

CITY OF LAFAYETTE

ORDINANCE NO. 15, Series 2021

INTRODUCED BY: Councilor Tonya Briggs

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, SUBMITTING TO THE VOTERS AT THE REGULAR MUNICIPAL ELECTION ON NOVEMBER 2, 2021, AN AMENDMENT TO THE HOME RULE CHARTER TO SHORTEN THE RESIDENCY QUALIFICATION FOR CITY COUNCILORS TO ONE YEAR TO ALIGN WITH COLORADO STATE LAW, AND SETTING THE BALLOT TITLE THEREFOR

WHEREAS, in 1993, the City of Lafayette adopted the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1 of the Colorado Revised Statutes) for participating in all coordinated elections, and the City adopted the Colorado Municipal Election Code (Article 10 of Title 31 of the Colorado Revised Statutes) for non-coordinated elections; and

WHEREAS, Section 5.1 of the Lafayette Home Rule Charter establishes, among other things, qualifications for city councilors, one of which is that a councilor must be a resident of the City for at least one year immediately prior to the last day for filing original petitions for such office or prior to appointment when filing a vacancy; and

WHEREAS, Section 31-10-301 of the Colorado Municipal Election Code (C.R.S. §§ 31-10-101 *et seq.*) provides that registered electors are eligible to hold elected municipal office if they have resided in the municipality from which they are to be elected for a period of at least twelve consecutive months immediately preceding the date of the election; and

WHEREAS, in *Cowan v. Aspen*, 509 P.2d 1269 (Colo. 1973), the Colorado Supreme Court held that the one-year residency requirement for municipal candidates in the Colorado Municipal Election Code is presumptively valid; and

WHEREAS, a conflict exists between the residency requirement in Section 5.1 of the Charter and the one-year residency requirement to hold municipal elective office in the Colorado Municipal Election Code; and

WHEREAS, amending the residency requirement for city councilors in Section 5.1 of the Lafayette Home Rule Charter to shorten it to a period of one year immediately preceding an election would conform the requirement to applicable Colorado statutory and common law, thereby preventing confusion, modernizing this aspect of the City's Charter, and allowing for the more efficient and effective administration of such elections; and

WHEREAS, City Council wishes to refer to the electorate proposed amendments to the Lafayette Home Rule Charter that would align the residency requirement for city councilors with corresponding provisions in Colorado state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Pursuant to the provisions of Article 20, Section IX of the Constitution of the State of Colorado and Section 31-2-210(1)(b) of the Colorado Revised Statutes at a coordinated, regular municipal election, to be held on Tuesday, November 2, 2021, there shall be submitted to the vote of the registered electors of the City of Lafayette the following changes to Section 5.1 of the Lafayette Home Rule Charter, along with the ballot question and title thereto, provided that the amendments to Section 5.1 shall not become effective until January 1, 2022. (STRIKE THROUGH DENOTES REPEAL OR DELETION OF CHARTER SECTIONS AND UNDERSCORE DENOTES ADDITIONS TO CHARTER SECTIONS):

**City of Lafayette Ballot Question __
Shorten Residency Qualification for City Councilors to One Year**

Section 5.1. – Eligibility for office and employment in city. *(To become effective January 1, 2022)*

No person shall hold any elective office of the city unless he/she has been a resident of the city for ~~at least one year immediately prior to the last day for filing original petitions for such office~~ a period of at least twelve consecutive months immediately preceding the date of the election or prior to the time of his/her appointment to fill a vacancy. No person shall hold any elective office unless he/she is a qualified and registered elector of the city on ~~such last day for filing the last day for filing original petitions for such office~~ or at such time of appointment and throughout his/her tenure of office.

No person shall be eligible for any elective or appointive city office who is in default to the city or to any other governmental unit of the state. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty (30) days after written notice thereof by the Council or unless such person shall in good faith be contesting the liability for such default.

Each candidate for elective office shall file with his/her petition his/her affidavit that he/she possesses the qualifications for such office provided in this section. Failure to file such affidavit shall invalidate his/her petition.

Each member of a city board or commission created by, or pursuant to, this Charter shall have been a resident of the city for at least one year immediately prior to the day of his/her appointment and shall be a qualified and registered elector of the city on such day and throughout his/her tenure of office.

All officers of the city shall be United States citizens.

No elective officer, under this Charter, may be appointed to any office or be employed by the city while serving his/her term of office.

City employees shall be appointed by the Council for an indefinite period and shall be responsible to and serve at the pleasure of the City Council and shall have their compensation fixed by the Council.

The Council may by ordinance, require residence in the City of Lafayette as a condition of employment of full time appointive officers.

BALLOT TITLE

**City of Lafayette Ballot Question __
Shorten Residency Qualification for City Councilors to One Year**

SHALL SECTION 5.1 OF THE LAFAYETTE HOME RULE CHARTER BE AMENDED TO PROVIDE THAT THE PERIOD OF RESIDENCY TO QUALIFY FOR THE HOLDING OF ELECTIVE OFFICE SHALL BE AT LEAST ONE YEAR IMMEDIATELY PRECEDING THE DATE OF THE ELECTION, IN ORDER TO ALIGN THE CHARTER WITH THE ONE-YEAR RESIDENCY REQUIREMENT TO HOLD MUNICIPAL ELECTIVE OFFICE IN COLORADO STATE LAW?

YES/FOR _____

NO/AGAINST _____

Section 2. Pursuant to the Uniform Election Code of Colorado Revised Statutes, the regular municipal election of November 2, 2021, shall be conducted as a coordinated, mail ballot election and the Election Official is hereby authorized and directed to take all such actions as are necessary or desirable there under to effectuate the election as a coordinated, mail ballot election.

Section 3. The Council appoints Lynnette Beck, City Clerk, as the designated election official (the “Election Official”) for purposes of the election. The Election Official shall have all of the rights and obligations prescribed under statutes for such an Election Official in the conduct of a coordinated election and shall act as primary liaison between Boulder County Clerk and the City with respect to the election as provided in the Intergovernmental Agreement.

Section 4. The City authorizes the City Clerk to enter into and carry out the terms of an Intergovernmental Agreement (the “Intergovernmental Agreement”) with the Boulder County Clerk as required by state statute, describing the allocation of responsibility among the County Clerk, the City and the other political subdivisions in the County for the preparation and the conduct of the election and the provision for reasonable sharing of the cost of the election among the County, the City and the other participating political subdivisions.

Section 5. The City hereby adopts the provisions of Section 1-11-203.5, Colorado Revised Statutes, as the exclusive procedure for protesting or contesting the content of the ballot title and text set forth above. For purposes of Section 1-11-203.5, Colorado Revised Statutes, the ballot title for the question set forth in Section 1 above is hereby determined to be the text of the question itself.

Section 6. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 7. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 8. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 9. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 10. This ordinance shall become effective upon the latter of the 10th day following enactment or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 3rd DAY OF AUGUST, 2021.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 17th DAY OF AUGUST, 2021.

CITY OF LAFAYETTE, COLORADO

Jamie Harkins, Mayor

ATTEST:

Lynnette Beck, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney

PUBLISHED: in the _____ on _____, 2021.