

AGENDA ITEM SUMMARY

City Council



STAFF

Delynn Coldiron, City Clerk
Heather Walls, Deputy City Clerk
Rupa Venkatesh, Assistant City Manager

SUBJECT

Items Relating to a City Initiated Charter Amendment Relating to Initiative and Referendum.

EXECUTIVE SUMMARY

AMENDED TO INCLUDE PROTEST FILED ON JUNE 30, 2024.

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

B. First Reading of Ordinance No. 096, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article X of the City Charter Relating to Initiative and Referendum.

The purpose of this item is to set ballot language regarding proposed amendments to Article X of the City Charter relating to initiative and referendum provisions.

Any protest of the proposed ballot language must be received no later than Monday, July 1, 2024, 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 current needs or trends. From time to time, the City submits Charter revisions, both large and small, to the voters for approval. If Council votes to submit the proposed Charter amendments to the voters, they will be placed on the November 5, 2024, ballot.

Election Code Committee met several times during 2024 to receive information and consider potential City Charter amendment proposals related to the election and petition processes that are governed by the Charter. The revisions outlined below relating to the initiative and referendum provisions in Article X are requested by the City Clerk's Office to address ambiguities, inconsistencies, and process complexity. The

Committee expressed support for these changes, which also include language modernization such as gender inclusive language and substituting active and direct terminology.

- **Reorganization for Clarity:** Article X has been reorganized to make the description of the process and requirements flow better so they are easier to follow. The full process for initiatives and the full process for referenda are set out chronologically, rather than having a third section that combined some of the process requirements. This will make the process simpler and easier to follow. The significant shifting of information within the Article has made repealing and reenacting the appropriate method for rescission, rather than showing the extensive individual wording amendments.
- **Updates to Petition Form Approval by the City Clerk:** The proposed revisions change the method for setting the form of initiative and referendum petitions so that the Clerk is responsible for preparing a general statement of purpose, in consultation with the City Attorney, to fairly and accurately summarize the initiated measure or ordinance to be referred.
 - Where the referred ordinance exceeds two pages in length, the Clerk will similarly prepare a summary of it, rather than the current requirement that the entire ordinance be presented with each section of the petition.
 - This will reduce the iterative process that often takes place at the beginning of the petition approval process and reduce the amount of paper material required for petition circulation.
- **Updates to Review Periods for the City Clerk:** The timeframe allowed for the City Clerk to examine petitions has been updated because volumes (such as numbers of petition signatures to review) have increased since these current provisions were adopted and are more in line with the examination periods in state statutes.

Note: There has been no change to the signature requirements for a recall petition, except that the requirements are stated in terms of first choice votes cast in a ranked choice voting election, rather than total of votes cast.

- **Simplification of the Petition Review Process (“Cure” Provisions):**
 - The current process for *initiative petitions* allows for “cure” by the submission of additional signatures after a determination of insufficiency, but only within the time originally allowed for submission of signatures. Municipal election law does not allow a “cure.” This cure mechanism has not been used as a general rule and adds confusion to the process.
 - The current process for *referendum petitions* allows for “cure” by the submission of additional signatures after a determination of insufficiency, but only within the time originally allowed for submission of signatures. Municipal election law does not allow a “cure.” This cure mechanism has not been used as a general rule and adds confusion to the process.
 - Because these “cure” periods create confusion, are not well utilized or understood, and generally are inconsistent with municipal election law, staff has proposed that they be removed.
- **Updates to Petition Review Protest Process:** The process for protesting a Clerk determination of sufficiency for petitions has been updated and made consistent for each of the three (recall, initiative and referendum) major petition processes. Time frames have been tightened except a slightly longer time frame for arranging, setting and providing notice of the protest hearing is included. This will allow more time for preparation in advance of the hearing by all involved.

- **Updates to the time for to conduct an election:** A significant challenge that has developed over time is the lead time required to place an item on a ballot and the overall time to schedule an election. Current timeframes are unworkable under current election requirements and limitations. For a successful petition, the proposed language states that upon the City Clerk’s presentation of a petition certified as sufficient:
 - For a successful initiative petition, the proposed language changes **FROM** the current requirement that if a special election is requested it must be called by Council within 120 days **TO** a requirement that Council submit the measure at the next November election the City is able to coordinate with the County, whether that is a special election or a regular City election.
 - For a successful referendum petition, the proposed language clarifies that the Council must refer the item to the earliest regular or already called election date for which all election process requirements can be met. Council may opt to call an earlier special election for the matter so long as all election process requirements can be met.
- A **computation of time** section has been added to this Article. This clarifies how deadlines are affected by holidays, weekends, and emergency closures, which currently is an issue that can cause confusion and disagreement. When the overall Charter update process is completed, we anticipate that a general time computation provision will be added for the Charter overall and the time computation provision in this Article will be removed.
 - Deadlines for actions to be taken by the City are stated in “business days” in increments of five, except where particulars dictate otherwise.
 - Deadlines for actions to be taken by the public are stated in “days” (defined to mean calendar days) in increments of seven, except where particulars dictate otherwise.
 - Deadlines will be at the end of the regular business day.
 - Generally, the deadline will shift forward to the first business day where a deadline falls on a weekend, holiday, or emergency closure day.
 - Where a requirement is stated as “no later than” or “at least X days before”, the deadline will shift to the closest earlier business day.
 - Many of the timing provisions are slightly modified to reflect this shift to make more consistent how timeframes will run in these processes.

CITY FINANCIAL IMPACTS

None.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Election Code Committee unanimously supported the proposed Charter amendments.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Ordinance for Consideration
2. Article X (current version)
3. Memo to Council, June 20, 2024
4. Article X Protest of Proposed Ballot Language