

ORDINANCE NO. 094, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF
THE CITY OF FORT COLLINS PROPOSED CHARTER
AMENDMENT NO. 1, AMENDING ARTICLE VIII OF THE CITY
CHARTER RELATING TO ELECTIONS

A. 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 was first created by a vote of the people of Fort Collins in 1954 and can only be amended by a vote of the people.

B. Over time, Charter provisions may become obsolete, contradictory, or warrant change to address current needs or trends.

C. Article IV, Section 8 of the Charter provides the Charter may be amended as provided by the laws of the State of Colorado. Colorado Revised Statutes Section 31-2-210 provides that charter amendments may be initiated by the adoption of an ordinance by the City Council submitting a proposed amendment to a vote of the registered electors of the City.

D. The Council's 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. Article VIII of the Charter governs the City's processes for elections generally.

E. The proposed amendments to Article VIII include the following:

1. Clarify the usage of the term "shall" by replacing with "will," "must" or other appropriate language;
2. modernize the language to be more inclusive by removing he/she language;
3. remove requirement that Chief Deputy City Clerk serve on the Board of Election and allow the City Clerk to designate the lead election expert;
4. eliminate vague language for challenging nominations and qualifications of candidates (substituting the Municipal Election Code process); and
5. add rules for computation of time and add consistent deadline timeframes.

F. The Election Code Committee considered and supported similar revisions to Article IX, regarding recall, and Article X, regarding initiative and referendum, which are also under consideration by the Council.

G. The Council finds that these proposed revisions to Article VIII of the City Charter, regarding City elections generally, update, simplify and improve these provisions and are for the benefit of the people of Fort Collins, and the Council desires to present

the amendments to Article VIII set forth below to the voters for approval at the November 5, 2024, special municipal election.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the following proposed changes to Article VIII of the Charter of the City of Fort Collins shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. 1” at the special municipal election to be held on Tuesday, November 5, 2024:

ARTICLE VIII. ELECTIONS

Section 1. Applicability of state constitution.

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

Section 2. City elections.

A regular city election will be held on the first Tuesday in November of every odd-numbered year. All other municipal elections will be known as special city elections and will be called by ordinance and must be held in accordance with the provisions of this Charter and any ordinances adopted pursuant thereto. All municipal elections must be nonpartisan.

In order to implement a change of regular city elections from April of each odd-numbered year to November of each odd-numbered year, the term of the Mayor and each Councilmember will be extended to such time as a successor elected in November of the appropriate odd-numbered year (consistent with Article II, Section 1(b)) takes office, unless otherwise ended due to an event of vacancy or recall. Such change in term length will have no effect on the number of terms any such officer may be elected under the applicable term limits.

Section 3. Nomination; withdrawal from nomination.

Any person who is qualified at the time of nomination for the office to be filled may be nominated for the elective office by petition. A nominating petition for the office of Mayor must be signed by not less than twenty-five (25) registered electors. A nominating petition for District Council office must be signed by not less than twenty-five (25) registered electors residing in that District. A registered elector may sign one (1) petition for each

office for which the elector is entitled to vote at the election. If an elector should sign more petitions than entitled, said elector's signature will be void as to all petitions which the elector signed.

Nominating petitions must be filed with the City Clerk. The Council will enact an ordinance specifying the time frame for circulation and submittal of nominating petitions and the deadline for withdrawal from candidacy for municipal office. Such time frame must not be changed within one hundred eighty (180) days immediately prior to the election. No nominating petition may be accepted unless the candidate completes a verified acceptance of the nomination certifying that they are not a candidate, directly or indirectly, of any political party, and that they meet the qualifications for office and will serve if elected.

A person who has been nominated may withdraw from candidacy by filing a written request to do so with the City Clerk before the deadline established by Council ordinance for such withdrawal, and no name so withdrawn may be placed upon the ballot.

Section 4. Petitions.

(a) Form; circulation. The Council will prescribe by ordinance, upon recommendation of the City Clerk, the form for a nominating petition which must include such warnings and notices to signers as may be deemed appropriate by the Council, as well as the candidate's verified acceptance of nomination. The signatures on a nominating petition need not all be subscribed on one (1) page, but to each separate section of the petition there will be attached a signed statement of the circulator thereof, stating the number of signers on that section of the petition, and that each signature thereon was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. When executed, such statement must be accepted as true until it may be proved false. If any portion is proved false, that portion of any petition must be disregarded. Following each signature on the petition of nomination must be written the printed name and the residence address of the signer, and the date of signing. All nominating papers comprising a petition must be filed as one (1) instrument.

(b) Sufficiency of petition. Upon receipt of a nominating petition, the City Clerk will forthwith examine the petition, and within five (5) business days after the filing of the petition, notify the candidate in writing of the results of the examination, specifying the particulars of insufficiency, if any. Within the regular time for filing petitions, an insufficient petition may be amended and filed again as a new petition, in which case the time of the first filing will be disregarded in determining the validity of signatures thereon, or a different petition may be filed for the same candidate. The petition for each candidate elected to office must be preserved by the City Clerk until the expiration of the terms of office for such person.

