



AGENDA ITEM SUMMARY

City Council

STAFF

Anissa Hollingshead, City Clerk
Carrie Daggett, City Attorney

SUBJECT

Items Relating to a City-Initiated Charter Amendment Regarding Making Candidate Qualifications Comport with the State Constitution.

EXECUTIVE SUMMARY

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

B. First Reading of Ordinance No. 062, 2023, 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.

The purpose of this item is to set the ballot language regarding making candidate qualifications comport with the Colorado Constitution.

Any protest of the proposed ballot language must be received no later than Monday, April 3, 2023, 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

In November of 2022, the City received a letter from the American Civil Liberties Union (ACLU) advising a City Charter provision violates the Colorado Constitution. This provision, found in Article II, Section 2(b), prohibits those who have been convicted of a felony from running for or holding a position on City Council. The ACLU also asserts this provision is preempted by Colorado statute. They have successfully sued the City of Aurora regarding a similar provision. The Charter also contains a related provision in Article II, Section 18 that creates a vacancy when a Councilmember is convicted of a felony or after the City Clerk determines as much after receiving a written protest. In comparison, the Colorado Constitution, Article XII, Section 4, is more specific and provides that a person is prohibited from holding public office where that person is convicted of one or more of the following felonies: embezzlement of public monies; bribery; perjury; solicitation of bribery; or subornation of perjury.

This issue was brought to Council for discussion of the involved legal issues in Executive Session. The Council's Election Code Committee also discussed the topic, recommending a ballot question to amend the Charter be brought to Fort Collins voters. The Council also provided direction to the City Clerk by motion under Other Business to instruct the codifier to place an editor's note in the Charter regarding the lack of congruence with the State Constitution until an amendment can be presented to voters. The proposed Ordinance would approve a ballot question for the voters asking whether Section 2 and Section 18 should be amended to conform to the provisions of the Colorado Constitution.

CITY FINANCIAL IMPACTS

November will be a regular municipal election, conducted as a coordinated election with Larimer County. It is not anticipated placing this ballot question will have an impact on the total cost for that election. There will be minimal costs involved with updating the Charter if the question is approved by voters.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Council's Election Code Committee has recommended placing this question on the ballot.

PUBLIC OUTREACH

NA

ATTACHMENTS

1. Ordinance for Consideration