

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 Recall.

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. 095, 2024, Submitting to a Vote of the Registered Electors of the City of Fort Collins Repealing and Reenacting Article IX of the City Charter Relating to Recall.

The purpose of this item is to set ballot language regarding proposed amendments to Article IX of the City Charter relating to recall 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, for voter approval. If Council votes to adopt the proposed charter amendments, 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 recall provisions in Article IX 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 IX has been reorganized to make the description of the process and requirements flow better so they are easier to follow. The full recall process is outlined in chronological order. This will make the process simpler and easier to follow. The significant shifting of information within these Articles has made repealing and reenacting the appropriate method for revising them, rather than showing the extensive individual wording amendments.
- **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.

- **Simplification of the Petition Review Process (“Cure” Provisions):** The current process for *recall petitions* allows for “cure” meaning the petition may be withdrawn if determined insufficient and an additional 15 days is allowed for amending the petition. Under municipal election law this is used not to add signatures but to add or clarify information and correct affidavits. This cure mechanism has not been used 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 code, 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 for the conduct of an election. Current timeframes are unworkable under current election requirements and limitations. For a successful recall petition, the proposed language states that upon the City Clerk’s presentation of a petition certified as sufficient for recall:
 - Council must set the date for the election to be held on a Tuesday at the earliest possible election date and that the City Clerk will advise Council on the date that will allow sufficient time to meet all applicable requirements to hold such an election.
 - If the earliest possible election date determined by the City Clerk is less than 77 days prior to an upcoming November election (regular municipal or general election), the recall election must be consolidated with such election.
 - If the election will be consolidated with the November election and the office subject to recall is already on the upcoming November ballot, the recall process terminates.
 - If the officer subject to the recall petition resigns before ballots are mailed to the voters, the recall process would end, and the vacancy must be filled by appointment.
 - This version also to removes language about qualification of candidates and instead refers to statutory procedures for challenging candidate qualifications.
- **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 IX (current version)
3. Memo to Council, June 20, 2024
4. Article IX Protest of Proposed Ballot Language