



City of Arvada City Council Agenda

APRIL 26, 2021
WORKSHOPS

Councilmembers:

Marc Williams, Mayor
Dot Miller, Mayor Pro-Tem
Bob Fifer, At large
Nancy Ford, District 1
David Jones, District 4
John Marriott, District 3
Lauren Simpson, District 2

Staff Members Usually Present:

Mark Deven, City Manager
Lorie Gillis, Deputy City Manager
Rachel Morris, City Attorney
Don Wick, Director of Public Works
Sharon Israel, Director of Utilities
Ryan Stachelski, Dir. of Community & Economic Development
Bryan Archer, Director of Finance
Rob Smetana, Manager of City Planning & Development
Ben Irwin, Chief Communications Manager
Kristen Rush, City Clerk

Info: 720-898-7550

THIRD FLOOR CONFERENCE ROOM EXECUTIVE SESSION 5:00 P.M.

Legal Advice Pursuant to 24-6-402(4)(b) Relating to Leyden Rock Infrastructure Improvements
Legal Advice Pursuant to 24-6-402(4)(b) and Instructions to Negotiators Pursuant to 24-6-402(4)(e)
Relating to Canyon Pines Metro District Request for Special Improvement District

CITY COUNCIL CHAMBERS 6:00 PM

1. CALL TO ORDER/ROLL CALL OF COUNCILMEMBERS
2. WORKSHOPS
 - A. Charter Review Committee
 - B. Bond Projects Quarterly Update
 - C. Regulation and Enforcement of Tobacco and Vaping
 - D. Staff Updates
3. ADJOURNMENT



REPORT TO CITY COUNCIL WORKSHOP

AGENDA ITEM
2.A.

TO: THE HONORABLE CITY COUNCIL

DATE: April 26, 2021

SUBJECT: Charter Review Committee

Report in Brief

At its January 11 meeting, the City Council officially formed the Charter Review Committee and appointed 20 members. The Committee met on four separate occasions to discuss charter section issues and develop recommendations for the Council's review.

Pursuant to Section 13.13 of the Arvada City Charter and City Council Resolution R21-010, the 2021 Charter Review Committee presents its summary of recommendations.

Background

Commencing in the year 2001 and every ten (10) years thereafter, the City Council shall appoint a Charter Review Committee for the purpose of performing a comprehensive review of the City Charter and for making recommendations to the City Council for amendments, deletions, or other changes to the Charter and submitting the same in writing to the City Council.

The Charter Review Committee meetings were facilitated by appointed Chair Mark McGoff. Councilmember and Committee Co-Chair Lauren Simpson and Councilmember John Marriott participated in all four meetings. City Attorney Rachel Morris provided counsel and expertise in evaluating Charter Review Committee questions and suggestions, along with completing all necessary research. Deputy City Manager Lorie Gillis provided Council with a brief summary in the Weekly Memo following each Charter Review Committee meeting.

A very engaged Charter Review Committee met on February 11 and 25, and March 11 and 25 to discuss the following issues:

Section 13.3	Mayor Signature Requirement
Section 3.1	Council Terms
Section 3.6	Recall Signature Requirements
Section 4.3	Councilmember Employment Prohibition
Section 4.4	Council Compensation
Section 4.6	Council Vacancies
Section 8.2	Residency Requirement for Presiding Municipal Judge
Sections 5.13 & 5.14	Initiative and Referendum Procedures
Section 8.1	City Attorney
Section 6.5	Non-Interference
	Appointee Residency Requirement
Section 4.7	Term Limits
	Office of Ombudsman

The attached report provides all information used for the Committee's review, and includes the following documents:

Summary memorandum
Resolution

Memo to the Charter Review Committee
2-11-21 Charter section worksheet packet
2-11-21 Meeting Summary
2-25-21 Charter section worksheet packet
2-25-21 Meeting Summary
3-11-21 Meeting Summary
3-25-21 Meeting Summary

Strategic Alignment

The City Charter is our most important legal document, describing the powers and essential functions of local government. Like any foundational document, the Charter is periodically updated to ensure it evolves to meet the needs of the community. Therefore, review and update of the City Charter aligns with the Organizational and Service Effectiveness Priority Area of the City Council Strategic Plan.

Next Steps

Mark McGoff will work with Kristen Rush to create a Charter Issues Committee. Once Council has identified issues for the ballot, there will be an education campaign for the community.

Prepared by:
Barb Morger, Executive Assistant

Reviewed by:
Gail Walker, Legal Specialist-Contracts 3/29/2021

Approved by:

Rachel Morris, City Attorney	4/14/2021
Lorie Gillis, Deputy City Manager	4/14/2021
Mark Deven, City Manager	4/14/2021

Enclosure, exhibits & attachments required to support the report



2021 Charter Review Committee



Section 13.13 - Charter Review

Commencing in the year 2001 and every ten (10) years thereafter, the City Council shall appoint a Charter Review Committee for the purpose of performing a comprehensive review of this Charter and for making recommendations to the City Council for amendments, deletions, or other changes to the Charter and submitting the same in writing to the City Council. The membership of the Committee shall be comprised of at least fifteen (15) registered electors of the city or such greater number of registered electors as the City Council may determine.

Date: March 29, 2021
To: Arvada City Council
From: Mark McGoff, Chair of the 2021 Charter Review Committee
Lauren Simpson, Vice-Chair of the 2021 Charter Review Committee
Subject: Summary of Committee Meetings and Recommendations

Pursuant to Section 13.13 of the Arvada City Charter and City Council Resolution R21-010, a twenty-member citizen committee was appointed by the City Council to conduct a comprehensive review of the Charter and make recommendations to the Council for amendments, deletions, or other changes to the Charter. To this end, the committee conducted four meetings (via Zoom) between the dates of February 11 and March 25, 2021.

The Council identified eight issues for the committee to consider. Several additional issues were identified by the committee members. Each of these issues is summarized in this memorandum and the committee recommendations provided for each of them. The summaries of committee meetings, which are attachments to this memorandum, provide background and research information that was utilized by committee members in preparation for the meetings and for reference during the meetings. The attachments are intended to provide details of committee proceedings beyond the scope of this summary memorandum.

Council Identified Issues:

Section 3.1: Council Terms: “The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the **first** regular meeting following the election at 7:00 p.m.” The committee recommends the following:

1. that the Charter be amended to state that council terms commence at the **second** regular meeting after an election, OR
that the Charter be amended to address the beginning of a councilmember term in the event of an incomplete/inconclusive vote or the need for a recount of the vote.

2. that the Charter not be amended to require the winner of a city council election to have a majority of votes cast.
3. that consideration be given to changing the Charter to require the Mayor to be elected by a majority vote, i.e. establish a provision for a run-off election in the event that no candidate receives a majority of the votes in a regular election. (Nine of sixteen committee members voting on this issue favored requiring a majority vote for the position of Mayor. If a majority vote were required, eleven of nineteen committee members voting on this issue favored a run-off election, rather than utilizing a rank choice system.)

Section 13.3: Mayor Signature Requirement: “All conveyances of interest in land by the City shall be signed by the Mayor, or Mayor Pro tem and attested by the City Clerk under the Seal of the City.” The committee recommends that the Charter be amended to state that procedures and authority for conveyance of an interest in land by the City shall be established by ordinance.

Section 3.6: Language Clarification on Recall Signature Requirements. “...said petition must be signed by registered electors who would be entitled to vote for a successor of the incumbent sought to be recalled, numbering at least twenty-five (25) percent of the **registered electors voting for all the candidates** for the Councilmembers respective office in the last preceding Regular Municipal Election.” The committee recommends that the highlighted language be amended to state at least twenty-five (25) percent of the **number of votes cast** for all the candidates for the Councilmember’s respective office in the last preceding Regular Municipal Election. Note: The proposed language would remove any possible ambiguity, since no elector can vote for all the candidates.

Section 4.3: Councilmember Employment Prohibition. “No councilmember, including the Mayor, shall be a salaried employee of the City **nor any other municipality** during his/her term of office.” The committee recommends that the highlighted language be deleted.

Section 4.4: Council Compensation. “The members of the City Council shall receive such compensation, ...as the City Council shall by ordinance prescribe...” The committee recommends that the Charter be amended to specify an amount

of compensation to be effective on a given future date and permit annual adjustments thereafter in accordance with the Consumer Price Index. The committee recommends that the effective date be December 2023 or January 2024 (after the November 2023 election).

Section 4.6: Council Vacancies. “In case of a vacancy the remaining Councilmembers shall choose by a majority vote, and **within thirty (30) days** a person qualified under Section 4.3 of this Charter to fill such vacancy ...” The committee recommends that the Charter be amended to increase the time to fill a vacancy from 30 to 45 days.

Section 8.2: Residency Requirement for Presiding Municipal Judge. “Each judge of the Municipal Court shall be a resident of the City of Arvada.” The committee recommends modification of this language as follows: “At the time of his/her appointment, a judge need not be a resident of the City or State, but he/she shall establish residence in Arvada within six (6) months from the first date of work as a judge. City Council shall have the discretion to permit any judge up to an additional six (6) months, for a total of twelve (12) months to become a resident and inhabitant of the City.”

Section 5.13 (b): Initiative Procedures. “The petition (for an initiative) must be filed with the City Clerk **within thirty (30) days** (from) the date the notice is filed with the City Clerk.

Section 5.14 (c): Referendum Procedures. “...(A) petition calling for a referendum of an ordinance (must be) signed **within thirty (30) days** from the effective date of the ordinance ...”

The committee recommends that the Charter be amended to allow 45 or 60 days for signature gathering for both Initiative and Referendum.

Committee Identified Issues:

Section 8.1: City Attorney. The Charter states (in part): “Any agreement for compensation to special counsel shall be made only upon approval of City Council and prior to the service being rendered.” Committee discussion centered around whether the requirement for prior approval of City Council for special counsel

might impede timely work by the city attorney. City Attorney Rachel Morris informed the committee that the requirement for prior approval of special counsel has not been a hindrance to the work of her office. The committee recommends no change to the Charter and that any concerns be addressed administratively.

Section 6.5: Expanding Non-Interference Clause. The Charter states that City Councilmembers shall not interfere with the work of the City Manager and that Councilmembers shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Committee discussion centered around whether this non-interference language might be extended to the City Attorney and Presiding Municipal Court Judge. The committee recommends no change to the Charter to extend the non-interference language to the offices of City Attorney and Presiding Municipal Court Judge.

Appointee Residency Requirements. Section 6.1 specifies a residency requirement for the City Manager. The committee recommends that all judges continue to be subject to the residency requirement (in Section 8.1 above) but allowed time after appointment to establish residency. The committee discussed whether there should be a residency requirement for the City Attorney and recommends against changing the Charter to require residency for this position.

Section 4.7: Term Limits. This section states that a councilmember may serve in a City Council office for three terms and may subsequently serve in another council office for an additional three terms. Therefore, an individual could serve for three terms in each of three council offices (district councilmember, at-large councilmember, Mayor) for a total of thirty-six years. The committee discussion centered on whether there should be a limitation (perhaps 16 years) on how long a person would be allowed to serve on the council. The committee recommends no change in the current language regarding term limits..

Office of Ombudsman. The committee considered a charter requirement to establish by ordinance an office to receive complaints concerning the operation of city government. The committee does not recommend charter language that would require the creation the office of ombudsman. The committee recommends that the city examine the possibility of creating such a position through administrative action.

The Charter Review Committee acknowledges and commends the outstanding preparatory work and continuing support of city staff throughout our process. Deserving of special mention are Executive Assistant Barb Morger, City Attorney Rachel Morris, City Clerk Kristen Rush, and Deputy City Manager Lorie Gillis. The contributions of these staff members made it possible for the committee to conduct our virtual meetings in an efficient manner.

This final report is intended to convey a citizen perspective on the Charter issues referred by the City Council, as well as issues that were identified by committee members. We look forward to making a formal presentation in your study session scheduled for April 26, 2021. The committee welcomes the opportunity to discuss this report with you at that time.

cc: Mark Deven, City Manager

Members of the Charter Review Committee



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.B.2.

TO: THE HONORABLE CITY COUNCIL

DATE: 1-4-21

SUBJECT: A Resolution establishing and appointing members to the 2021 Arvada Charter Committee

Report in Brief

Section 13.13 of the Arvada City Charter mandates that every 10 years from 2001, City Council shall appoint a Charter Review Committee to be comprised of at least fifteen registered electors of the City for the purpose of performing a comprehensive review of the Arvada Charter and for making recommendations for amendments, deletions, and other changes in writing to the City Council.

The Arvada team recommends that the City Council approve R21-___, A Resolution Establishing and Appointing Members to the 2021 Regular Municipal Election. Staff recommends approval of this Resolution.

Financial Impact

There is no financial impact. Members of the committee shall not be compensated; however, upon order of the City Council, members may be reimbursed for ordinary and necessary expenses incurred in the performance of their official duties.

Background

Section 13.13 of the Arvada City Charter mandates that every 10 years from 2001, City Council shall appoint a Charter Review Committee to be comprised of at least fifteen registered electors of the City for the purpose of performing a comprehensive review of the Arvada Charter and for making recommendations for amendments, deletions, and other changes in writing to the City Council.

There is a list of 21 members who are recommended to be appointed to the Charter Committee. Mark McGoff is to be designated as the Chair of the Committee. District Two Council Member Lauren Simpson shall be designated Vice-Chair of the Committee.

When the work of the Committee is complete, a written report will be forwarded to the City Council making any recommended changes to the Charter. The City Council retains the sole discretion to determine which, if any, Charter Amendment questions will appear on the November 2, 2021 Regular Municipal Election.

RESOLUTION NO.

A RESOLUTION ESTABLISHING AND APPOINTING MEMBERS TO THE 2021 ARVADA CHARTER REVIEW COMMITTEE

WHEREAS, Section 13.13 of the Arvada Charter mandates that commencing in the year 2001 and every ten years thereafter, City Council shall appoint a charter review committee to be comprised of at least fifteen registered electors of the City for the purpose of performing a comprehensive review of the Charter and for making recommendations for amendments, deletions, and other changes in writing to the City Council; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The 2021 Arvada Charter Review Committee is hereby established for the purpose of carrying out the mandate set forth in Section 13.13 of the Arvada Charter.

Section 2. The 2021 Arvada Charter Review Committee shall be comprised of twenty-one (21) voting members, who must be registered voters residing in the City of Arvada. A member of the committee may be removed for cause by a majority vote of all members of the City Council. Members of the committee shall not be compensated; however, upon order of the City Council, members may be reimbursed for ordinary and necessary expenses incurred in the performance of their official duties.

Section 3. The review of the Arvada Charter shall be comprehensive with special emphasis being placed upon those portions of the Charter identified by City Council. This information will be transmitted to the Committee by administrative staff.

Section 4. The work of the 2021 Arvada Charter Review Committee shall be completed no later than one-hundred and twenty (120) calendar days from the first meeting of the Committee. Once all members have been appointed to the committee, they shall meet at a time and place designated by the Chair of the Committee for the purpose of holding an organization meeting and for conducting such other business as it or the City Council deems necessary. Mark McGoff is hereby appointed as the Chair of the Committee. District Two Council Member Lauren Simpson shall be designated Vice Chair of the Committee. Due to current Public Health Orders, all meetings of the Committee shall be held in a virtual environment. All meetings shall be subject to the provisions of C.R.S 24-6-402 relating to open meetings.

Section 5. The City Manager and City Attorney may provide for administrative staff of the City and other resources to assist the Committee in fulfilling its duties and responsibilities, as necessary.

Section 6. The Committee shall prepare and sign a written report, which includes recommendations for changes to the Arvada Charter. The Arvada City Council retains sole discretion to determine which charter amendment questions will appear on the November 2, 2021 Regular Municipal Election Ballot.

Section 7. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 4th day of January, 2021.

I move that R20-____, A Resolution _____, be (approved) (rejected).

Prepared by:

Barb Morger, Administrative Analyst

Reviewed by:

Gail Walker, Legal Specialist-Contracts

Approved by:

Rachel Morris, City Attorney

Lorie Gillis, Deputy City Manager

Mark Deven, City Manager

Enclosure, exhibits & attachments required to support the report

EXHIBIT A

MEMBERS OF THE 2021 ARVADA CHARTER REVIEW COMMITTEE

(Listed in alphabetical order)

Preston Branaugh

Kyoko Chenhalls

Shelley Cook

Lindsey Daugherty

Sharon Davis

Bob Dyer

Ken Fellman

Vanessa Kendrick

John Marriott

Mark McGoff

T.O. Owens

Jeremiah Payor

Ed Rothschild

Lauren Simpson

Anna Smith

Lisa Smith

Mike Stahl

Brett Vernon

Katie Winner

Nancy Young



CITY COUNCIL
FACSIMILE: 720-898-7515 ▲ TDD: 720-898-7869
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January 13, 2021

To: Charter Committee

From: Mark McGoff, Chair, Lauren Simpson, Vice-Chair

As you are aware, the Arvada City Council officially established the 2021 Charter Review Committee and designated the members of the committee in its regular meeting on January 11. We are looking forward to working with you in the very important work of this committee.

Additionally, in its January 11 meeting the Council identified eight specific issues that will be referred to the Committee for our consideration and feedback to the Council. Each of these issues will be put into a standardized format together with background information and a statement of the impacts of making a change in the language of the charter. This information will be made available to the Charter Review Committee at least two weeks prior to our first meeting, which is scheduled for the evening of February 11.

The issues and accompanying information forwarded to us by the Council will be the first issues considered by the Committee. Additionally, we will consider issues that are brought forward by members of our committee or by citizens through the public comment portion of our meetings.

There is no need for intensive preparation for serving on the Charter Review Committee, but you may wish to begin your reading of the Charter in its entirety so you can identify issues that you wish to have considered in our meetings. When the additional information about the Council-identified issues is provided to us, we can begin our in-depth study of the Charter.

We thank you for your willingness to serve on the Charter Review Committee, and we hope it will be a rewarding experience for each of us, as well as a benefit to the citizens of our great city.

Mark and Lauren



2021 Charter Review Committee

This packet includes the Charter section worksheets for the February 11 meeting of the Charter Review Committee.

The following Charter issues have been referred to the Committee by City Council:

Charter Section	Issue
3.1	Council term begins first meeting after election
13.3	Requirement for Mayor to sign all land conveyances
3.6	Clarifying language on recall signature requirements
4.3	Prohibition of Councilperson being salaried employee of another municipality
4.4	City Council compensation
4.6	Timeframe and procedure for replacement of Councilmember vacancy and appointment of Mayor
8.2	Presiding Municipal Judge residency requirement
5.13 & 5.14	Initiative and Referendum procedures (deadlines and signature requirements)

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment

- I. **Referred by:** City Council
- II. **Subject:** Council term begins first meeting after election, Section 3.1
- III. **Arvada Charter Language (Section 3.1):**

“The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election at 7:00 o'clock p.m.”

- IV. **Background Information:** The charter requires a councilmember’s term to begin at the first regular meeting following the election. This could be as soon as six days after the election. Other city charters have similar timelines. Boulder and Wheat Ridge have differing provisions. Terms in Boulder commence the third Tuesday in November, while terms in Wheat Ridge commence at an “organizational meeting” before the end of the election year. The Arvada charter does not provide an alternative date for a term to commence in case the election results remain uncertain at the time of the first regular council meeting following the election.
- V. **Proposed Charter Change:** Amend the date for the term of the Mayor or Councilmembers to commerce on the second regular meeting following the election.
- VI. **Implications of Change:**
 - A. **Positive:** Providing this additional time period could yield two advantages. First, modifying the date would allow a newly elected Mayor or Councilmember additional time to attend initial meetings and become more familiar with pending items of business prior to a vote. This additional time could result in more informed and reasoned decision making. Second, modifying the date could prove beneficial if the results of the election are not immediately known and, instead, require additional time.
 - B. **Negative:** Once an election occurs, the citizens of Arvada are best served by having elected officials take office as soon as possible. Extending the transition of power to the second regular meeting after the election could retain decision-making authority with an outgoing representative instead of one who is newly-elected. At least in theory, this could lead to the outgoing representative making decisions without the same level of accountability to the citizens of Arvada.

VII. **What Other Charters State:**

- A. **Westminster:** Sec. 3.2. The terms of office of Councillors and the Mayor shall commence at 8:00 p.m. on the Monday next following the regular city election at which they are elected.
- B. **Thornton:** Sec 4.3. First meeting (regular or special) after the election.
- C. **Wheat Ridge:** Sec. 3.1, 4.3. At an “organizational meeting” that must take place within the year of the election.
- D. **Lakewood:** Sec. 2.6. The terms of office of the Mayor and of each member of the City Council shall commence at the first regular meeting following the regular municipal election.
- E. **Boulder:** Sec. 5. The terms of all council members shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate.

VIII. **Discussion by Charter Committee:**

IX. **Charter Committee Recommendation to City Council:**

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment

- I. **Referred by:** City Attorney
- II. **Subject:** Requirement for Mayor to Sign All Land Conveyances, Section 13.3
- III. **Arvada Charter Language:**

“All conveyances of interest in land by the City shall be signed by the Mayor, or Mayor Pro tem and attested by the City Clerk under the Seal of the City.”
- IV. **Background Information:** Section 13.3 of the City Charter has been submitted for the Committee’s review because it is very broad, and requires the Mayor to sign (and by implication the City Council to approve) all conveyances of an interest in land, when some of these decisions may be more efficiently and effectively delegated by City Council to others. There are undoubtedly some types of land conveyances that warrant City Council’s attention and should be approved by Council - the sale of real property or a building owned by the City being good examples. However, the conveyance or acceptance of an easement for a small piece of property is perhaps better left to others so that Council can focus on larger, more important issues. Delegating smaller land conveyance decisions to the City team means that these smaller conveyances can be accomplished more quickly so that the City team can efficiently complete projects in line with Council’s vision and policies. This proposal is in line with how other cities handle these issues, as you can see from the examples below.
- V. **Proposed Charter Change:** The City team suggests revising the language in Section 13.3, as follows:

Procedures and authority for conveyances of an interest in land by the City shall be established by City Council by ordinance.
- VI. **Implications of Change:**
 - A. **Positive:** The City has interpreted Section 13.3 to require Council approval, followed by a signature of the Mayor on every conveyance of interest in City property, regardless of the value or temporary nature of the conveyance. This requirement is inefficient in some circumstances and can lead to project delays. Modifying the section to provide Council with a more efficient method of authorizing temporary or small-value conveyances of property interests while

keeping the existing procedure for high-dollar or permanent conveyances, for example, would be more efficient.

