



Ballot Measure Issues

Boulder City Council

July 21, 2020

Background



- The voters made significant changes to the city charter at the 2017 and 2018 elections.
- Staff has been tasked with providing guidance.
- There is no judicial guidance or clear interpretation.
- We are addressing hotly contested political issues.

Chronology



- January 8 – No Evictions without Representation
- March 6 – End the Muni
- March 16 – Emergency Order Declaring Emergency
- March 23 – Bedrooms are for People
- April 20 – City Attorney met with NEWR and Bedrooms
- May 1 – Our Mayor, Our Choice
- May 18 – Clerk advised committees of 90-day deadline
- May 24 – Constituent raised higher signature number requirement
- June 18 – Citizens’ Conditions for the Annexation of CU South
- June 19 – City Attorney email to Our Mayor, Our Choice
- June 29 – City Clerk rejected Citizens’ Conditions for Annexation

Three Potential Interpretations



- Guidelines (State Law as Modified by the Charter)
- Charter Prevails
- State Law Prevails

Guidelines



The Boulder Home Rule Charter and C.R.S. 31-2-210(1)(a)(I) differ in the number of days a petition may be circulated. The statute limits the circulation period to not more than ninety days from the date of filing of the Statement of Intent. To resolve this difference and balance all interpretations for the benefit of the petitioners where reasonably possible, the committees shall have up to 180 days to gather signatures.

Guidelines



A Petition to submit an amendment at the next regular election must be signed by at least five percent of the registered electors of the municipality registered on the date of filing the Statement of Intent. A petition to submit an amendment at a special election must be signed by at least ten percent of the registered electors of the municipality on the date of filling the Statement of Intent.

The Guidelines required that the petition state “whether the proposed amendment is sought to be submitted at the next November election or at a special election.”



The Charter Controls



C.R.S. § 31-1-102

Except for those provisions which expressly apply only to limited categories of municipalities, it is the intent of the general assembly that the provisions of this title shall apply to home rule municipalities ***except insofar as superseded by charter or ordinance passed pursuant to such charter*** and to all statutory cities and towns and shall be available to special territorial charter cities and towns unless in conflict with the charters thereof.

Charter Section 37



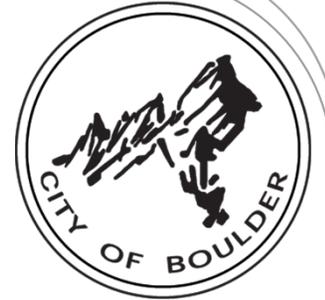
The people shall have the power at their option to propose **charter amendments**, legislative ordinances, including ordinances granting franchises or privileges, and other legislative measures, and to adopt the same at the polls, **such power being known as the initiative**. A petition, meeting the requirements hereinafter provided and requesting **the council to pass a legislative ordinance**, resolution, order, or vote (all of these four terms being hereinafter included in the term "measure") therein set forth or designated, shall be termed an initiative petition and shall be acted upon as hereinafter provided.

Section 13-1-4, B.R.C. 1981



All aspects of the exercise of the initiative and referendum power reserved to the people by the charter of the city of Boulder shall be governed exclusively by the provisions of the charter, this code, and any other applicable ordinance of the city, and ***no statute of the state purporting to regulate in any way the exercise of the initiative*** or referendum shall govern the exercise of the initiative or referendum, except for those criminal provisions of state law not in conflict with any provision of the charter or this code which prohibit fraud or deception in the circulation or signing of initiative or referendum petitions, or respecting affidavits concerning said petitions.

Charter Section 39



By the last business day on or before 150 calendar days before the November election, the committee of petitioners shall submit its petition.

State Law Controls



Colorado Const. Art. XX, § 9(2)

The general assembly shall provide by statute procedures under which the registered electors of any proposed or existing city and county, city, or town *may* adopt, amend, and repeal a municipal home rule charter.

C.R.S. § 31-2-202



The general assembly declares that the policies and procedures contained in this part 2 are enacted to implement section 9 of article XX of the state constitution, adopted at the 1970 general election, by providing statutory procedures ***to facilitate*** adoption and amendment of municipal home rule charters, and, to this end, this part 2 shall be liberally construed.

C.R.S. § 31-2-210(1)(a)(I)



The petition process shall be commenced by filing with the clerk a statement of intent to circulate a petition, signed by at least five registered electors of the municipality. The petition shall be circulated for a period not to exceed ninety days from the date of filing of the statement of intent and shall be filed with the clerk before the close of business on the ninetieth day from said date of filing or on the next business day when said ninetieth day is a Saturday, Sunday, or legal holiday.

C.R.S. § 31-2-210(1)(a)(III) & (IV)



(III) A petition to submit an amendment at the next regular election must be signed by at least five percent of the registered electors of the municipality registered on the date of filing the statement of intent and must be filed with the clerk at least ninety days prior to the date of said regular election.

(IV) A petition to submit an amendment at a special election must be signed by at least ten percent of the registered electors of the municipality registered on the date of filing the statement of intent and must be filed with the clerk at least ninety days prior to the approximate date of the special election stated in the petition.

C.R.S. § 31-1-101(10)



"Regular election" means:

- (a)** Before July 1, 2004, the election held in towns on the first Tuesday of April in each even-numbered year; ***the election held in cities on the first Tuesday of November in each odd-numbered year***; and the election held in any other municipality at which the regular election of officers takes place;
- (b)** On and after July 1, 2004, the election held in any municipality in accordance with paragraph (a) of this subsection (10) unless a majority of the registered electors of the municipality voting on the question have voted to hold the regular election on a date different than specified in paragraph (a) of this subsection (10) pursuant to section 31-10-109 (1), in which case "regular election" means, for any particular municipality, the date on which the regular election of officers takes place as determined by the registered electors of the municipality.

C.R.S. § 31-1-101(11)



(11) "Special election" means any election called by the governing body of any municipality or initiated by petition to be held at a time other than the regular election for the purpose of submitting public questions or proposals to the registered electors of the municipality.

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|---------------------|------------|
| Same for all Three | Signatures |
| Statement of Intent | |
| Charter Controls | 3,337 |
| State Law Controls | 8,096 |
| Guidelines Control | 4,048 |



| Deadlines | Bedrooms Are for People | Our Mayor, Our Choice | Citizens' Conditions |
|---------------------|-------------------------|-----------------------|----------------------|
| Statement of Intent | March 23, 2020 | May 1, 2020 | June 18, 2020 |
| Charter Controls | June 5, 2020 | June 5, 2020 | June 5, 2020 |
| State Law Controls | June 21, 2020 | July 30, 2020 | August 5, 2020 |
| Guidelines Control | August 5, 2020 | August 5, 2020 | August 5, 2020 |



Council Questions?