

# AGENDA ITEM SUMMARY

February 16, 2016

City Council

## STAFF

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Wanda Winkelmann, City Clerk  
Rita Knoll, Chief Deputy City Clerk

## SUBJECT

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Second Reading of Ordinance No. 021, 2016, Amending Chapter 7 of the Code of the City of Fort Collins to Update and Amend Requirements and Procedures for City Elections.

## EXECUTIVE SUMMARY

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This Ordinance, unanimously adopted on First Reading on February 9, 2016, amends Chapter 7 of the City Code as recommended by the City Clerk and the ad hoc Council Committee, to update and amend the election code.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on Second Reading.

## ATTACHMENTS

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1. First Reading Agenda Item Summary, February 9, 2016 (w/o attachments) (PDF)
2. Ordinance No. 021, 2016 (PDF)

# AGENDA ITEM SUMMARY

City Council

February 9, 2016

## STAFF

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Wanda Winkelmann, City Clerk  
Rita Knoll, Chief Deputy City Clerk

## SUBJECT

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First Reading of Ordinance No. 021, 2016, Amending Chapter 7 of the Code of the City of Fort Collins to Update and Amend Requirements and Procedures for City Elections.

## EXECUTIVE SUMMARY

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The purpose of this item is to adopt changes to Chapter 7 of the City Code as recommended by the City Clerk and the ad hoc Council Committee, to update and amend the election code.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinance on First Reading.

## BACKGROUND / DISCUSSION

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In the last several years, state election rules, laws, policies and procedures have been significantly amended. Staff has been following these changes and discussing which local municipal election laws might need to be examined. Additionally, since the April 2015 municipal election, staff has been reviewing the City's Election Code and Charter for possible updates and changes (as a part of the Plan-Do-Check-Act model). There are multiple and complex possibilities requiring thoughtful discussions to determine the impacts to the community.

Through Resolution 2015-092, City Council appointed three Councilmembers (Ross Cunniff, Bob Overbeck, and Kristin Stephens) to serve as an ad hoc committee to review, discuss, and recommend the most beneficial changes to Chapter 7 of the City Code and Article VIII of the Charter regarding elections. The Committee met four times - November 30, December 16, January 6, and January 20 - reviewed the proposed amendments, and makes the following recommendations:

### **A. Provisions Relating to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA):**

Ballots are mailed to registered voters 22-15 days before Election Day. House Bill 15-1130 amended the dates that ballots must be mailed to UOCAVA voters (45 days before Election Day), which means all additional deadlines (such as the date candidate petitions are due) must be changed. The Committee recommends that current practices be continued and that the provisions required as a result of UOCAVA legislation not be adopted.

**B. Election Code Amendments Recommended:**

| Proposed Amendment/Clarification |   | Corresponding Section #'s        |
|----------------------------------|---|----------------------------------|
| 1.                               | State that the Municipal Election Code (MEC) and the Uniform Election Code (UEC) will be followed when the City Code or Charter are silent on an election issue       | 7-1                              |
| 2.                               | Add a section to the duties of the City Clerk to codify actions taken to inform UOCAVA voters of the upcoming election  | 7-20                             |
| 3.                               | Address appointment, compensation, and oath of office for election workers  | 7-41, 7-42, 7-43                 |
| 4.                               | Insert a section to address recount procedures and the use of contributions to pay the cost of a request recount  | 7-45, 7-46, 7-47<br>7-132, 7-138 |
| 5.                               | Clarify how a protest of ballot language is filed (redistricting, ballot title)   | 7-88, 7-156                      |
| 6.                               | Amend the filing deadline of Friday before election reports to noon   | 7-136                            |
| 7.                               | Amend publication requirements for campaign finance reports; include in Notice of Election where campaign reports can be found  | 7-137, 7-184                     |
| 8.                               | Prescribe the order of items on the ballot  | 7-185                            |
| 9.                               | Not require the City Clerk to conduct signature verification  | 7-191                            |
| 10.                              | Permit an eligible voter to correct deficiencies (causing his or her ballot to be rejected) eight days after Election Day ( <b>only if UOCAVA fully implemented</b> ) | 7-192                            |
| 11.                              | Provide for the release of preliminary election results   | 7-193                            |

**C. Additional Discussion/Action:**

1. Consider a Charter amendment that would allow members of City Council to accept a wage lower than the amount outlined in Code;
2. Clarify the deadline for the filing of election complaints (considered in Agenda Item #6, which would establish a statute of limitations in the City Code).