- B. **Negative:** Arguments to the contrary are not readily apparent because the Council would have the ability to determine whether it would keep or delegate its authority (in whole or in part) as it sees fit.

VII. **What Other Charters State:**

- A. **Westminster:** Sec. 13.3 (allows City Council to establish and revise its own policy for conveyances by ordinance)- “Detailed procedures concerning the making of contracts, the purchase of real and personal property, bidding requirements and the lease, sale or disposal of City Property shall be established by City Council by ordinance.” Ordinance 15-2-1 requires Council approval of purchase/sale of real property over \$15,000. Certain easement vacations require Council approval if the easement is in excess of 2 acres. See Ord. 11-6-9.
- B. **Thornton:** Unable to find any similar provisions.
- C. **Wheat Ridge:** Sec. 16.5 (does not address smaller land conveyances) - “The city shall not sell or dispose of municipally owned buildings or real property for a public purpose, without first obtaining the approval, by ordinance, of three-fourths of the entire council. Unanimous approval of the entire council, by ordinance, shall be necessary for sale or disposition of designated park land.”
- D. **Lakewood:** Sec. 14.3 (allows delegation) - “(a) The City Council may, on such terms and conditions as the City Council deems appropriate and by ordinance, without the prior approval of the registered electors of the City, except as hereafter provided, lease, sell, or otherwise dispose of public buildings, real property, or water rights held or used for any municipal purpose. (b) Except for those parts of utilities or systems no longer useful to the operation of a utility or system, there shall be no lease or sale of water works; gasworks; geothermal systems; solar systems; electric distribution systems or other public utilities; or any real property used or held for open space or park purposes without the question of such lease or sale, and the terms and consideration therefor being submitted to a vote of the registered electors of the City at a special or regular municipal election and a favorable vote by a majority of those registered electors voting thereon. (c) Nothing in subsection (b) above shall prohibit the City from granting utility easements across, under, or over any City property held for open space or parks purposes.”
- E. **Boulder:** Sec. 164 (as to park property only, and allows delegation) - “The council may by motion grant leases, permits, or licenses in or on park lands, but only upon the affirmative vote of at least four members of the parks and recreation advisory board. The council may, by ordinance, delegate all or any part of this authority to the parks and recreation advisory board to approve such leases,

permits, or licenses. The parks and recreation advisory board may, by motion, subdelegate all or any part of its delegated authority to approve such leases, permits, or licenses to the city manager. The city manager may enter into standard commercial licensing agreements for automatic food vending machines on park lands without the approval of the parks and recreation advisory board or the council.

The term of any license or permit granted hereunder shall not exceed five years, and any such license or permit so granted shall be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or license.”

Sec. 177 (as to open space) - “No open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council.”

VIII. Discussion by Charter Committee:

IX. Charter Committee Recommendation to City Council:

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** City Attorney
- II. **Subject:** Clarifying Language on Recall Signature Requirements, Section 3.6
- III. **Arvada Charter Language (language at issue in bold below):**

“The authorized petition may be circulated and signed by registered electors who would be entitled to vote for the successor of the incumbent sought to be recalled. For recall of any Councilmember, said petition must be signed by registered electors who would be entitled to vote for a successor of the incumbent sought to be recalled, numbering at least twenty-five (25) percent of **the registered electors voting for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election.**”

- IV. **Background Information:** In 2020, certain citizen groups made an effort to recall four Councilmembers. During that process, one individual argued to the City team that the bolded language above could be interpreted in multiple ways. Specifically, the individual who raised the issue contended that since no single elector can vote for “all the candidates”, “twenty-five (25) percent of the registered electors voting for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election” will always equal zero. The City team disagrees with this interpretation of the Charter, and has always interpreted this language to require the number of signatures equal to twenty five percent of the total number of votes cast in the last regular municipal election for the position at issue. However, since we have the opportunity now to remove any alleged ambiguity, we would like to explore the possibility of doing so.

- V. **Proposed Charter Change:** The City team suggests revising the language in Section 3.6, as follows:

“For recall of any Councilmember, said petition must be signed by registered electors who would be entitled to vote for a successor of the incumbent sought to be recalled, numbering at least twenty-five (25) percent of the ~~registered electors voting~~ number of votes cast for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election.”

- VI. **Implications of Change:** This is merely a clarification of language, and doesn't carry with it any substantive positive or negative effects.
- VII. **Discussion by Charter Committee:**
- VIII. **Charter Committee Recommendation to City Council:**

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** City Council
- II. **Subject:** Prohibition of Councilperson being salaried employee of another municipality, Section 4.3
- III. **Arvada Charter Language:**

“No Councilmember, including the Mayor, shall be a salaried employee of the City nor any other municipality during his/her term of office.”

- IV. **Background Information:** In 2011, a potential legal issue was identified regarding the language contained in this provision. Specifically, there was concern that prohibiting employment of a Councilmember in another municipality violated the First and Fourteenth Amendments of the Constitution. Due to these concerns, the Charter Review Committee recommended revisions to the provision as follows:

No Councilmember, including the Mayor, shall be a salaried employee of the City ~~nor any other municipality~~ during his/her term of office.

This revision was submitted to the voters for approval, but deletion of this Charter language was rejected by the voters by a margin of nearly 2 to 1 - 16,794 to 8,881

- V. **Proposed Charter Change:** The proposed change is identical to the revisions proposed in 2011.
- VI. **Implications of Change:**
 - A. **Positive:** Removing the prohibition on employment in another jurisdiction may reduce legal risk for the City.
 - B. **Negative:** The City would need to determine how to handle conflicts of interest arising out of a Councilmember’s employment with another municipality.
- VII. **What Other Charters State:**
 - A. **Westminster:** No similar provision.
 - B. **Thornton:** No similar provision.
 - C. **Wheat Ridge:** No similar provision.
 - D. **Lakewood:** No similar provision.
 - E. **Boulder:** No similar provision.

VIII. **Discussion by Charter Committee:**

IX. **Charter Committee Recommendation to City Council:**

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** Mark McGoff
- II. **Subject:** City Council Compensation, Section 4.4
- III. **Arvada Charter Language:**

“The members of the City Council shall receive such compensation, and the Mayor such additional compensation, as the City Council shall by ordinance prescribe; provided, however, that they shall neither increase nor decrease the compensation of any member during his/her term of office. The Mayor and Councilmember may, upon order of the City Council, be paid such necessary bona fide expenses incurred in service on behalf of the City as are authorized and itemized.”

- IV. **Background Information:** Given the immense amount of time Councilmembers must spend fulfilling their duties as elected officials, the Charter provides for compensation to members of City Council. However, the method of setting this compensation puts Councilmembers in the awkward and politically sensitive position of having to propose and pass what may eventually become their compensation in a subsequent term. For this reason, increases do not often occur - the last increase to Councilmembers' compensation was passed by ordinance in 2009. Mark McGoff has suggested that voters consider including in the Charter a mechanism for providing regular increases in compensation for Councilmembers measured by an outside source (such as the Consumer Price Index) or a percentage increase similar to what municipal employees have received.

V. **Proposed Charter Change:**

Option 1. No change. Compensation continues to be prescribed by ordinance.

Option 2. Insert language to permit adjustment of current council and mayor salaries in accordance with annual adjustments in the area Consumer Price Index.

Option 3. Specify an amount of compensation for council and mayor effective on a given future date and permit annual adjustments thereafter in accordance with the CPI.

Option 4. Specify an amount of compensation for council and mayor effective on a given date with no provision for adjustment in accordance with the CPI.

Examples below from Westminster and Boulder provide guides for the Committee's discussion.

VI. Implications of Change:

- A. **Positive:** Councilmembers' are more fairly compensated for the time they spend performing their duties as elected officials on behalf of the City. A focus on fair compensation for elected officials could incentivize more people to run for Council, thus increasing voters' choices and the diversity of candidates.
- B. **Negative:** Increasing Councilmembers' salaries would result in increased expenditures for the City and taxpayers.

VII. What Other Charters State:

- A. **Westminster:** Section 4.3 - "The members of the Council shall receive such compensation as the Council shall by ordinance prescribe; provided, however, they shall neither increase nor decrease the compensation of any member during his term of office, except members of the Council whose terms do not expire at the next regular City election, who shall receive the same salary as that provided for incoming members for the remainder of their term of office. The Mayor and Councilmen may, upon order of the Council, be paid such necessary bona fide expenses incurred in service in behalf of the City as are authorized and itemized."

Ord. 1-7-1: [sets specific amount of compensation (\$1,000, \$1,200 and \$1,400), plus allowance of \$300/month in lieu of expenses], then:

"Commencing the first full pay period of 2016, city elective officer salaries shall be adjusted by the percentage of the 2015 non-exempt general employee pay plan adjustment rounded to the nearest whole dollar. Biennially thereafter in the first full pay period of the year, city elective officer salaries shall be adjusted by the cumulative percentage of the two previous years' non-exempt general employee pay plan adjustments rounded to the nearest whole dollar.

The City's elective officers shall receive an additional monthly allowance for expenses related to the performance of their respective duties. Commencing January 1, 2011, the below-stated allowance shall be adjusted, and biennially thereafter in the first full pay period in January, by the then current Denver/Boulder Consumer Price Index, rounded to the nearest whole dollar. This allowance shall be in lieu of any reimbursement to which the Mayor, Mayor Pro Tem or councillor may otherwise be entitled to for internet service, fax communications, cell phone usage, and local commuting costs within the City limits. All mileage for trips outside of the City limits shall be a reimbursable expense."

- B. **Thornton:** Section 4.6 - "The members of the Council shall receive such compensation as the Council shall by ordinance prescribe; but such compensation

may increase or decrease only on the date of the first regular or special Council meeting following any regular election and only if the increase or decrease was adopted prior to the date of the election. The Mayor and Councilmembers may, upon order of the Council, be paid such necessary bona fide expenses incurred in service in behalf of the City as are authorized and itemized.”

Ord 2-26 “Councilmembers whose terms expire in November 2017 shall be paid \$900.00 per month for the remainder of their term. Councilmembers elected to office in November 2015, or duly appointed thereafter, shall be paid \$1,500.00 per month effective on the date of the first regular or special council meeting following the November 3, 2015 election. The mayor who will be elected to office in November 2015, or duly appointed thereafter, shall be paid \$2,000.00 per month. The Mayor Pro Tem who will be elected by city council on or after November 17, 2015 shall be paid \$1,750.00 per month.”

- C. **Wheat Ridge:** Sec. 3.12/Sec. 4.6 - “Elected officials shall receive such compensation as the council shall prescribe by ordinance; provided they shall neither increase nor decrease the compensation of any elected official during his term of office. Elected officials may, upon order of the council, be paid such necessary bona fide expenses incurred by him in service in behalf of the city as are authorized and itemized.”
- D. **Lakewood:** Sec. 2.11 - “The members of the City Council shall receive such compensation, and the Mayor such additional compensation, as the City Council shall determine by ordinance. The City Council shall neither increase nor decrease the compensation of the Mayor or any member of the City Council during a term of office, except members of the City Council whose terms do not expire at the next regular municipal election shall receive the same compensation as that provided for incoming members for the remainder of their term of office. The Mayor and members of the City Council may, upon order of the City Council, be paid ordinary and necessary expenses incurred in the performance of the duties of office.”

Ord. 4.26.020 -

- (A) Commencing with the new term of office from the November 3, 2009 election, each City Council member shall receive an annual compensation of \$12,873.
- (B) Commencing with the new term of office resulting from the November 1, 2011 election, the Mayor shall receive an annual compensation of \$38,800.
- (C) The compensation shall be divided into equal payments and paid in accordance with the current payroll procedure for other positions.
- (D) During the November prior to each mayoral election, the City Council shall review the mayor's and City Council members' compensation. Any

adjustment shall be established by ordinance and take effect according to the Lakewood Home Rule Charter.

- E. **Boulder:** Sec. 7 - "Council members shall receive as compensation \$100.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. For purposes of this section only, a "meeting" shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter. Council members serving on January 1, 2020 and after may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans."

VIII. **Discussion by Charter Committee:**

IX. **Charter Committee Recommendation to City Council:**

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** City Council
- II. **Subject:** Timeframe and Procedure for Replacement of Councilmember Vacancy and Appointment of Mayor, Section 4.6
- III. **Arvada Charter Language:**

“In case of a vacancy the remaining Councilmembers shall choose by a majority vote, and within thirty (30) days after such vacancy occurs, a person qualified under Section 4.3 of this Charter to fill such vacancy; provided, however, the person chosen as Mayor shall be a member of the City Council. If such vacancy occurs during the first two (2) years of a term, the person appointed by City Council shall serve only until the next regular election, at which time the seat shall be filled by election for the remaining two (2) years of the term. If three (3) or more vacancies exist simultaneously, the remaining Councilmembers shall, at the next regular meeting of City Council, call for a special election to fill such vacancies, provided there will not be a Regular Municipal Election within ninety (90) days.”
- IV. **Background Information:** The charter does not require that the vacancy be widely advertised or that interested persons be allowed to self-nominate for the vacant position. The charter would not prohibit one or more council members simply putting forward by motion the names of one or more candidates in a regular (or special) council meeting and then calling for a vote on the names, subject to final determination of qualifications. However, when the two most recent vacancies occurred (2001 and 2015) the council chose to announce and advertise the vacancy, take applications, and interview applicants before putting the favored applicant’s name to a vote in a regular or special council meeting.
- V. **Proposed Charter Change:** Increase time to fill vacancy from 30 to 45 days.
- VI. **Implications of Change:**
 - A. **Positive:** There would be an additional 15 days to conduct a thorough and thoughtful process to fill the vacancy. The additional time would be especially helpful in case of holidays, etc.

- B. **Negative:** Some council votes might result in a 3-3 tie for at least one more business meeting. Major or controversial issues might need to be delayed for consideration by a full council.

VII. What Other Charters State:

A. Westminster:

1. Charter Sec. 5.7. Filling Vacancies in Elective Offices

- a) **Method and Timeframe:** Requires a vacancy to be filled within 30 days by a majority vote of the remaining councilmembers. If a vacancy is not filled within 30 days or if 3 (or more) vacancies exist at one time, vacancies shall be filled at a special election.
- b) **Length of Term:** Appointee holds office for any balance of the unexpired term.

B. Thornton:

1. Charter Sec. 4.5. Vacancy

- a) **Method and Timeframe:** Remainder of Council appoints replacement councilmember by majority vote. No timeframe provided.
- b) **Mayor Vacancy:** If vacancy occurs in in office of Mayor, the Mayor Pro-Tem becomes Acting Mayor for the remainder of the Mayor's term, then resumes duties as Council member for the remainder of the councilmember's term.

C. Wheat Ridge:

1. Charter Sec. 3.3, 3.11, 4.5

- a) If a vacancy occurs in the office of the city clerk or city treasurer, no special election shall be called but such vacancy shall be filled by appointment by the council for the remainder of the term.
- b) **Mayor Vacancy:** Mayor pro tempore shall serve as mayor only until the vacancy is filled. Council shall call a special election within 60 days to elect a new mayor, unless said vacancy occurs within 180 days of the general municipal election.
- c) **Councilmember:** Remaining councilmembers shall choose, within 30 days and by majority vote, a replacement from the proper district. The replacement shall serve the unexpired term until the next municipal election. If 3 or more council vacancies exist simultaneously, the remaining councilmembers shall, at the next regular meeting of the council, call a special election within 60 days to fill such vacancies, provided there will not be a general

municipal election within 180 days and provided that their successors have not previously been elected.

D. Lakewood:

1. Sec. 2.5, 2.8

- a) Mayor: Should the office of Mayor be vacated for any reason, the City Council shall select from its members a replacement, who shall perform all duties and have all powers of the Mayor until the next regular municipal election. Upon taking the oath of office, the person selected shall no longer serve as a ward council member, and a vacancy shall exist in the ward from which the replacement was elected. Such vacancy shall be filled in accordance with the provisions of the Charter.
- b) Councilmembers: In the event the office of any member of the City Council, except the Mayor, is vacated for any reason, the City Council shall call a special election within 90 days of the effective date of such vacancy in order to elect a successor for the remainder of the term of office; provided, however, that the City Council shall not call a special election if a regular municipal election will be held within 90 days from the effective date of the vacancy.

E. Boulder:

1. Sec. 8

- a) 1 - 2 vacancies prior to Aug 1st.: Filled through November election.
- b) 1 - 2 vacancies after Aug 1st.: Filled through November election of the next calendar year.
- c) 3+ vacancies: Filled through special election within 90 days or as soon thereafter as is feasible as determined by the City Manager.

VIII. Discussion by Charter Committee:

IX. Charter Committee Recommendation to City Council:

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** City Council
- II. **Subject:** Presiding Municipal Judge Residency Requirement, Section 8.2
- III. **Arvada Charter Language (language at issue in bold below):**

“There is hereby established a Municipal Court vested with original jurisdiction of all cases arising under the Charter, ordinances of the City of Arvada and as may be conferred by law. **Each judge of the Municipal Court shall be a resident of the City of Arvada and shall be an attorney-at-law licensed to practice in the State of Colorado.** In the event of a conflict of interest and at the request of the presiding judge, City Council may appoint a special municipal judge for the purpose of presiding over the proceeding out of which the conflict of interest arose. A special judge appointed by the City Council shall be an attorney-at-law licensed to practice in the State of Colorado, however, need not be a resident of the City of Arvada. City Council shall appoint and fix the compensation for each Municipal Judge who shall serve at the pleasure of the City Council.”

- IV. **Background Information:** Residency requirements for a municipal court judge are somewhat unusual in Colorado, but are legally permissible in home rule cities. The City of Arvada has a residency requirement for the presiding municipal court judge in its Charter, as noted above. The Charter neither prohibits nor expressly permits a grace period for the municipal court judge residency requirement. In contrast, the Charter provision regarding retention of the City Manager does specifically address a grace period for the city manager residency requirement. *See Arvada City Charter, Section 6.1* (“City Council has the discretion by employment agreement, to permit the City Manager up to an additional six (6) months for a total of twelve (12) months to become a resident and inhabitant of the City.”). City Council and the City team would like to get the Committee’s thoughts as to whether Charter Section 8.2 should be revised to remove the residency requirement for all municipal court judges, or to include a grace period similar to the City Manager provision. Other options might include widening the area for required residency to include Jefferson and/or Adams Counties.
- V. **Proposed Charter Change:** Possible options for revising the language in Section 8.2 include the following:

Option 1:

“Each judge of the Municipal Court ~~shall be a resident of the City of Arvada and~~ shall be an attorney-at-law licensed to practice in the State of Colorado.”

Option 2:

“Each judge of the Municipal Court ~~shall be a resident of the City of Arvada and~~ shall be an attorney-at-law licensed to practice in the State of Colorado. At the time of his/her appointment, a judge need not be a resident of the City or State, but he/she shall establish residence in Arvada within six (6) months from the first date of work as a judge. City Council has the discretion by agreement, to permit any judge up to an additional six (6) months for a total of twelve (12) months to become a resident and inhabitant of the City.”

Option 3:

“Each judge of the Municipal Court shall be a resident of ~~the City of Arvada~~ Jefferson County or Adams County and shall be an attorney-at-law licensed to practice in the State of Colorado.”

VI. Implications of Change:

- A. **Positive:** Since Charter Section 8.2 requires all judges in Municipal Court (whether the presiding judge or relief judges) to be residents of the City of Arvada, good candidates for those positions may not apply. Any of the three revision options above would potentially increase the number applicants and the diversity of applicants, not just for the Presiding Municipal Court Judge position, but also for all relief judges as well.
- B. **Negative:** Residency requirements are based on the idea that a person who lives within the city is more familiar with the issues they will be addressing, and has more connection and interest in ensuring they do the best job possible. For a municipal court judge, this would include having a vested interest in community safety.

- VII. **What Other Charters State:** We were only able to find three cities that have some residency requirement or preference for a municipal court judge: Commerce City (requires residency in Adams County), Englewood (requires residency), and Broomfield (which states the judge should be a resident “if practical”). The remaining city codes and charters we reviewed (Westminster, Thornton, Lakewood, Wheat Ridge, Littleton, Aurora, Boulder, Denver, Centennial, Ft. Collins, Colorado Springs) had no residency requirement.

VIII. **Discussion by Charter Committee:**

IX. **Charter Committee Recommendation to City Council:**

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment

- I. **Referred by:** City Council
- II. **Subject:** Sections 5.13 and 5.14, Initiative and Referendum Procedures (Deadlines and Signature Requirements)
- III. **Arvada Charter Language:**

Applicable language from Section 5.13 (initiative procedures)

“(b) An initiated ordinance may be submitted to the City Council by filing with the City Clerk a notice of intent to file a petition for an initiated ordinance. The notice of intent to file an initiative petition shall be signed by not less than five (5) registered electors of the City. The filing of said notice of intent shall be a condition precedent to filing an initiative petition as hereinafter provided. If the initiated ordinance is to be submitted to the registered electors at the next regular municipal election, the petition shall be signed by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. If the initiated ordinance is to be submitted to the registered electors at a special election, the petition shall be signed by the registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. The petition must be filed with the City Clerk within thirty (30) days the form [from] the date the notice of intent is filed with the City Clerk.”

Applicable language from Section 5.14 (referendum procedures)

“(c) If a petition calling for a referendum of an ordinance is signed within thirty (30) days from the effective date of the ordinance by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date of the filing of the notice of intent and the petition is filed with the City Clerk, the ordinance shall be further suspended from operation. If, however, no such petition is filed with the City Clerk within the thirty (30)-day period, the ordinance shall be in full force and effect upon the expiration of the thirty (30)-day period.”

- IV. **Background Information:** Initiative is the right of citizens to propose a new law for a popular vote. Referendum is the right of citizens to refer acts of the legislature to the ballot for a popular vote before they become law. The citizens of Colorado are guaranteed the right to initiative and referendum under the Colorado Constitution, and each home rule city must adopt procedures for initiative and referendum. The City has memorialized the right to initiative and referendum, as well as the general timelines provided for these processes, in the City Charter. All legislative enactments of City Council are subject to referendum, except “ordinances fixing the rate of taxation on property each year for municipal purposes, making the annual appropriation, calling a special election, authorizing the issuance of local improvement district bonds payable primarily from special assessments, levying special assessments, emergency ordinances, and ordinances to meet contractual obligations of the City.”

