



## AGENDA ITEM SUMMARY

### Election Code Committee

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#### STAFF

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Anissa Hollingshead, City Clerk  
Rita Knoll, Chief Deputy City Clerk

#### SUBJECT

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**Planning for Transitioning to November Elections.**

#### EXECUTIVE SUMMARY

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At this stage, staff has begun the process of evaluating what work will be necessary as a result of the approved Charter changes. There are potential Code changes to be considered, including to candidate filing timelines, that will need Council action. Some of these actions have a dependency on finalizing plans for either conducting a coordinated election in November with Larimer County or pursuing the City conducting its own election. This is a critical initial decision point.

#### GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

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1. Should the November 2023 election be conducted as a coordinated election with Larimer County?
2. Does the committee support shifting candidate filing timelines to mirror those required by the Uniform Election Code for other November elections?

#### BACKGROUND / DISCUSSION

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##### **FOLLOW UP NEEDED AFTER ADOPTION OF CHARTER CHANGES IN THE SPECIAL ELECTION**

##### **How November election will be conducted**

A determination of whether to coordinate the conduct of the regular November municipal election with Larimer County is needed. In considering placing a ballot question before the voters to change the timing of regular municipal elections from April to November of odd numbered years, Council moved forward in such a way that allows for making the determination of how the election is conducted separately from the timing of the election. There are potential advantages associated with both options and it is appropriate for Council to make a determination relative to the 2023 municipal election based upon its evaluation of which scenario provides the greatest benefits to Fort Collins voters.

##### *Advantages of Coordinating Elections*

- Registered voters will receive one November election ballot containing all contests and questions.
- Current ballot drop boxes have been designed to be used by both the County and the City for their elections, but not simultaneously. A coordinated election allows use of the same ballot drop boxes voters are accustomed to, without confusion or the need to determine protocols with

Larimer County on how those drop boxes are accessed for picking up voted ballots and how ballots are distributed to the appropriate entities.

- Larimer County owns its own election equipment and has existing vendor relationships for supplies and system support centered around the November election timing. The City has rented equipment for its elections for several cycles, typically in April when demand from larger counties is not present. It is unknown at this time what type of equipment will be available for rental and what level of support from vendors is possible. As regular municipal elections are also conducted as mail ballot elections, the equipment typically used includes ballot tabulators and signature verification equipment. It is possible alternative vendors may need to be explored to avoid the need to hand count an election.
- Access to the statewide voter database is obtained through the County. Coordinating elections avoids challenges with navigating what that support can look like while the County is also administering an election simultaneously.
- Minimizes potential for voter confusion around which ballot needs to be returned to which jurisdiction, including keeping the correct ballot with the correct envelope and submitting to the correct jurisdiction via mail or drop box.
- Additional ballot contests, including school board races, can be an additional inducement to voters to participate in an election.

#### *Advantages of City-run Elections*

- The City currently pays for return postage on mail ballots to make it easier for voters who wish to mail their ballots back. Under the Uniform Election Code the County must follow in administering elections, it is not permitted for the County to pay return postage.
- Ability for the City to implement other measures it deems could assist in supporting voter participation.
- Ability for the City to establish parameters around the conduct of the election.
- Control over election costs and spending, with greater predictability possible of overall election-related costs in regular elections.
- City contests and questions are front and center on ballots, and the focus for voters leading up to and when voting is on City races.
- Once ranked-choice voting is implemented in 2025, ability to make determinations at the municipal level about ballot design, including number of rankings available to voters, how to interpret voter intent in a range of scenarios, and other implementation determinations.
- If City administration of ranked-choice voting elections is desired, maintaining City run elections in 2023 without RCV minimizes the potential for voter confusion in switching between election administrators and keeps the City election team skills fresh.

#### *Cost and Resource Considerations*

Information about election costs has been discussed by the Committee and the Council over the last year as the potential ballot questions were considered. Despite its importance, this is a hard to define factor. There is not a lot of precision behind estimating costs because of the wide variances from election event to election event. For coordinated elections, costs are determined by Larimer County and split based on the cost sharing formula they have put in place without ability for participating jurisdictions to negotiate those levels. The County is authorized by state statute to pass election costs on to participating jurisdictions in coordinated elections and to develop any appropriate formulas for doing so. They apply these formulas to all jurisdictions that participate in a coordinated election. Because of the variabilities of both direct costs and what jurisdictions are participating in an election, it is not possible to estimate with any degree of accuracy what the cost of a future election will be.

High level, the biggest variances in the costs of coordinated elections include:

- Odd or even – even year elections have higher base costs because of higher requirements in Title 1 of the Uniform Election Code for more Voter Service Centers and other services mandated for state and federal elections; presidential years are going to have higher administration costs for additional services and scope than other even years
- In odd years, costs overall are less but will fluctuate most heavily based on whether either the State or Larimer County or both have questions on the ballot. If they do, costs will be significantly lower. If one or both do not, the City will pay the bulk of the costs for all election administration in those years as the largest jurisdiction participating in the election. The school districts do participate in odd years, which is a big help to sharing that cost, but other jurisdictions across the county are significantly smaller and will not pick up nearly as much of the costs. 2022 costs for the special election coordinated with Larimer County were substantially higher than initial estimates based on the City of Loveland not participating in that election.
- Any election with a City TABOR question will be substantially higher cost because of the additional TABOR requirements for the mailed notice, as those costs are not prorated but are passed on directly to involved jurisdictions.
- Starting in 2025, costs will also be significantly higher as all RCV related costs (staffing, equipment, supplies including the likely need for a second ballot card) will be passed on directly to Fort Collins.
- The other variable that is hard to start quantifying for is for rising supply costs. Supply chain issues combined with inflation combined with the security and integrity concerns being promulgated around elections are creating a perfect storm of rapidly escalating prices for every part of the election process. 2022 county election costs far outpaced all prior years for similar election events. Vendors are raising prices rapidly to address their own constraints and needs. Additional legislative changes should be anticipated that continue placing more requirements around election administration, concurrently increasing costs. This factor will also impact City administered election events.

