



City of Littleton 2018 General Election Information Guide

Tuesday, November 6, 2018
Polls open 7 a.m.-7 p.m.

**Ballots will be mailed by counties
the week of October 15**

City of Littleton Designated Election Official:

Wendy Heffner, City Clerk
2255 West Berry Avenue
Littleton, CO 80120
303-795-3753
wheffner@littletongov.org

littletongov.org



You will likely receive multiple voter information guides for this election with information about your ballot. This pamphlet was produced by the **City of Littleton** to provide you with information about ballot questions that are not covered in your county voters guide.

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Arapahoe County
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303-795-4511

Douglas County
douglasvotes.com
303-660-7444

Jefferson County
jefco.us/elections
303-271-8111

The Littleton City Clerk solicited citizen comments regarding the proposed charter changes, for two weeks, ending September 21, 2018. She received one pro statement and one con statement for each proposed charter question, except 5E, she received two pro statements and one con statement.

For more information visit www.littletongov.org/election2018

What's in this guide?



Charter Amendments

Littleton registered electors will consider five amendments to the city charter on the November 6, 2018 ballot. The charter was adopted in 1959 and has been amended eight times in its 59-year history. The charter is the basic document that defines the city, powers, functions and essential procedures of the city government.

The charter is the most important legal document of any city. Charter amendments are generally considered housekeeping in order to ensure the document is aligned with current needs and practices.

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Ballot Question 3A



SHALL SECTIONS 23 AND 29 OF THE LITTLETON CITY CHARTER CONCERNING COUNCIL MEMBERSHIP QUALIFICATIONS AND RULES BE COMBINED INTO ONE SECTION AND REMOVE LANGUAGE PERTAINING TO JUDICIAL REVIEW, WHICH IS A RIGHT THAT INDEPENDENTLY EXISTS PURSUANT TO COURT RULES?

YES NO

Explanation

The proposed ordinance amending city charter section 23 would combine two separate sections in the charter on qualification of council members into a single section and remove language pertaining to judicial review, which is a right that already independently exists pursuant to court rules. The sections in question are current sections 23 and 29.

If voters approve the question in November, both sections would be moved to section 23 and the reference to judicial review would be removed.

Pro and Con Statements for Ballot Question 3A

PRO

Vote Yes. This is clearly a “house-keeping” item that will enable the City of Littleton to operate more efficiently and effectively.

CON

The changes proposed in 3A remove an important right of citizens from the Charter and introduce confusion about the authority, roles and responsibilities of the City Council.

The authority, roles and responsibilities of the City Council are called out in 15 sections in Article III of the Charter. Each of those sections has its own heading indicating the intent of the section and what the section covers. The two sections proposed to be combined by 3A cover very different topics and authorities.

Section 23 is titled “Qualifications of Council Members” and covers what makes a citizen qualified to run for Council as well as what bars a person from running for Council.

Section 29 is titled “Council Membership Rules” and covers who makes the determination whether a candidate, or sitting Council Member, conforms to the



Ballot Question 3A

CON (continued)

qualifications. It also covers who makes the determination when a vacancy occurs in the Council according to the criteria called out in Section 28. Combining sections 23 and 29 confuses what the qualifications are with who determines whether those qualifications are met. It also obscures and confuses the Council's role in adjudicating issues arising from interpretations of Section 28.

But most importantly, 3A removes the right of the citizens, reserved in the Charter, for judicial review of the Council's decision when the Council oversteps its boundaries in interpreting Sections 23 and 28.

There is much for the citizens to lose, and absolutely no benefit to be gained by voting for 3A.



Ballot Question 3B



SHALL SECTIONS 54, 55 AND 57 OF THE LITTLETON CITY CHARTER CONCERNING CITY ATTORNEY APPOINTMENT, DUTIES AND SPECIAL COUNSEL BE AMENDED BY PLACING ALL INTO ONE SECTION OF THE CHARTER, REMOVING QUALIFICATION LANGUAGE THAT IS MORE APPROPRIATE IN THE CITY CODE AND CLARIFYING SPECIAL COUNSEL APPOINTMENT, AND DELETING SECTION 56 REGARDING LAWSUITS?