Prior to 2001, the requirement for initiative petition signatures was 5% of registered electors for a regular election and 7.5% for a special election. The Charter Review Committee in 2001 recommended changing this to 10% for the following reasons:

“The basis for this recommendation is that it should not be easy for a small minority to initiate legislation and require an election. The existing requirement for the 5% and 7 1/2% number of signatures equates to 3,500 signatures and 5300 signatures respectively. The Committee is of the opinion that these numbers are rather easy to obtain. As you know, paid petition circulators are now often used to obtain signatures and there is no oversight or regulations concerning what ‘persuasion’ language is used by the paid petition circulator. As a matter of information, the City has had five elections since 1991 relating to initiative, referendum or Charter amendments, of which two were at the general election and three required a special election.”

Obviously the City’s population has grown substantially since that time, so the Committee’s analysis in 2021 may be different.

Recently, citizens initiated a process to recall four Councilmembers after passage of the City’s single hauler trash ordinance. The citizens stated that they chose to utilize the recall rather than the referendum process because the recall process requires fewer signatures (in some cases) and allows 60 days for signatures to be gathered (as compared to the 30 days allowed in a referendum process). City Council would like the Committee to explore extending the signature deadline for referendum petitions to 60 days to eliminate the discrepancy between the recall and referendum processes, as well as

possibly lowering the signature requirement. At the same time the Committee is asked to consider signature deadlines and requirements for initiative petitions as well.

V. **Proposed Charter Change:**

Option 1: Revise the language in Sections 5.13 and 5.14 to extend the deadline for signature gathering to something more than 30 days, and lower the signature requirement to a number below 10%.

Option 2: Revise the language in Sections 5.13 and 5.14 ONLY to extend the deadline for signature gathering.

Option 3: Revise the language in Sections 5.13 and 5.14 ONLY to lower the signature requirement.

VI. **Implications of Change:**

A. **Positive:**

1. The change would allow citizens to exercise their right to initiative and referendum more easily, which may increase engagement by citizens with the political and democratic processes.
2. Citizens may be less likely to use the recall process for recourse when they disagree with Council-initiated legislation.
3. Referendum and initiative petitions may result in less division in the community than recall petitions.

B. **Negative:**

1. *Increased Uncertainty.* The suggested revision would create increased uncertainty around the status of new legislation (i.e. uncertainty about challenges for 30 days v. 60 days). Referendum petitions, when filed, suspend the effective date of the ordinance at issue until the matter is resolved (a delay which would likely be at least several months). Delays like this can cause significant issues in City operations, depending on the ordinance that is subject to the referendum.
2. *Increased Costs.* Increasing the signature deadline from 30 days to 60 days (especially if done in conjunction with lowering the number of signatures required) may also increase the frequency and number of petitions. Examining petitions is an extremely labor intensive task for the City team, so an increase in petitions may necessitate hiring additional City team members. Petitions, when containing the required number of signatures, must be put on a ballot to be voted on by citizens, which is also a significant cost to the City (depending on how soon a regular election is held, the cost could be between \$50,000 to \$200,000 per petition).
3. *Increased Litigation.* Any legislation drafted by the City team goes through an intense vetting process, involving collaboration across multiple

departments, review by many types of subject matter experts, public comment and input, data gathering and legal analysis. Initiatives do not require collaboration on new legislation with the City team and expert advisors. Drafters may not be familiar with applicable data affecting outcomes on the legislation, may not be familiar with how new legislation might affect City processes and resources, or what applicable laws require. As a result, the end product of the initiative process can be more difficult for the public to interpret, and for the City team to administer, enforce and legally defend. This creates increased risk of litigation (the litigation over Lakewood's growth cap ordinance is a good example of this).

4. *Other Issues.* Increasing use of initiative and referendum can undermine the role and effectiveness of elected officials, and may at times distill decisions on very complex policy issues into overly simplistic yes or no votes.

VII. Comparative Chart:

Jurisdiction	Recall Requirements	Initiative Requirements	Referendum Requirement
Arvada	60 days, 25% of votes for Council seat in last election	30 days, 10% of registered voters	30 days, 10% of registered voters
Westminster	60 days, 25%	30 days, 10%	30 days, 10%
Thornton	60 days, 25%	21 days, 10%	21 days, 10%
Wheat Ridge	60 days, 25%	60 days, 15%	45 days, 10%
Lakewood	no deadline, 25%	no deadline, 5%	30-45 days, 3%
Boulder	30 days, 25%	180 days, 10%	30 days, 10%

VIII. Discussion by Charter Committee:

IX. Charter Committee Recommendation to City Council:



Charter Review Committee Meeting Agenda

February 11, 2021
6:00 - 8:00 p.m.
Via Zoom

Anticipated Attendees:

Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott, Mark McGoff, T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson, Anna Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young, Lorie Gillis, Barb Morger, Rachel Morris, Kristen Rush

Meeting Purpose and Objectives:

The Arvada City Council has formed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Topics to be Discussed:

1. Welcome
2. Statement of Purpose
3. Introductions
4. Overview of Municipal Home Rule
5. Process and Procedures
6. Open Business
 - a. Public Comment
 - b. Introduction of issues identified by Council
 - c. Issues identified by committee members or public
 - d. Discussion & questions by committee members
7. Charge to committee members

"We Dream Big and Deliver"

Meeting Minutes:

The meeting will be recorded, and minutes will be taken by Barb Morger.

Anticipated Next Steps:

Barb Morger will provide a follow-up summary of the meeting.

The next Charter Review Committee meeting will be held on February 25 @ 6:00 p.m.



CHARTER REVIEW COMMITTEE

Meeting Summary

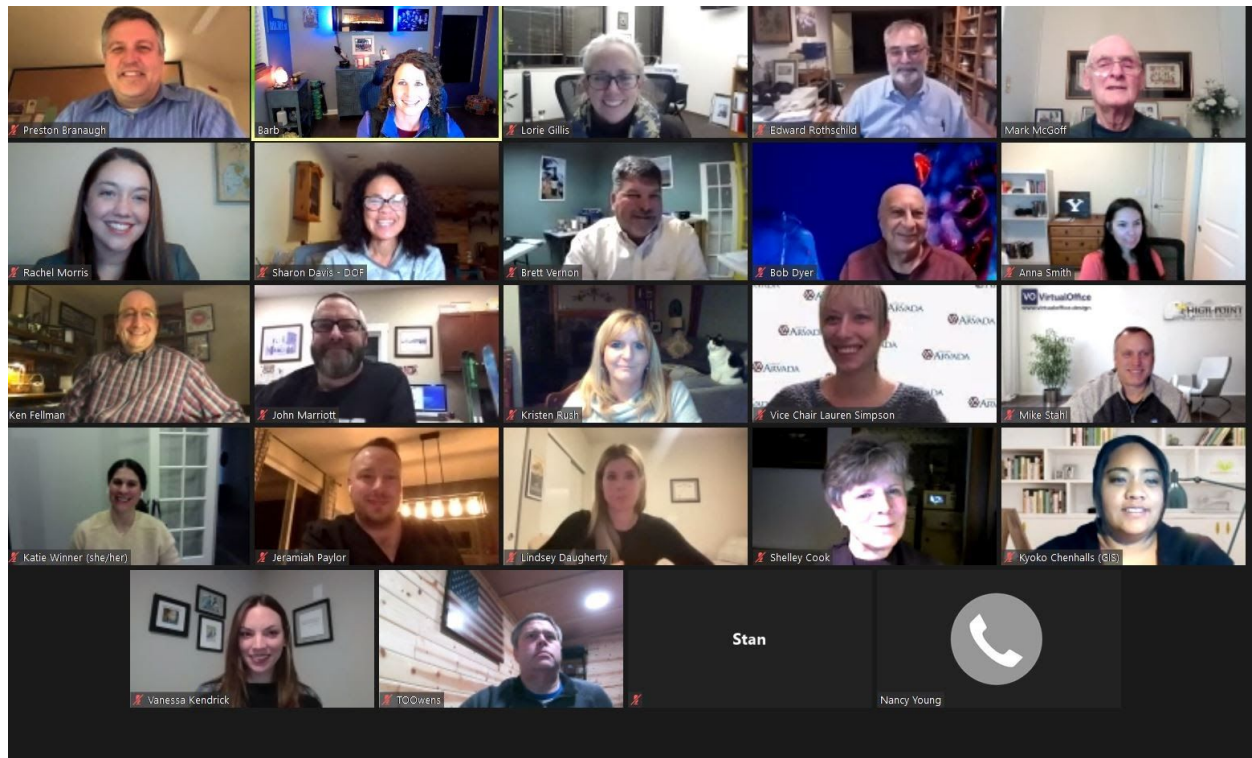
February 11, 2021

In Attendance:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (council member representative), Mark McGoff (Chair), T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson (council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young.

Staff Members: Lorie Gillis (Deputy City Manager), Barb Morger (Administrative Analyst), Rachel Morris (City Attorney), Kristen Rush (City Clerk).

Access the recording at arvada.org/city-charter-review





Meeting Purpose and Objectives:

On January 11, 2021, the Arvada City Council appointed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Meeting Flow:

Mark McGoff, Charter Review Committee Chair, called the Zoom meeting to order at 6:00 p.m. and facilitated a review of the following topics:

- **Statement of Purpose**
 - 13.13 Commencing in the year 2001 and every ten (10) years thereafter, the City Council shall appoint a Charter Review Committee for the purpose of performing a comprehensive review of this Charter and for making recommendations to the City Council for amendments, deletions, or other changes to the Charter and submitting the same in writing to the City Council. The membership of the Committee shall be comprised of at least fifteen (15) registered electors of the city or such greater number of registered electors as the City Council may determine.
- **Overview of Municipal Home Rule**

Municipal Home Rule in Colorado

- Municipalities lacking home rule status are limited to exercising those powers that have been granted by the state
 - 1902 - Citizens in cities of the first and second class may adopt home rule under amendment to the Colorado Constitution
 - 1912 - Section 6 of Article XX specifically enumerated various municipal home rule powers with a "catch-all" paragraph
 - 1970 - Section 9 extended the right to adopt home rule to the citizens of every municipality
- Article XX of the Colorado Constitution reserves both *structural* and *functional* home rule powers to municipalities and "the full right of self government in local and municipal matters " to citizens"



Benefits of Home Rule

- Article XX of the Colorado Constitution grants both general and specific powers to home rule municipalities
- Provides greater flexibility to solve local problems because municipalities are less constrained by state requirements
- Allows quicker response time to emergency situations as there is no need to wait for the entire state legislative process
- Home rule municipalities are not required to follow state statutes in matters of *local and municipal concern* and therefore enjoy freedom from state interference regarding local and municipal matters



Benefits of Home Rule

- Allows municipalities to legislate with confidence on any and all matters of local concern
 - Authority granted by state statutes is sometimes ambiguous
- Enhances citizen control, interest, involvement and pride in their municipal government
- The embodiment of the principle that the best government is the one that is the closest to the people



- **Process and Procedures**



Process and Procedures

1. An agenda will be prepared for each meeting and sent by email to the Charter Review Committee no later than five days prior to the meeting. Minutes of a previous meeting will be forwarded with the agenda.
2. Business items will proceed by consensus if possible. If consensus is not reached, we will proceed by majority vote of those in attendance.
3. The committee will fully discuss each charter provision forwarded by city council, as well as any issues identified by committee members or the public, and will provide a summary of the discussion of each item in its final oral and written reports to the council.
4. Requests of staff members for information or research will be at the direction of the committee. Staff will not respond to requests by individuals.
5. Meetings of the committee will start and end at the designated times. A meeting may be extended if there is agreement of those in attendance.



Process and Procedures

6. Members who cannot attend a meeting are encouraged to submit written statements about charter issues for consideration of those in attendance.
7. A maximum of thirty minutes will be allowed for public comment at the beginning of each meeting. Only Arvada residents will be allowed to address the committee, and individual statements will be limited to five minutes. Committee members may ask questions of presenters for understanding or clarification, but we will not enter into extended discussion with the presenters.



- **Public Comment** - We did not have anyone who signed up for public comment during the February 11, 2021 Charter Review Committee meeting.
- **Overview of the 8 issues identified by City Council for Committee review**



Charter Section	Issue
3.1	Council term begins first meeting after election
13.3	Requirement for Mayor to sign all land conveyances
3.6	Clarifying language on recall signature requirements
4.3	Prohibition of Councilperson being salaried employee of another municipality
4.4	City Council compensation
4.6	Timeframe and procedure for replacement of Councilmember vacancy and appointment of Mayor
8.2	Presiding Municipal Judge residency requirement
5.13 & 5.14	Initiative and Referendum procedures (deadlines and signature requirements)



Charter Issue Summary:

The committee discussed the following 4 issues identified by Council:

Section 3.1 Council term begins first meeting after election

Arvada Charter Language (Section 3.1)	Proposed Charter Change
“The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election at 7:00 o’clock p.m.”	Amend the date for the term of the Mayor or Councilmembers to commence on the <u>second</u> regular meeting following the election.
Notes: City Attorney’s Office to add language in case of disputed election and timing of first meeting subject to the election. Also consider how to handle the end of the term of the incumbent.	
Committee Recommendation: Adopt proposed Charter change	

Section 13.3 Requirement for Mayor to sign all land conveyances

Arvada Charter Language (Section 13.3)	Proposed Charter Change
“All conveyances of interest in land by the City shall be signed by the Mayor, or Mayor Pro tem and attested by the City Clerk under the Seal of the City.”	Procedures and authority for conveyances of an interest in land by the City shall be established by City Council by ordinance.
Committee Recommendation: Adopt proposed Charter change	



Section 3.6 Clarifying language on recall signature requirements

Arvada Charter Language (Section 3.6)	Proposed Charter Change
"The authorized petition may be circulated and signed by registered electors who would be entitled to vote for the successor of the incumbent sought to be recalled. For recall of any Councilmember, said petition must be signed by registered electors who would be entitled to vote for a successor of the incumbent sought to be recalled, numbering at least twenty-five (25) percent of the registered electors voting for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election."	For recall of any Councilmember, said petition must be signed by registered electors who would be entitled to vote for a successor of the incumbent sought to be recalled, numbering at least twenty-five (25) percent of the <u>number of votes cast</u> for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election."
Committee Recommendation: Adopt proposed Charter change	

Section 4.3 Prohibition of Councilperson being salaried employee of another municipality

Arvada Charter Language (Section 4.3)	Proposed Charter Change
"No Councilmember, including the Mayor, shall be a salaried employee of the City nor any other municipality during his/her term of office."	No Councilmember, including the Mayor, shall be a salaried employee of the City during his/her term of office.
Notes: Educating our citizens will be necessary moving forward.	
Committee Recommendation: Adopt proposed Charter change	

- **Issues identified by committee members**

The City Attorney's Office will research and prepare Charter section worksheets on each of the issues identified by committee members. The issues will be considered by the committee after the Council referred issues are considered.

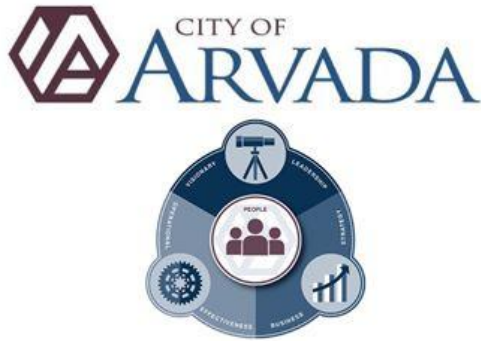
Issue	Proposed by Committee Member
Research and future consideration: 5.13 & 5.14 Clarify Comparative Chart, as some % references are for "registered", but other % are "cast" (such as Wheat Ridge, maybe others); 3.6 Recall requirements, please find and share comparative % of "cast" votes (are we high or low or right on at 25%); Please also consider the possible addition of an Ombudsman / Ombudsperson, perhaps into Chapter VIII.	Preston Branaugh
Concern about the way the combination of current structure of council seats combined with limits negatively impacts diversity. Speaking about how long someone can actually serve on Council. Concerned about <i>enabling a lifetime of Council</i>. Proposal: One person could serve for up to 4 terms, or 16 years, consecutively, in any type of Council seat - District or At Large (including Mayor) and then the person would be ineligible to run for any seat for 1 term, or 4 years (i.e., a "sit out" period), after which the person would be eligible to run again.	Nancy Young

Issue	Proposed by Committee Member
Section 8.1 Seems to say City Council appoints special counsel, 8.2 City Attorney and Municipal Judge (Council can't interfere with City Manager with City employees) - The Council should not be able to interfere with City Attorney or Municipal Judge employees.	Ken Fellman
Residency of the Judge, City Attorney and City Manager - should be consistency in residency	Katie Winner
Would like some information on runoff elections. If a winner wins with 20% are they really representative?	Bob Dyer

- The Charter Review Committee meeting adjourned at 8:00 p.m.

Next Steps:

The next Charter Review Committee meeting is scheduled for February 25 @ 6 p.m.



Charter Review Committee Meeting Agenda

February 25, 2021
6:00 p.m. - 8:00 p.m.
Via Zoom

Anticipated Attendees:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (council member representative), Mark McGoff (Chair), T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson (council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young

Staff Members: Lorie Gillis (Deputy City Manager), Barb Morger (Administrative Analyst), Rachel Morris (City Attorney), Kristen Rush (City Clerk)

Meeting Purpose and Objectives: The Arvada City Council has formed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Topics to be Discussed:

1. Call to Order and Confirmation of Attendance
2. Review of February 11 Meeting Summary - Questions/Clarifications
3. Public Comment
4. Continue Discussion of Council-Identified Issues:
 - a. Section 4.4: Council Compensation
 - b. Section 4.6: Timeframe and Procedure for Replacement of Councilmember Vacancy and Appointment of Mayor

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- c. Section 8.2: Presiding Municipal Judge Residency Requirement
 - d. Sections 5.13 & 5.14: Initiative and Referendum Procedures (Deadlines and Signature Requirements)
5. Discussion of Issues Identified by Committee Members in Last Meeting
- a. Research and future consideration 5.13 & 5.14: Clarify comparative chart, as some % references are for “registered”, but other % are “cast” (such as Wheat Ridge, maybe others)
 - b. 3.6 Recall Requirements, please find and share comparative % of “cast” votes (we are high or low or right on at 25%)
 - c. Please also consider the possible addition of an Ombudsman / Ombudsperson, perhaps into Chapter VIII
 - d. Concern about the way the combination of current structure of council seats combined with limits negatively impacts diversity. Speaking about how long someone can actually serve on Council. Proposal: One person could serve for up to 4 terms, or 16 years consecutively, in any type of Council seat - District or At Large (including Mayor) AND then the person would be ineligible to run for any seat for 1 term, or 4 years (i.e., a “sit out” period), after which the person would be eligible to run again
 - e. Section 8.1 seems to say City Council appoints special counsel
 - f. 8.2 City Attorney and Municipal Judge (Council can’t interfere with City Manager with City employees) - The Council should not be able to interfere with City Attorney or Municipal Judge employees
 - g. Residency of the Judge, City Attorney and City Manager -should be consistency in residency
 - h. Would like some information on runoff elections. If a winner wins with 20% are they really representative?
6. Committee Discussion
7. Adjournment

Meeting Minutes:

The meeting will be recorded, and a written summary will be provided by Barb Morger.

Anticipated Next Steps:

The next Charter Review Committee meeting will be held on March 11 @ 6:00 p.m.

“We Dream Big and Deliver”



2021 Charter Review Committee

This packet includes the Charter section worksheets for discussion during the February 25 meeting of the Charter Review Committee.

Charter Section	Issue
5.13 and 5.14	REVISED Initiative and Referendum Procedures (Deadlines and Signature Requirements)
8.1 and 6.5	Appointment of Assistant and Special Counsel; Expanding Non-Interference Clause
6.1, 8.1, and 8.2	Appointee Residency Requirements (City Manager, City Attorney, Presiding Municipal Court Judge)
4.7	Term Limits
4.7	CML Municipal Elections Chart
3.1	REVISED Council term begins first meeting after election
	Creation of Office of Ombudsman
	Addition to Chapter III, Elections - Run Off Election or Rank Choice Voting

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment
REVISED

- I. **Referred by:** City Council
- II. **Subject:** Sections 5.13 and 5.14, Initiative and Referendum Procedures (Deadlines and Signature Requirements)
- III. **Arvada Charter Language:**

Applicable language from Section 5.13 (initiative procedures)

“(b) An initiated ordinance may be submitted to the City Council by filing with the City Clerk a notice of intent to file a petition for an initiated ordinance. The notice of intent to file an initiative petition shall be signed by not less than five (5) registered electors of the City. The filing of said notice of intent shall be a condition precedent to filing an initiative petition as hereinafter provided. If the initiated ordinance is to be submitted to the registered electors at the next regular municipal election, the petition shall be signed by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. If the initiated ordinance is to be submitted to the registered electors at a special election, the petition shall be signed by the registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. The petition must be filed with the City Clerk within thirty (30) days the form [from] the date the notice of intent is filed with the City Clerk.”

Applicable language from Section 5.14 (referendum procedures)

“(c) If a petition calling for a referendum of an ordinance is signed within thirty (30) days from the effective date of the ordinance by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date of the filing of the notice of intent and the petition is filed with the City Clerk, the ordinance shall be further suspended from operation. If, however, no such petition is filed with the City Clerk within the thirty (30)-day period, the ordinance shall be in full force and effect upon the expiration of the thirty (30)-day period.”

- IV. **Background Information:** Initiative is the right of citizens to propose a new law for a popular vote. Referendum is the right of citizens to refer acts of the legislature to the ballot for a popular vote before they become law. The citizens of Colorado are guaranteed the right to initiative and referendum under the Colorado Constitution, and each home rule city must adopt procedures for initiative and referendum. The City has memorialized the right to initiative and referendum, as well as the general timelines provided for these processes, in the City Charter. All legislative enactments of City Council are subject to referendum, except “ordinances fixing the rate of taxation on property each year for municipal purposes, making the annual appropriation, calling a special election, authorizing the issuance of local improvement district bonds payable primarily from special assessments, levying special assessments, emergency ordinances, and ordinances to meet contractual obligations of the City.”

Prior to 2001, the requirement for initiative petition signatures was 5% of registered electors for a regular election and 7.5% for a special election. The Charter Review Committee in 2001 recommended changing this to 10% for the following reasons:

“The basis for this recommendation is that it should not be easy for a small minority to initiate legislation and require an election. The existing requirement for the 5% and 7 1/2% number of signatures equates to 3,500 signatures and 5300 signatures respectively. The Committee is of the opinion that these numbers are rather easy to obtain. As you know, paid petition circulators are now often used to obtain signatures and there is no oversight or regulations concerning what ‘persuasion’ language is used by the paid petition circulator. As a matter of information, the City has had five elections since 1991 relating to initiative, referendum or Charter amendments, of which two were at the general election and three required a special election.”

Obviously the City’s population has grown substantially since that time, so the Committee’s analysis in 2021 may be different.