**D. Items Withdrawn/Not Being Considered:**

1. After discussion with the Committee, no change was requested regarding campaign contribution limits;
2. After Committee discussion and staff research, staff withdrew the request to establish a time period for the termination of a campaign committee.

**CITY FINANCIAL IMPACTS**

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Switching from publishing campaign finance reports in the newspaper to posting the reports online is expected to save \$10,000 annually.

**BOARD / COMMISSION RECOMMENDATION**

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At the request of the Committee, staff met with the Commission on Disability (COD), Human Relations Commission (HRC), and Senior Advisory Board (SAB) to discuss the issue of City Council Compensation and if a Charter amendment should be considered to permit a Councilmember the option of accepting a reduced salary or no salary at all.

The HRC requested information regarding national trends on this issue. Staff was unable to provide this information.

The COD and SAB expressed support for a Charter amendment as they didn't want the issue of Council compensation to impair a citizen's ability to run for office. Concern was expressed that the issue of not taking a salary could be used as a political tool.

**ATTACHMENTS**

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1. Human Relation Commission minutes (draft), January 14, 2016 (PDF)
2. Senior Advisory Board minutes, December 9, 2015 (PDF)
3. Commission on Disability minutes (draft), January 14, 2016 (PDF)
4. Powerpoint presentation (PDF)

COPY

ORDINANCE NO. 021, 2016  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF FORT COLLINS  
TO UPDATE AND AMEND REQUIREMENTS AND PROCEDURES  
FOR CITY ELECTIONS

WHEREAS, Chapter 7 of the City Code provides the procedures, requirements and responsibilities for the conduct of municipal elections, reporting and registration of candidate, issue and political committees, and campaign finance disclosure requirements; and

WHEREAS, over the last several years, state election laws, rules, policies and procedures have been significantly amended; and

WHEREAS, in response to the adoption of new state law provisions regarding uniformed and overseas voters, City staff has reviewed the current City practices related to these voters in order to determine whether meaningful benefit would be derived from significant timeframe and process enhancements to promote and facilitate voting by uniformed and overseas voters; and

WHEREAS, in addition, procedural improvements and matters in need of clarification have been identified during the conduct of recent elections; and

WHEREAS, the City Clerk has identified opportunities for increasing access and transparency and reducing cost and delay through the use of available technology and updated communications tools; and

WHEREAS, in light of the foregoing, City staff developed a number of recommendations for possible amendments to Chapter 7 to update and improve the City's election and campaign finance provisions accordingly; and

WHEREAS, on October 20, 2015, the City Council adopted Resolution 2015-092, appointing Councilmembers Ross Cunniff, Bob Overbeck and Kristin Stephens to an ad hoc committee (the "Committee") to review recent changes in relevant election laws, rules, policies and procedures and to make recommendations for possible City Code and City Charter changes for Council consideration; and

WHEREAS, the Committee met in November, December and January, and completed its work on January 20, 2016; and

WHEREAS, based on the matters discussed and considered by the Committee, the Committee unanimously recommended a number of City Code changes, which are set out in this Ordinance; and

WHEREAS, the Committee further recommended that the Council consider proposing for voter approval when practicable an amendment to the Charter provision allowing the mayor and councilmembers to decline all or any portion of their compensation specified for them in the Charter; and

WHEREAS, the Council has reviewed and considered the recommendations of City staff and the Committee, and has determined that the amendments to Chapter 7 as set forth in this Ordinance will be for the benefit of the citizens of Fort Collins and will improve the clarity of the election requirements as well as the efficiency and transparency of the City's election procedures.

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 Article I of Chapter 7 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 7-1 which reads in its entirety as follows:

**Sec. 7-1. Applicable law.**

All City elections shall be governed by and conducted in accordance with the applicable election requirements and procedures in the Colorado Constitution, the Charter, this Chapter 7, and in any ordinance adopted by City Council.

