

# WORK SESSION AGENDA ITEM SUMMARY

City Council



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## STAFF

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## SUBJECT FOR DISCUSSION

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

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## EXECUTIVE SUMMARY

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

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## GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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1. What feedback do Councilmembers have about the proposed grouping and prioritizing of amendments?
2. What feedback do Councilmembers have about specific provisions?
3. What feedback do Councilmembers have about the number of ordinances or groupings of ballot questions to be presented at the Council's April 1, 2025, meeting?

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## BACKGROUND / DISCUSSION

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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 and December 10 Work Sessions, 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.
6. Further discussion is needed about the following provisions:
  - a. Ideas for how to approach Council meeting vacancies;
  - b. Alternative ways to publish;
  - c. Ideas for conflict of interest, sales to the City and real estate dealings in sales from Councilmembers;
7. Establish groupings and priorities for presenting amendments.

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.

The Election Code Committee is also working on one or more corrections to the election-related articles of the Charter.

#### **A. Reformatting for Ease of Reading and Replacing Outdated or Unclear Language**

Staff recommends and has received Council feedback suggesting that making revisions and updates to Charter language that promote ease of reading and clarity is needed. Staff seeks feedback about moving forward with reformatting for readability, replacing outdated language for gender neutrality and eliminating unclear uses of the term "shall" in any ballot language presented in ordinances under Council consideration.

#### **B. Suggested Topical Grouping and Prioritizing for Presentation to the Voters**

Staff is interested in feedback from Council about the suggested topical grouping and prioritizing of various Charter changes noted below. The items are topically grouped as single subjects. Please note that staff is interested in Council feedback that includes discussion about removing specific items mentioned in a grouping from that group or from consideration altogether.

1. Group and Priority 1—**Corrections:** These provisions require corrections following the changes made in the November 2024 election to ensure that they properly represent Council's intent, reflect how rank choice voting will impact the process, and ensure uniformity across the Charter.
  - a. **Art. X, Sec. 2 (e)(1) Initiative:** change the deadline to file an initiative petition from 63 days to 77 days
  - b. **Art. IX, Sec. 2(e)(2) Recall:** correct for rank choice voting, "percentage of *first choice* votes cast" to reflect how rank choice voting will impact the voting process
  - c. **Art. VIII, Sec. 7(a)** –the newly revised Article VIII adopts the Municipal Election Code for contests of officers duly elected, we will need to conform the timelines set in Art. II Sec 2 (d) for protest of qualifications

2. Group and Priority 2—**Alignment with amended or further developed laws and removing inconsistencies:** These Charter provisions relate to areas law that continue to evolve. To avoid the likely recurring need to update our Charter with those developments, and to avoid confusion for the public, it will be more efficient to align these sections now.
  - a. **Art II, Sec.11 Meetings, quorum, executive session:** this will allow City Council to hold executive sessions for a list of purposes identified in state law
  - b. **Art. II, Sec. 18 Vacancies:** align with state law re timeline for filling an open spot and clarify 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
  - c. **Art. IV, Sec. 5: Records to be public:** align language about availability of city records with the Colorado Open Records Act
  - d. **Art. VIII, Sec. 8: Campaign contributions:** align restrictions on Council campaign contributions with federal & state constitutions and statutes
  
3. Group and Priority 3 –**Modernizing publication requirements**
  - a. **Art. IV, Sec. 7: Publication:** as discussed below, modernizing publication requirements will ensure more efficient notice to the public.
  - b. **Art. II, Sec. 6 Ordinances, publication, effective date:** the goal is to update this provision with formatting to improve ease of reading and to remove a single Councilmember’s option to request that an ordinance be read in full. Council permits the City administration to impose administrative penalties, without Council’s approval, in emergency situations.
  
4. Group and Priority 4: **Modernizing conflicts of interest:** modernizing both the language regarding council financial conflicts of interest and potential prohibitions on staff renting or leasing City property is recommended. This is a lower priority as it is a limited experience. Also, this grouping is a lower priority because the Council adopted Code language that defines the term “purchases from the city” to exclude payments by an employee to the city pursuant to an agreement for housing in which the employee is required to live as a condition of employment with the city. A copy of the ordinance adopting this language is attached.
  - a. **Art. IV, Sec. 9 (b)(1)(a): Conflicts of interest, sales to the City:** modernize exceptions regarding financial conflicts for councilmembers and their family
  - b. **Art IV, Sec. 9 (b)(2): Conflicts of interest, purchases from the City:** modernize language to clearly state that staff can rent or lease City property
  
5. Priority 5 – **Art. II, Sec. 18 Vacancies:** as discussed below, clarifications can be made to add clear exceptions or clarify when the clock starts, stops, and when it is paused.
  
6. Group and Priority 6: **Repeal provisions made unnecessary due to changes in law or circumstances--** these provisions either no longer apply because of TABOR or there are no members of staff they could apply to. Staff do not see these as a high priority as they have no effect while they remain in the Charter.
  - a. **Art IV, Sec 3 Residency requirements:** only affects department heads hired prior to March 6, 1986, no such department heads exist.
  - b. **Art V, Sec. 6 Maximum mill levy:** dead-letter following TABOR
  - c. **Art V, Sec.19.3 Revenue securities:** dead-letter following TABOR

- d. **Art. XIV Transitional provisions:** unnecessary

### C. Discussion and Ideas about Specific Provisions

At the December 10 work session, the several items were noted for additional discussion with Council. Councilmembers requested the opportunity, at an upcoming work session, to review options, discuss draft language, and revisit the topics noted in section A. below.

