

AGENDA ITEM SUMMARY

City Council



STAFF

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SUBJECT

Items Relating to a City-Initiated Charter Amendment Relating to Referendum Requirements.

EXECUTIVE SUMMARY

A. Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.

B. First Reading of Ordinance No. 102, 2023, Submitting to a Vote of the Registered Electors of the City of Fort Collins Proposed Amendments to Sections 2 and 5 of Article X of the City Charter Relating to Referendum and Petition Requirements.

The purpose of this item is to set ballot language regarding proposed amendments to Sections 2 and 5 of Article X of the City Charter relating to referendum and petition requirements.

Following work with the Election Code Committee and through a Work Session on May 9, 2023, Council directed staff to bring forward a potential ballot option to amend the City Charter to reconcile contradictions in the referendum process.

Any protest of the proposed ballot language must be received no later than Monday, July 17, 2023, at noon. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The City of Fort Collins Charter is the governing document that defines the City organization and the powers and functions of the City. The Charter can only be amended by a vote of the people and was first created by a vote in 1954.

Over time, Charter provisions may become obsolete, contradictory, or desired to be changed to address needs, trends, or desires. The City typically has some number of Charter changes, both large and small, on municipal ballots.

Council referred a measure addressing Council candidate qualifications on April 18, 2023 (Ordinance No. 062, 2023).

The City Clerk has requested that Council consider amendments to the Charter that eliminate potentially confusing and contradictory language regarding the processing of referendum petitions and petition requirements generally. In addition, formatting changes are proposed to these Charter provisions to simplify and make more readable the various requirements for petitions.

- A) Current language includes some contradictory language between Sections 2 and 5 of Article X. *Initiative and Referendum*, regarding when an ordinance subject to a referendum is presented to the Council for reconsideration. The language in Section 5. *Petitions*, relates to both initiatives and referendums, and states a petition is presented to the Council only once it has been certified as sufficient by the City Clerk, after any amendments or protest proceedings.

Section 2(e) *Action by Council*, indicates both that:

- the presentation to Council of a petition certified by the City Clerk as sufficient for referendum shall automatically suspend the operation of the ordinance in question pending repeal by the Council or final determination by the electors, and
- the Council shall reconsider the ordinance at the next regular or special meeting of the Council following receipt of the petition by the City Clerk.

That specific requirement in Section 2 for Council to reconsider the ordinance at its next meeting after receipt of the petition by the Clerk contradicts Section 5 in both:

- specifying different events for action on a referendum petition to reach Council, which in practice occur at different time points, and
- indicating in one place that the action can return to the next regular or special meeting while the other citation requires action to occur at the next regularly scheduled meeting.

- B) The last referendum process in December of 2022 also highlighted potential concerns around ordinances going into effect before being stayed. The timelines in the Charter for many steps of the referendum process mirror those found in State statute for the process as it applies to statutory municipalities or home rule municipalities without their own provisions. Because Fort Collins has also established its own shorter timeframe under Charter for when ordinances take effect upon adoption (10 days instead of 30 days), these timelines do not take into account that ordinances subject to a petition for referendum will go into effect before the referendum process can be completed.

Proposed Actions:

- A) Cleaning up contradictions in Article X of the Charter between Sections 2 and 5 by removing the conflicting provision from Section 2, currently requiring the Council to reconsider the ordinance at the next regular or special meeting of the Council following the receipt of the petition by the City Clerk.
- B) Clarifying in Section 2 when an ordinance subject to a pending referendum petition is suspended from operation.

The specific changes are outlined in Section 2 of the Ordinance.

CITY FINANCIAL IMPACTS

Not applicable.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Council Election Code Committee expressed support for moving these changes forward.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

1. Ordinance for Consideration