Recently, citizens initiated a process to recall four Councilmembers after passage of the City’s single hauler trash ordinance. The citizens stated that they chose to utilize the recall rather than the referendum process because the recall process requires fewer signatures (in some cases) and allows 60 days for signatures to be gathered (as compared to the 30 days allowed in a referendum process). City Council would like the Committee to explore extending the signature deadline for referendum petitions to 60 days to eliminate the discrepancy between the recall and referendum processes, as well as

possibly lowering the signature requirement. At the same time the Committee is asked to consider signature deadlines and requirements for initiative petitions as well.

V. **Proposed Charter Change:**

Option 1: Revise the language in Sections 5.13 and 5.14 to extend the deadline for signature gathering to something more than 30 days, and lower the signature requirement to a number below 10%.

Option 2: Revise the language in Sections 5.13 and 5.14 ONLY to extend the deadline for signature gathering.

Option 3: Revise the language in Sections 5.13 and 5.14 ONLY to lower the signature requirement.

VI. **Implications of Change:**

A. **Positive:**

1. The change would allow citizens to exercise their right to initiative and referendum more easily, which may increase engagement by citizens with the political and democratic processes.
2. Citizens may be less likely to use the recall process for recourse when they disagree with Council-initiated legislation.
3. Referendum and initiative petitions may result in less division in the community than recall petitions.

B. **Negative:**

1. *Increased Uncertainty.* The suggested revision would create increased uncertainty around the status of new legislation (i.e. uncertainty about challenges for 30 days v. 60 days). Referendum petitions, when filed, suspend the effective date of the ordinance at issue until the matter is resolved (a delay which would likely be at least several months). Delays like this can cause significant issues in City operations, depending on the ordinance that is subject to the referendum.
2. *Increased Costs.* Increasing the signature deadline from 30 days to 60 days (especially if done in conjunction with lowering the number of signatures required) may also increase the frequency and number of petitions. Examining petitions is an extremely labor intensive task for the City team, so an increase in petitions may necessitate hiring additional City team members. Petitions, when containing the required number of signatures, must be put on a ballot to be voted on by citizens, which is also a significant cost to the City (depending on how soon a regular election is held, the cost could be between \$50,000 to \$200,000 per petition).
3. *Increased Litigation.* Any legislation drafted by the City team goes through an intense vetting process, involving collaboration across multiple

departments, review by many types of subject matter experts, public comment and input, data gathering and legal analysis. Initiatives do not require collaboration on new legislation with the City team and expert advisors. Drafters may not be familiar with applicable data affecting outcomes on the legislation, may not be familiar with how new legislation might affect City processes and resources, or what applicable laws require. As a result, the end product of the initiative process can be more difficult for the public to interpret, and for the City team to administer, enforce and legally defend. This creates increased risk of litigation (the litigation over Lakewood's growth cap ordinance is a good example of this).

4. *Other Issues.* Increasing use of initiative and referendum can undermine the role and effectiveness of elected officials, and distill decisions on very complex policy issues into overly simplistic yes or no votes.

VII. Comparative Chart:

Jurisdiction	Recall Requirements	Initiative Requirements	Referendum Requirement
Arvada	60 days, 25% of the registered electors voting for all the candidates for the Councilmember's respective office in the last preceding Regular Municipal Election	30 days, 10% of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk	30 days, 10% of the total number of registered electors of the City as of the date of the filing of the notice of intent and the petition is filed with the City Clerk
Westminster	60 days, 25% of all votes cast for all the candidates for that particular office at the last preceding regular election	30 days, 10% of the number of persons who were registered electors of the City, as of the date of the last regular City election	30 days, 10% of the number of persons who were registered electors of the City, as of the date of the last regular City election
Thornton	60 days, 25% of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to	21 days, 10% of the number of persons who were registered electors of the City, as of the date of the last regular City election	21 days, 10% of the number of persons who were registered electors of the City, as of the date of the last regular City election

	be recalled occupies		
Wheat Ridge	60 days, 25% of the entire votes cast in the last preceding election for that position	60 days, 15% of total votes cast in the city in the last gubernatorial election	45 days, 10% of total votes cast in the city in the last gubernatorial election
Lakewood	no deadline, 25% of all votes cast at the last preceding election for all candidates for the office that the person sought to be recalled occupies	no deadline, 5% of the total number of registered electors of the City on the date of the last regular municipal election	30-45 days, 3% of registered electors of the City on the date of the last regular municipal election
Boulder	30 days, 25% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections	180 days, 10% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections	30 days, 10% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections

VIII. Discussion by Charter Committee:

IX. Charter Committee Recommendation to City Council:

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment

- I. **Referred by:** Ken Fellman
- II. **Subject:** Section 8.1, Appointment of Assistant and Special Counsel; Section 6.5, Expanding Non-Interference Clause
- III. **Arvada Charter Language:**

Section 8.1 - City Attorney. “The City Council may provide the City Attorney such assistants as City Council may deem necessary, and may on its own motion or upon request of the City Attorney in special cases employ special counsel. City Council shall establish compensation for the City Attorney, assistants and special counsel. Any agreement for compensation to special counsel shall be made only upon approval of City Council and prior to the service being rendered.”

Section 6.5 - City Council Not to Interfere. “Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City Administrative Officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Except for the purpose of inquires, and investigations under Section 4.2; the Council and its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any officer or employee, either publicly or privately.”

- IV. **Background Information:** Ken Fellman raised the issue of allowing the City Attorney more flexibility in hiring special counsel and managing his/her office, similar to what is allowed for the City Manager.
- V. **Proposed Charter Change:** TBD based on Committee Discussion.
- VI. **What Other Charters State:**
 - A. **Westminster:** *Special Counsel* - “Upon the recommendation of the Attorney, City Manager, or upon its own initiative, the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the Attorney therein.”

Non-Interference - “All personnel employed by the City who are not elected officers of the City or administrative officers by, or under the authority of, this Charter shall be deemed to be employees of the City. The head of each department shall have the power to hire, suspend or discharge the employees of his department with confirmation by the City Manager.”

- B. **Thornton:** *Special Counsel* - “The City Attorney or the Council may retain special legal counsel to handle any matter in which the City has an interest, or to assist and counsel with the City Attorney therein. The compensation of any special legal counsel retained by the City Attorney must be within budgetary limits established by the City Council.”

Non-Interference - “Neither the Council nor any of its members shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other City officer to prevent the City Manager from exercising judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager.”

- C. **Wheat Ridge:** *Special Counsel* - “The council may provide the city attorney such assistants, facilities and considerations as council may deem necessary, and may on its own motion or upon request of the city attorney, employ special counsel. The council shall establish compensation for the city attorney, his assistants and special counsel.”

Non-Interference - “No member of the council shall dictate the appointment or duties of any department head or employee of the city, except as expressly provided in this Charter. The council and its members shall deal with the administrative service of the city solely through the city manager, and neither council nor its members shall give orders or reprimands to any employee or subordinate of the city manager. The council retains the prerogative of requiring the city manager to make verbal or written reports of his activities, those of his subordinates and the administrative service under his charge, not in conflict with other provisions of this Charter.”

- D. **Lakewood:** *Special Counsel* - “The City Council may retain special counsel upon its own motion or upon the request of the City Attorney. The City Attorney shall appoint, promote, suspend, transfer, and remove City employees of the office of the City Attorney in accordance with the provisions of the personnel merit system.”

Non-Interference: “No member of City Council shall direct or request the appointment or removal of any person to or from the employment of the City, or in any manner take part in the appointment or removal of employees of the City,

except for the City Manager, City Attorney, and municipal judges. Members of the City Council, except for the purpose of inquiry, shall deal with employees of the City solely through the City Manager, City Attorney, or Presiding Municipal Judge. No member of the City Council, either publicly or privately, shall give an order to any employee of the City.”

- E. **Boulder:** *Special Counsel* - “The council may also employ special counsel and assistants to the city attorney.”

VII. **Discussion by Charter Committee:**

VIII. **Charter Committee Recommendation to City Council:**

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment
REVISED

- I. **Referred by:** Katie Winner
- II. **Subject:** Appointee Residency Requirements, Sections 6.1 (City Manager), 8.1 (City Attorney), 8.2 (Presiding Municipal Court Judge)
- III. **Arvada Charter Language:**

Section 6.1 (City Manager) “At the time of his/her appointment, the City Manager need not be a resident of the City or State, but he/she shall establish residence in Arvada within six (6) months from the first date of work as City Manager. City Council has the discretion by employment agreement, to permit the City Manager up to an additional six (6) months for a total of twelve (12) months to become a resident and inhabitant of the City.”

Section 8.1 (City Attorney) No residency requirement.

Section 8.2 (Municipal Court Judge) “Each judge of the Municipal Court shall be a resident of the City of Arvada and shall be an attorney-at-law licensed to practice in the State of Colorado.”

- IV. **Proposed Charter Change:** TBD based on Committee Discussion.
- V. **What Other Charters State:**
 - A. **City Manager: No Residency Requirement** - Boulder; **Existing Residency Requirement** - Wheat Ridge, Westminster, Thornton, Lakewood.
 - B. **City Attorney: No Residency Requirement** - Wheat Ridge, Westminster, Boulder, Lakewood, Thornton; **Existing Residency Requirement** - None.
 - C. **Municipal Court Judge:** We were only able to find three cities that have some residency requirement or preference for a municipal court judge: Commerce City (requires residency in Adams County), Englewood (requires residency), and Broomfield (which states the judge should be a resident “if practical”). The remaining city codes and charters we reviewed (Westminster, Thornton, Lakewood, Wheat Ridge, Littleton, Aurora, Boulder, Denver, Centennial, Ft. Collins, Colorado Springs) had no residency requirement.
- VI. **Discussion by Charter Committee:**

VII. Charter Committee Recommendation to City Council:

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** Nancy Young
- II. **Subject:** Term Limits, Section 4.7
- III. **Arvada Charter Language (language at issue in bold below):**

“(a) No person shall be eligible to be elected to the same City Council office for more than three (3) consecutive terms.

(b) This prohibition against more than three (3) consecutive terms shall not prohibit a person from holding a different office, such as Mayor, immediately following three (3) consecutive terms as Councilmember at large or any other similar variation.”

- IV. **Proposed Charter Change:** TBD based on Committee discussion.

- V. **Implications of Change:**

- A. **Positive:** Imposing stricter term limits could allow more opportunity for new voices and ideas.
 - B. **Negative:** Imposing stricter term limits would not allow qualified candidates to continue to serve, which could limit valuable experience and expertise.

- VI. **What Other Charters State:**

It is important to note that the Colorado Constitution limits the terms of elected officials (including local elected officials in home rule municipalities) to two consecutive terms in office, or three consecutive terms if the term is two years or less, unless the voters of a municipality vote to “lengthen, shorten or eliminate the limitations on terms of office” imposed by this provision. *See* Colo. Const. Art. XVIII, Section 11. This serves as a default on term limits, which will apply unless changed by vote of citizens of the municipality. Arvada’s Charter provision on term limitations was adopted in response to and in compliance with this constitutional provision.

- A. **Westminster:** No person shall be elected for more than two consecutive terms as mayor. Terms are considered consecutive unless they are at least four years apart. A term as councillor shall not be considered a consecutive term to that of a term as Mayor, nor shall a term as Mayor be considered a consecutive term to that of councillor. This term limitation shall apply beginning with the regular election in

1995. The term of any person appointed to fill a vacancy shall not be considered to be part of a consecutive term for purposes of this section.

- B. **Thornton:** No specific provision related to term limitations.
- C. **Wheat Ridge:** No person shall serve in the office of city councilmember for more than two (2) consecutive terms of office. This limitation of the number of consecutive terms shall apply to terms of office commencing on or after November 4, 1997, except as provided at subsection (e) hereof. Any person who succeeds to the office of councilmember, and who serves at least one-half of a term in that office, shall be considered to have served a full term in that office. Terms are considered consecutive unless separated by at least four (4) full years.
- D. **Lakewood:** Neither the Mayor nor any member of the City Council shall serve as the Mayor or as a member of the City Council, respectively, for more than two consecutive terms after the effective date of this Charter. Terms of office commencing after November 3, 1992 are considered consecutive unless they are at least four years apart regardless of any change in ward boundaries or the residency within wards of a member of the City Council. Such limitation on consecutive terms shall not prohibit a person from serving as the Mayor immediately after serving as a member of the City Council or serving as a member of the City Council immediately after serving as the Mayor.
- E. **Boulder:** No person shall be eligible to the office of a council member if such person has previously been elected to three or more terms of office.

VII. **Discussion by Charter Committee:**

VIII. **Charter Committee Recommendation to City Council:**

Term Limit Issues, 1995– Fall 2020 Ballots

Municipality		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Aguilar	Eliminate term limits for all elected officials.				fail																						
	Eliminate term limits for Mayor.										fail																
	Eliminate term limits for Trustee.										fail																
Akron	Eliminate term limits for mayor and trustees						pass																				
Alamosa	Modify term limits to conform to city charter		pass																								
Alma	Create 4 year term limit for mayor.										pass																
	Eliminate term limitations for all elected officials.										fail																
Arriba	Eliminate term limits for mayor and council		pass																								
Arvada	Charter amendment to allow three terms instead of only two	pass																									
Aspen	Extension on term limits to 14 consecutive years																				pass						
	Provide specific term limits for Mayor and Council and overall limit of 14 years for consecutive total service as Council member and Mayor.																					pass					
Aurora	Charter amendment to allow three consecutive terms (increase from 8 to 12 years) for any elected office											pass															
Basalt	Eliminate term limits for mayor and trustees		fail																								
	Eliminate term limits for all elected officials								fail																		
	Charter limits elected officials to 2 terms with mayor and councilor considered separate offices																				pass						
Bayfield	Eliminate term limits for trustees									fail																	
Bethune	Eliminate term limits for city officials						pass																				
Black Hawk	Eliminate term limits		fail																								
	Eliminate term limits for all elected officials										pass																
Blanca	Eliminate term limits for mayor and city council				pass																						
Blue River	Eliminate term limits for elected officials								fail																		
Bonanza	Eliminate term limits & reduce board to 5 (including mayor)								pass																		
Boulder	Eliminate term limits for city council					pass																					
	Term limit provision, if not removed by electors, will be adjusted to provide that council members elected to fill a vacancy of less than one year will not count as a term of office					pass																					
	Amend charter for staggered 4 year terms of mayor and council									fail																	
	Limit council terms to three terms in a lifetime																						pass				
Bow Mar	Eliminate term limits			pass																							
Brighton	Amend charter to clarify term limits for officials who were appointed to elected office								pass																		
Brookside	Eliminate term limits for mayor and board														pass												
Castle Rock	Eliminate term limits for mayor and councilmembers			fail																							
	Amend charter to increase council terms from two to four years								fail																		
Central City	Eliminate term limits										fail																
Cheyenne Wells	Eliminate term limits for Trustees and mayor						pass																				
Coal Creek	Eliminate term limits								pass																		
Collbran	Eliminate term limits for mayor and trustees		fail																								
Crawford	Eliminate term limits								pass																		
Creede	Eliminate term limits for trustees and mayor						pass																				
Crestone	Eliminate term limits								pass																		
Crook	Eliminate term limits for mayor and trustees		pass																								

Term Limit Issues, 1995– Fall 2020 Ballots

[illegible]

Term Limit Issues, 1995– Fall 2020 Ballots

Lakeside	Eliminate term limits
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Municipal Elections

Term Limit Issues, 1995– Fall 2020 Ballots

Municipality		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
	Eliminate term limits for mayor and board of trustees			pass																							
Lamar	Eliminate term limits								pass																		
La Salle	Eliminate term limits								pass																		
La Veta	Eliminate term limits for mayor and board		pass																								
Lake City	Eliminate term limits								pass																		
Las Animas	Eliminate term limits for city clerk and treasurer									pass																	
Leadville	Eliminate term limits for mayor, council, clerk & treasurer										fail																
	Eliminate term limits for city clerk																				fail						
Log Lane	Eliminate term limits for board of trustees						fail																				
Village	Eliminate term limits for elected officials								fail																		
Lyons	Increase Mayor two-year term limits from 3 to 4																								pass		
	Increase Trustee two-year term limits from 3 to 4																								fail		
Mancos	Eliminate term limits for mayor and council		fail																								
Manzanola	Eliminate term limits				pass																						
Marble	Eliminate term limits								pass																		
Merino	Eliminate term limits				pass																						
Minturn	Eliminate term limits for elected officials		pass																								
Monte Vista	Eliminate city council term limits						pass																				
Montezuma	Eliminate term limits					pass																					
	Eliminate term limits																										pass
Morrison	Eliminate term limits for mayor and trustees						fail																				
Mountain View	Authorize all elected officials of the town to serve more than two consecutive terms	pass																									
	Amend terms for board of adjustments and appeals and the planning and zoning commission									pass																	
	3 year term limit for Mayor																									pass	
Mt. Crested Butte	Eliminate term limits for council members						fail																				
New Raymer	Eliminate term limits for mayor and trustees						pass																				
Nucla	Eliminate term limits for all elected officials						pass																				
Nunn	Eliminate term limits														fail												
Oak Creek	Eliminate term limits				fail																						
	Eliminate term limits for mayor and trustees										pass																
Ordway	Eliminate term limits				pass																						
Otis	Eliminate term limits																fail										
Pagosa Springs	Reinstate term limits of 2 consecutive 4-year terms																								pass		
Paoli	Eliminate term limits	pass																									
Paonia	Eliminate term limits							fail																			
Parachute	Eliminate term limits					fail					fail																
	Allow three consecutive 4 years terms													pass													
	Set council terms to three consecutive terms																						pass				
Parker	Charter amendment eliminating term limits				fail																						
	Charter amendment creating 4-term lifetime limit																									pass	
Peetz	Eliminate term limits						fail		fail																		pass
Platteville	Eliminate term limits																	fail									
	Eliminate term limits																			fail							

Municipal Elections

Term Limit Issues, 1995– Fall 2020 Ballots

Municipality		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Poncha Springs	Eliminate term limits								pass																		
Pueblo	Eliminate term limits for city council						fail																				
	Eliminate term limits for civil service commission						pass																				
	Eliminate term limits for Board of Water Works						pass																				
Red Cliff	Eliminate term limits for Councilmembers																							fail			
	Eliminate term limits for Councilmembers																								pass		
Ridgway	Eliminate term limits established by state statute										pass																
Rifle	Reinstatement of term limits															pass											
Rockvale	Eliminate term limits for mayor and trustees						pass																				
Rocky Ford	Eliminate term limits for mayor, city council, clerk, and treasurer			fail																							
Saguache	Eliminate term limits for the mayor and trustees												fail														
Sanford	Eliminate term limits for mayor								fail																		
	Eliminate term limits for trustees								pass																		
Sedgwick	Eliminate term limits.										pass																
Severance	Eliminate term limits				pass																						
Sheridan	Repeal home rule charter section on term limits				pass										fail												
Silt	Eliminate term limits for elected officials		pass																								
	Eliminate term limits					pass																					
Silver Plume	Eliminate term limits for trustees and mayor						pass																				
Silverton	Eliminate term limits				fail																						
Springfield	Eliminate term limits for trustees and mayor						fail																				
Starkville	Eliminate term limits																				pass						
Sterling	Eliminate term limits for elected officials									fail																	
Stratton	Eliminate term limits				pass																						
Sugar City	Eliminate term limits				pass																						
Swink	Eliminate term limits								pass																		
Telluride	Charter amendment to increase terms from 3 to 4 years for the mayor and councilmembers			pass																							
Thornton	Term limits increased from 2 consecutive terms to 3 for mayor and concilmembers											fail															
	Extend term limits to three maximum terms for mayor and council members																			fail							
Timnath	Eliminate term limits				pass																						
Two Buttes	Eliminate term limits								pass																		
Victor	Eliminate term limits																					fail					
Vilas	Eliminate term limits				pass																						
Vona	Eliminate term limits for local elected officials		pass																								
Walsenburg	Eliminate term limits for mayor, councilmembers, clerk, and treasurer			fail																							
	Eliminate term limits for mayor					fail																					
	Eliminate term limits for members of city council					fail																					
	Eliminate term limits for city clerk					fail																					
	Eliminate term limits for city treasurer					fail																					
	Eliminate term limits for city clerk																			fail							
	Eliminate term limits for city treasurer																			fail							
	Eliminate term limits for city clerk																					fail					

Municipal Elections

Term Limit Issues, 1995– Fall 2020 Ballots

Municipality		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	
Wellington	Eliminate of term limits for mayor and board of trustees										pass																	
Westcliffe	Eliminate term limits				pass																							
Westminster	Clarification of term limits								pass																			
Wheat Ridge	Charter amendment for four-year term of office for city clerk and no limit on number of terms			fail																								
	Charter amendment for four-year term of office for city treasurer and no limit on number of terms			fail																								
	Charter amendment for four-year term of office for mayor and adjusting term limits thereon			pass																								
	Charter amendment for four-year staggered terms of office for city council member and adjusting term limits thereon			pass																								
	Eliminate term limits for city clerk				fail																							
	Eliminate term limits for city treasurer				fail																							
	Four-year term for city clerk				pass																							
	Four-year term for city treasurer				pass																							
Wiggins	Eliminate term limits for mayor and trustees		pass																									
Williamsburg	Eliminate term limits for all elected officials																				fail							
Wray	Require term limits for city council																			pass								
	Eliminate term limits for city council																							fail				
Winter Park	Eliminate term limits				pass																							
Yampa	Eliminate term limits for all elected officials						pass																					
Yuma	Eliminate term limits for mayor and council		fail																									
	Eliminate term limits				pass																							
TOTALS*		Pass	3	14	6	20	7	16	1	21	7	7	1	1	1	2	3	0	0	1	1	5	2	2	0	4	2	2
		Fail	3	11	9	9	8	7	4	9	5	8	1	1	2	0	0	1	2	0	4	2	3	0	2	1	1	2
		Totals	6	25	15	29	15	23	5	30	12	15	2	2	3	2	3	1	2	1	5	7	5	2	2	5	3	4

CUMULATIVE TOTALS:
PASS 129
FAIL 95
TOTAL 224 (57.6% approval rate)
NOTE: Some of these measures are to modify term limits not to eliminate them.

Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment
REVISED

- I. **Referred by:** City Council
- II. **Subject:** Council term begins first meeting after election, Section 3.1
- III. **Arvada Charter Language (Section 3.1):**

“The terms of office for the Mayor and each Councilmember shall be four (4) years. The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election at 7:00 o'clock p.m.”

