

The following Ordinance placing a proposed Charter amendment on the April 6, 2021 Regular City Election ballot was adopted by the Council on final reading on January 19, 2021. Proposed amendments to the current language in the Charter are shown on the next page. Text with a line through the middle indicates language that will be deleted if the amendment is approved by the voters. Text that is highlighted in yellow indicates new language that will be added to the Charter if the amendment is approved by the voters.

ORDINANCE NO. 013, 2021
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 SECTIONS 9 AND 11 OF ARTICLE V OF THE
CITY CHARTER CONCERNING SUPPLEMENTAL AND
NON-LAPSING APPROPRIATIONS

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(1)(b) of the Colorado Revised Statutes provides that amendments to the Charter 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 that such ordinance must also adopt a ballot title for the proposed amendment; and

WHEREAS, Article V, Section 9 of the Charter (“Section 9”) currently allows the City Council to make supplemental appropriations at any time during the fiscal year provided such appropriations, in combination with all previous fiscal years, shall not exceed the then current estimate of actual and anticipated “revenues” to be received by the City during that fiscal year; and

WHEREAS, a 2018 court case not involving the City, suggests that while “revenues” includes income a governmental entity receives, such as taxes, it may not include other funds a governmental entity receives such as loan proceeds, grants and donations, thereby calling into question whether the City Council can make supplemental appropriations from these other funds that may not be considered “revenues”; and

WHEREAS, this proposed amendment to Section 9 would clarify that the City Council can make supplemental appropriations from not just “revenues,” but from “all other funds” the City receives during a fiscal year; and

WHEREAS, Article V, Section 11 of the Charter (“Section 11”) currently provides that all City Council appropriations for capital projects and for federal and state grants are to be considered non-lapsing appropriations, unlike all other City Council appropriations which are considered as having lapsed at the end of each fiscal year to the extent not expended or encumbered; and

WHEREAS, in recent years the City has been receiving more and more private grants and donations for which it would be helpful in some circumstances if the appropriation of these grants and donations could be designated as non-lapsing appropriations; and

WHEREAS, there are also some circumstances where it would be desirable if the appropriation of certain capital projects and federal and state grants could be designated as lapsing appropriations rather than non-lapsing, but under the current wording of Section 11, such appropriations are required to be non-lapsing; and

WHEREAS, this proposed amendment to Section 11 is to allow the City Council to designate as non-lapsing appropriations for private grants and donations and to have the discretion to decide on a case-by-case basis whether to designate as non-lapsing appropriations for capital projects and for federal, state and private grants and donations.

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 9 and 11 of Article V of the City Charter shall be submitted to the registered electors of the City as “Proposed Charter Amendment No. 3” at the regular municipal election to be held on Tuesday, April 6, 2021:

ARTICLE V. FINANCE ADMINISTRATION

Section 9. – Supplemental appropriations.

The Council, upon recommendation of the City Manager, may make supplemental appropriations by ordinance at any time during the fiscal year; provided, however, that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, shall not exceed the then current estimate of actual and anticipated revenues **and all other funds** to be received by the city during the fiscal year. This provision shall not prevent the Council from appropriating by ordinance at any time during the fiscal year such **revenues and** funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

Section 11. – Lapsed appropriations

All appropriations unexpended or unencumbered at the end of the fiscal year shall lapse to the applicable general or special fund, except ~~that~~ **the Council may designate in an ordinance appropriations appropriating funds for capital projects and for federal, or state and private grants and donations shall not lapse that such funds shall not lapse** until the completion of the capital project or until the **earlier of the expiration of the federal, or state or private grant or donation or the city’s expenditure of all funds received from such grant or donation.**

Nothing herein shall limit the ability of the Council to terminate a capital project or a federal, ~~or state~~ **or private grant or donation** at any time prior to completion of the project or **prior to** expiration of **or the city’s expenditure of all funds from** the grant **or donation.**

Section 3. That the following ballot title and submission clause are hereby adopted for submitting Proposed Charter Amendment No. 3 to the voters at said election:

CITY-INITIATED PROPOSED CHARTER AMENDMENT NO. 3
AMENDING SECTIONS 9 AND 11 OF CHARTER ARTICLE V
CONCERNING CITY COUNCIL APPROPRIATIONS

Shall Sections 9 and 11 of Article V of the City of Fort Collins Charter be amended to provide that City Council may make supplemental appropriations from not only the City's actual and expected revenues in a fiscal year, but also from all other sources of funds the City receives or expects to receive during the fiscal year, and to provide that the City Council may designate by ordinance as non-lapsing its annual and supplemental appropriations for capital projects and for federal, state and private grants and donations until the completion of the capital project or until the earlier of the expiration of the federal, state or private grant or donation or the city's expenditure of all funds received from such grant or donation, but without limiting the City Council's ability to terminate earlier any such capital project or federal, state or private grant or donation?

_____ Yes/For
_____ No/Against

Introduced, considered favorably on first reading, and ordered published this 5th day of January, A.D. 2021, and to be presented for final passage on the 19th day of January, A.D. 2021.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 19th day of January, A.D. 2021.

Mayor

ATTEST:

City Clerk