

# WORK SESSION AGENDA ITEM SUMMARY

City Council



---

## STAFF

Sara Arfmann, Assistant City Attorney  
Delynn Coldiron, City Clerk  
Carrie Daggett, City Attorney

With Geoff Wilson, Special Legal Counsel

---

## SUBJECT FOR DISCUSSION

**Council Priority to Update and Modernize the City Charter.**

---

## EXECUTIVE SUMMARY

The purpose of this item is to update Council on the Charter Update Project and obtain feedback from Councilmembers on the proposed approach and amendments.

---

## GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. What feedback do Councilmembers have about any of the potential cleanup or clarification items identified?
2. Are there other Charter provisions Councilmembers would like staff to review further or propose amendments for?
3. Would an additional work session or other discussion be beneficial in advance of presentation of Charter amendment ordinances for consideration?

---

## BACKGROUND / DISCUSSION

On February 27, 2024, Council adopted eleven resolutions establishing 2024-2026 Council Priorities. Among the adopted resolutions is Resolution 2024-024, Adopting a 2024-2026 Council Priority to Modernize and Update the City Charter. The Resolution describes the Priority as follows:

### **Modernize and Update the City Charter**

Although small parts of the Charter get reviewed and updated on a regular basis, due to changes in state laws and election procedures, there is a need to modernize and update the City Charter, which has not been done in a comprehensive way in over 25 years.

The Council further discussed this Priority at the May 14 Work Session, identifying as the objectives for this work:

1. Comprehensive review of City Charter to align with state law and legal developments;
2. Update language in Charter to be inclusive;
3. Focus on cleanup and modernization rather than policy changes;
4. Evaluate form and timing options for presenting updates to voters; and
5. Fresh look at how Charter language is presented for ease of reading and clarity.

City legal staff continues to monitor for legal developments that impact Charter language and identify changes that may be needed or beneficial. However, retaining a special legal counsel with expertise and experience working with municipal charters throughout Colorado adds a new perspective to the review and focuses resources more intentionally and systematically as well as supplements the capacity to carry out this work. Considering this, on July 16, 2024, Council adopted on second reading Ordinance No. 089, 2024, appropriating \$25,000 to support the retention of outside special counsel to assist with the work on this project. The City Attorney retained special legal counsel Geoff Wilson of the law firm of Wilson Williams Fellman and Dittman LLP in July 2024.

Staff from the City Attorney's Office, City Clerk's Office and City Manager's Office have been working with special legal counsel retained for this project, Geoff Wilson of the law firm Wilson Williams Fellman Dittman LLP, to identify aspects of the City Charter to be modernized, reconciled with statutory and other legal changes, simplified and revised for readability.

One or more corrections to the election-related articles of the Charter will also be part of this discussion. In particular, there is a correction needed to increase the total number of days allowed for circulation of initiative petitions to match the 77 days intended by Council in its Charter work last summer.

After a thorough review of the City Charter (attached and linked here: [Fort Collins Charter](#)) to identify opportunities for updating and modernization, the following items were noted for discussion with Council:

### Cleanup Items

1. Modernization of Language
  - a. **Art IV, Sec. 7 Publication:** Currently the Charter requires publication be done through a local newspaper of general circulation in the city. Options on how to modernize this requirement:
    - i. Remove the requirement to publish in a newspaper and instead require the notice to be posted on the City's website and to be posted at City Hall to ensure those without internet access also have a place to check for notices; or
    - ii. Alternatively, this requirement could be removed from the Charter and just state that the method for publication will be set by ordinance.
    - iii. Examples language:
      1. The requirements for publication of ordinances contained herein may be satisfied by publication in a newspaper of general circulation in the City by posting a copy thereof at the location or locations designated by resolution of the council, by posting on the city's website, by posting on the Internet, or in any other manner determined by the council to adequately advise the public.
      2. Placement on the City's internet website or other technologies adopted by the City, and placement of a copy in the City Library;
      3. The method of official City publication of ordinances shall be set by ordinance.