- IV. **Background Information:** The charter requires a councilmember’s term to begin at the first regular meeting following the election. This could be as soon as six days after the election. Other city charters have similar timelines. Boulder and Wheat Ridge have differing provisions. Terms in Boulder commence the third Tuesday in November, while terms in Wheat Ridge commence at an “organizational meeting” before the end of the election year. The Arvada charter does not provide an alternative date for a term to commence in case the election results remain uncertain at the time of the first regular council meeting following the election.

This provision was amended in 2011. The following notes were in the Charter Review Committee Report and Minutes that year:

SECTION 3.1 – TERMS OF OFFICE

Mr. Charlie Rhyne said the proposal in this section is to change the term of the commencement of office to the first regular meeting following the election. Mr. Rhyne said he would like to leave the term to start on the “Monday following”, even if the swearing-in does not take place that soon. Staff discussed their reasons for bringing this item forward and cited the difference between business meetings and study sessions and the possibility of inclement weather where a meeting may be cancelled. Ken Fellman said an even more important issue is that the County Clerks are now dealing with provisional ballots and sometimes do not certify the election for a couple of weeks. The Committee asked Chris Daly to research this topic.

III. Sec. 3.1	Terms of Office: Shall term commence at the first regular meeting following the election? (Currently states “Monday next following the election”)	YES	March 10 - City Attorney and City Clerk will research this topic. March 24 – it was moved and approved that staff’s recommendation be adopted so that the provision reads “The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Election shall commence at the first regular meeting following the election”.	March 10 March 24
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1. Sec. 3.1 – Terms of Office: The issue was whether the current language should be changed to state that the “terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Election shall commence at the first regular meeting following the election”. Currently the language states that the term starts “Monday next following the election”. The Committee voted and approved that the language should be changed.

V. Proposed Charter Change:

“The terms of office for the Mayor and each Councilmember shall be four (4) years. The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election, and shall continue until their successors shall have been elected and duly qualified at 7:00 o'clock p.m.. In the event that one or more of the prevailing candidates is not determined by the first regular meeting following the election because the vote count is incomplete or inconclusive, or a recount is required, the terms for such Councilmember(s) or Mayor shall not begin until the business day following the final determination of the election results for that candidate. Any delay in the beginning of a term of a Councilmember or Mayor caused by an incomplete or inconclusive vote or a recount shall not delay or affect the timing of any subsequent election or term for that respective office.”

VI. Implications of Change:

- A. **Positive:** Providing this additional time period could yield two advantages. First, modifying the date would allow a newly elected Mayor or Councilmember additional time to attend initial meetings and become more familiar with pending items of business prior to a vote. This additional time could result in more informed and reasoned decision making. Second, modifying the date could prove beneficial if the results of the election are not immediately known and, instead, require additional time.
- B. **Negative:** Once an election occurs, the citizens of Arvada are best served by having elected officials take office as soon as possible. Extending the transition of power to the second regular meeting after the election could retain decision-making authority with an outgoing representative instead of one who is newly-elected. At least in theory, this could lead to the outgoing representative making decisions without the same level of accountability to the citizens of Arvada.

VII. What Other Charters State:

- A. **Westminster:** Sec. 3.2. The terms of office of Councillors and the Mayor shall commence at 8:00 p.m. on the Monday next following the regular city election at which they are elected.

- B. **Thornton:** Sec 4.3. First meeting (regular or special) after the election.
- C. **Wheat Ridge:** Sec. 3.1, 4.3. At an “organizational meeting” that must take place within the year of the election.
- D. **Lakewood:** Sec. 2.6. The terms of office of the Mayor and of each member of the City Council shall commence at the first regular meeting following the regular municipal election.
- E. **Boulder:** Sec. 5. The terms of all council members shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate.

VIII. **Discussion by Charter Committee:**

IX. **Charter Committee Recommendation to City Council:**

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** Preston Branaugh
- II. **Subject:** Creation of Office of Ombudsman
- III. **Arvada Charter Language (language at issue in bold below):**

None

- IV. **Background Information:** The mission of an ombudsman is to improve government by responding to citizen complaints in an impartial manner and making constructive recommendations based on the results of complaint investigations. They provide essential oversight of operations, understand how government works, and help residents resolve issues with government programs. Some focus exclusively on informal dispute resolution, while others are empowered to conduct formal investigations. The attached
- V. **Proposed Charter Change:**

“Section 8.3 Office of Public Complaints.

The city council shall establish by ordinance an office to receive complaints concerning the operation of city government and shall grant it sufficient power to permit it quickly and efficiently to investigate and to make and publicize recommendations concerning its findings, including the power to subpoena witnesses, documents and other evidence and to administer oaths. The subpoena power of the office of public complaints shall be limited to matters under written complaint by a member of the public, and any witness shall have the right to be represented by counsel. Any individual who is the subject of a complaint shall have the right to present witnesses in the individual’s own behalf.”

- VI. **Implications of Change:**
 - A. **Positive:** Creating an ombudsman position would centralize complaint resolution in the City, and would provide citizens with an additional avenue for problem solving.
 - B. **Negative:** The City does not have adequate financial and employee resources at this time to plan, create and staff this position.
- VII. **What Other Charters State:** We could not find a similar provision in neighboring cities, but this type of position and office is utilized in the federal government and in local

governments in other areas. Fort Collins has what they call an “Equal Opportunity and Compliance Manager” which has some similar responsibilities to what is proposed.

VIII. Discussion by Charter Committee:

IX. Charter Committee Recommendation to City Council:

**Arvada City Charter Committee - 2021
Review of Proposed Charter Amendment**

- I. **Referred by:** Bob Dyer and Lauren Simpson
- II. **Subject:** Addition to Chapter III, Elections - Run Off Election or Rank Choice Voting
- III. **Arvada Charter Language (language at issue in bold below):**

None

- IV. **Background Information (Run-Off Election):** A run-off election occurs in some jurisdictions if no one gets a majority in the first round of voting. A runoff election is held between the top two candidates, which typically takes place a month or so later in a second election. This voting method guarantees the winner will receive more than 50% of the vote.
- V. **Background Information (Rank Choice Voting):** A rank choice voting system (also known as an “instant run-off” election) involves voters ranking candidates by preference on the ballot. The ballot for a rank choice voting system would look something like this:

HOW TO MARK

INSTRUCTIONS TO VOTER:

Fill in the oval(s) to mark your choice(s) 

MAYOR:

Vote only one choice per column, per row

MAYOR	VOTE 1ST CHOICE HERE	VOTE 2ND CHOICE HERE	VOTE 3RD CHOICE HERE
Thomas Jefferson	☐	☒	☐
Benjamin Franklin	☒	☐	☐
John Adams	☐	☐	☒

If no candidate secures at least 50% of the vote, an “instant runoff” round follows, with last-place candidates eliminated until someone secures a majority.

VI. **Proposed Charter Change:**

Option 1 (Run Off Election): “To be elected, a candidate must receive at least 50 percent of the votes cast for the office. If no candidate receives at least 50 percent, the two candidates with the highest number of votes shall participate in a run-off election, which shall be held at the earliest possible date after the regular city election, and subject to the rules and procedures for municipal elections adopted by the City, as applicable. The successful candidate in the run-off election shall take office at the first regular council meeting following the run-off election. Until the newly elected candidate takes office, the incumbent shall continue in office.”

Option 2 (Ranked Choice/ Instant Run-Off Voting): “If more than two (2) candidates are running for the same office, the City shall use a procedure for instant runoff voting. The ballot shall provide a means for voters to rank all of the candidates in order of preference. If any candidate receives a majority of all first-choice votes cast, then that individual shall be elected. If no candidate receives a majority of first-choice votes, then the candidate receiving the fewest first-choice votes shall be declared defeated. For each ballot that listed the defeated candidate as a first choice, the second choice shall then be counted as a first choice for that ballot. If one candidate has still not received a majority of first-choice votes, then the candidate with the next-fewest first-choice votes shall be declared defeated, and the ballots for that candidate shall again be recounted based on the next choice in order on such ballots. This process shall continue until one candidate has received the majority of votes cast and counted as provided herein, and that person shall be elected.”

VII. **Implications of Change:**

- A. **Positive:** Candidates are required to secure a sufficient number of votes to ensure they represent the choice of a majority of voters. In a run-off election, advocates for the system argue that the time between an initial election and a runoff gives voters the opportunity to learn more about candidates. Advocates of ranked choice voting say it allows more choices for voters, especially those who may favor a third-party candidate but feel compelled to pick a major-party candidate who has a better chance of winning in the plurality system.
- B. **Negative:** Both options are potentially complex and expensive. Current voting systems are set up to handle plurality votes, and new election processing software would likely be required (at least for ranked choice voting). The City contracts out vote processing to Jefferson County and Adams County, who will charge the City more for this service if a run-off election is used (around \$200,000) and potentially also for ranked choice voting. The second election in a run-off also may take place at a time when fewer people are paying attention. It can also take

longer to process results and explain to voters what is happening with ranked choice voting.

VIII. **What Other Charters State:**

- A. **Run Off Elections:** Westminster and Denver use this system for mayoral elections with more than two candidates.
- B. **Ranked Choice Voting:** Carbondale and Basalt use this voting method for mayoral races with more than two candidates. Aspen and Telluride have previously used this voting method, but it was repealed in Aspen by voters in 2010, and Telluride discontinued this practice over concerns about how time consuming it was.

IX. **Discussion by Charter Committee:**

X. **Charter Committee Recommendation to City Council:**



CHARTER REVIEW COMMITTEE

Meeting Summary

February 25, 2021

In Attendance:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (Council member representative), Mark McGoff (Chair), T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson (Council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young.

Staff Members: Lorie Gillis (Deputy City Manager), Barb Morger (Administrative Analyst), Rachel Morris (City Attorney), Kristen Rush (City Clerk).

Access the recording at arvada.org/city-charter-review

Meeting Purpose and Objectives:

On January 11, 2021, the Arvada City Council appointed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Meeting Flow:

Mark McGoff, Charter Review Committee Chair, called the Zoom meeting to order at 6:00 p.m. and facilitated the following topics:

1. Call to Order and Confirmation of Attendance
2. Review of February 11 Meeting Summary - Questions/Clarifications
3. Public Comment
 - a. Renee Nelson requested to speak on the issues of Term Limits and Initiative and Referendum Procedures
 - b. Jonah Hearne requested to speak on the issue of Initiative and Referendum Procedures
4. Continue Discussion of Council-Identified Issues



Charter Issue Summary:

The committee discussed the following 4 issues identified by Council:

City Council Compensation

Arvada Charter Language (Section 4.4)	Proposed Charter Change
“The members of the City Council shall receive such compensation, and the Mayor such additional compensation, as the City Council shall by ordinance prescribe; provided, however, that they shall neither increase nor decrease the compensation of any member during his/her term of office. The Mayor and Councilmember may, upon order of the City Council, be paid such necessary bona fide expenses incurred in service on behalf of the City as are authorized and itemized.”	<i>Option 1.</i> No change. Compensation continues to be prescribed by ordinance. <i>Option 2.</i> Insert language to permit adjustment of current council and mayor salaries in accordance with annual adjustments in the area Consumer Price Index. <i>Option 3.</i> Specify an amount of compensation for council and mayor effective on a given future date and permit annual adjustments thereafter in accordance with the CPI. <i>Option 4.</i> Specify an amount of compensation for council and mayor effective on a given date with no provision for adjustment in accordance with the CPI.
Notes: Suggest effective date as of the turnover of the Council in December of 2023, or January 1, 2024.	
Committee Recommendation: Adopt Option #3 as proposed Charter change	

Timeframe and procedure for replacement of councilmember vacancy and appointment of Mayor

Arvada Charter Language (Section 4.6)	Proposed Charter Change
“In case of a vacancy the remaining Councilmembers shall choose by a majority vote, and within thirty (30) days after such vacancy occurs, a person qualified under Section 4.3 of this Charter to fill such vacancy; provided, however, the person chosen as Mayor shall be a member of the City Council. If such vacancy occurs during the first two (2) years of a term, the person appointed by City Council shall serve only until the next regular election, at which time the seat shall be filled by election for the remaining two (2) years of the term. If three (3) or more vacancies exist simultaneously, the remaining Councilmembers shall, at the next regular meeting of City Council, call for a special election to fill such vacancies, provided there will not be a Regular Municipal Election within ninety (90) days.”	Increase time to fill the vacancy from 30 to 45 days.
Notes: The City Attorney will take a look at the impacts filling Mayor’s vacancy and impacts on Council	
Committee Recommendation: Adopt proposed Charter change	

Presiding Municipal Judge residency requirement

Arvada Charter Language (Section 8.2)	Proposed Charter Change
“There is hereby established a Municipal Court vested with original jurisdiction of all cases arising under the Charter, ordinances of the City of Arvada and as may be conferred by law. Each judge of the Municipal Court shall be a resident of the City of Arvada and shall be an attorney-at-law licensed to practice in the State of Colorado. In the event of a conflict of interest and at the request of the presiding judge, City Council may appoint a special municipal judge for the purpose of presiding over the proceeding out of which the conflict of interest arose. A special judge appointed by the City Council shall be an attorney-at-law licensed to practice in the State of Colorado, however, need not be a resident of the City of Arvada. City Council shall appoint and fix the compensation for each Municipal Judge who shall serve at the pleasure of City Council.”	<i>Option 1.</i> Each judge of the Municipal Court shall be an attorney-at-law licensed to practice in the State of Colorado. <i>Option 2.</i> Each judge of the Municipal Court shall be an attorney-at-law licensed to practice in the State of Colorado. <u>At the time of his/her appointment, a judge need not be a resident of the City or State, but he/she shall establish residence in Arvada within six (6) months from the first date of work as a judge. City Council has the discretion by agreement, to permit any judge up to an additional six (6) months for a total of twelve (12) months to become a resident and inhabitant of the City.</u> <i>Option 3.</i> Each judge of the Municipal Court shall be a resident of Jefferson County or Adams County and shall be an attorney-at-law licensed to practice in the State of Colorado.
Committee Recommendation: Adopt Option #2 as proposed Charter change	



REVISED: Initiative and Referendum procedures

Arvada Charter Language (Sections 5.13 & 5.14)

Applicable language from Section 5.13 (initiative procedures)

“(b) An initiated ordinance may be submitted to the City Council by filing with the City Clerk a notice of intent to file a petition for an initiated ordinance. The notice of intent to file an initiative petition shall be signed by not less than five (5) registered electors of the City. The filing of said notice of intent shall be a condition precedent to filing an initiative petition as hereinafter provided. If the initiated ordinance is to be submitted to the registered electors at the next regular municipal election, the petition shall be signed by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. If the initiated ordinance is to be submitted to the registered electors at a special election, the petition shall be signed by the registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. The petition must be filed with the City Clerk within thirty (30) days the form [from] the date the notice of intent is filed with the City Clerk.”

Applicable language from Section 5.14 (referendum procedures)

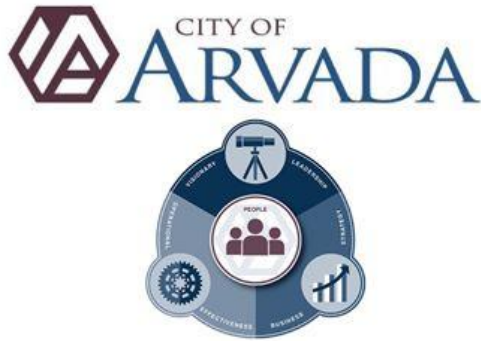
“(c) If a petition calling for a referendum of an ordinance is signed within thirty (30) days from the effective date of the ordinance by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date of the filing of the notice of intent and the petition is filed with the City Clerk, the ordinance shall be further suspended from operation. If, however, no such petition is filed with the City Clerk within the thirty (30)-day period, the ordinance shall be in full force and effect upon the expiration of the thirty (30)-day period.”

Proposed Charter Change
<i>Option 1.</i> Revise the language in Sections 5.13 and 5.14 to extend the deadline for signature gathering to something more than 30 days, and lower the signature requirement to a number below 10%. <i>Option 2.</i> Revise the language in Sections 5.13 and 5.14 ONLY to extend the deadline for signature gathering. <i>Option 3.</i> Revise the language in Sections 5.13 and 5.14 ONLY to lower the signature requirement.
Notes: The City Attorney will take a look at signatures required for each process; different variations of signature requirements for Arvada; current number of registered voters and the number of voters in the last Mayoral Election; how many recall, initiative, or referendum items have reached the signature collection phase since the current provisions were adopted in 1991.
Committee Recommendation: Adopt Option #2 as proposed Charter change; with 53% of the poll results in favor of extending to 60 days, and 47% of the poll results in favor of extending to 45 days.

5. The Charter Review Committee meeting adjourned at 8:01 p.m.

Next Steps:

The next Charter Review Committee meeting is scheduled for March 11 @ 6 p.m.



Charter Review Committee Meeting Agenda

March 11, 2021
6:00 - 8:00 p.m.
Via Zoom

Anticipated Attendees:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (council member representative), Mark McGoff (Chair), T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson (council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young

Staff Members: Lorie Gillis, Barb Morger, Rachel Morris, Kristen Rush

Meeting Purpose and Objectives: The Arvada City Council has formed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Topics to be Discussed:

1. Call to Order and Confirmation of Attendance
2. Review of February 25 Meeting Summary - Questions/Clarifications
3. Public Comment
4. Discussion of Remaining Issues
 - a. Section 8.1: Appointment of Assistant and Special Counsel
 - b. Section 6.5: Expanding Non-Interference Clause
 - c. Sections 6.1, 8.1, and 8.2: Appointee Residency Requirements
 - d. Section 4.7: Term Limits
 - e. Section 3.1: Terms of Office (Revised)
 - f. Creation of Office of Ombudsman (No Current Language)
 - g. Run Off Election/Rank Choice Voting (No Current Language)

"We Dream Big and Deliver"

5. March 25 Meeting Agenda/Report to City Council
6. Committee Discussion
7. Adjournment

Meeting Minutes:

The meeting will be recorded, and a written summary will be provided by Barb Morger.

Anticipated Next Steps:

The next Charter Review Committee meeting will be held on March 25 @ 6 p.m.



CHARTER REVIEW COMMITTEE

Meeting Summary

March 11, 2021

In Attendance:

Committee Members: Preston Branaugh, Shelley Cook, Lindsey Daughterty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (Council member representative), Mark McGoff (Chair), Jeremiah Payor, Ed Rothschild, Lauren Simpson (Council member representative), Anna Smith, Lisa Smith, Brett Vernon, Katie Winner, Nancy Young

Staff Members: Lorie Gillis, Barb Morger, Rachel Morris, Kristen Rush

Access the recording with this [link](#), or at arvada.org/city-charter-review

Meeting Purpose and Objectives:

On January 11, 2021, the Arvada City Council appointed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Meeting Flow:

Mark McGoff, Charter Review Committee Chair, called the Zoom meeting to order at 6:00 p.m. and facilitated the following topics:

1. Review of February 25 Meeting Summary - Questions/Clarifications
2. Public Comment - (none)
3. Discussion of Remaining Issues
 - a. Section 8.1: Appointment of Assistant and Special Counsel
 - b. Section 6.5: Expanding Non-Interference Clause
 - c. Sections 6.1, 8.1, and 8.2: Appointee Residency Requirements
 - d. Section 4.7: Term Limits
 - f. Creation of Office of Ombudsman (No Current Language)



- Lorraine Anderson submitted this [letter](#) to the Charter Review Committee.

Charter Issue Summary:

- The committee discussed the following issues:

Appointment of Assistant and Special Counsel

Arvada Charter Language (Section 8.1)
“The City Council may provide the City Attorney such assistants as City Council may deem necessary, and may on its own motion or upon request of the City Attorney in special cases employ special counsel. City Council shall establish compensation for the City Attorney, assistants and special counsel. Any agreement for compensation to special counsel shall be made only upon approval of City Council and prior to the service being rendered.”
Committee Recommendation: 12 of 16 members responding to the poll agree that this should be addressed outside of the charter.

Expanding Non-Interference Clause

Arvada Charter Language (Section 6.5)
“Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City Administrative Officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. Except for the purpose of inquires, and investigations under Section 4.2; the Council and its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any officer or employee, either publicly or privately.”
Notes: From the review of other jurisdictions, the majority only have this provision for City Manager.

Committee Recommendation: 13 of 16 members responding to the poll do not recommend a change to the charter.

Appointee Residency Requirements

Arvada Charter Language (6.1)

“At the time of his/her appointment, the City Manager need not be a resident of the City or State, but he/she shall establish residence in Arvada within six (6) months from the first date of work as City Manager. City Council has the discretion by employment agreement, to permit the City Manager up to an additional six (6) months for a total of twelve (12) months to become a resident and inhabitant of the City.

Notes: Consideration of consistency in residency requirement for all three appointees. Discussion of the benefit of City Manager being a resident and active part of the community. Pros and cons of Muni Judge and City Attorney residency requirements. Option to leave at Judge and City Attorney to the discretion of Council to be handled by contract.

Committee Recommendation:

Maintain City Manager residency requirements.

12 of 15 members responding to the poll recommend removing the residency requirement for Municipal Judge and all judges.

10 of 15 members responding to the poll recommend removing the residency requirement for the City attorney.

*Consider language regarding ‘residency when practical’ when drafting contract language regarding Municipal Judge and City Attorney.

Term Limits

Arvada Charter Language (Section 4.7)
“(a) No person shall be eligible to be elected to the same City Council office for more than three (3) consecutive terms. (b) This prohibition against more than three (3) consecutive terms shall not prohibit a person from holding a different office, such as Mayor, immediately following three (3) consecutive terms as Councilmember at large or any other similar variation.”
Notes: Referenced the Colorado Municipal League Term Limits chart. 20 different people have served on Arvada City Council since 1991; of those, 3 people have served for 24 years.
Committee Recommendation: 10 of the 14 members responding to the poll do not recommend a change to the current language.

Creation of Office Ombudsman

Arvada Charter Language (Section 8.3)
“The city council shall establish by ordinance an office to receive complaints concerning the operation of city government and shall grant it sufficient power to permit it quickly and efficiently to investigate and to make and publicize recommendations concerning its findings, including the power to subpoena witnesses, documents and other evidence and to administer oaths. The subpoena power of the office of public complaints shall be limited to matters under written complaint by a member of the public, and any witness shall have the right to be represented by counsel. Any individual who is the subject of a complaint shall have the right to present witnesses in the individual’s own behalf.”
Notes: City Attorney researched language in other municipalities. Depending on the city, the offices are very different. The general idea is for the position to help citizens resolve disputes with their government. “Someone on the inside, who is on our side.” Assistance in navigating the system. Funding is another aspect to consider. Does this actually warrant Charter language vs ordinance? Suggest putting together a

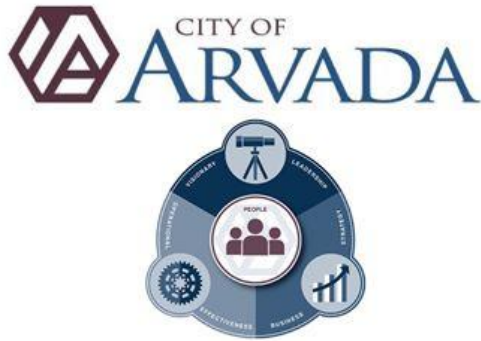
committee. Poll: Recommend the creation of language to establish an Ombudsman Office.

