

ORDINANCE 8272

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, THE QUESTION OF AMENDING THE BOULDER CITY CHARTER SECTIONS 29, 38A, 38B, 39, 40, 44, 48, 54, 56, AND 177 REGARDING THE CITY'S INITIATIVE, REFERENDUM AND RECALL PROCESSES; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A municipal coordinated election will be held in the City of Boulder, County of Boulder and state of Colorado, on Tuesday, November 6, 2018.

Section 2. At that election, a question shall be submitted to the electors of the City of Boulder that will allow voters to consider the following amendment to Sections 29, 38A, 38B, 39, 40, 44, 48, 54, 56, and 177 of the Boulder City Charter regarding the city's initiative, referendum and recall processes. The material to be added to the Charter is shown by double underlining and material to be deleted is shown stricken through with solid lines.

Section 3. Sections 29, 38A, 38B, 39, 40, 44, 48, 54, 56, and 177 shall be amended to read as follows:

Sec. 29. - Withdrawal from nomination.

Any person having been duly and regularly nominated as herein provided, may, ~~prior to the sixty-sixth day preceding the election for which such person has been nominated,~~ withdraw from such nomination by filing with the city clerk a sworn statement of such withdrawal. If a withdrawal occurs ~~on the sixty fifth day or any day thereafter preceding the election, before the ballots are finalized for printing,~~ the name of the person shall not appear on the ballot. If the withdrawal occurs after ballots are finalized for printing, the votes cast for that person shall not be counted.

1 **Sec. 38A. —Five percent petition or fifteen percent petition Signatures required for initiative,**
2 **referenda and recall petitions.**

3 Attached to every instrument filed as an initiative petition shall be a certificate signed by a
4 majority of the committee of petitioners stating whether the petition is intended to be a “five per-
5 cent petition” or a “fifteen per cent petition.” The ballot for a five percent petition in compliance
6 with this charter will be placed on the ballot at an election held in November. The ballot for a
7 fifteen percent petition in compliance with this charter will be placed on the ballot at the next
8 available election, which may be a special election other than a November election called by the
9 city. A petition signed by registered electors of the city of at least ten percent of the average of the
10 number of registered electors of the city who voted in the previous two municipal candidate
11 elections shall be required for an initiative and referendum petition to be sufficient. A petition
12 signed by registered electors of the city of at least twenty percent of the average of the number of
13 registered electors of the city who voted in the previous two municipal candidate elections shall
14 be required for a recall petition to be sufficient.

15 **Sec. 38B. - Submission of initiative form for comment.**

16 Prior to obtaining any signatures on the petition, the committee of the petitioners
17 shall submit the proposed petition form to the city manager for review and comment.
18 Within ten days, the time determined by the city manager, or if none is determined, the
19 time provided in the applicable state law, the city manager shall provide the committee of
20 the petitioners with comments concerning the format or contents of the petition. Where
21 appropriate, such comments may also contain suggested editorial changes to enhance the
22 clarity and simplicity of the language in the petition. The committee of petitioners may
23 amend the petition in response to some or all of the comments of the city manager and
24 resubmit it for review. Any additional comments from the city manager on these
25 amendments shall be provided within five calendar days. If any substantial amendment is
26 made to the petition, other than an amendment in direct response to the comments of the
27 city manager, the amended petition shall be resubmitted to the city manager in accordance
28 with this section. In the event the committee of the petitioners fails to submit the proposed
petition form, or any substantial amendment to the proposed petition form, prior to
obtaining signatures, the city clerk may refuse to accept the petition for filing.

29 **Sec. 39. – Filing of petition; protest.**

30 ~~Within the time determined by the city manager, or if none, the time in state law, the city clerk~~
31 ~~shall ascertain by examination the number of registered electors whose signatures are appended~~
32 ~~thereto, dated no more than one hundred eighty days prior to the date of filing, and whether this~~
33 ~~number is at least five percent of the number of registered electors of the city as of the day the~~
34 ~~petition is submitted for comment pursuant to section 38B. By the last business day on or before~~
35 ~~150 calendar days before the November election, the committee of petitioners shall submit its~~
36 ~~petition. The city clerk shall ascertain by examination the number of registered electors whose~~
37 ~~signatures are appended thereto, dated no more than 180 calendar days prior to the date of filing,~~
38 ~~and whether this number meets the requirements of section 38A. By 140 calendar days before the~~
~~November election~~ the clerk shall attach to said petition a certificate showing the result of said

1 examination. If by the city clerk's certificate, of which notice in writing shall be given to one or
2 more of the persons designated, the petition is shown to be insufficient, it may be amended within
3 ten days from the date of said certificate by filing supplementary petition papers with additional
4 signatures. The city clerk shall make like examination of the amended petition, with such
5 examination being completed by 120 calendar days before the November election, and shall certify
6 whether the petition is sufficient or insufficient on or before that day. and if the clerk's certificate
7 shall show the same to be insufficient, the city clerk shall file the petition in the clerk's office and
8 shall notify each member of the committee of that fact. The final finding of the insufficiency of a
9 petition shall not prejudice the filing of a new petition for the same purpose.