The other aspect of resource considerations around election administration is in the opportunity costs for other activities and programs in the City Clerk's Office. Currently, the City Clerk and the Chief Deputy City Clerk are the primary individuals who work on elections-related needs year-round. There are 9 total FTEs now allotted to the Clerk's Office, with the addition in the 2023 budget of an Elections & Technology Analyst. These positions support five major program areas across the office, including Clerk to Council functions, Elections, Records & Information Management, Regulatory Licensing, and central support for Boards & Commissions. Most of these programs have a single FTE allocated or parts of FTEs that also work in other programs. When an actual election event is underway, such as the recent referendum petition process or previously April Municipal Elections, the entire Clerk's Office shifts as much as possible to election-related work. The new Elections & Technology Analyst position is intended to both be a single point person for elections technology needs in particular, helping in that critical coordination for election events, as well as managing the City's robust campaign finance program that accompanies any election whether administered by the County or the City. That role has also been identified to play a primary role in the development and implementation of two major systems in the Clerk's Office over the next year for agenda management and regulatory licensing. If the City administers an election in 2023, either for the regular November election or for any special election that may come up (which cannot be coordinated with Larimer County), there will be significant impacts to the possible work plans for all programs across the Clerk's Office because of the interdependencies involved.

### **Legislative Actions Needed to Implement the Council's Determination**

The passage by Fort Collins voters in November of 2022 of both ballot questions relating to the administration of municipal elections requires further work by this Committee in vetting potential code changes in support of these transitions. This includes changing the nomination deadlines for candidates

for City Council in order to meet deadlines for submitting ballot content to the County if coordinated elections will be held as well as other administration provisions.

Staff has begun developing potential Code changes for consideration. Article VIII, Section 1 of the City Charter relating to Elections requires:

“The Council shall provide by ordinance for the manner of holding city elections. All ordinances regarding elections shall be consistent with the provisions of this Charter and the state Constitution. Any matter regarding elections not covered by the state Constitution, this Charter or ordinance of the Council shall be governed by the laws of the State of Colorado relating to municipal elections, or coordinated municipal elections, as applicable.”

Once the committee provides its guidance on whether it is desired to coordinate the November Municipal Election with Larimer County, full draft language will be brought to the February committee meeting for consideration. The most pressing potential shift likely needed in the City Code is to the timelines for filing for office. Under the provisions of the Charter, these timelines must be changed no later than 180 days prior to the election. Since the 2023 Regular Municipal Election will be on November 7, those changes must be in effect by May 11, 2023. The last regular Council meeting for adopting an ordinance on second reading that will be in effect by that time is April 18, 2023. Several inquiries are being fielded by the City Clerk’s Office regarding the timelines for the November election, making this determination timely for planning and communication purposes as well. For these reasons, this shift is an area of focus to bring before the committee for input at this meeting.

If the November election will be coordinated with Larimer County, the filing deadlines provided for in the Uniform Election Code and Municipal Election Code must be followed. Even if coordinated elections are not held, it is still likely necessary to shift candidate filing timelines to mirror what is required for other November elections to minimize candidate confusion and ensure the City has enough time to prepare ballots in a busier season for election vendors.

The applicable provisions of the Uniform Election Code for the timing of filing by municipal candidates include:

**C.R.S. 1-4-805. Petitions for nominating municipal candidates in coordinated elections.** Any person who desires to be a candidate for a municipal office in a coordinated election shall, in lieu of the requirements of this article, comply with the nominating petition procedure set forth in the “Colorado Municipal Election Code of 1965”, article 10 of title 31, C.R.S.; except that part 11 of this article, concerning write-in candidate affidavits, shall apply in such municipal elections, and any nominating petition may be circulated and signed **beginning on the ninety-first day prior to the election and shall be filed with the municipal clerk no later than the seventy-first day prior to the date of the election.** The petition may be amended to correct or replace signatures that the clerk finds are not in apparent conformity with the requirements of the municipal election code at any time before the sixty-seventh day before the election.

**C.R.S. 1-4-1101. Write-in candidate affidavit of intent.** A person who wishes to be a write in candidate for an office in an election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. ... The affidavit shall be filed ... with the designated election official if it is for a local office.

**C.R.S. 1-4-1102. Time of filing affidavit.** (2) In a nonpartisan election, the affidavit of intent shall be **filed by the close of business on the sixty-fourth day before the election.** If the election is to be coordinated with the county clerk and recorder, the designated election official shall forward a copy of the affidavit of intent to the coordinated election official.

The following chart shows the differences between current City Code and provisions of Colorado Revised Statutes for these deadlines:

	<b>Current City Code</b>	<b>State Statute</b>
Earliest date to circulate nomination petitions	70 days before the election (Sec. 7-116)	91 days before the election (C.R.S. 1-4-805 & 31-10-302)
Deadline to submit nomination petitions	49 days before the election (Sec. 7-116)	71 days before the election (C.R.S. 1-4-805 & 31-10-302)
Deadline to submit amended nomination petitions	NA	67 days before the election (C.R.S. 1-4-805)
Deadline to withdraw from nomination for candidacy	42 days before the election (Sec. 7-116)	63 days before the election (C.R.S. 31-10-303)
Deadline for a write in candidate to submit an affidavit of intent to allow any votes to be counted	42 days before the election (Sec. 7-103)	64 days before the election (C.R.S. 1-4-1102)