(c) No person may receive any compensation whatever for signing a nominating petition.

(d) The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for objections to officer nominations.

Section 5. Board of Elections for City-administered elections.

There is hereby created a Board of Elections consisting of the City Clerk, the lead election expert in the City Clerk's Office, as determined by the City Clerk, and Chief Judge. The Board will be responsible for any election duties specified in this Charter and for such additional duties related to the conduct of elections by the City as may be established by the Council by ordinance.

Section 6. Appearance of names on ballot.

Every ballot must contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn. The names will be arranged in alphabetical order of surname for each office, and may not contain any title or degree designating the business or profession of the candidate. The candidate's name may be a nickname, but may not include any punctuation marks setting out the nickname.

Section 7. Certification of election results.

(a) No later than the date specified by Council by ordinance and, after verifying the total number of legal votes cast for each candidate and measure voted upon, the Board of Elections must complete a certificate declaring the results of the election. The candidate receiving the highest number of votes for a particular office, as determined pursuant to this Section 7, will be declared elected to that office. In event of a tie, the selection will be made by the Board of Elections by lot after notice to the candidates affected. The City adopts the applicable requirements and procedures outlined in the Colorado Municipal Election Code of 1965, as amended, for contests to officers declared duly elected. In case the candidate elected is disqualified by court order after the date of issuance of the certificate of election, tabulation of results in that contest shall be rerun with the disqualified candidate being eliminated prior to any tabulation and the candidate with the resulting highest vote shall be elected. If there is no other elected successor who qualifies or if the vote tabulation can no longer be rerun, the office will be deemed vacant, and will be filled by appointment by the remaining members of the council, as provided in Article II, Section 18. In the event of a mandatory recount or recount by request in a City-administered election, the Board of Elections must complete an amended certificate declaring the results of the election by no later than five (5) business days after the completion of the recount.

(b) For coordinated city elections (which are not administered by the City), the election will be determined and certified, and any tie vote or recount will be administered, as provided in the applicable state law. The candidate receiving the highest number of votes for a particular office, as determined pursuant to Section 7(c), will be declared elected to that office.

(c) Ranked voting methods. Beginning in 2025, the candidate receiving the highest number of votes for a particular office will be determined using a ranked voting method.

(1) For a City-administered election, the ranked voting method will be in accordance with specifications adopted by the City Council by ordinance.

(2) For a coordinated election, the ranked voting method will be in accordance with, and as provided by, applicable state law.

Section 8. Campaign contributions.

The Council will 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.

No political party or city employee, directly or indirectly, and no public service corporation, nor any other person, firm or corporation, owning, interested in, or intending to apply for any franchise or contract with the city may contribute or expend any money or other valuable thing, directly or indirectly, to assist in the election or defeat of any candidate.

Section 9. Corrupt practices.

Any person who violates at a city election any state law, provision of this Charter or ordinance of the city will, upon conviction thereof, be disqualified from holding any city position or employment for two (2) years, or any elective city office for four (4) years.

Section 10. Validity of City-administered elections.

No City-administered election may be invalidated if it has been conducted fairly and in substantial conformity with the requirements of this Charter.

Section 11. Computation of time.

(a) Except when business days are specified, all computations of time made under the provisions of this article will be based on calendar days.

(b) Except when computing business days, Saturdays, Sundays, City holidays and days City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances will be included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, City holiday or day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period is extended to include the next day that is not a Saturday, Sunday, or City holiday.

(c) In computing time for any act to be done before any regular or special election, the first day will be included, and the last or election day will be excluded.

(d) If the time for an act to be done under this article is referred to in business days, the time will be computed by excluding Saturdays, Sundays, City holidays, and any day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances.

(e) If a provision requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, if that period would end on a Saturday, Sunday or City holiday, it will instead shift to end on the prior business day that is not a Saturday, Sunday, or City holiday. If the period ends on a day City Hall is closed for business for a full or partial day due to inclement weather or other emergency circumstances, the period will end on the next business day on which City Hall is open for business.

(f) Except when otherwise specified, an act must be completed by 5:00 p.m. Mountain time on the last day for that action.

Section 12. Further regulations.

The Council may, by ordinance, make such further rules and regulations as are consistent with this Charter and the Colorado Constitution in order to carry out the provisions of this Article.

Section 2. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. 1 to the voters at said election:

CITY-INITIATED PROPOSED CHARTER AMENDMENT NO. 1

Shall Article VII of the Charter of the City of Fort Collins, regarding City elections, be amended to:

- Clarify the usage of the term "shall" by replacing with "will," "must" or other appropriate language;
- modernize the language to be more inclusive by removing he/she language;
- remove requirement that Chief Deputy City Clerk serve on the Board of Election and allow the City Clerk to designate the lead election expert;
- eliminate vague language for challenging nominations and qualifications of candidates (substituting the Municipal Election Code process); and
- add rules for computation of time and consistent deadline timeframes?

_____ Yes/For
_____ No/Against

Introduced, considered favorably on first reading on July 2, 2024, and approved on second reading for final passage on July 16, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: July 26, 2024

Approving Attorney: Carrie Daggett