7 When examining the signatures on petitions, the clerk may verify signatures to the extent
8 reasonably possible by comparison with the election records of the Boulder County Clerk as
9 available, and comparison of signatures on a petition for duplication. Protests of petitions may be
made as provided by Colorado law and rules adopted by the city manager.

10 **Sec. 40. - Submission of petition to council.**

11 If the petition shall be found to be sufficient, the city clerk shall so certify and submit the
12 measure to the council at its next regular meeting, ~~at which meeting the council shall read and~~
13 ~~refer the same to an appropriate committee, which may be a committee of the whole. Provision~~
14 ~~shall be made for public hearings upon the measure before the committee to which it is referred.~~
15 ~~Thereafter the committee shall report the measure to the council, with its recommendation thereon,~~
16 ~~not later than sixty days after the date upon which such measure was submitted to the council by~~
17 ~~the city clerk. Upon receiving the measure from the committee, the council shall at once proceed~~
18 ~~to consider it and shall take final action thereon within sixty days from the date of such committee~~
19 ~~report. Unless the committee of petitioners withdraws the petition, the council shall take final~~
20 ~~action, including setting the title, prior to 70 calendar days before the November election. Title~~
21 ~~challenges shall be filed no later than seven calendar days after setting of the ballot title.~~

18 **Sec. 44. - Referendum petition.**

19 If, within thirty calendar days after final passage of any measure by the council, a petition
20 signed by at least ten percent of the average of the number of registered electors of the city who
21 voted in the previous two municipal candidate elections ~~registered electors of the city to the~~
22 ~~number of at least ten percent of the registered electors of the city as of the day the petition is filed~~
23 be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be
submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become
operative until the steps indicated herein have been taken.

24 **Sec. 48. - Title of ballots.**

25 Proposed measures and charter amendments shall be submitted by ballot title. There shall
26 appear upon the official ballot a ballot title which may be distinct from the legal title of any such
27 proposed measure or charter amendment and which shall be a clear, concise statement, without
28 argument or prejudice, descriptive of the substance of such measure or charter amendment. The
ballot title shall be prepared by a committee of the council which may be a committee of the whole.

1 If the proposed measure is an initiative, council shall seek the input of the committee of the
2 petitioners prior to setting the ballot title.

3 **Sec. 54. – Repeal or amendment of initiated or referred measures.**

4 No ordinance that has been passed by vote of the people under the initiative or has received
5 a favorable vote of the people under the referendum shall be repealed except by an ordinance
6 submitted to a vote of the people. An ordinance passed by vote of the people under the initiative
7 or has received a favorable vote of the people under the referendum may be amended by two-thirds
8 of the council members present provided that the amendments do not alter or modify the basic
9 intent of such ordinance or are necessary to come into compliance with state or federal law.

8 **Sec. 56. - Petition for recall.**

9 A petition signed by electors registered to vote for a successor to the incumbent sought to be
10 removed equal in number to at least ~~twenty-five~~twenty percent of the average of the number of
11 registered electors of the city who voted in the previous two municipal candidate elections ~~last~~
12 preceding vote cast within the city for all candidates for governor shall be addressed to the council
13 and filed with the city clerk.

12 The city clerk shall make available sample forms to be utilized in formatting such petitions.
13 The form of a recall petition shall be approved or disapproved by the city clerk, prior to its
14 circulation, by the close of the second business day following the submission of the proposed
15 petition for review.

15 On the date on which a recall petition is approved, the clerk shall notify the officer sought to
16 be recalled by mail or by electronic communication.

16 All petitions shall be returned and filed with the city clerk within thirty days from the date on
17 which the clerk approves the form of a recall petition.

18 When submitted to the clerk, the petition shall contain a general statement, of not more than
19 two hundred words, listing the grounds on which the recall is sought. A copy of that statement,
20 along with a statement of no more than two hundred words, if submitted, from the official against
21 whom the recall petition is filed, shall be publicly posted or otherwise made available to members
22 of the public in electronic or hard copy form at least twenty days prior to the holding of any recall
23 election.

22 The signatures to a recall petition need not all be appended to one paper, but each person shall
23 add to such person's signature such person's place of residence, giving the street and number. The
24 circulator of each such paper shall make affidavit before an officer competent to administer oaths
25 that the statements contained therein are true and that each signature appended to the paper is the
26 genuine signature of the person whose name it purports to be. All papers composing said petition
27 shall be assembled and filed as one instrument, with endorsements thereon of the names and
28 addresses of three persons designated as filing said petition; provided, that prior to the issuance of
any blank forms of petitions for removal, an affidavit shall be made by one or more registered
electors, which affidavit shall state the name of the officer or officers sought to be removed and
the grounds upon which the removal is sought, and such affidavit shall be filed with the city clerk.

