decisions upon matters of substance shall be open to review if prompt application is made to the district court of Adams County,

as provided in C.R.S. § 31-10-1401, but the remedy in all cases shall be summary, and the decision of the district court shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any proceeding in a summary way.

- (8) The Mayor or Councilmember(s) who is the subject of the protest challenging the qualifications of the Mayor or Councilmember shall not participate or vote in the hearing and decisions made regarding the protest, except as a respondent and witness therein.
- (9) If the City Council upholds any such protest and determines that the Mayor or any Councilmember lacks one (1) or more qualifications for office required by the Charter, the affected Mayor or Councilmember(s) shall be so notified in writing and the Mayor or said Councilmember shall immediately, upon the mailing of such notice, forfeit his or her office, whether or not he or she has taken the oath of office, and the vacancy thereby created shall be filled in the manner described in Article IV, Section 4.8, Vacancies, of the Charter.
- (10) Unless the provisions of this Section 2-4-10 specify "business days" as applicable to any act or filing hereunder, or the applicable election is a coordinated election, in which case the computation of time set forth in Title 1 of the Colorado Revised Statutes applies, the computation of time shall be determined in accordance with C.R.S. § 31-10-103, of the Municipal Election Code.

(Prior code §§1-1000, 1-1001; Ord. 700, 1972; Ord. 1339 §I, 1989; Ord. 1589, 1999; Ord. 1710 §1, 2001; Ord. 2187 §1, 2014)

Sec. 2-4-13. Nomination petitions.

The nomination petitions for any person who desires to be a candidate for Mayor or Council may be circulated and signed beginning on the ninety-first day and ending on the seventy-first day prior to the day of the election.

Sec. 2-4-14. Fair Campaign Practice Act complaints.

- (a) Any person who believes a violation of the Fair Campaign Practice Act has occurred related to a City election may file a written complaint with the City Clerk.
- (b) Complaints must be filed no later than sixty (60) days after the election.
- (c) A written complaint filed with the City Clerk shall include the City Clerk's complaint cover sheet form, which must include the following information:
 - (1) The name, address, email address, telephone number, and signature of the complainant. If the complainant is represented by counsel, include counsel's name, address, email address, telephone number, and signature as well.
 - (2) Name and contact information, if known, for each person alleged to have committed a violation.
 - (3) Details about the violation, including how and when complainant became aware of the violation and what is known about the violation.
 - (4) Documentation, such as photographs or copies of flyers, or other evidence supporting the allegations in the complaint, if complainant has such evidence.
- (d) If an incomplete complaint is received, the date on which the complaint is first received is considered the filed date if the complainant cures and completes any information requested by the City Clerk within three (3) business days of being notified.
- (e) A complaint may be submitted via fax, email, regular mail, or in-person.

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- (f) Initial review:
- (1) The City Clerk will review the complaint to determine the following:
 - a. Whether the complaint was timely filed;
 - b. Whether the complainant has specifically identified one (1) or more specific alleged violations;
 - c. Whether the complainant has alleged sufficient facts and/or provided sufficient information to support a legal and factual basis for the complaint or whether additional information or fact-finding is needed.
- (g) Within fifteen (15) business days of receiving the complaint, the City Clerk must take one (1) or more of the following actions:
- (1) Dismiss the complaint if the City Clerk determines the complaint was not timely filed, has not specifically identified one (1) or more violations, or the complainant did not assert facts or provide information sufficient to support any alleged violation after being requested to provide more information. The City Clerk will notify the complainant and respondent of the reasons for dismissal, and the City Clerk's decision is a final decision.
 - (2) Issue a notice to cure if the City Clerk determines that the complaint alleges one (1) or more curable violations, described in Subsection (h)(3) below, and provide an opportunity to cure.
 - (3) Refer the matter to an independent hearing officer per Subsection (i) if:
 - a. The City Clerk determines the complaint alleges one (1) or more violations that are not curable;
 - b. Additional fact-finding or legal interpretation is needed to ascertain the facts or information sufficient to support the alleged violations; or
 - c. The City Clerk has determined the respondent did not substantially comply with the FCPA or act in good faith.
- (h) Curing violations:
- (1) Upon the City Clerk's determination that a complaint alleges a failure to file or otherwise disclose required information, or other curable violation, the City Clerk will notify the respondent(s) by email, or by mail if email is unavailable, of the curable deficiencies alleged in the complaint.
 - (2) Respondents shall have fifteen (15) business days from the date the notice is mailed to cure any deficiencies specified in the notice.
 - (3) The City Clerk may ask the respondent to provide additional information and may grant an extension of time to file a notice of intent to cure in order to respond to such a request.
 - (4) After the period for cure, the City Clerk will determine, within five (5) business days, whether the respondent(s) cured the violation(s), and if so, whether the respondent(s) substantially complied or acted in good faith.
 - (5) If the City Clerk determines that the respondent(s) substantially complied or acted in good faith, the City Clerk will dismiss the complaint.
 - (6) If the City Clerk determines that the respondent neither substantially complied nor acted in good faith, the City Clerk will take the action as set forth in Subsection (i).
- (i) Referral for hearing. When the City Clerk determines the complaint has alleged sufficient facts and/or provided sufficient information to support that the alleged violations were not curable, or the City Clerk has determined the respondent(s) did not substantially comply with the FCPA or act in good faith, the City Clerk shall refer the complaint to an independent hearing officer to hear and determine such complaint.