- b. **Art IV, Sec 3 Residency requirements:** Provision regarding residency requirements of department heads appointed prior to March 6, 1985, no longer applicable because no qualified persons remain.
  - i. Recommend deleting this exception.
- c. **Reformatting of Charter provisions (throughout) for readability.**
- d. **Replace outdated language for gender neutrality and to eliminate unclear uses of the term “shall.”**

2. Alignment with State Law

- a. **Art II, Sec.11 Meetings, quorum, executive session:** Currently, the Charter provides for executive sessions to be held only to: (1) discuss personnel matters; (2) consult with attorneys representing the city regarding specific legal questions involving litigation or potential litigation and/or the manner in which particular policies, practices or regulations of the city may be affected by existing or proposed provisions of federal, state or local law; (3) consider water and real property acquisitions and sales by the city; or (4) consider electric utility matters if such matters pertain to issues of competition in the electric utility industry.
  - i. State law additionally allows for more executive session purposes. For example: (1) any matter required to be kept confidential by federal or state law and/or in accordance with the requirements of the workplace harassment policy; and (2) specialized details of security arrangements or investigations.
  - ii. Options:
    - 1. Could expand the current list to include all items included in the statute;
    - 2. Keep the current list, which includes specific authority related to utilities and telecommunications, and add a catch all including any other authorized matter under the Open Meetings Law; or
    - 3. Could take out the current list and instead state that executive sessions are permitted as allowed under state law.
  - iii. Examples language:
    - 1. Executive sessions may be held in compliance with the Colorado Open Meetings Law, as now in effect and as may be amended from time to time.
    - 2. Keep current list, which includes specific authority related to utilities and telecommunications, and add “Any other matter authorized by the Colorado Open Meetings Law, CRS § 24-6-401, *et seq.*, as amended.”
- b. **Art V, Sec. 6 Maximum mill levy:** states that no mill levy shall exceed fifteen mills on each dollar.
  - i. Post TABOR this mill levy limit isn’t needed, in fact similar limits have been repealed as voters will decide any “limit.”
  - ii. Recommend deleting this in light of TABOR.

- c. **Art V, Sec.19.3 Revenue securities:** provides that Council may issue securities made payable solely from revenues derived from capital projects, etc, without an election.
  - i. Similar to the above, post TABOR the authority to issue “revenue” securities without an election is dead letter.
  - ii. Recommend deleting this provision.
- d. It may be beneficial to more directly reference other state laws, such as the Colorado Open Meetings Law.

3. Add Clarification

- a. **Art II, Sec.6 Ordinances, resolutions, motions:** This section is extensive, unformatted, and covers a few topics, including that any Councilmember may request that an ordinance be read in full at any reading of the same.
  - i. Recommend breaking this Section up into sub-sections for clarity and making it simpler to read. Also recommend deleting the read in full provision to ensure the efficiency of council meetings.
  - ii. Optional sub-sections: (1) procedure for voting; (2) requirements for ordinance content; (3) procedure for passing an ordinance; and (4) exceptions for emergency ordinances.
  - iii. Recommend clarifying that Council permits the City administration to impose administrative penalties, without prior Council approval, in emergency situations.
- b. **Art II, Sec. 7 Ordinances, publication & effective dates:**
  - i. Similar to above, Section 7 could be either reorganized with sub sections, or Sections 6 and 7 could be combined and reorganized together for simplification.
  - ii. Optional sub sections for this section: (1) publication procedures for ordinances; (2) exceptions for emergency ordinances; (3) signature requirements; and (4) requirements for a public hearing and notice requirements.
  - iii. To avoid the need to repeal and reenact ordinances when there has been a late or failed publication, add language allowing for a “cure” of a failed publication and providing that the ordinance is not effective until published.
- c. **Art II, Sec. 18(a)(3) Vacancies:** currently states that a vacancy exists when a Councilmember “fails to attend all regular and special meetings of the council for sixty (60) consecutive days unless excused by Council resolution.
  - i. Recommend clarifying when the 60 “consecutive” days of failure to attend begins to run and does not clearly provide for what happens when a meeting is cancelled OR changing the requirement to a specific number of missed council meetings. Options:
    - 1. Start the clock the day of the first missed meeting and run for 60 days, regardless of any cancelled meetings outside of their control; or
    - 2. Start the clock as above but provide an exclusion for any cancelled meetings (unless cancelled as a result of the members attendance causing no quorum), meaning the clock would start on the first missed meeting and run to the date of the next regularly scheduled meeting, but if that is cancelled then the clock pauses until the next regularly scheduled meeting; or