(a) To the extent the Colorado Municipal Election Code of 1965, as amended, or the Colorado Uniform Election Code of 1992, as amended, impose other requirements or procedures applicable to municipal elections not addressed or covered by the Constitution, Charter, Code or Council ordinance, such state law requirements and procedures shall govern and apply in all City elections.

(b) If there is a conflict between any such applicable provision in the Municipal Election Code of 1965 and one in the Uniform Election Code of 1992, the provision in the Municipal Election Code of 1965 shall control in all City elections unless the election is being conducted as a coordinated election with the Larimer County Clerk and Recorder, in which case, the provision in the Uniform Election Code of 1992 shall control in that City election.

Section 3. That Article I of Chapter 7 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 7-20 which reads in its entirety as follows:

**Sec. 7-20. Duties of City Clerk.**

The City Clerk shall:

(1) Provide forms and instructions to assist candidates and the public in complying with the reporting requirements of Article V;

- (2) Keep a copy of any report or statement required to be filed by Article V for a period of one (1) year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one (1) year after the candidate leaves office;
- (3) Make reports and statements filed under Article V available on the City's website no later than the next business day;
- (4) Report apparent violations of Article V to the City Manager.
- (5) Prescribe the form of materials to be used in the conduct of mail ballot elections consistent with the provisions contained in Article VIII;
- (6) Establish procedures for conducting mail ballot elections consistent with the provisions contained in Article VIII, including efforts to inform uniformed and overseas voters of the upcoming election;
- (7) Supervise the conduct of mail ballot elections;
- (8) Employ temporary election workers as needed; and
- (9) Take all necessary steps to protect the confidentiality of voted ballots and the integrity of the election.

Section 4. That Section 7-41 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-41. Appointment.**

The City Clerk shall appoint workers to participate in the conduct of the election.

Section 5. That Section 7-42 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-42. Compensation.**

Election workers shall receive compensation for participating in the conduct of the election in an amount established by the City Clerk based on a review of comparable types of work.

Section 6. That Article II, Division 3 of Chapter 7 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 7-43 which reads in its entirety as follows:

**Sec. 7-43. Oath of Office.**

Each election worker shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the Charter and ordinances of the City.

Section 7. That Article II of Chapter 7 of the Code of the City of Fort Collins is hereby amended by the addition of a new Division 4 which reads in its entirety as follows:

*Division 4*  
*Recounts*

**Sec. 7-45. Mandatory recount.**

The City Clerk shall conduct a recount of the votes cast for any office, and for any ballot issue or question if it appears, as evidenced by the survey of returns, that the difference between the highest number of votes cast for such office, ballot issue or question and the next highest number of votes cast in the same is less than or equal to one-half of one percent of the highest number of votes cast for said office, ballot issue or question. In the event of a mandatory recount, the following procedures shall be used:

- (1) The recount process shall be completed no later than the fifteenth (15) day following the certification of election results, and shall be paid for by the City.
- (2) The City Clerk shall give notice of the recount to all candidates and, in the case of a ballot issue or question, to any petition representatives identified pursuant to Article X, Section 5(e) of the Charter that are affected by the result of the election. Such notice shall be given by certified mail or by other means reasonably expected to notify the affected candidates or petition representatives.
- (3) Any affected candidate or his or her designee or petition representative shall be allowed to be present at and observe the recount.

**Sec. 7-46. Recount by request.**

Whenever a recount of the votes cast for any office, ballot issue or question is not required pursuant to Section 7-45, any candidate for office, any petition representative for a ballot issue or question, any committee's registered agent, or any eligible elector, may submit to the City Clerk a written request for a recount at the expense of the party making the request.

- (1) This request, together with that amount determined by the City Clerk to be the preliminary estimated cost of the recount, shall be filed with the City Clerk within five (5) days after the certification of election results.
- (2) Before conducting the recount, the City Clerk shall give notice of the recount in accordance with the provisions of Section 7-45(2).