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- (1) An informal hearing will be scheduled as soon as practicable, but no later than thirty (30) days after referral, unless the parties request an enlargement of time.
 - (2) Notice of the hearing and any applicable procedures governing the hearing process will be sent to the complainant and respondent(s), who shall also receive a copy of the entire complaint received by the City Clerk, within ten (10) business days of the referral to the hearing officer and may be sent via email.
 - (3) Upon the request of either party, the hearing officer may issue an administrative subpoena requiring the attendance of a witness or party or documents, 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 may be prosecuted in municipal court with all penalties available in Section 1-24-10 of this Code.
 - (4) The hearing shall be electronically recorded. The complainant and respondent(s) must be present. The City Clerk may present the case, but the complainant shall have the burden of proof. The parties may question witnesses, and the City Clerk may testify as to the information received and the City's campaign finance requirements or procedures.
 - (5) Upon conclusion of the hearing, the hearing officer may render a decision orally on the record or in writing within ten (10) business days, at the discretion of the hearing officer.
 - (6) If the hearing officer determines after a hearing that a violation has occurred, the decision shall include any of the following orders, sanctions, or relief:
 - a. Imposition of a civil penalty of at least double and up to five (5) times the amount contributed, received, or spent in violation of any contribution prohibition or limitation or in violation of a contribution reporting requirement.
 - b. Imposition of a civil penalty of twenty-five dollars (\$25.00) per day for each day that a statement or other information required to be filed is not filed by the close of business on the day it is due.
 - c. Order disclosure of the source and amount of any undisclosed contributions or expenditures.
 - d. Order the return to the donor of any contribution made which was the subject of the violation.
 - e. Any other relief or order deemed appropriate.
 - (j) The hearing officer's determination is a final decision subject to review under Rule 106, C.R.C.P.
 - (k) Civil penalties may be collected in any manner authorized by law, included filing a civil action in state court or using a private collection agency. The City Attorney shall be authorized to proceed with all judgment execution and collection procedures authorized by law, including interest if not paid within sixty (60) days of the hearing officer's decision.
 - (l) Any party in any action brought pursuant to this Section shall be entitled to recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, if the hearing officer finds any of the following:
 - (1) The action was interposed for delay or harassment;
 - (2) An attorney or party unnecessarily expanded the proceeding by improper conduct;
 - (3) A finding of bad faith either in filing the complaint or in the proceeding.

(Ord. 2376 §1, 2021)

Sec. 2-4-17. Compensation.

- (a) The Mayor shall be compensated at the rate of two thousand dollars (\$2,000.00) per month. Such rate shall apply upon commencement of the Mayor's term of office following an election held on or after November 2, 2021. The Mayor shall be eligible for all medical, dental, vision, life insurance, and deferred compensation benefits as may be offered to all other City employees.
- (b) The Mayor Pro Tem shall be compensated at the rate of one thousand seven hundred fifty dollars (\$1,750.00) per month. Such rate shall apply only upon selection of the Mayor Pro Tem by the Council following an election held on or after November 2, 2021, as provided by law. The Mayor Pro Tem shall be eligible for all medical, dental, vision, life insurance, and deferred compensation benefits as may be offered to all other City employees.
- (c) Each Council member shall be compensated at a rate of one thousand five hundred dollars (\$1,500.00) per month. Such rate shall apply upon commencement of the new Council member's term of office following an election held on or after November 2, 2021. Members of the Council whose terms do not expire at the end of 2021 shall receive the rate of one thousand five hundred dollars (\$1,500.00) per month beginning in January 2022 for the remainder of their terms of office. City Council members shall be eligible for all medical, dental, vision, life insurance, and deferred compensation benefits as may be offered to all other City employees.