YES NO

Explanation

The current provisions in the charter pertaining to the city attorney do not reflect current practices, and warrant clarification. The proposed charter amendment recommends the following changes:

1. Place all duties of the city attorney in a single section
2. Remove qualification language, which is more appropriate for placement in the city code
3. Replace the language regarding assistants (the current language dates back to a time of employing part-time assistants who maintained their own private practices, rather than the current practice of employing a deputy city attorney who is an employee of the city)
4. Clarify the selection process for outside counsel and its funding through the annual appropriation and budget process

The proposed changes reflect current practices and update these sections to clarify the language and intent.

Pro and Con Statements for Ballot Question 3B

PRO

Vote Yes. This is clearly a “house-keeping” item that will enable the City of Littleton to operate more efficiently and effectively.

CON

You should vote no on 3B because it

1. Removes the requirement that the City Attorney have a minimum of two years legal experience.



Ballot Question 3B

CON (continued)

2. Removes the authority of the City Council to set the salaries of the deputy and assistant attorneys, along with the ability to set the salary of any Special Counsel appointed by the City Council.
3. Requires all Special Counsel appointed by the City Council to be under the direction of the City Attorney, making it impossible for the City Council to use a Special Counsel to investigate the City Attorney's office, or to defend the City against lawsuits brought against the City by the City Attorney or any employee in the City Attorney's office.
4. Removes first consideration for attorneys living in the City when appointing the City Attorney.
5. Puts into the Charter the requirement for an annual evaluation of the City Attorney, making the City Attorney the only City employee with this requirement in the Charter.

The result of these changes will make it more difficult for the City Council to control expenses, and make it virtually impossible for the City Council to defend the City against lawsuits or actions brought by any employee working in the City Attorney's office.



Ballot Question 3C



SHALL SECTION 58 OF THE LITTLETON CITY CHARTER CONCERNING THE ESTABLISHMENT, APPOINTMENT QUALIFICATIONS, TERM, ETC. OF THE MUNICIPAL COURT JUDGE BE AMENDED TO INCLUDE THE TERM “PRESIDING JUDGE” AND FOR APPOINTMENT OF ASSOCIATE JUDGES BY THE PRESIDING JUDGE?

YES NO

Explanation

The city charter provisions concerning the municipal court refer to a judge of the court, a provision that dates back to a time where a sole, part-time judge performed municipal court duties. Currently, the court has a presiding municipal judge who oversees the court functions as a separate branch of government.

The charter currently states that council appoints associate municipal court judges. This implication is contrary to state constitutional provisions that require separation of powers and the recognition of the court as a separate branch of city government.

The proposed charter amendment uses the correct term of “presiding municipal judge” to refer to the judge in charge of the court and its operations. In addition, the proposed charter amendment provides for the presiding municipal judge to select associate municipal judges, subject to confirmation by city council, for two-year terms. If approved by voters, these changes would bring the charter into conformance with the recognition of separation of powers and the operation of the judicial branch as a separate part of city government.

Pro and Con Statements for Ballot Question 3C

PRO

Vote Yes. This is clearly a “house-keeping” item that will enable the City of Littleton to operate more efficiently and effectively.

CON

3C is a poorly thought out and poorly written change to the City Charter which creates a new type of municipal judge who is neither elected by the people nor appointed by the Council, and who cannot be removed from office.

Currently the City Charter grants the power to appoint, and remove, all judges in the municipal court with the City Council.



Ballot Question 3C

CON (continued)

3C changes the Charter so that the City Council only appoints one judge, a Presiding Judge. That one judge then has the power to appoint all other judges – the so-called Associate Judges. The Presiding Judge can be removed from office by the City Council, but the Associate Judges appointed by the Presiding Judge cannot be removed from office by anyone for any reason.

Furthermore, 3C creates the position of a Presiding Judge, who presumably is in charge of running the municipal court, but leaves the court clerks under the authority of the City Manager.

