

ORDINANCE NO. 062, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT
COLLINS PROPOSED AMENDMENTS TO ARTICLE II OF THE CITY CHARTER
CONFORMING THE LIMITS ON HOLDING
COUNCIL OFFICE TO THE LIMITS IN THE COLORADO CONSTITUTION
APPLICABLE TO THOSE WITH DISQUALIFYING FELONY CONVICTIONS

WHEREAS, Article IV, Section 8 of the Charter of the City of Fort Collins (“Charter”) provides that the Charter may be amended as provided by the laws of the State of Colorado; and

WHEREAS, Section 31-2-210, Colorado Revised Statutes, 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 of Fort Collins; and

WHEREAS, Article II, Section 2 of the Charter (“Section 2”) currently disqualifies from running for or serving on City Council any person convicted of any felony; and

WHEREAS, Article II, Section 18 of the Charter (“Section 18”) currently states that a vacancy exists when a Councilmember is convicted of a felony or is declared by the City Clerk, more than sixty days after the date of issuance of the certification of such Councilmember, to have previously been convicted of a felony pursuant to a written protest filed under Section 2; and

WHEREAS, the U.S. Court of Appeals for the Tenth Circuit and the Colorado Supreme Court have determined that the right to seek and hold public office is a fundamental civil right under federal and state law, respectively; and

WHEREAS, under Colorado law, individuals lose the rights to vote and run for public office during their incarceration for a felony conviction, and upon completion of a sentence, rights of citizenship, such as the right to run for public office, are automatically restored; and

WHEREAS, Colorado Constitution Article XII, Section 4, provides a permanent exception to the restoration of rights applies where the underlying felony conviction was for one of five listed crimes:

- a. Embezzlement of public monies;
- b. Bribery;
- c. Perjury;
- d. Solicitation of bribery; or
- e. Subornation of perjury; and

WHEREAS, broad and permanent disqualifications from office for any felony conviction, like that included in the Charter, have been subject to criticism and legal attack in recent years; and

WHEREAS, the City of Aurora recently lost a lawsuit challenging its broad disqualification provision based on the conflicting provision in the Colorado Constitution; and

WHEREAS, Council desires to amend the Charter to address the legal issue posed by the current overbroad disqualification of those with any felony conviction from running for or serving on the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the following proposed changes to Section 2 and Section 18 of Article II of the City Charter shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. 1” at the regular municipal election to be held on Tuesday, November 7, 2023:

ARTICLE II. CITY COUNCIL

Section 2. - Qualifications of candidates and members; challenges.

...

- (b) No person ~~who has been convicted of a felony~~ **prohibited by the Colorado constitution from serving in public office in Colorado** shall be eligible to be a candidate for, or hold, the office of Councilmember.

Section 18. - Vacancies.

- (a) A vacancy exists when a Councilmember:

...

(5) is convicted of a felony **that disqualifies the Councilmember from serving in public office in Colorado under the Colorado Constitution,** or is declared by the City Clerk, more than sixty (60) days after the date of issuance of the certificate of election of such Councilmember, to have previously been convicted of a **disqualifying** felony pursuant to a written protest filed under Section 2 of this article; or

...

Section 3. 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 Section 2 and Section 18 of Article II of the Charter of the City of Fort Collins, disqualifying anyone convicted of any felony from running for or serving on City Council, be amended to conform the City Charter to the Colorado Constitution, which specifies felonies resulting in disqualification from office in Colorado (currently including embezzlement of public monies, bribery, perjury, solicitation of bribery and subornation of perjury)?

_____Yes/For
_____No/Against

Introduced, considered favorably on first reading, and ordered published this 4th day of April 2023, and to be presented for final passage on the 18th day of April, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 18th day of April, 2023.

Mayor

ATTEST:

City Clerk