(Ord. 1599 §1, 1999; Ord. 1842 §1, 2005; Ord. 2377 §1, 2021)

Sec. 2-4-20. Filling vacancies.

- (a) A vacancy occurring in the office of Mayor shall be filled as provided by the City Charter.
- (b) Vacancies occurring in the Council shall be filled as provided by the City Charter.

(Prior code §1-1002; Ord. 700, 1972; Ord. 1339 §2, 1989; Ord. 1710 §1, 2001)

Sec. 2-4-25. Employment of relatives prohibited.

- (a) In that the employment of appointed or elected City officials almost always gives the appearance of a conflict of interest or supervisory relationship over employees, it shall be the policy of the City to prohibit all employment of relatives of appointed or elected City officials, including preexisting conditions.
- (b) A relative of an appointed or elected City official is defined as spouse, child, stepchild, grandchild, son-in-law, daughter-in-law, parent, grandparent, brother, sister or persons residing in the same household, either on a permanent or temporary basis.
- (c) An appointed official shall include City Manager, Assistant City Manager, Chief of Police and director positions. Elected officials shall include members of the City Council.

(Ord. 1458 §1, 1994)

Sec. 2-4-30. Regular meetings.

The Council shall meet regularly at least twice a month. The regular meetings of the City Council shall be held on the first and third Tuesdays of each month, commencing at 6:00 p.m., at the municipal building in the City, or at such other day, time or location, as shall be designated by the City Council, and publicized by notice posted on the City website with secondary posting in a conspicuous place at the regular place of meetings as provided for by

State law. Except as provided herein, any regular Council meeting which has not adjourned at or before 11:00 p.m. shall be continued until 6:00 p.m. on the following evening, or at such other date and time as agreed to by the City Council. At the discretion of the City Council, any regular Council meeting may be extended beyond 11:00 p.m. for no more than two (2) additional fifteen-minute periods, upon motion duly made and seconded, and approved by a majority of the Council members present at the meeting. In the event that the City Council is in an executive session at 11:00 p.m. or at the conclusion of an extension period as provided for herein, the regular Council meeting shall be extended without Council action for the limited purpose of allowing Council to complete and return from executive session and adjourn the meeting, or to allow the Council to continue the meeting to a specific date and time. The first meeting in January following each regular municipal election shall be the organizational meeting.

Sec. 2-4-40. Special meetings.

Special meetings shall be called as provided by the City Charter or by ordinance not in conflict with the Charter. No action shall be taken by the members of Council on any item of business that has not been stated in the notice of the meeting.

Sec. 2-4-50. Executive sessions.

All regular and special meetings of the City Council shall be open to the public, except that upon the affirmative vote of two-thirds (?) of the members, the City Council may hold an executive session. All executive sessions shall be convened and conducted in accordance with the Brighton Charter, this Section and applicable law, and only for the purposes authorized by law. A record shall be kept of the actual contents of executive session discussion, except that such record need not be verbatim. Said discussions shall be recorded in the same manner and media that the City Council uses to record the minutes of regular or special meetings, including by making any form of electronic recording of the discussions. No record shall be required to be kept of all or any portion of the discussion during an executive session that constitutes a privileged attorney-client communication. No formal or legally binding action by the Council for the City shall take place at an executive session, except that the Council may take formal action to review, amend and approve any written minutes of such session.

Sec. 2-4-60. Study sessions.

The City Council may hold study sessions on the Tuesday of alternate weeks when no regular meeting is scheduled (usually the second and fourth Tuesday of each month), commencing at 6:00 p.m., at the municipal building of the City, or at such other day, time, or location as shall be designated by the City Council, and publicized by notice posted on the City website with secondary posting in a conspicuous place at the regular place of meeting. Said study sessions shall be open to the public. No formal or legally binding action by the Council for the City shall take place at a study session.

Sec. 2-4-70. Minutes to be kept.

The City Clerk shall keep minutes of the proceedings of each regular and special meeting of the City Council in the English language. All such minutes shall be administered and controlled pursuant to and in accordance with the City's Record Management Policy. The record of an executive session shall be retained by the City Attorney for not less than ninety (90) days following the date of the executive session, after which time the record may be immediately destroyed. If the City Attorney is the subject of the executive session, the Presiding Officer of the executive session shall designate who should retain the record for the ninety-day period.