If the intent of 3C is to reorganize the municipal court then this effort falls far short. Because this amendment simply takes responsibility and authority away from the City Council for no reason or benefit.



Ballot Question 3D



SHALL SECTIONS 117 AND 118 OF THE LITTLETON CITY CHARTER CONCERNING REVOCABLE LICENSES AND PERMITS BE COMBINED INTO ONE SECTION AND GIVE CITY COUNCIL AUTHORITY TO DELEGATE THE CITY MANAGER TO GRANT REVOCABLE LICENSES?

YES NO

Explanation

Unlike easements, licenses do not convey a right or interest in real property, but instead are a limited right to use property subject to all of the restrictions and requirements placed on the license by the City as the owner.

Current charter provisions suggest that licenses and permits involve a property right, which they do not. In addition, they conflict with the provision that the city manager is the administrative head of city government. Issuing licenses and permits is an administrative decision.

The proposed amendment would grant the city council the power to delegate this responsibility to the city manager. This is appropriate, as it places this administrative responsibility with the officer responsible to the council for the day-to-day administration of the city.

Pro and Con Statements for Ballot Question 3D

PRO

Vote Yes. This is clearly a “house-keeping” item that will enable the City of Littleton to operate more efficiently and effectively.

CON

Amendment 3D should be denied because it combines two different sections of the City Charter – Sections 117 and 118 – which cover very different issues. More importantly, 3D reduces protections granted to the citizens by the Charter.

Section 117 concerns granting a license to a railroad to permanently lay tracks across or beside a public thoroughfare.

Section 118 concerns granting a temporary permit for the use of a city street, such as the Western Welcome Week parade or construction of houses along Prince north of Berry. These are two very different issues, which rightly have



Ballot Question 3D

CON (continued)

different thresholds and requirements for approval.

There is no reason to combine those two very different issues into one section of the Charter. Likewise there is no reason why these issues should be delegated to the City Manager for a decision. Laying track next to houses or across a City street is a serious affair which should be decided by the City Council.

3D also reduces protections currently afforded to the citizens by reducing the percentage of approval required from people living along the road for licensing the railroad tracks from two thirds to fifty one percent. The residents living on the west side of Houstoun Waring Circle who back up to a railroad siding where the railroad leaves locomotives parked and idling for weeks at a time can testify to how important those protections are.

Finally, if the Council chooses to not delegate granting temporary permits to the City Manager, which 3D allows, then the requirement that temporary permits be granted by ordinance is an unnecessary complication and burden on a process which has been working very well up until now.

Our City Charter is too important to muck up with needless, unjustified changes which complicate and drag out processes which heretofore have been very clear and efficient.



Ballot Question 3E

SHALL SECTION 27 OF THE LITTLETON CITY CHARTER BE AMENDED CONCERNING MEETINGS AND PROVIDING FOR EXECUTIVE SESSIONS TO CONSIDER ITEMS CONFIDENTIAL UNDER STATE AND FEDERAL STATUTES?

STATE AND FEDERAL STATUTES PERMIT EXECUTIVE SESSIONS BETWEEN THE CITY COUNCIL AND STAFF RELATED TO: PROVIDING INSTRUCTIONS ON BUYING AND SELLING PROPERTY; TO CONSIDER THE APPOINTMENT, EVALUATION AND DISCIPLINE OF THE CITY MANAGER, CITY ATTORNEY AND PRESIDING MUNICIPAL JUDGE; TO RECEIVE LEGAL ADVICE FROM THE CITY'S ATTORNEYS ON LEGAL ISSUES.

IF APPROVED BY THE VOTERS, SECTION 27 WOULD REQUIRE THAT ALL FORMAL CITY COUNCIL ACTIONS OCCUR IN OPEN PUBLIC SESSION OF THE COUNCIL.

