

ORDINANCE NO. 072, 2021
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 2-568 OF THE CODE OF
THE CITY OF FORT COLLINS RELATING TO ETHICAL RULES OF
CONDUCT FOR QUASI-JUDICIAL COMMISSION MEMBERS

WHEREAS, the City has 25 boards and commissions, created by the City Council by ordinance, that perform a wide range of functions from advising City staff and the City Council to making quasi-judicial decisions on a variety of topics; and

WHEREAS, the City Council recently adopted Ordinance No. 049, 2021, repealing and reenacting Chapter 2, Article III of the City Code relating to City boards and commissions; and

WHEREAS, the structure, functions, and requirements for boards and commissions are described in Article III of Chapter 2 of the City Code; and

WHEREAS, among the changes enacted in Ordinance No. 049, 2021, were the reorganizing of the boards and commissions into three categories based on their functions, including Type 1 Advisory Boards, Type 2 Advisory Boards and Quasi-Judicial Commissions; and

WHEREAS, Quasi-Judicial Commissions make decisions on behalf of the City, and as a result, members of these Commissions have a particular obligation to remain unbiased and impartial and avoid conflicts of interest in the performance of their duties; and

WHEREAS, participation by a Commission member in discussion at public outreach meetings, neighborhood meetings and other public events and forums about a particular application, project or decision to come before that Commission generally raises a question and concern about prejudice, bias and improper influence in connection with those matters; and

WHEREAS, Section 2-568 in Article VII of Chapter 2 of the City Code provides Ethical Rules of Conduct that apply to City officers and employees, including provisions addressing conflicts of interest and other rules of conduct; and

WHEREAS, the City Council finds that the proposed changes to Section 2-568 as set forth herein will provide clear guidance and direction to Commission members with respect to activities that call for their recusal from matters coming before them in their decision making capacity and that such changes are in the best interests of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-568, subsection (c)(3) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-568. Ethical rules of conduct.

...

(c) Rules of conduct.

...

(3) In any action in which a member of a City board or commission ("member") declares a conflict of interest or is prohibited from participation pursuant to subsection (7) below, or for any other reason, such member shall not communicate to or attempt to influence such board or commission regarding such item, in any capacity, except that:

a. the member may communicate with said board or commission to protect a strictly personal interest, in the same or similar ways in which the public is permitted to communicate with the board or commission.

b. the member may prepare materials on behalf of another for a project in the normal course of business or operation, so long as the purpose of those materials is not directly and substantially related to advocacy before said member's board or commission. Those materials may be included in materials submitted by another to said member's board or commission so long as they fall within this exception. For illustrative purposes, such materials may include, but are not necessarily limited to architectural plans, technical studies, and engineering designs.

c. if a member is precluded from participating in or influencing the decision of their board or commission, they may request a variance from the limitations of this subsection from the City Council in the following circumstances, and in the following manner:

1. The member must submit a request for a variance to the City Clerk on a form provided by the City Clerk for such purpose.

2. The member must demonstrate that without the variance, they would suffer an exceptional hardship, and that no reasonable alternative exists that would allow for that hardship to be avoided or substantially mitigated;

3. The City Council must act by resolution to approve or disapprove the requested variance.

d. This limitation does not apply to persons other than the member who are affiliated with that member's firm or entity, and such other persons, but not the member, may continue to work on the project and may advocate to such member's board or commission, provided that the member complies with the applicable requirements and limitations.

...

Section 3. That Section 2-568, subsection (c) of the Code of the City of Fort Collins is hereby amended to add a new subparagraph (7), to read as follows:

(7) Additional limitations on participation.

a. No member of a Quasi-Judicial Commission, as defined in Article III of this Chapter 2, who has participated or intends to participate as a member of the public, or on behalf of another person or entity, to provide input or public comment as part of a City process about a particular proposal or project for which a City review, permit or approval is required (such as, for example, speaking at a neighborhood meeting for a development project or appearing at an administrative hearing for a project), is allowed to participate in that process in their role as a board or commission member.


1. In the event such input or public comment has been provided, or is expected to be provided, the commission member must promptly provide written notice to the City Clerk that they are required to refrain from participation in their role as a commission member in the City process or decision.

2. The commission member must also provide the required notice to the chair of the commission of which they are a member.

b. The prohibitions and requirements of this subsection (7) apply whether or not a conflict of interest is presented or has been declared and are in addition to, and not in place of, the requirements applicable to any officer or employee in the event of a conflict of interest.


c. No member of a Quasi-Judicial Commission, as defined in Article III of this Chapter 2, may provide input or public comment on behalf of that commission as part of a City process about a particular proposal or project for which a City review, permit or approval is required, except as expressly authorized and directed by such commission.

Introduced, considered favorably on first reading, and ordered published this 6th day of July, A.D. 2021, and to be presented for final passage on the 20th day of July, A.D. 2021.



Mayor

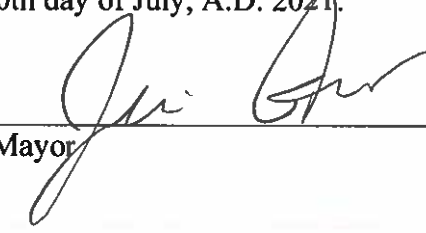
ATTEST:



City Clerk - *Interim*



Passed and adopted on final reading on this 20th day of July, A.D. 2021.



Mayor

ATTEST:



City Clerk *Interim*