Committee Recommendation: 11 of the 14 members responding to the poll do not recommend including the creation of an office of ombudsman in the charter language. The committee will continue the conversation during the March 25 meeting to discuss recommendations for another option.

- Meeting adjourned at 8:04 p.m.

Next Steps:

The next Charter Review Committee meeting is scheduled for March 25 @ 6 p.m.



Charter Review Committee Meeting Agenda

March 25, 2021
6:00 p.m. - 8:00 p.m.
Via Zoom

Anticipated Attendees:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (council member representative), Mark McGoff (Chair), T.O. Owens, Jeremiah Payor, Ed Rothschild, Lauren Simpson (council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young

Staff Members: Lorie Gillis (Deputy City Manager), Barb Morger (Administrative Analyst), Rachel Morris (City Attorney), Kristen Rush (City Clerk)

Meeting Purpose and Objectives: The Arvada City Council has formed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Topics to be Discussed:

1. Call to Order and Confirmation of Attendance
2. Review of March 11 Meeting Summary – Questions/Clarifications
3. Public Comment
4. Discussion of Remaining Issues:
 1. **3.1 Review of Revised language: Terms of Office**
 - a. Question: Should the Charter be amended to address the beginning of a councilmember term in the event of an incomplete/inconclusive vote total or the need for a recount of the vote?

“We Dream Big and Deliver”

2. Run Off Election/Ranked Choice Voting

- a. Question 1: Should the City of Arvada continue its practice of declaring a candidate with a plurality of votes to be the winner of a city council election?
 - b. Question 2: (Considered only if the answer to Question 1 is no): Should the Charter be changed to ensure that the winner of a city council election receives a majority of the votes cast, i.e. establish a Run Off Election?
 - c. Question : (Considered only if the answer to Question 1 is no): Should the Charter be changed to establish a voter preference procedure to determine the winner of a city council election, i.e. Ranked Choice/Instant Run Off?
- 5. Summary Discussion of Charter Committee Work
 - 6. Report to City Council
 - 7. Creation of Charter Issues Committee

Meeting Minutes:

The meeting will be recorded, and a written summary will be provided by Barb Morger.



CHARTER REVIEW COMMITTEE

Meeting Summary

March 25, 2021

In Attendance:

Committee Members: Preston Branaugh, Kyoko Chenhalls, Shelley Cook, Lindsey Daugherty, Sharon Davis, Bob Dyer, Ken Fellman, Vanessa Kendrick, John Marriott (council member representative), Mark McGoff (Chair), T.O. Owens, Ed Rothschild, Lauren Simpson (council member representative), Anna Smith, Lisa Smith, Mike Stahl, Brett Vernon, Katie Winner, Nancy Young

Staff Members: Lorie Gillis, Barb Morger, Rachel Morris, Kristen Rush

Access the recording at arvada.org/city-charter-review

Meeting Purpose and Objectives:

On January 11, 2021, the Arvada City Council appointed a Charter Review Committee to review and recommend amendments, deletions or other changes to the City Charter.

Meeting Flow:

Mark McGoff, Charter Review Committee Chair, called the Zoom meeting to order at 6:00 p.m. and facilitated the following topics:

1. Review of March 11 Meeting Summary – Questions/Clarifications
2. Public Comment - No public comment for this meeting
3. Discussion of Remaining Issues:

- ❖ **3.1 Review of Revised language: Terms of Office**

- ❖ **Run Off Election/Ranked Choice Voting**



5. Summary Discussion of Charter Committee Work
6. Report to City Council
7. Creation of Charter Issues Committee

Charter Issue Summary:

The committee discussed the following issues:

REVISED: Terms of Office

Arvada Charter Language (Section 3.1)
"The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election at 7:00 o'clock p.m.
Proposed Charter Change:
"The terms of office for the Mayor and each Councilmember shall be four (4) years. The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election, and shall continue until their successors shall have been elected and duly qualified at 7:00 o'clock p.m.. In the event that one or more of the prevailing candidates is not determined by the first regular meeting following the election because the vote count is incomplete or inconclusive, or a recount is required, the terms for such Councilmember(s) or Mayor shall not begin until the business day following the final determination of the election results for that candidate. Any delay in the beginning of a term of a Councilmember or Mayor caused by an incomplete or inconclusive vote or a recount shall not delay or affect the timing of any subsequent election or term for that respective office."
Question: Should the Charter be amended to address the beginning of a councilmember term in the event of an incomplete/inconclusive vote total or the need for a recount of the vote?
Committee Recommendation: 14 of 15 members (93%) responding to the poll recommend a change to the Charter.

Addition to Chapter III, Elections - Run Off Election or Rank Choice Voting

Arvada Charter Proposed Language Option 1

Option 1 (Run Off Election): "To be elected, a candidate must receive at least 50 percent of the votes cast for the office. If no candidate receives at least 50 percent, the two candidates with the highest number of votes shall participate in a run-off election, which shall be held at the earliest possible date after the regular city election, and subject to the rules and procedures for municipal elections adopted by the City, as applicable. The successful candidate in the run-off election shall take office at the first regular council meeting following the run-off election. Until the newly elected candidate takes office, the incumbent shall continue in office."

Arvada Charter Proposed Language Option 2

Option 2 (Ranked Choice/ Instant Runoff Voting): "If more than two (2) candidates are running for the same office, the City shall use a procedure for instant runoff voting. The ballot shall provide a means for voters to rank all of the candidates in order of preference. If any candidate receives a majority of all first-choice votes cast, then that individual shall be elected. If no candidate receives a majority of first-choice votes, then the candidate receiving the fewest first-choice votes shall be declared defeated. For each ballot that listed the defeated candidate as a first choice, the second choice shall then be counted as a first choice for that ballot. If one candidate has still not received a majority of first-choice votes, then the candidate with the next-fewest first-choice votes shall be declared defeated, and the ballots for that candidate shall again be recounted based on the next choice in order on such ballots. This process shall continue until one candidate has received the majority of votes cast and counted as provided herein, and that person shall be elected."

Question 1: Should the City of Arvada continue its practice of declaring a candidate with a plurality of votes to be the winner of a city council election?

Committee Recommendation: 11 of the 18 members (61%) responding to the poll recommend continuing the practice.

Question 2: Should we continue the practice of allowing the Mayor to be elected by plurality?
Committee Recommendation: 9 of the 16 members (56%) responding to the poll would not recommend continuing the practice.
Question 3: Would you prefer to do it by a straight run off or rank choice system?
Committee Recommendation: 8 of the 19 members (42%) responding to the poll prefer a rank choice system; and 11 of the 19 members (58%) responding to the poll prefer run off.

Election Information Since 1991
53 Council Races
16 had three or more candidates (31.9%)
4 of the 16 had a winner with more than 50% of the vote (25%)
12 of the 16 had less than 50% of the vote (75%)
In 41 of 53 races the winner had more than 50% of the vote (77.3%)

Next Steps:

- A. Mark McGoff will prepare a report to the City Council consisting of a written summary and all documents used within the committee meetings.
- B. The committee will be invited to the April 26 City Council Workshop to discuss the report and answer any questions.
- C. Mark McGoff will work with Kristen Rush to create a Charter Issues Committee. Once Council has identified issues for the ballot, there will be an education campaign for the community. Each person on the committee is invited to participate.

- Meeting adjourned at 7:45 p.m.

Charter Review Committee

April 26, 2021

City Council Study Session





City Council Identified Issues





Mayor Signature Requirement

Section 13.13

“All conveyances of interest in land by the City shall be signed by the Mayor, or Mayor Pro tem and attested by the City Clerk under the Seal of the City.”

AMEND: Establish authority and procedures by ordinance.



Council Terms

Section 3.1

“The terms of office for the Mayor and for the Councilmembers elected at any Regular Municipal Elections shall commence at the first regular meeting following the election...”

AMEND: Either “...at the second regular meeting...”

OR

Create Charter language to address the beginning of a Councilmember term in the event of an incomplete/inconclusive vote or the need for a recount of the vote.

DO NOT AMEND to require the winner to have a majority of the vote.

CONSIDER: Amend the Charter to require the Mayor to be elected by a majority vote either by a runoff election or rank choice voting.



Recall Signature Requirement

Section 3.6

“...at least twenty-five (25) percent of the **registered electors voting for all the candidates**” in the last election.”

AMEND: “...at least twenty-five (25) percent of the **number of votes cast for all the candidates**” in the last election.





Councilmember Employment Prohibition

Section 4.3

“no Councilmember, including the Mayor, shall be a salaried employee of the City **nor any other municipality** during his/her term of office.”

AMEND: Delete highlighted language.





Council Compensation

Section 4.4

“The members of the City Council shall receive such compensation...as the City Council shall be ordinance prescribe...”

AMEND: Specify compensation in Charter effective after November 2023 election. Permit adjustments thereafter in accordance with Consumer Price Index.





Council Vacancies

Section 4.6

“In case of a vacancy the remaining Councilmembers shall choose by a majority vote and within thirty (30) days a person qualified...to fill such vacancy.”

AMEND: Increase time to fill a vacancy from 30 to 45 days.





Residency Requirement for Presiding Municipal Judge

Section 8.2

“Each judge of the municipal court shall be a resident of the City of Arvada.”

AMEND: Allow six months after appointment to become resident, and additional six months at discretion of City Council.



Initiative and Referendum Procedures

Sections 5.13 and 5.14

“The petition (for an initiative) must be filed with the City Clerk **within thirty (30) days...**”

“(A) petition calling for a referendum (must be) signed within thirty (30) days...”

AMEND: Allow 45 or 60 days for signature gathering.





Committee Identified Issues





City Attorney

Section 8.1

“Any agreement for compensation to special counsel shall be made only upon approval of City Council and prior to the service being rendered.”

DO NOT AMEND



Non-Interference

Section 6.5

Should the non-interference language be extended to the offices of the City Attorney and Presiding Municipal Court Judge?

DO NOT AMEND





Appointee Residency Requirement

Should there be a residency requirement for the City Attorney?

DO NOT AMEND





Term Limits

Section 4.7

Should there be a limitation on the total number of years a person can serve on city council?

DO NOT AMEND





Office of Ombudsman

Should there be a Charter requirement to create the office of Ombudsman?

DO NOT AMEND





REPORT TO CITY COUNCIL WORKSHOP

AGENDA ITEM
2.B.

TO: THE HONORABLE CITY COUNCIL

DATE: April 26, 2021

SUBJECT: Bond Projects Quarterly Update

Report in Brief

The Public Works engineering team will provide the City Council with an update on the two bond projects. The first project is Ralston Road Phase 2 (Yukon Street to Garrison Street). The second project is the W. 72nd Ave corridor from Swadley Court to Kipling Street. The W. 72nd Avenue project also includes the construction of an underpass for the Union Pacific Railroad.

While not a part of the bond projects, Ralston Road Phase 1 (Teller Street to Yukon Street) merges with Ralston Road Phase 2 at Yukon Street. With the roadway from Teller Street to Garrison Street being rebuilt and widened, the engineering team will present an update for Ralston Road Phase 1. The engineering team will present the Council with information as to how these two projects will be coordinated for a smooth transition between phases.

Background

In November 2018, voters passed bond initiative 3F, which approved funding for rebuilding and widening of Ralston Road from Yukon Street to Garrison Street. The bond initiative also approved the widening of W. 72nd Avenue from Swadley Court to Kipling Street, and for the construction of an underpass for the Union Pacific Railroad.

The bond initiative also requires a citizens bond oversight committee. Beginning in the third quarter of 2019, City team members meet quarterly with the citizens bond oversight committee. The City engineering team provides information to the committee regarding funding related to the project, project schedules, and communication with the residents and businesses along the project corridors. The citizens bond oversight committee also participates in public meetings, open houses, and project tours.

Through Council Workshops, the City team will report out to the City Council on a quarterly basis regarding the status of the bond projects. The first quarterly workshop with the City Council occurred on November 25, 2019. The second workshop occurred on September 28, 2020. Since the September 28, 2020 workshop, much work has been done and construction is set to begin on both projects. While Ralston Road Phase 1 is not part of the bond projects, Phase 1 will merge with Phase 2, and the City team will also discuss the progress and transition of the Ralston Road Phase 1 project.

The City team will update the City Council on the progress made on each project, the schedule of construction, budget information, and the team will discuss community and resident communication.

Strategic Alignment

Presentation of an update on the bond projects aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Successful completion of the projects will complete Strategic Result 4 (SR4):

By 12/25, effectively utilize voter approved bond funds for the completion of Ralston Road phase 2 and the expansion of W. 72nd Avenue.

Next Steps

Receive feedback from the City Council and schedule the next quarterly workshop in order to provide bond project updates.

Prepared by:
Don Wick, Director of Public Works

Reviewed by:

Approved by:

Jacqueline Rhoades, Civil Engineer III	4/8/2021
Don Wick, Director of Public Works	4/8/2021
Bryan Archer, Director of Finance	4/8/2021
Erika Pierce, Litigation Paralegal	4/12/2021
Rachel Morris, City Attorney	4/14/2021
Lorie Gillis, Deputy City Manager	4/14/2021
Mark Deven, City Manager	4/14/2021

Enclosure, exhibits & attachments required to support the report



Bond Project Update

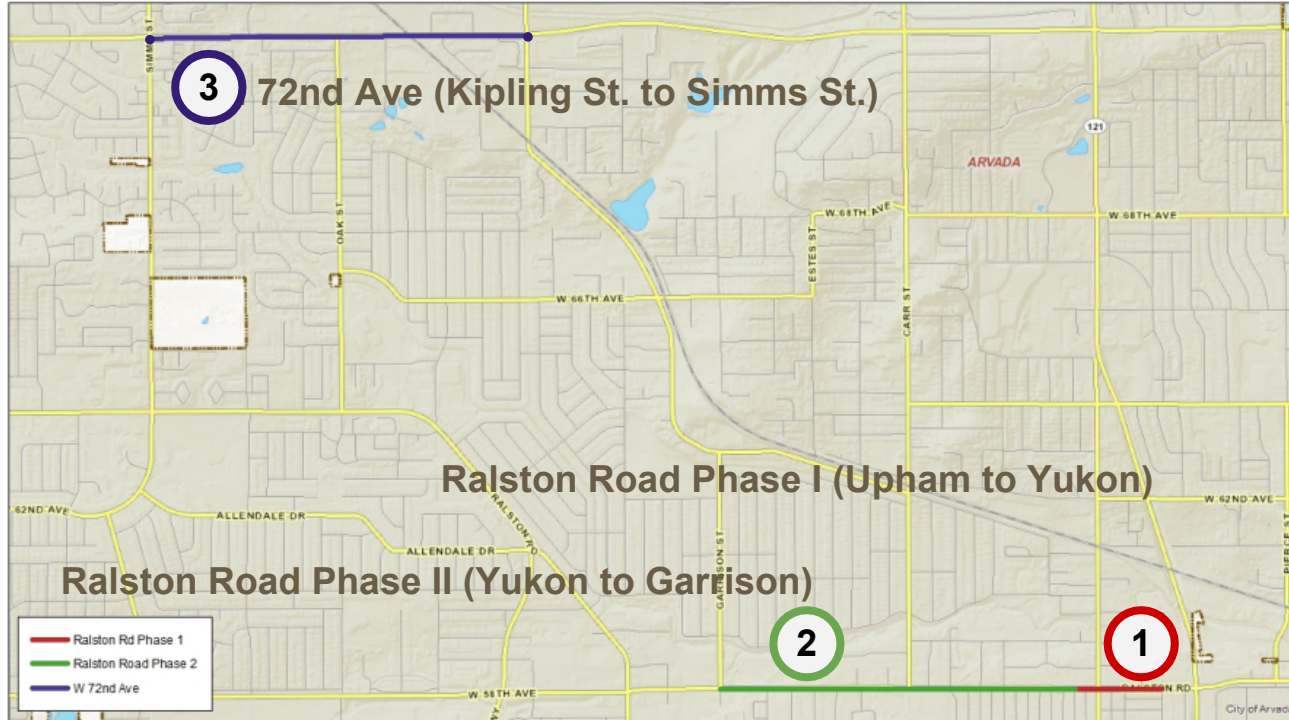
April 26, 2021



Agenda

- Welcome
- Project Team and Overview
- Project Status, Schedule and Budget
- Communication Approach
- Takeaways

Project Updates Overview



PROJECT MANAGERS:

1

Chris Lisberg, P.E.

2

Trang Tran, E.I.T.

3

Bill Cornelius, P.E.

Ralston Road Phase I - Team



- Status
- Construction Schedule
- Construction Budget
- Steps Forward

Ralston Road Phase I - Status



BASE LIFTS PAVED (Completed Dec. 11)



Ralston Road Phase 1 - Upham to Yukon
Construction Budget Total

BUDGET: \$3,369,267

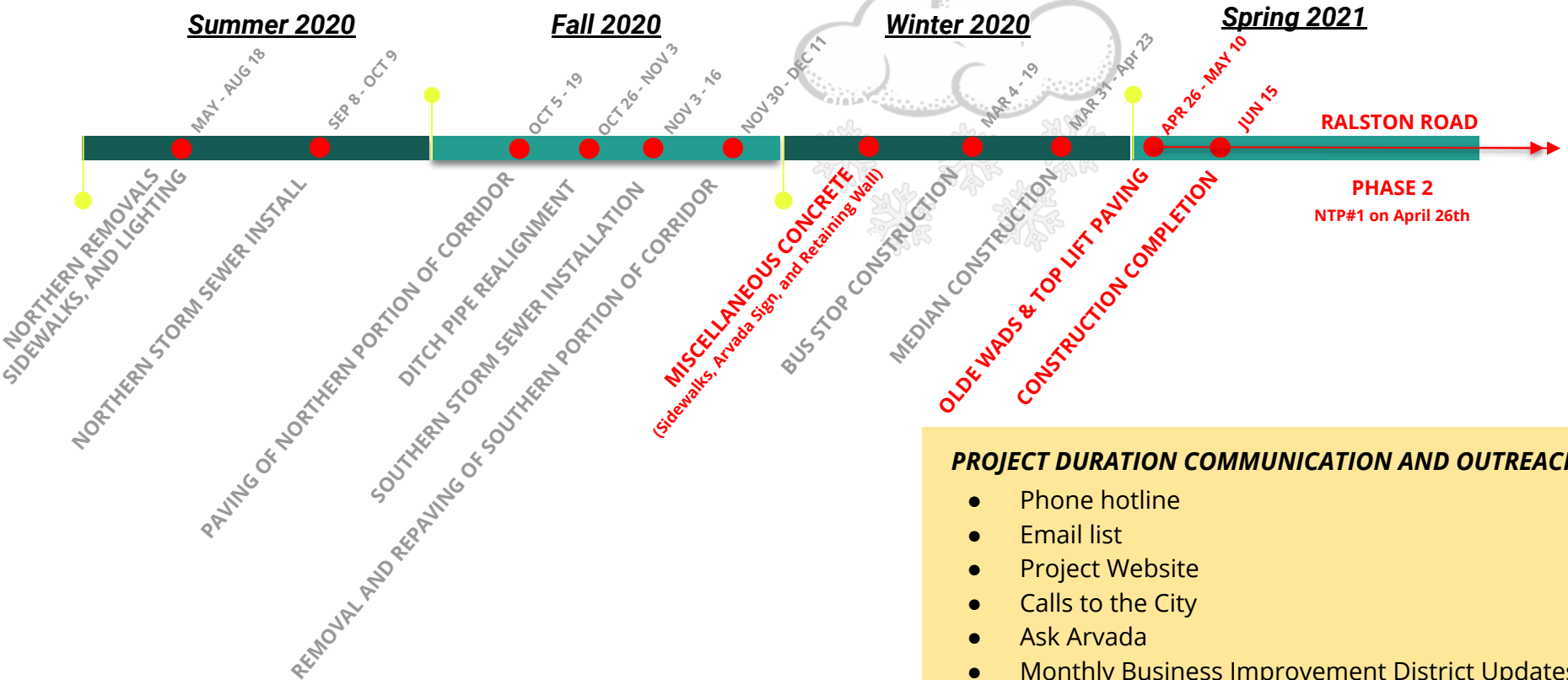
SPENT: \$2,538,665

PERCENT SPENT: 75%



Medians (Completed Apr. 23rd)

Ralston Road Phase I - Schedule

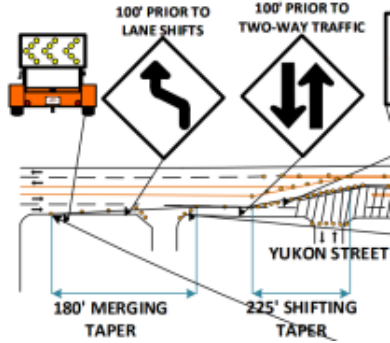


Ralston Road Phase I - Budget

<u>USES</u>	Initial Budget	Current Expected Cost	Difference
Design	\$ 372,090	\$ 697,288	\$325,198
Right of Way	1,250,000	1,300,908	50,908
Construction	2,735,560	3,369,267	633,707
TOTAL	\$ 4,357,650	\$ 5,367,463	\$ 1,009,813

<u>SOURCES</u>	Initial Funding	Current Funding	Difference
City of Arvada	\$ 2,454,450	\$3,464,263	\$1,009,813
DRCOG (Federal)	1,903,200	1,903,200	-
TOTAL	\$ 4,357,650	\$ 5,367,463	\$1,009,813

STEPS FORWARD



RALSTON PH 1 VS 2 CONSTRUCTION

Traffic control transitions area
between projects for 1.5
months



COMMUNICATION SURVEY

Survey on project
communication



CONSTRUCTION COMPLETION

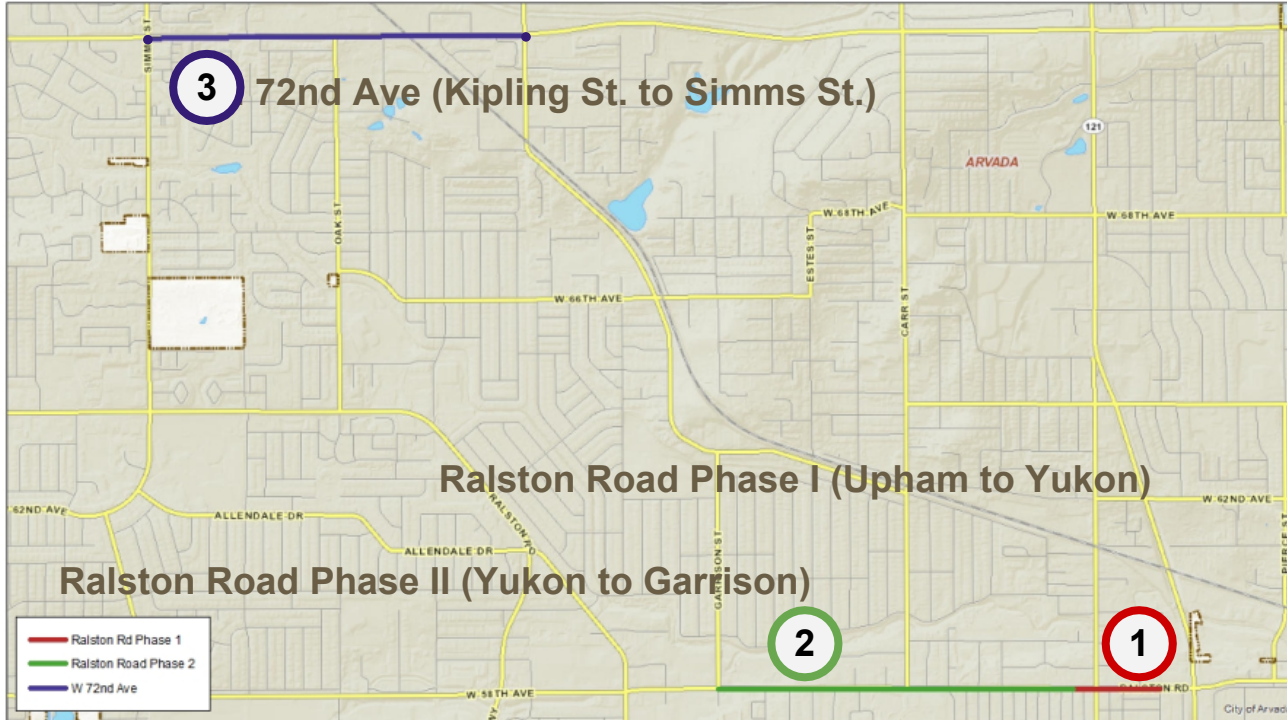
June 15th, 2021



PROJECT RESULT SURVEY

Fall 2021

Project Updates Overview



PROJECT MANAGERS:



Chris Lisberg, P.E.