1 **Sec. 177 - Disposal of open space land.**

2 No open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor
3 may any exclusive license or permit on such open space land be given, until approval of such
4 disposal by the city council. Such approval may be given only after approval of such disposal by
5 the affirmative vote of at least three members of the open space board of trustees after a public
6 hearing held with notice published at least ten days in advance in a newspaper of general
7 circulation in the city, giving the location of the land in question and the intended disposal
8 thereof. No open space land owned by the city shall be disposed of until sixty days following
9 the date of city council approval of such disposal. If, within such sixty-day period, a petition
10 meeting the requirements of Section 45 above and signed by registered electors of the city to be
at least ten percent of the average of the number of ~~at least five percent of the~~ registered electors
of the city who voted in the previous two municipal candidate elections as of the day the petition
is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors,
such disposal shall not become effective until the steps indicated in Sections 46 and 47 above
have been followed.

11 This section shall not apply to agricultural leases for crop or grazing purposes for a term of
12 five years or less.

13 This section is to be construed liberally in favor of providing opportunities for the citizens
14 of the city to refer measures proposing the disposal of any open space land.

15 Section 4. The official ballot shall contain the following ballot title, which shall also be
16 the designation and submission clause for the measure:

17 **Ballot Question No. ____**

18 **Initiative, Referendum and Recall Process Charter Amendments**

19 Shall Sections 29, 38A, 38B, 39, 40, 44, 48, 54, 56, and 177 of the
20 City Charter be amended pursuant to Ordinance 8272 to:

- 21
- 22 • clarify the actions required to be taken if a candidate
23 withdraws from a city council election;
 - 24 • establish the number of signatures required for an initiative
25 and referendum to be at least ten percent of the average
26 number of registered electors of the city who voted in the
27 previous two municipal candidate elections so as to return this
28 number closer to the range that was in place prior to changes
in federal law and registration procedures;
 - establish the number of signatures required for a recall to be at
least twenty percent of the average number of registered
electors of the city who voted in the previous two municipal
candidate elections;

- amend the process and establish a fixed schedule for filing, review and consideration of initiative, referendum, and recall petitions so that both petitioners and city staff will have clarity and certainty;
- set standards for the city clerk's examination of petitions so that this examination is completed in a timely fashion and that the possibility of fraud is minimized;
- provide for input from the petition committee to the city council prior to setting the ballot title to help ensure accuracy of the title; and
- require that an ordinance passed by vote of the people may only be amended by two-thirds of the council members present, and only if the amendments are consistent with the basic intent of the ordinance or are necessary to come into compliance with state or federal law?

For the Measure _____ Against the Measure _____

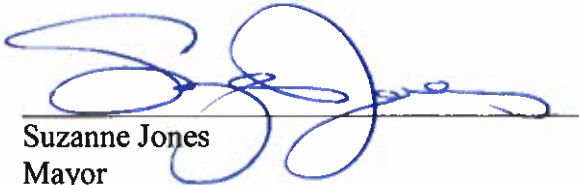
Section 5. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

Section 6. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.


Section 7. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 8. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

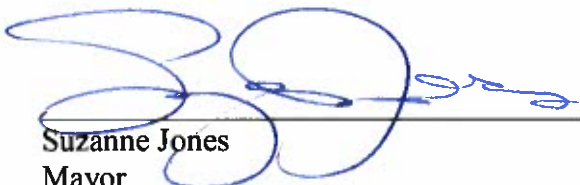
1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY, this 19th day of June 2018.

3
4 
5 Suzanne Jones
6 Mayor

7 Attest:

8 
9 Lynnette Beck
10 City Clerk

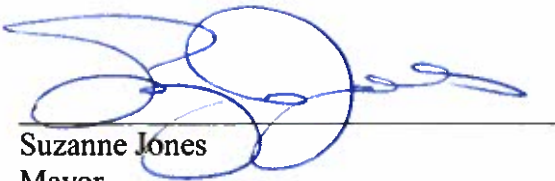
11 READ ON SECOND READING, AMENDED AND PASSED, this 14th day of August
12 2018.

13 
14 Suzanne Jones
15 Mayor


16 Attest:

17 
18 Lynnette Beck
19 City Clerk

20 READ ON THIRD READING, AMENDED, PASSED AND ADOPTED, this 4th day of
21 September
22 2018.

23 
24 Suzanne Jones
25 Mayor

26 Attest:

27 
28 Lynnette Beck
City Clerk