YES NO

Explanation

The proposed amendments pertain to the permitted reasons for executive sessions. As a result of voter approval of a 2013 ballot initiative, the council may currently only have an executive session for information that is confidential under federal or state statute, or to discuss actual litigation filed in a court. These restrictions prevent the council from having executive sessions for other reasons, such as:

1. Currently, the council may not have an executive session to plan for protocols for dealing with an active shooter in the council chamber or Littleton Center. The lack of education can result in a lack of knowledge on how to respond and panic should such an event happen. Education and training in such areas is one of the best ways to prevent panic and save lives.
2. Currently the council does not have the ability to go into executive session to discuss the purchase and sale of real and personal property, or to obtain instructions for negotiations from the council as a body. The council does not act as individuals, but as a body. The current practice of having staff hold one-on-one meetings with council members deprives the body as a whole of the discussion and thought processes of the members. Engaging in discussions in open session raises the problem of negotiating with a seller to buy property and telling the seller at the start of negotiations how much the city is prepared to pay. If approved by voters, formal action regarding all such matters would be required to occur in open session.



Ballot Question 3E

EXPLANATION (continued)

3. Currently, the council may not discuss personnel matters pertaining to the appointment, evaluation and/or termination of a council-appointed officer (city manager, city attorney, presiding municipal judge). This current provision forces the city to delegate extensive responsibility to outside consultants in order to maintain confidentiality of the interview process. The current process of being required to use outside consultants is expensive, and actually diminishes transparency and openness, since the public is not aware of the delegation to and discussion with outside consultants. An extensive discussion with individual council members denies the council as a whole the input of each other and increases the likelihood of serial meetings outside of public view. In addition, the ability to hold executive sessions does not foreclose public input to hiring decisions, as many cities – including Littleton – traditionally provide for public meeting and greeting of potential candidates, followed by the actual appointment being made in an open council meeting.
4. Currently, the council may not seek and receive legal advice from its attorney in executive session. This raises a number of issues. First, the attorney has an ethical duty in every state, including Colorado, to maintain the confidentiality of his or her advice. However, there is no way for the attorney to provide advice to the body in an open council meeting and maintain its confidentiality.

Second, the assertion that the attorney may talk to individual council members about the advice is a fallacy, as the city attorney represents the council as a body, not individual council members. Third, on decisions that belong to the client, an attorney may only act based on the instructions of his or her client, which in the case of the city is the council as a body. Under the current charter provision, there are no means for the attorney to obtain instruction from the client except in an open public session. This charter provision conflicts with the attorney's duty to protect client confidences. One-on-one consultations with council members are at odds with openness and transparency, since the public is unaware that the members of the public body are consulting with their attorney.

The proposed language before the voters for Section 27 of the Littleton City Charter is more restrictive than Colorado law; it limits executive sessions to discussions with an attorney to formulate legal questions and to receive legal advice, and contains protections for the public's right to know of the outcome of such discussions.



Ballot Question 3E

Pro and Con Statements for Ballot Question 3E

PRO

Vote YES on 3E.

Have you ever voted for something and then wish you hadn't? A lot of Littleton citizens feel that way about a past election that prevents the City Council from holding any executive sessions. Littleton citizens expect transparency but they also expect functional government. It is hard to believe that the City of Littleton is probably the only city/town in the State of Colorado that does not allow executive sessions to review the performance of the city manager, city attorney and the municipal judge.

The ability to have an executive session promotes wise use of limited taxpayer dollars. The city council and its city attorney must be able to conduct executive sessions regarding negotiations about property acquisitions. The city should not have to do this in open session, so negotiating strategies are revealed potentially wasting scarce taxpayer dollars.

3E would require that all decisions by the city council be made in public, by a vote of city council members held in full view of the people.

City councils need executive sessions for such limited purposes as doing performance evaluations of the city manager, city attorney and municipal judge. Currently, council members can't even sit down together to discuss the performance of these three essential city employees. These three people report to the city council and have big responsibilities – not the least of which is administering a 60+ million dollar budget.

This year the city had to hire an outside consultant to interview council members to get their views on how well the manager has been doing his job. The cost of the city manager's review this year was \$2,500 – a real waste of tax dollars!