**1. Campaign contributions.** Charter currently limits direct and indirect campaign contributions by City employees, among others, from having interests in City contracts or franchises. The following are options that staff recommends to Council and seeks Council feedback:

- a. Align with federal and state constitutions and statutes:

*[Draft: The Council shall act by ordinance to establish a limit on the amount that any person or entity may contribute in support of a candidate for Council on the ballot at any city election.*

*City confidential or policy-level employees are prohibited from contributing any money or other valuable thing to assist in the election or defeat of any candidate.*

*It is unlawful for any political party, public service corporation, or any other person, firm or corporation, owning, interested in, to contribute any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate, except as required under the Constitution of the United States or the Constitution of the State of Colorado.]*

- b. Another option: include restrictions on confidential and policy-level employees plus separate out language about prohibition on political party contributions, and prohibit contributions by any corporation or other person or other entity except as required by law, removing the language “interested in.”
- c. Another option: include restrictions on confidential and policy-level employees plus remove prohibitions on political parties completely from the Charter and address those restrictions via Council approved ordinance while prohibiting direct contributions from the remainder of the entities, as allowable by law.

**2. Absences from Council meetings create a Council seat vacancy:** Charter 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.” Staff seeks Council feedback options:

- a. Add an exception to the vacancy rule for canceled meetings;

*[Draft: “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 or a meeting is canceled by the City Council by resolution.”]*

- b. City Council may pass a resolution excusing a Councilmember or all Councilmembers from their attendance at an upcoming Council meeting at the time they pass a resolution to cancel a meeting; or

- c. Change the requirement to a specific number of missed Council meetings in a 12-month period.

*[Draft: “A vacancy exists when a Councilmember fails to attend five or more regular and special meetings of the council in a twelve-month period unless excused by Council resolution or a meeting is canceled by the City Council by resolution.”]*

- d. Start the 60-day period the day of the first missed meeting and run for 60 days, regardless of any canceled meetings outside of their control.

[Draft: “A vacancy exists when a Councilmember fails to attend all regular and special meetings of the council for sixty (60) consecutive days, beginning on the date of the first missed meeting, unless excused by Council resolution.”]

**3. Publication provisions in Charter (ordinances and legal notices):** Provisions about publication of both ordinances and legal notices currently require publication both on the City website and the local newspaper.

Staff looked at other municipal charters to present ideas to Council. A few have pulled the publication requirement out of their charters and state that publication will be in accordance with the applicable procedures adopted by council via ordinance. A few others provide multiple methods for publication including the local newspaper, the city library, the city website or other technologies adopted by the city. One municipality’s charter requires, when an emergency exists or newspapers are unavailable, posting at city hall, the city library, recreation center, and one additional location that meets specific accessibility requirements.

The following are options that staff recommends to Council and seeks Council feedback:

- a. Require publication only on City website;
- b. Require publication on City website and posted at City Hall or Poudre River Library or both;
- c. Maintain publication on City website and in local newspaper; or
- d. Remove both types of publication from the Charter and address in City Code, using one of the listed options. This option allows more flexibility.

**4. Conflicts of interest, sales to the City (Article IV, Sec. 9(b)(1)(a)):** This provision prohibits any councilmember or employee, or their relative, from having a financial interest in the sale to the City of any real or personal property, etc. Staff recommends providing some exceptions to this prohibition. An absolute prohibition may not be necessary considering the general requirements for conflicts disclosure and recusal from the decision-making process.

Circumstances may arise where the City needs a particular real property to carry out City purposes or projects (subject to the conflicts disclosure requirements).

[Draft: Sales to the city. *Except where the City needs a particular real property to carry out City purposes or projects or elects to exercise its power of eminent domain, no officer or employee, or relative of such officer or employee, shall have a financial interest in the sale to the city of any real or personal property, equipment, material, supplies or services, except personal services provided to the city as an officer or employee.*]

**5. Conflicts of interest, purchases from the City (Article IV, Sec. 9 (b)(2)):** This provision prohibits employees or their relatives from directly or indirectly purchasing any real property from the city, except such property as is offered for sale at an established price, on the same terms and conditions as to all members of the public. The City allows a few employees to lease residences on City natural areas properties at a reduced price when the employees must live on site to carry out their job duties. This Charter language arguably prohibits an employee from renting or leasing City provided housing.

Staff requests Council feedback about an exception for rentals or leases to employees so long as the renting/leasing employee is not involved in the decision making.

[Draft: Purchases from the city. *No officer, employee or relative shall, directly or indirectly, purchase any real or personal property from the city, except:*

- a. *such property as is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as to all members of the general public; or*
- b. *such property is leased to an employee by an objective decision maker for reasons beneficial to the city and related to their employment.]*

#### **D. Number of Ordinances or Groupings of Ordinances to be Presented**

Staff plans to present ordinances with ballot language for the November 2025 ballot to City Council on April 1, 2025. Council feedback about the number of ordinances or groupings of ordinances to be presented to the Council would be helpful.

#### **NEXT STEPS**

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Based on the work session discussion, staff will prepare ordinances for Council to consider that will refer Charter changes to the voters on the November 2025 ballot.

#### **ATTACHMENTS**

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1. Relevant Fort Collins Charter language
2. Ordinance No. 057, 2020
3. Presentation