(3) The funds paid to the City Clerk for the recount shall be in one (1) certified check, accompanied by an affidavit disclosing the source or sources of the funds, and said funds shall be used for payment of all expenses incurred in the recount.

(4) If, after the recount, the outcome of the vote on the recounted office, ballot issue or question is reversed or if the amended vote count is such that a recount otherwise would have been required pursuant to Section 7-45, the payment for expenses shall be refunded to the party who requested the recount.

(5) Within sixty (60) days after the final certification of recounted election results, the City Clerk shall prepare and deliver to the party who requested said recount the final costs for the recount. Any additional amount due shall be paid by the party who requested the recount in one (1) certified check within thirty (30) days of receipt of the final costs. Any refund due shall be refunded within thirty (30) days after the determination of final costs.

(6) Any recount of votes conducted pursuant to this Section shall be completed no later than the fifteenth (15) day after the certification of election results.

**Sec. 7-47. Recount procedures.**

In addition to the applicable procedures described above, the City Clerk shall be responsible for conducting the recount, shall determine the method and procedures for conducting the recount, and shall be assisted by the Board of Elections, as outlined in Article VIII, Section 5 of the Charter. If a member of the Board of Elections is not available to participate in the recount, another person shall be appointed by the City Clerk.

(1) The City Clerk may appoint election workers to assist with the recount, whether or not such workers served as workers in the election. Persons assisting in the conduct of the recount shall be compensated as provided in Section 7-42 and shall take an oath of office as provided in Section 7-43.

(2) After a recount conducted pursuant to this Division has been completed, an amended certificate of election shall be completed by the Board of Elections, and the results of such amended certificate shall become final.

Section 8. That Section 7-88 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-88. Protest procedure.**

Any registered elector desiring to protest the manner of redistricting proposed in any such redistricting ordinance shall file a written protest with the City Clerk no later than noon

on the Monday immediately preceding the date upon which the proposed redistricting ordinance is to be heard by the City Council on first reading. Such notice of protest shall be on a form available from the City Clerk, shall be signed by the protestor(s), and shall set forth (1) the name, address, and phone number of the protestor(s); (2) the title of the redistricting ordinance being protested; (3) with particularity, the grounds of the protest; and (4) any other information required by the City Clerk. Such protest shall be heard, considered and resolved by the City Council no later than the date of second reading of the proposed redistricting ordinance.

Section 9. That the definition of “*Contribution*” contained in Section 7-132 of the Code of the City of Fort Collins is hereby amended to read as follows:

...

*Contribution* shall not include:

- (1) services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee or issue committee;
- (2) funds collected subsequent to the election to pay the cost of a requested recount pursuant to 7-46.

Section 10. That Section 7-136(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-136. Disclosure; filing of reports.**

...

(c) Reports shall be filed with the City Clerk on the twenty-first day, fourteenth day, and no later than noon on the Friday before the election, thirty (30) days after the election, and annually on the first day of the month in which the anniversary of the election occurs until such time as a termination report is filed. If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

...

Section 11. That Section 7-137 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-137. Reports to be public record.**

(a) Upon receipt of any campaign report submitted pursuant to this Article, the City Clerk shall make available such report for public inspection and post the report on the City’s website no later than the next business day.

(b) No information contained in any campaign report submitted pursuant to this Article shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

Section 12. That Section 7-138 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-138. Unexpended campaign contributions.**

- (a) Unexpended campaign contributions to a candidate committee may be:
- (1) Contributed to a political party;
  - (2) Contributed to a candidate committee established by the same candidate for a subsequent campaign, subject to the limitations set forth in Paragraph 7-135(e)(2), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten (10) days after the date such a contribution is made;
  - (3) Donated to a charitable organization recognized by the Internal Revenue Service;
  - (4) Returned to the contributors;
  - (5) Used to pay for the cost of a recount requested by the candidate pursuant to §7-46.
- ...
- (d) Unexpended contributions to an issue committee or political committee may be donated to any charitable organization recognized by the Internal Revenue Service, or returned to the contributor, or used to pay for the cost of a recount requested by the committee's registered agent pursuant to §7-46.