In addition, city councils sometimes need to receive important legal advice from the city attorney, and to be able to discuss that advice in private. For example, the discussion of the city's anti-terrorism plans obviously cannot be discussed in public: an executive session is needed.

We elected the city council to have them manage the people's business. Vote YES on 3E and let them do their job!



Ballot Question 3E

Pro and Con Statements for Ballot Question 3E

CON

Since the end of 2013 when the citizens passed a citizen initiative to restrict the use of executive sessions, the City Council has

- Successfully hired a City Manager and City Attorney
- Purchased, leased and disposed of real and personal property
- Given direction on negotiations
- Conducted multiple evaluations of the City Manager, City Attorney and municipal judge
- Obtained legal advice from its attorneys

All without using executive sessions.

The police department has come up with training for the City Council on how to respond to an active shooter in the City Center, shown training films, and offered one-on-one training for individual Council members on that issue – all without resorting to the use of executive sessions.

The City Council used headhunting firms to recruit and help in the hiring of City Managers, City Attorneys, and municipal judges. Long before executive sessions were restricted in 2013. Just as the City has hired consultants to assist in conducting evaluations of the City Attorney and municipal judge before executive sessions were restricted in 2013.

Before executive sessions were restricted in 2013 City Councils have discussed security arrangements, defenses, rules and regulations against terrorism and criminal acts without the need for executive sessions.

The idea the City cannot conduct business without executive session, or is somehow hampered or hobbled by the lack of executive sessions, is obviously false – because the City has been functioning for five years without executive sessions.

Conversely, we also know from history how executive sessions have been abused by the City Council over the years. For example, the Littleton City Council used executive sessions to craft a severance package for a previous City Manager which violated the City Charter, and upon exiting, the last executive session announced the City Attorney approved of the arrangement, but the Council would not divulge the attorney's reasoning because that



Ballot Question 3E

CON (continued)

discussion happened in executive session. The result being the City Council had a special, secret, interpretation of the City Charter. Secret interpretations of the Charter, or any law, defeats the concept of rule by law.

There are lots of very real reasons, based on past history, to continue to limit executive sessions. But no real reason to use executive sessions based on actual experience in the City of Littleton. Littleton is not the only city in Colorado to function without executive sessions.

Additional Election Information

Voter Registration

Colorado permits online voter registration with a Colorado driver's license or ID card. You can register to vote if you will be 18 years old by Election Day, are a citizen of the United States, and have lived in Colorado at least 22 days prior to Election Day. In order to receive your ballot by mail, register or update your voter registration online through the 8th day before Election day. Refer to your county's website or office number below for voter registration and information.

Arapahoe County – www.arapahoevotes.com • 303-795-4511

Douglas County – www.douglasvotes.com • 303-660-7444

Jefferson County – www.jeffco.us/498/Voting-Registration • 303-271-8111

Important Dates

- | | |
|-------------------|--|
| October 15 | Counties will start mailing ballots to all registered electors; 24-hour ballot drop-off locations open |
| October 29 | Last day a voter may request a ballot be sent by mail |
| November 6 | General Election Day; polls open at 7 a.m. and close at 7 p.m., including all drop-off locations |

Additional Election Information

Returning Your Ballot



By mail

Ballots may be returned to the county by mail. Be sure to use adequate postage. Ballot postage details can be found in the voter instructions inside the ballot envelope. Mailed ballots must be received by 7 p.m. on Election Day, Tuesday, November 6, 2018. Postmarks will not count.



Drop-off Locations

Dropped off ballots must be sealed in the official return envelope and placed in a ballot box in the county where you live by 7 p.m. on Election Day, Tuesday, November 6, 2018.

Your nearest ballot drop-off location can be found on your county's website, listed below:

Arapahoe County
arapahoevotes.com
303-795-4511

Douglas County
douglasvotes.com
303-660-7444

Jefferson County
jefco.us/elections
303-271-8111

The Littleton Center is not a ballot drop-off location for the 2018 election.



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