3. State that a Councilmember may not have more than a set number of absences from regular Council meetings during any period of 12 consecutive calendar months.

d. **Art. XIV Transitional Provisions:** the transition paragraphs currently included can create confusion as to other sections in the Charter and the Code.

i. Recommend repealing this to eliminate confusion since these provisions are no longer needed.

#### 4. Corrections

a. **Art. IX, Sec. 2(e)(2) Recall:** As a result of moving to rank choice voting this subsection should clarify the percentage of votes from the preceding election is based on the total of first choice votes cast. This was addressed in one place but not caught in the other.

i. Recommended change: "...percent of the total of *first choice* votes cast the last preceding regular city election..."

b. **Art. X, Sec.2 (e)(1) Initiative:** In the newly passed language, Charter, Article X, Section 2(e)(1) states that a petitioner will have 63 days to circulate an initiative petition after the City Clerk's approval of the form due to an error in the ordinance placing this item on the ballot. That needs to be changed to 77 days to meet Council's original intentions.

i. Recommended change: change 63 days to 77 days

#### Clarifications raising Policy Questions

1) **Art II, Sec 2 (d) Qualifications of candidates and members, challenges:** currently a protest as to a Councilmember's qualifications can be raised at any time and the Charter assigned the determination of eligibility to the City Clerk pursuant to a procedure established by Council. Under the Charter's election provisions, the eligibility of a candidate is determined pursuant to statutory procedures. Options:

i. Conform to state law which requires a protest be filed within 5 days of the statement of sufficiency for a candidate, recommend that the clock start after accepting a nomination or upon filing as a write in; or

ii. Provide for the use of the courts to determine the qualifications of a Councilmember; or

iii. Mirror other municipalities and state that Council is the judge of the qualifications of its own members.

1. Example language: The Council shall be the judge of the election and qualification of its own members and of the grounds for the forfeiture of the office of Councilmember subject to review by the courts in case of a contest.

2) **Art II, Sec. 18 Vacancies:** Provision providing for delaying appointments to fill Council vacancy if 45-day period to appoint overlaps with 45 days prior to election, this could lead to a lengthy vacancy on Council. Additionally, the last two paragraphs in subsection (a) should be turned into their own subsection(s) to clarify and make citing to them easier.

a. Recommendation: require that Council appoints the replacement officeholder unless the appointment is too late to allow for candidates to seek nomination for the office at the next regular election, in which case the appointment would wait until after the new Council is sworn in after the regular election.

- 3) **Art. IV, Sec 9(b)(1)(a) Conflicts of interest, sales to the City:** This provision prohibits any councilmember, or their relative, from having a financial interest in the sale to the City of any real or personal property, etc. Recommend providing some exceptions to this prohibition.
  - a. Recommendation: Consider whether this absolute prohibition is necessary in light of the general requirements for conflicts disclosure and removal from the decision making process. Or
  - b. Consider an exception where the City is in need of particular real property to carry out City purposes or projects (subject to the conflicts disclosure requirements).
- 4) **Art. IV, Sec. 9 (b)(2) Conflicts of interest, sales to the City:** This provision arguably could prohibit an employee from renting or leasing City provided housing.
  - a. Recommendation: provide an exception for rentals or leases to employees so long as the renting/leasing employee has no involvement in the decision making.

## **NEXT STEPS**

---

Based on the work session discussion, staff will prepare Charter amendment language for further consideration either at a Council work session or for submittal to the voters. Further evaluation of how these items may be combined and how many ballot questions would be required to accomplish the changes will also be needed and may be a beneficial topic for further work session discussion.

## **ATTACHMENTS**

---

1. Fort Collins Charter
2. Charter Amendments Presentation