Sec. 2-4-80. Rules of procedure.

The current version of Robert's Rules of Order shall be used as rules of procedure for the conduct of the meetings of the City Council; provided, however, that said rules may be suspended by a majority vote of the entire Council in office at the time the vote is taken.

Sec. 2-4-90. Successive ordinances.

When the City Council takes final action to deny an ordinance, the same or similar ordinance shall not be brought before the City Council for consideration for one year from the date of denial, unless a majority of the City Council direct by resolution that the ordinance be brought back for consideration due to, but not limited to, changes in the language of the ordinance or changes in circumstance.

Sec. 3-4-100. Non-lapsing capital improvement and construction appropriations.

Appropriations for construction or other capital improvement projects or any grant funding appropriated for construction or capital improvement projects shall not lapse until the purpose for which the appropriation was made has been accomplished or abandoned. Any such project shall be deemed to have been abandoned if two (2) fiscal years elapse without any expenditure of the appropriation therefor, and any unappropriated balance therefrom shall be returned to the applicable fund of origin. City Council shall be informed of any such projects with no expenditure for two (2) fiscal years. The annual budget presented for adoption includes only unspent funding expected to be used for the capital projects for the upcoming year as set forth in the capital plan. The carryover of unexpended funding for non-lapsing capital projects and grant funded projects will be added to the annual budget upon completion of the close-out of the previous fiscal year. All other appropriations unexpended at the end of the fiscal year shall lapse to the applicable fund of origin.

Sec. 3-8-70. Publication of notice inviting bids, proposals, or responses to solicitations.

Except for notices inviting bids, proposals, or responses to solicitations for construction contracts, notices inviting bids, proposals, or responses to solicitations shall be published at least once in electronic media selected for maximum impact on prospective bidders at least five (5) days preceding the last day set for receipt of bids, proposals, or responses to solicitations. Notices inviting bids, proposals, or responses to solicitations for construction contracts shall be published at least once in an area newspaper selected for maximum impact of prospective bidders at least twenty (20) days preceding the last day set for receipt of bids, proposals, or responses to solicitations, unless the City Council determines that the required construction is an emergency, in which event the notice required hereunder shall be given at least five (5) days preceding the last day set for receipt of bids, proposals, or responses to solicitations. The notice shall include a general description of the materials, or general services to be purchased or sold or the public buildings or facilities to be constructed; where bid, proposal, or solicitation specifications and forms may be secured; the deadline for submission of bids, proposals, or responses to solicitations; and the time and place for opening bids, proposals, or responses to solicitations.

(Ord. 2391 §1, 2022)

Sec. 3-8-140. Solicitation protests.

- (a) Any ~~actual or prospective~~ bidder, offeror, or contractor who has actually submitted a bid or proposal may is aggrieved in connection with the solicitation or award of a contract or solicitation must protest in writing to the City Manager as a prerequisite to seeking judicial relief. A written protest shall be submitted to the City Manager and Procurement Manager within five (5) business days of ~~the opening of solicitations~~ receiving a notice that a bid or proposal has been rejected or not accepted. ~~The Procurement Manager shall submit a response to the protest within five (5) business days.~~
- (b) A protest ~~by any actual or prospective bidder, offeror, or contractor~~ shall be limited to the following bases:
 - (a) failure to follow the City's procedure, (b) failure to follow the terms of the solicitation, or (c) bias or discrimination.
- (c) The Procurement Manager shall submit a written response to the protest to the City Manager and the protestor within five (5) business days after receiving the protest.
- ~~(c) In the event of a timely protest under subsection (a), above, the City shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the City Manager makes a determination that the award of a contract without delay is necessary to protect substantial interests of the City.~~
- (d) The City Manager shall review the protest and response, conduct any investigation he or she deems necessary, and issue a written decision within ten (10) business days of the submission of the Procurement Manager's response. The City Manager may request any additional information needed or desired. The City Manager's decision shall be final.
- ~~(e) In the event of a timely protest under subsection (a), above, the City shall not execute a contract until all administrative remedies have been exhausted or until the City Manager has issued a final decision or makes a determination determines that the execution of a contract without delay is necessary to protect substantial interests of the City.~~

(Ord. 2391 §1, 2022)