Section 13. That Section 7-140 of the Code of the City of Fort Collins is hereby deleted in its entirety and shall be reserved for future use:

Section 14. That Section 7-156 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-156. Protests of proposed ballot title and/or submission clause.**

Any registered elector desiring to protest a proposed ballot title and/or submission clause for any initiated or referred measure shall file a notice of protest with the City Clerk no later than noon on the Monday immediately preceding the date upon which the City Council will consider the ordinance on first reading, or resolution, setting the ballot title and submission clause. Such notice of protest shall be on a form available from the City

Clerk, shall be signed by the protestor(s), and shall set forth: (1) the name, address, and phone number of the protestor(s); (2) the title of the ordinance or resolution being protested; (3) with particularity, the grounds of the protest; and (4) any other information required by the City Clerk. Such protest shall be heard, considered and resolved by the City Council prior to the adoption of said ordinance or resolution.

Section 15. That Section 7-183 of the Code of the City of Fort Collins is hereby deleted in its entirety and held in reserve for future use:

Section 16. That Section 7-184 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-184. Notice of election.**

(a) No later than twenty (20) days before an election conducted pursuant to this Article, the City Clerk shall provide notice by publication of a mail ballot election, which notice shall state, as applicable for the particular election for which the notice is provided, the following:

- (1) The date of the election;
- (2) The hours during which the polls will be open on election day;
- (3) The address of the walk-in location for the delivery of mail ballots and the receipt of replacement ballots, and the hours during which the walk-in location will be open;
- (4) The address of the location for the application for, and the return of, absentee ballots and the hours during which the office will be open.
- (5) Such other information that may be useful to voters regarding the conduct of the election or related to disclosures required in this Chapter.

(b) The notice required to be given by this Section shall be in lieu of the notice requirements set forth in Section 31-10-501(1), C.R.S.

Section 17. That Section 7-185 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-185. Form of ballots; order of items on the ballot.**

...

(e) Items on the ballot shall appear in the following order:

1. City-initiated measures under Article X, Section 20 of the State Constitution
2. Citizen-initiated measures under Article X, Section 20 of the State Constitution
3. City-initiated measures
4. Citizen-initiated or referred measures

(f) Citizen-initiated measures and citizen-referred measures as listed in subparagraph (e) 2 and (e) 4 above shall appear by category in the order of receipt of final petition, whether it is the initial petition or an amended petition.

Section 18. That Section 7-191 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-191. Receipt and qualification of ballots; signature verification not required.**

(a) All ballots, including undeliverable ballots, shall be marked to indicate the date the ballot was received by the City Clerk.

(b) Upon receipt of a voted ballot, an election worker shall first qualify the submitted ballot based on a visual inspection of the self-affirmation signature on the return envelope compared to the name of the elector printed on the envelope to determine whether the ballot was submitted by said elector. Comparison of the signature on the return envelope to any signature image, including those signature images in the statewide voter registration system, is not required. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the poll book that the eligible elector cast a ballot, and shall prepare the ballot for counting in accordance with § 7-193 below.

Section 19. That Section 7-192 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-192. Rejected ballots.**

The City Clerk is authorized, but not required, to make a reasonable effort to allow an eligible elector whose ballot has been rejected to correct the deficiency causing rejection. No elector shall be allowed to correct a deficiency without first producing valid proof of identification. No elector shall be allowed to open, change, or alter his or her ballot while in the process of correcting the deficiency.

Section 20. That Section 7-193 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7-193. Counting mail ballots; release of preliminary election results.**

Counting of mail ballots may begin fourteen (14) days prior to the election and continue until counting is completed. The City Clerk shall take all precautions necessary to ensure

the secrecy of voted ballots, and no information concerning the same shall be released by election workers except as authorized by the City Clerk. The City Clerk is authorized to release preliminary election results after 7:00 p.m. on Election Day provided they are clearly marked as unofficial. Official results shall be released upon final certification of the election.

Introduced, considered favorably on first reading, and ordered published this 9th day of February, A.D. 2016, and to be presented for final passage on the 16th day of February, A.D. 2016.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on this 16th day of February, A.D. 2016.

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Mayor

ATTEST:

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City Clerk