Trang Tran, E.I.T.



Bill Cornelius, P.E.

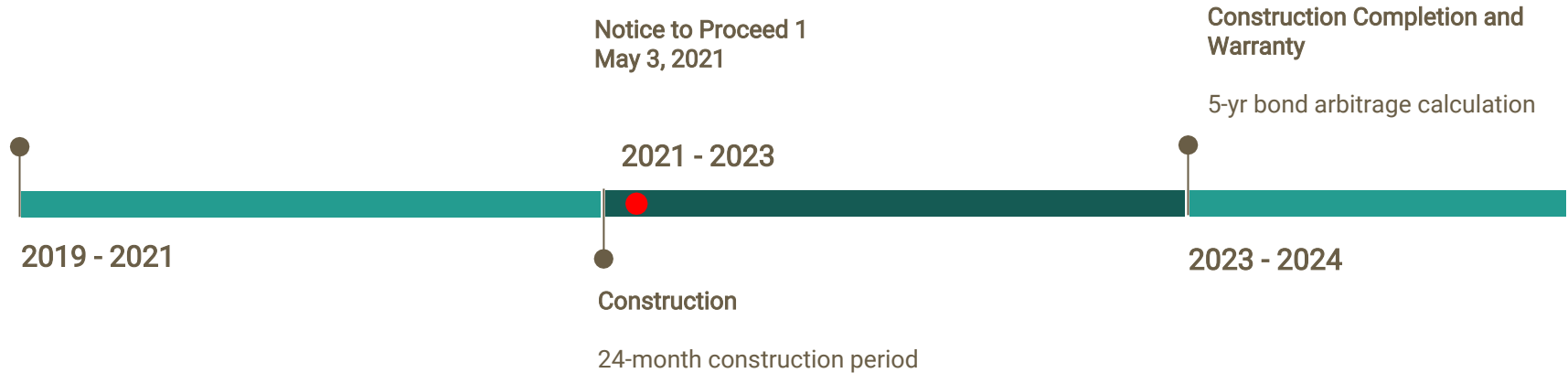
Ralston Road Phase II - Status and Schedule

PROJECT BUDGET

BUDGET : \$17,883,000

SPENT: \$5,531,876

PERCENT SPENT: 30.9%



Bid Results

1. Hamon Infrastructure, Inc.	\$12,360,000.00
2. Edge Contracting , Inc.	\$13,360,995.50
3. Brannan Sand & Gravel Co	\$14,079,260.56
4. Concrete Works of Colorado, Inc.	\$14,115,478.07
5. Flatiron Constructors, Inc.	\$14,789,252.31
6. American Civil Constructors, Inc.	\$15,041,491.00
Engineer's cost estimate	\$13,874,595.00

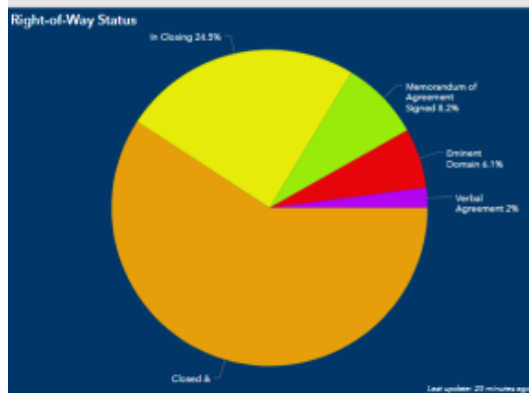
Criteria:

1. Qualifications and references
2. Pricing

Ralston Road Phase II - Budget & Expenditure

<u>SOURCES</u>	Budget	Expenditure
Bond Funding	\$ 15,300,000	\$15,300,000
Additional City Funding		\$2,583,000
AURA Funding (Streetscape)	\$3,500,000	\$3,500,000
TOTAL	\$18,800,000	\$ 21,383,000
<u>USES</u>		
Design	\$852,407	\$1,953,532
Right-of-Way	\$4,190,034	\$4,862,407
Construction - Hamon Infrastructure, Inc.	\$12,274,000	\$12,360,000
Construction - Street Lights & Testing		\$189,009
Contingency	\$1,483,559	\$2,000,000
TOTAL	\$ 18,800,000	\$21,364,948

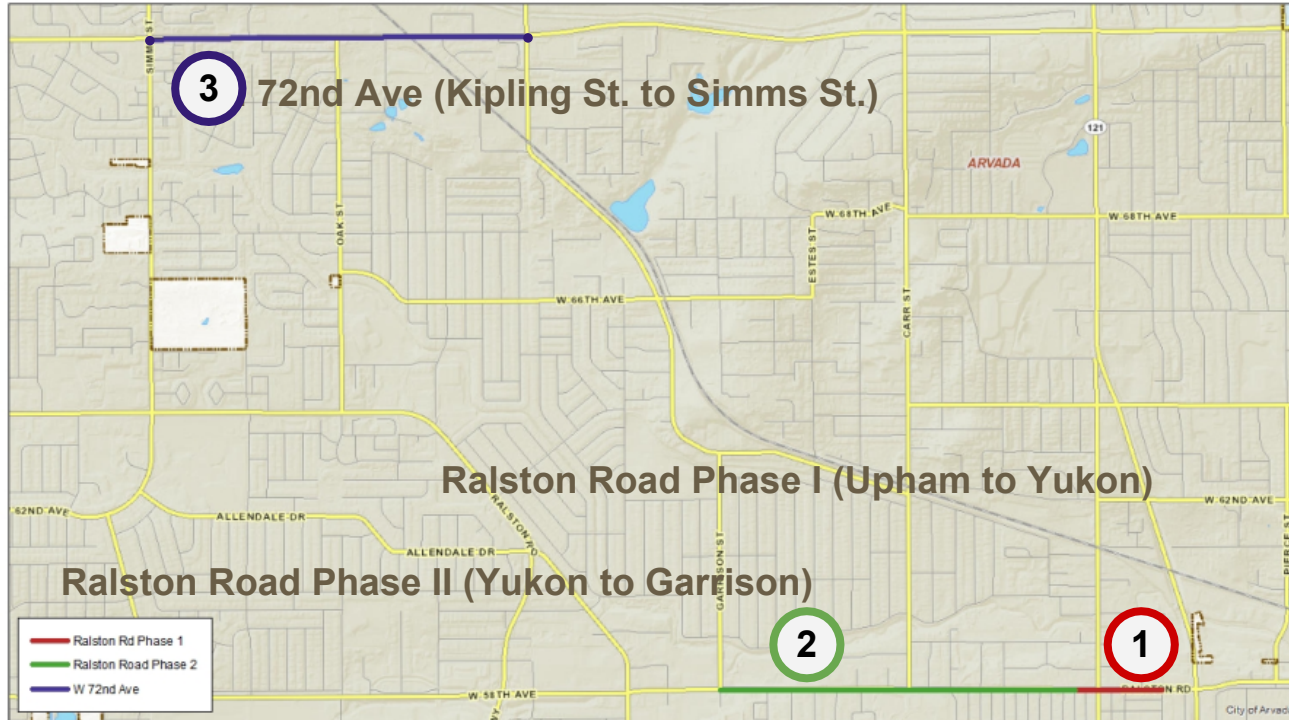
Ralston Road Phase II - ROW



Ralston Road Phase II - Milestone & Next Steps

- Overhead conversion of utilities started in March
- Gas relocation underway
- One last parcel remaining for ROW acquisition
- Virtual open house was held April 15, 2021
 - arvada.org/ralston-road-project
 - 720-998-6223
 - publicinformation@comcast.net
- Notice to Proceed 1 to Hamon - May 3, 2021

Project Updates Overview



PROJECT MANAGERS:



Chris Lisberg, P.E.



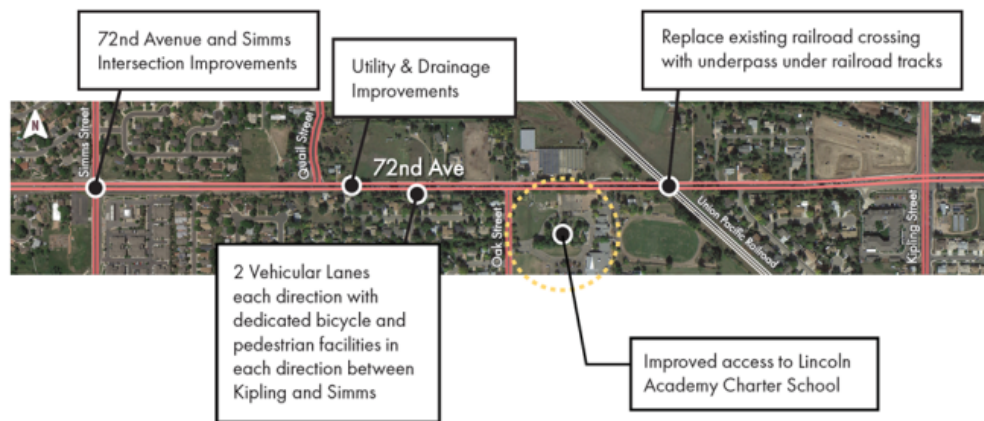
Trang Tran, E.I.T.



Bill Cornelius, P.E.

W. 72nd Ave (Kipling to Simms) - Agenda

- Overview
- Status
- Budget and Schedule
- ROW (GIS Dashboard)
- UPRR Coordination and Status
 - Bypass, Shoofly
 - Bridge, Construction & Maintenance (C&M) Agreement
- Community Feedback/Interaction
 - Residents' Concerns



W. 72nd Ave (Kipling to Simms) - Overview

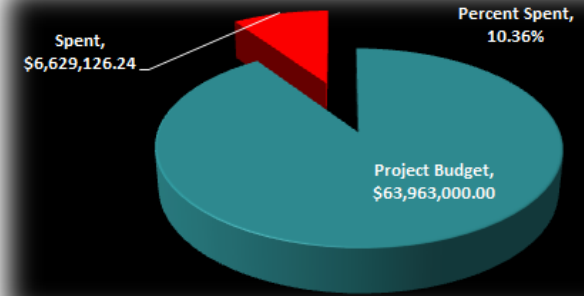
**CITY OF
ARVADA**

W. 72nd Avenue - Kipling St. to Simms St.
Project Contact Information

Project Phone Line: (720) 314-8342

Project Email: w72ndavenue@gmail.com

Project Website: <https://arvada.org/w-72nd-avenue-project>

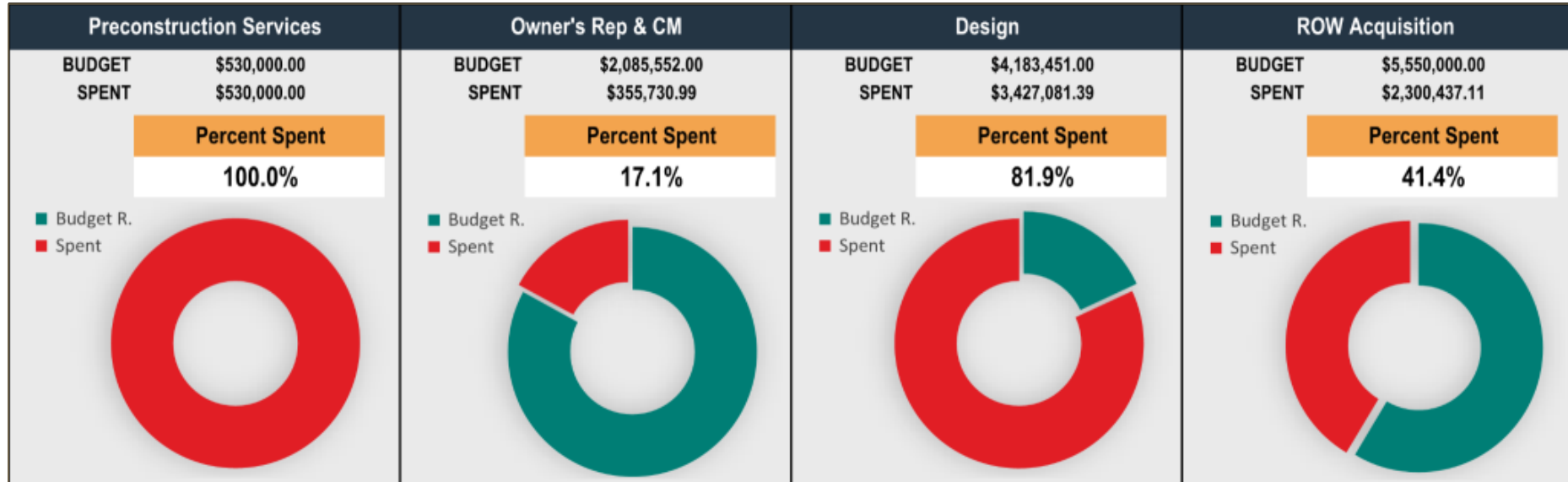


W. 72nd Ave (Kipling to Simms) - Status

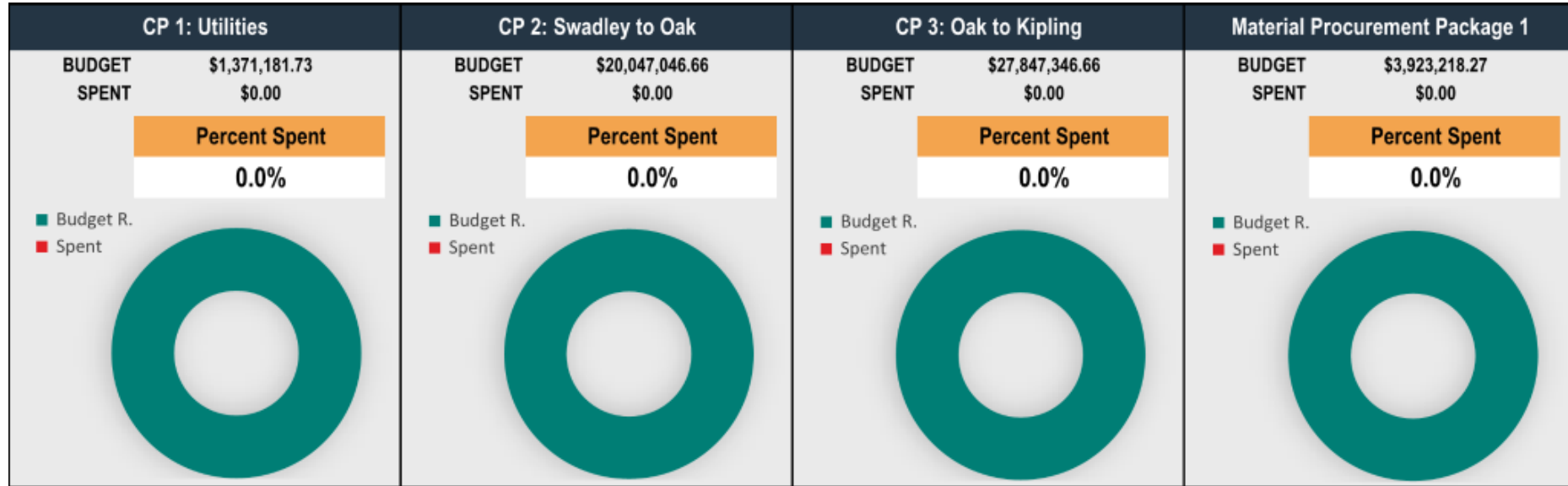
- **Ongoing Tasks**

- Currently at approximately 75% engineering design
- CP-1 is under Contract. Set to start in April 26
- The design team is working toward reconciling 90% comments on CP-2 in late April, 2021; 100% plans due back in late mid May 2021
- CP-3 90% design-August 2021
- Utility Coordination is ongoing
- Right-of-Way acquisition continues

W. 72nd Ave - Pre-Construction Budget



W. 72nd Ave - Construction Budget



W. 72nd Ave (Kipling to Simms) - Schedule CP-1

Utilities Relocation

ROW Acquisition Process (5/15/19 to 7/4/21)	90% Plan Submittal and (11/16/20 to 12/7/21)	90% Opinion of Probable Construction Cost (OPCC) and Independent Cost Estimate (ICE) (12/10/20 to 1/15/21)
Construction Agreed Price (CAP) (1/29/21)	City Council Approval (3/15/21)	Execute Contract 3/16/21 to (3/29/21)
Notice to Proceed (3/25/21)	Construction Activity (4/26/21 to 10/31/21) 	Construction Completion (10/31/21)

W. 72nd Ave (Kipling to Simms) - Schedule CP-2

Swadley Ct. to Oak Street

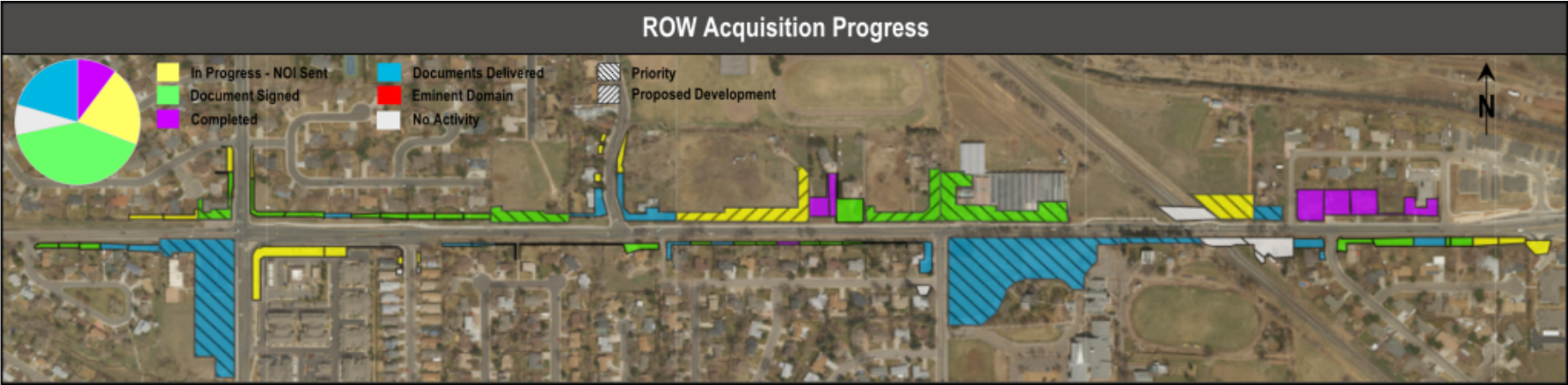
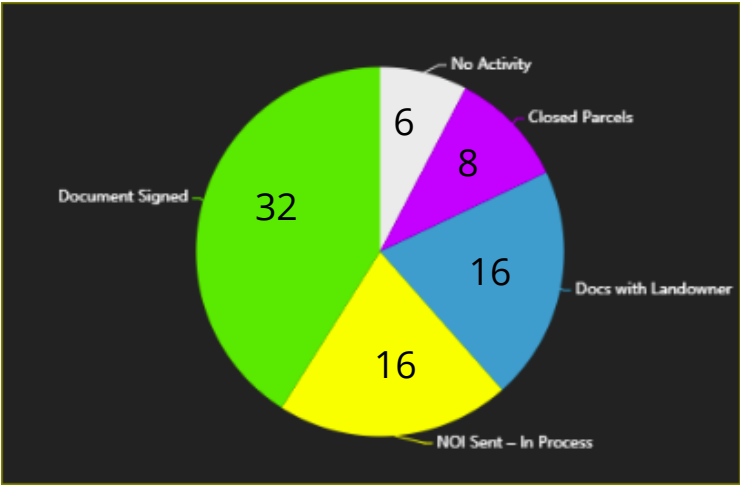
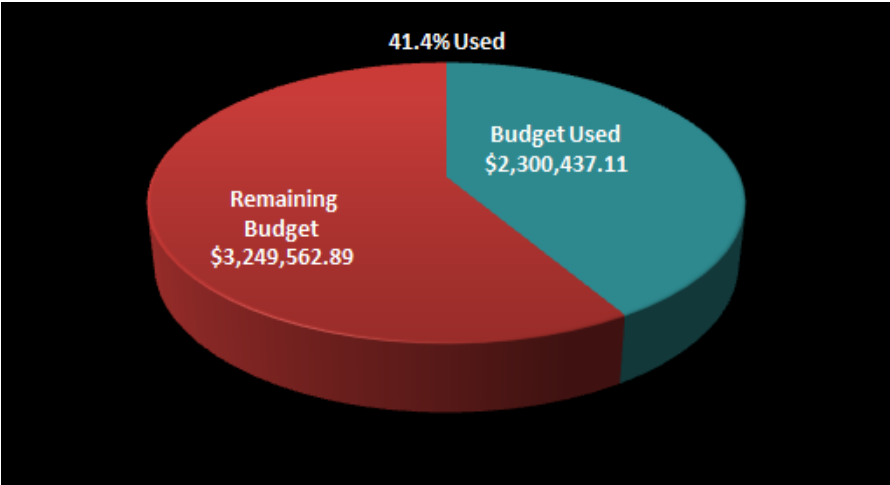
ROW Acquisition (5/15/20 to 7/04/21)	90% Roadway Plans Submittal And Review (2/26/21 to 3/22/21)	90% OPCC and ICE (5/03/21 to 5/17/21)
CAP (5/24/21)	City Council Approval (7/12/21)	Execute Contract (7/13/21 to 7/26/21)
Construction NTP (8/23/21)	Construction Activity (8/23/21 to 07/31/23) 	Construction Completion (07/31/23)

