



WORK SESSION AGENDA ITEM SUMMARY

City Council

STAFF

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SUBJECT FOR DISCUSSION

Potential Charter Amendments for November 2023 Ballot Consideration.

EXECUTIVE SUMMARY

The purpose of this item is to provide Council a list of potential identified Charter changes that could be taken to a ballot in 2023 or in future years.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. What questions or feedback do Councilmembers have on the items identified?
2. Which, if any, Charter changes do Councilmembers support bringing forward and when?

BACKGROUND / DISCUSSION

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

Over time, Charter provisions may become obsolete, contradictory, or desired to be changed to address needs, trends, or desires. The City often has several Charter changes, both large and small, on municipal ballots. Analyzing recent election history, there is not a demonstrable link between the number or placement of ballot questions or initiatives and voter participation in given questions. Rather, the content of individual questions is the clear driver of how many voters choose to participate in a given question.

The Charter changes presented here include one ballot question already referred (relating to candidate and councilmember qualifications) and the following additional suggested possibilities:

- **Referendum Process Clean up**
- **Ordinance Publication Requirements**
- **Computation of Time Provision**
- **Residency Requirements**

POTENTIAL BALLOT QUESTIONS AND INITIATIVES

Candidate Qualifications

At Issue: Current language regarding qualifications for City Council candidates and members prohibits anyone who has been convicted of a felony from eligibility. This contradicts applicable eligibility requirements in the State Constitution.

Proposed Action: Amending the qualification language in Article II. *City Council*, Section 2. *Qualifications of candidates and members; challenges*, to match the State Constitution language.

Current Status: Ordinance to refer this question to the voters on the November ballot was adopted on second reading on April 18, 2023. Will be on the November ballot.

Referendum Process Clean-up

At Issue: There are two potential areas of changes to referendum provisions to consider.

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 as sufficient automatically suspends the operation of the ordinance in question pending repeal by the Council or final determination by the electors, and
- that the Council shall reconsider the ordinance at the next regular or special meeting of 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 Action: Options A and/or B could be selected to move forward.

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) Adjusting timing provisions associated with the referendum process in Article X, Sections 2 and 5, and/or clarifying in Section 2 when an ordinance subject to a pending referendum petition is suspended from operation.

Current Status: The potential need for changes to the referendum provisions has been discussed at the Election Code Committee but no Council action has been taken. Proposed ballot language for one or both options would need to be developed and adopted by ordinance to refer to the November ballot.

Ordinance Publication Requirements

At Issue: Currently, ordinances are required to be published in full on the City's official website both before and after final adoption. In addition, the Charter maintains a requirement to also publish all ordinances by number and title only in a newspaper of general circulation within the same time frames. With declining newspaper subscription rates and reduced newspaper publication schedules creating challenges at times with meeting the timing requirements for this more limited form of publication, staff is recommending discussion of removing this requirement while maintaining transparency through existing City channels.

Proposed Action: Removing requirement from Article II. *City Council*, Section 7. *Ordinances, publication and effective date*, to publish ordinances by number and title in a newspaper of general circulation at least seven days before final passage and again within seven days after final passage.

Current Status: This has not yet been discussed. Proposed ballot language would need to be developed and adopted by ordinance to refer to the November ballot.

Computation of Time Provision

At Issue: Various timing requirements and deadlines in the Charter create uncertainty due to a lack of general provision for computation of time.

Proposed Action: Adding a section to the Charter that provides computation of time provisions that apply to any references to time allowed for something in the Charter without its own specificity.

Current Status: This has been discussed on occasion as an issue; no specific direction has been given. Proposed ballot language would need to be developed and adopted by ordinance to refer to the November ballot.

Residency Requirements

At Issue: The Charter currently contains residency requirements for certain positions. Based on identified position title, these requirements include living in Fort Collins, living within the Urban Growth Area (now known as the Growth Management Area (GMA)), living within 5 miles of the city limits as measured by a straight line connecting the property to the nearest city boundary line.

Current requirements are found in four different sections of the Charter, applying to different subsets of positions. As the City organization has grown over time, these provisions have not remained in alignment with how the organization operates today, with a lack of equity for positions that are and are not subject to specific residency requirements. In addition, the Urban Growth Area has been known as the Growth Management Area since late 2000. The dated citation has the potential to create confusion and lacks clarity. These issues are potentially illustrative of the value in provisions of this sort being placed in Code rather than the Charter to preserve a greater ability for responsiveness to structural and other changes within the organization as well as the broader community context.

Proposed Actions: Options A or B could be selected to move forward.

A) Based on past Council discussion on this topic, should the Council consider a proposed change to remove most residency requirements from the Charter, staff recommends keeping the City Manager requirements in the Charter and bringing Code language that mirrors the Charter requirements for the other positions. This would ensure no immediate change and allow the Council an opportunity for further policy level considerations and discussion.

B) If there is not a desire to remove any residency provisions from the Charter, Article II. *City Council*, Section 12. *City Clerk*, and Article IV. *General Provisions*. Section 3. *Residency Requirement*, both contain references to the Fort Collins Urban Growth Area that should be updated to Growth Management Area.

Current Status: Option A was discussed and considered in 2021 and 2022. Proposed ballot language for either option would need to be developed and adopted by ordinance to refer to the November ballot.

NEXT STEPS

Any Charter-related ballot question(s) will need to be considered on first reading by late July to meet the deadline for certification of ballot language. Charter changes are referred by ordinance which requires two readings.

Tax initiative questions are referred by Resolution and only require one reading. These would need to be done in mid-August.

ATTACHMENTS

1. Recent Ballot Question History
2. Potential Referendum Charter Changes Additional Information
3. Residency Requirements Charter Provisions
4. Chart of Positions Subject to Residency Requirements
5. Presentation