W. 72nd Ave (Kipling to Simms) - Schedule CP-3

Oak Street to Kipling Street

ROW Acquisition (Complete)	90% Roadway Plans Submittal (08/21)	90% Plan Review and Start Amend PUC Application 08/21 to 02/22
100% UPRR Plan Prep. and Submittal (11/04/21 to 11/29/21)	OPCC 90% (11/04/21 to 11/22/21)	UPRR Plan Review and Draft C&M Agreement (08/21 to 01/22)
CAP (11/21 to 12/21)	Final Construction Plan Submittal (01/22)	Final PUC Application and Approval (01/22 to 03/22)
City Council Approval (3/22)	Contract Execution (3/22)	Fully Execute C & M Agreement (3/22)
Construction NTP (3/22)	Construction Activity (03/22 to 02/24) 	Construction Completion (02/24)

ROW GIS Map Dashboard

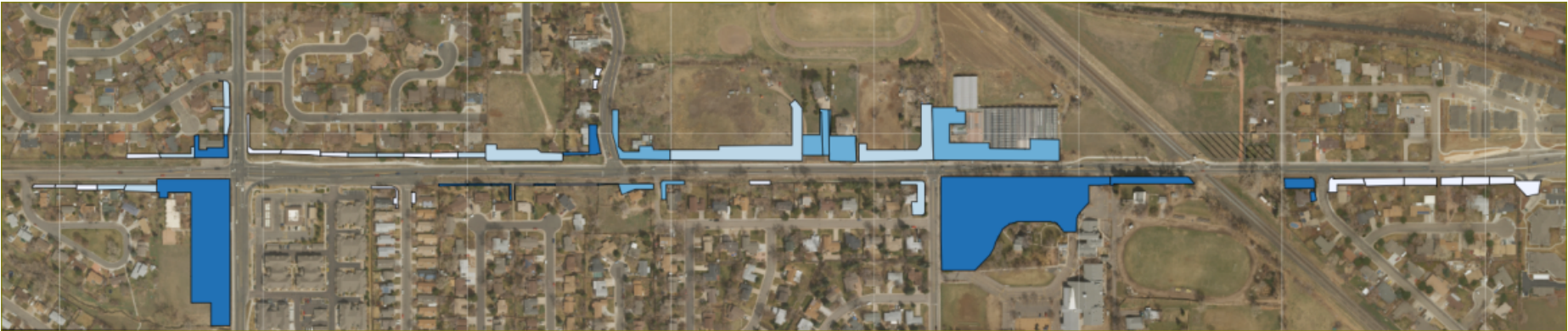


Status of Coordination with UPRR

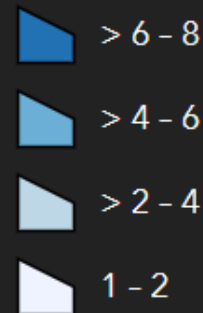
● Submittal Timeline Summary

- **Temp. Bypass**- 25% Plans Sent to UPRR on March 19, '21
- **Shoofly Plans** - 25% Plans submitted to UPRR on February 26, '21
- **Bridge Plans** - 60% Bridge Plans will be submitted in late May '21-- 90% August '21
- **C & M Agreement** - 6-9 months to acquire -- January '22 to Mar. '22
- **PUC Application Update** - runs concurrent to the C & M Agreement
- **CP-3 Roadway 90% Plans** - August '21

Community Feedback Dashboard



Number of Neighborhood
Contacts



Corridor Residents' Stated Concerns

Fencing

Loss of Property

Construction Timing

Safety

Loss of Trees

Irrigation

Driveway Access Concerns

Road Closures

Communication Approach

Arvada.org - primary source of information



Email lists for project updates



Project hotline & dedicated email address

Other communication tools:

- Direct mail to project corridor
- Public meetings (virtual 2020-2021)
- Arvada Report updates on progress
- Periodic social media updates for project milestones (traffic impacts, closures, major milestones)
- Videos sharing background & progress
- Direct communication with businesses & residents

Communication Resources

Communication Manager -
Infrastructure

Ralston Road
Phase One

Ralston Road
Phase Two

W. 72nd Avenue
Kipling to Simms

City Project Manager

City Project Manager

City Project Manager

Contractor PIO

Contractor PIO

Contractor PIO

Owners Rep PIO

Takeaways

- Ralston Rd Phase I is on track for June 2021 completion.
- Coordination between Ph 1 and 2 contractors is ongoing.
- Ralston Rd Phase II - utility relocations on-going and the NTP 1 is scheduled for May for Hamon to begin on the roadway construction.
- 72nd Avenue design is progressing from 60% to 90% with roadway construction planned to begin Summer 2021 or earlier. UPRR coordination and approvals will impact the project timeline, but coordination has been consistent as of late.



REPORT TO CITY COUNCIL WORKSHOP

AGENDA ITEM
2.C.

TO: THE HONORABLE CITY COUNCIL

DATE: April 26, 2021

SUBJECT: Regulation and Enforcement of Tobacco and Vaping

Report in Brief

In February 2020 the Arvada team presented information to the City Council regarding regulation and enforcement of tobacco and vaping by youth under the age of 21. This information was presented following the change in Federal law that increased the purchase age to 21 and consideration of similar changes to State law.

The impact of the change in the Federal law and potential change in the State law were unclear at the time that the information was presented to the City Council. In addition to supporting Federal and State laws that increased the purchase age to 21, some members of Council expressed interest in a licensing program that would have exacted fees from retailers in order to fund a proactive inspection program. At the conclusion of the workshop, it was determined that the City should wait before considering any amendments to the City's tobacco ordinance in order to determine the impact of the changes to Federal and State laws.

A year later, with a better understanding of the impact of the Federal and State laws, the Arvada team is prepared to present an amendment to the City's existing tobacco codes. In brief, the amendment revises the current Smoking Ordinance to provide a minimum legal tobacco-purchase age of 21. It also provides for certain signage requirements, mandatory identification checks for tobacco sales, and clarifies other provisions related to the sale of tobacco products in Arvada. All changes align with recently revised Federal and State laws.

Background

The City adopted the Smoking Ordinance in 2006 (Ordinance #4003). The Smoking Ordinance broadly prohibits smoking tobacco products in defined "public places", prohibits the distribution of tobacco products to underage persons, and provides penalties for violations.

The City amended the Smoking Ordinance in 2008 and 2015 (Ordinances #4127 and #4501) to address the emergence of "vaping" with additional definitions of electronic smoking devices and related revisions throughout.

In 2019 and 2020, respectively, Federal and State governments raised the minimum legal tobacco-purchase age from 18 to 21. In 2020, the Jefferson County Public Health Department approached Arvada (along with other jurisdictions) to advocate for conforming amendments to local tobacco laws and to propose implementation of administrative tobacco retailer licensing programs.

After reviewing the current Smoking Ordinance, the City team proposes to revise the Smoking Ordinance to align with the various provisions with Federal and State law, and to clarify other language. The City team does not recommend an administrative retail licensing program. Implementation of an administrative retail licensing program would require the exaction of additional fees from retailers in order to fund an inspection and compliance program. After additional discussion with the Police Department, the City team has determined that there is capacity to implement an inspection and compliance program that will be primarily complaint driven with the commitment to proactively inspect existing tobacco and vaping retailers once per year.

Summary of Revisions

Smoking Ordinance provisions will be amended as summarized below. An underline/strikeover version of the changes is attached for the City Council's review.

A.C.C. Section	Revision
38-303. Definitions.	Add definition of " <i>Self-service display</i> ". Replace definition of " <i>Cigarette</i> " with " <i>Tobacco product or nicotine product</i> " as revised and relocated from 38-305.5(b).
38-304. Smoking prohibited.	Revise to age 21.
Sec. 38-305. Persons under age 21 prohibited on premises.	Revise title and language to reflect age 21.
Sec. 38-305.5. No distribution to persons under age 21; identification check and signage required; no sale by minors.	Revise title and references to age 21. Revise and relocate definition (b) to 38-303. Add identification check and signage requirements. Add age requirements for employees who sell tobacco products to align with CRS.
Sec. 38-306.5. Self-service displays prohibited.	New provision prohibiting self-service tobacco display/sales.

Enforcement

Enforcement of the proposed amended Ordinance would be assigned to the Police Department's Civilian Operations unit. The Liquor Licensing Control Administrator will be the team member responsible for enforcement. Assignment of the enforcement program to this position was determined because the responsibilities are similar to liquor enforcement.

The enforcement program will be primarily complaint driven similar to other civilian enforcement programs within the Police Department, including Animal Management and Code Enforcement. In addition to the investigation of complaints, the Liquor Licensing Control Administrator will conduct a minimum of one proactive inspection of all tobacco and vaping retailers annually. These inspections will include review for the required signage, compliance with age requirements for employees who sell tobacco products and prohibition of self-service displays. The locations of these retailers are available to the Liquor Licensing Control Administrator through business licenses provided by the Finance Department and other records such as collection of sales and cigarette taxes.

Retailers who are determined to have sold tobacco and/or vaping products to underage persons will receive a summons for the Arvada Municipal Court in accordance with the proposed amendments to the Ordinance. The Police and City Attorney teams do not believe that the enforcement of the proposed amended Ordinance will significantly increase the caseload for the City Attorney's prosecution team and Municipal Court.

In addition to City enforcement, the State has also committed to enforcement through the Department of Revenue (DOR) beginning in July 2021. The State's program will be funded through the exaction of a tobacco retailer license fee and the DOR is currently preparing a licensing fee structure, rulemaking and industry engagement in association with their enforcement program. The State has delayed implementation of the tobacco retailer license fee in response to the economic impacts of the pandemic.

Conclusion

The proposed amendments to the Smoking Ordinance will substantially align with applicable State and Federal laws. The amendments include provisions intended to ensure retailer compliance, and to otherwise discourage underage persons from

purchasing tobacco in Arvada.

The enforcement program as described herein will be primarily complaint driven with one annual proactive inspection per retail location. This level of enforcement can be sustained by the Police Department without the need of a licensing program which would exact fees from retailers. If there is a need for fees to be exacted in order to support more frequent inspections, the need for licensing can be reevaluated.

Strategic Alignment

Consideration of the proposed Ordinance amendment aligns with the Organization and Service Effectiveness Priority Area of the City Council Strategic Plan.

Next Steps

Based on Council feedback, the Arvada team is prepared to begin implementation of a process to introduce the proposed amendments to the Smoking Ordinance as described herein. This process would begin with notifications to the affected businesses that this Ordinance will be considered by the City Council, that the changes reflect existing State and Federal law and that businesses will be provided a reasonable period of time to comply. Given the State's delay in enforcement efforts to July, it is likely that some Arvada businesses may not be fully aware of all the changes to State and Federal law. Our team anticipates consideration of the Ordinance in the July/August timeframe.

Prepared by:
Mark Deven, City Manager

Reviewed by:
Gail Walker, Legal Specialist-Contracts 4/5/2021

Approved by:

Aaron Jacks, Assistant City Attorney	4/5/2021
Rachel Morris, City Attorney	4/14/2021
Lorie Gillis, Deputy City Manager	4/14/2021
Mark Deven, City Manager	4/14/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. _____
ORDINANCE NO. _____

AN ORDINANCE ENACTING AND AMENDING CERTAIN PROVISIONS OF
DIVISION 3, SMOKING RESTRICTED IN PUBLIC PLACES, OF ARTICLE VII, AIR
POLLUTION, OF CHAPTER 38, ENVIRONMENT, OF THE ARVADA CITY CODE
TO PROHIBIT PERSONS UNDER THE AGE OF 21 FROM ENTERING SMOKING
BUSINESSES, TO PROHIBIT THE SALE OR DISTRIBUTION OF TOBACCO
PRODUCTS TO PERSONS UNDER THE AGE OF 21, AND TO PROHIBIT SELF
SERVICE DISPLAYS OF TOBACCO PRODUCTS

WHEREAS, the City of Arvada adopted Ordinance No. 4003, the “Smoking Restricted in Public Places Ordinance” (the “Ordinance”), in 2006; and

WHEREAS, the Ordinance prohibited the smoking of tobacco products in public places in Arvada and prohibited the sale and distribution of cigarettes and tobacco products to minors; and

WHEREAS, the City of Arvada subsequently amended the Ordinance to regulate the sale of electronic smoking devices as tobacco products; and

WHEREAS, pursuant to the United States Code § 21 USC 387f, as amended effective December 20, 2019, it is now unlawful under Federal law to sell tobacco products to persons under the age of 21; and

WHEREAS, research indicates that approximately 95 percent of smokers begin smoking before age 21, with most beginning before age 16, and that smokers frequently transition from experimentation to tobacco addiction between the ages of 18 and 21; and

WHEREAS, nicotine is known to be a highly addictive and extremely toxic substance which causes chronic disease; and

WHEREAS, the City Council has determined that amending the Ordinance to prohibit the sale of tobacco products to persons under the age of 21 and to prohibit the sale of tobacco products via self-service displays will protect against harm to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Sec. 38-303, Definitions, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby amended by adding or amending certain definitions to read as follows:

Self-service display means the display or storage of tobacco products or nicotine products in a manner that is physically accessible to the public without the assistance of an employee of a business that offers such products for sale. A vending machine is a type of self-service display.

Smoking business means:

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, nicotine products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including, but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the manufacture of electronic smoking devices or other electronic smoking products and accessories or in the distribution or sale at wholesale of any of these devices, products, or accessories; or

A sole proprietorship, corporation, partnership, or other enterprise operating as a retail outlet deriving a majority of its revenue from the sale at retail of electronic smoking devices or other electronic smoking products and accessories, or which is engaged primarily in the sale at retail of electronic smoking devices or other electronic smoking products and accessories. This type of smoking business will be known as a specialty vaping store.

Tobacco product or nicotine product means:

A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including any electronic smoking device.

As used in this division, "tobacco product" or "nicotine product" does not include a product that the food and drug administration of the United

States department of health and human services has approved as a tobacco use cessation product.

Section 2. The last sentence of Sec. 38-304, Smoking prohibited, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby amended to read as follows:

Any person who is 21 years of age or older may use or operate an electronic smoking device within a specialty vaping store as defined in section 38-303.

Section 3. Sec. 38-305, Minors prohibited on premises, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby repealed and reenacted to read as follows:

Sec. 38-305. Persons under age 21 prohibited on premises.

- (a) It shall be unlawful for a person under the age of 21 years to be admitted to or be on the premises of a smoking business.
- (b) The owner, operator, manager, or other person who controls a smoking business shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

“WARNING: It is illegal for any person under 21 years of age to be on the premises of this business, and upon conviction, a fine may be imposed.”

Section 4. Sec. 38-305.5, No distribution to minors, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby repealed and reenacted to read as follows:

Sec. 38-305.5 No distribution to persons under age 21; identification check and signage required; no sale by minors.

- (a) It shall be unlawful to give, sell, distribute, dispense, or offer for sale to any person who is under 21 years of age a tobacco product or nicotine product, or coupon therefor.
- (b) It shall further be unlawful to give, sell, distribute, dispense, or offer for sale a tobacco product or nicotine product, or coupon therefor, to a person who appears to be under the age of 50 years without first examining the government-issued photographic identification of the person to confirm that they are at least 21 years of age.

- (c) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

“WARNING: It is illegal to sell cigarettes, tobacco products, or nicotine products to any person under 21 years of age. State law requires that, to purchase cigarettes, tobacco products, or nicotine products at this retail location, a person must present a valid government-issued photographic identification at the time of purchase if the person appears to be under fifty years of age.”

- (d) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a business who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having contact with cigarettes, tobacco products, or nicotine products that are offered for sale at such business.

Section 5. Sec. 38-306.5, Self-service displays prohibited, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby enacted to read as follows:

Sec. 38-306.5. Self-service displays prohibited.

The display for sale of tobacco products or nicotine products by means of a self-service display is prohibited. The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit the display for sale of any such products by means of a self-service display.

Section 6. The remaining provisions of the Smoking Restricted in Public Places Ordinance shall remain unchanged.

Section 7. This Ordinance shall take effect five days after publication following passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this ____ day of _____, 2020.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2020.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

Publication Dates: _____

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
Double underlined indicates relocated material
~~Strikeover~~ indicates deleted material

Sec. 38-303. Definitions.

As used in this division, the following words are defined as follows:

Electronic smoking device means a device that can be used to deliver particulates or vaporized substances, including but not limited to nicotine, to the person inhaling from the device. An electronic smoking device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor. “Electronic smoking device” does not include any product specifically approved by the United States Food and Drug Administration as a tobacco cessation product or for use in mitigating, treating, or preventing disease.

Public place means any indoor or outdoor facility or area that is open to members of the public who enter such facility or area, including but not limited to parks, trails, golf courses, mercantile establishments, restaurants, taverns, theaters, financial institutions, educational facilities, hospitals, health care facilities and institutions, libraries, auditoriums, arenas, assembly or meeting rooms, public conveyances including, but not limited to, taxicabs and limousines excepting those limousines that are under private hire, government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains, all public transit platforms, waiting areas, and stations, governmental buildings, office buildings, restrooms, elevators, child care centers, outdoor customer seating areas, and waiting rooms of professional persons.

Self-service display means the display or storage of tobacco products or nicotine products in a manner that is physically accessible to the public without the assistance of an employee of a business that offers such products for sale. A vending machine is a type of self-service display.

Smoke or smoking means:

The possession of a lighted cigarette, cigar, or pipe containing tobacco or other matter or substance, regardless of its composition, or the lighting of such cigarette, cigar, or pipe; or

The possession of an electronic smoking device which is emitting a vapor or is otherwise active, burning, lit, or operating.

“Smoke or smoking” does not include the use or possession of a product specifically approved by the United States Food and Drug Administration as a tobacco use cessation product or for use in mitigating, treating, or preventing disease.

Smoking business means:

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, nicotine products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including, but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of electronic smoking devices or other smoking products, or accessories for these devices or products, either at wholesale or retail, in which the sale, manufacture, or promotion of other products is merely incidental. These businesses are sometimes referred to as a vaping bar, café, or lounge.

Sports arena means any indoor or outdoor sports pavilions, athletic fields, gymnasiums, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble either to engage in the physical exercise, participate in athletic competition, or witness sports events.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking.

"Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

Cigarette, Tobacco product or nicotine product means:

A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including any electronic smoking device. The device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor.

As used in this section division, "cigarette, tobacco product, or nicotine product" does not include a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.

Sec. 38-304. Smoking prohibited.

It shall be unlawful for any person to smoke in any public place or sports areas as defined in the division or a cigar-tobacco bar as defined in C.R.S. §25-14-203.

Exceptions: The use of an electronic smoking device is allowed on stage at a theatrical production site if smoking by a theatrical character is an integral part of the storyline of the production.

Any person who is ~~18~~ 21 years of age or older may use or operate an electronic smoking device within a specialty vaping store as defined in section 38-303.

Sec. 38-305. ~~Minors~~ Persons under age 21 prohibited on premises.

- (a) It shall be unlawful for a person under the age of ~~18~~ 21 years to be admitted to or be on the premises of a smoking business.
- (b) The owner, operator, manager, or other person who controls a smoking business shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

“WARNING: It is illegal for any person under ~~18~~ 21 years of age to be on the premises of this business, and upon conviction, a fine may be imposed.”

Sec. 38-305.5. No distribution to ~~minors~~ persons under age 21; identification check and signage required; no sale by minors.

- (a) It shall be unlawful to give, sell, distribute, dispense, or offer for sale to any person who is under the age of ~~18~~ 21 years a ~~cigarette~~, tobacco product, or nicotine product, or coupon therefor.
- (b) ~~As used in this section, "cigarette, tobacco product, or nicotine product" means:~~
- ~~(1) A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or~~
- ~~(2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device. The device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor.~~
- ~~(3) As used in this section, "cigarette, tobacco product, or nicotine product" does not include a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.~~
- (b) It shall further be unlawful to give, sell, distribute, dispense, or offer for sale a tobacco product or nicotine product, or coupon therefor, to a person who appears to be under the age of 50 years without first examining the government-issued photographic identification of the person to confirm that they are at least 21 years of age.
- (c) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:
- "WARNING: It is illegal to sell cigarettes, tobacco products, or nicotine products to any person under 21 years of age. State law requires that, to purchase cigarettes, tobacco products, or nicotine products at this retail location, a person must present a valid government-issued photographic identification at the time of purchase if the person appears to be under fifty years of age."
- (d) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a business who is eighteen years of age or older but under

twenty-one years of age from handling or otherwise having contact with cigarettes, tobacco products, or nicotine products that are offered for sale at such business.

Sec. 38-306.5. Self-service displays prohibited.

The display for sale of tobacco products or nicotine products by means of a self-service display is prohibited. The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit the display for sale of any such products by means of a self-service display.



REPORT TO CITY COUNCIL

AGENDA ITEM
2.D.

TO: THE HONORABLE CITY COUNCIL

DATE: April 26, 2021

SUBJECT: Staff Updates

Report in Brief

The purpose of this workshop is for staff to provide City Council with brief updates on projects and issues that do not require a full workshop.

Prepared by:

Janet Newman, Administrative Specialist

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report