

ORDINANCE 8195

AN EMERGENCY ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2017, THE QUESTION OF AMENDING CITY CHARTER SECTIONS 8, 22, 29, 37, 38B, 39, 41, 43, 48, 63, 68, 72 and 73 TO REMOVE OBSOLETE PROVISIONS AND TIMELINES FOR ELECTION RELATED MATTERS THAT CONFLICT WITH STATE LAWS; CLARIFY REFERENDUM AND INITIATIVE PROVISIONS FOR LEGISLATIVE MATTERS; 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 7, 2017.

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 8, 22, 29, 37, 38B, 39, 41, 43, 48, 63, 68, 72 and 73 of the city Charter pertaining to the removal of obsolete provisions and timelines for election related matters that conflict with state law. 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:

8. – Vacancies.

A vacancy shall exist in the council whenever a duly elected council member fails to qualify within ten days after notice of the election, dies, resigns, removes from the city, is absent from five consecutive regular meetings of the council unless formally excused therefrom, is convicted of a felony while in office, or is judicially declared a lunatic; or, in case of a recall, no successor is elected, or if elected, fails to qualify.

1 If a vacancy occurs, or two vacancies come to exist at the same time, other than those
2 occurring due to the expiration of regular terms, then:

3 (a) If the vacancy or vacancies occur in a calendar year before August 1, then the
4 election shall be held in November of that calendar year. Otherwise it will be held at
5 the November election of the next calendar year on or after January 1 and before July
6 1, the election shall be held on the first Tuesday in November of the year in which
7 the vacancy or vacancies occur.

8 (b) ~~If the vacancy or vacancies occur on or after July 1 and before January 1, the election~~
9 ~~shall be held on the first Tuesday in November of the year following that in which~~
10 ~~the vacancy or vacancies occur.~~

11 (e)(b) However, an election to fill a vacancy may be held on a date earlier than those noted
12 above if another city election is scheduled for the earlier date and if council
13 determines, based upon the certification of the designated election official, that it is
14 feasible to schedule the election on that earlier date.

15 If three or more vacancies come to exist at the same time, other than those occurring due
16 to the expiration of regular terms, then a special election shall be held on a Tuesday within ninety
17 days of the date on which a total of three or more vacancies first exists, or as soon thereafter as is
18 feasible as determined by the city manager.

19 If more than four vacancies exist, prior to the special election to fill those vacancies a
20 quorum of the council shall be comprised of a majority of all of the remaining council members.

21 The nomination of candidates to be voted for at any election made necessary by operation
22 of this provision, the publication of notice, and the conduct of the same shall all be in conformity
23 with the provisions of this charter relating to elections, but the council may, in the motion calling
24 for the election, adjust the times for checking petitions, correcting or replacing signatures,
25 completion and filing of petitions, withdrawal from nomination, and certification of filing of the
26 list of candidates, as may reasonably be required to accommodate the date set for the election.

27 22. - Municipal elections defined.

28 A ~~general~~regular municipal election shall be held in the City of Boulder on the
29 ~~first same~~ Tuesday in November of every odd numbered year as the state ballot issue elections
30 in odd number years, and shall be known as the ~~general~~regular municipal election. All other
31 municipal elections shall be known as special municipal elections.

32 29. - Withdrawal from nomination.

33 Any person having been duly and regularly nominated as herein provided, may, prior to
34 the sixty-sixth day preceding the election for which such person has been nominated, withdraw
35 from such nomination by filing with the city clerk a sworn statement of such withdrawal. If a

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1 withdrawal occurs on the sixty-fifth day or any day thereafter preceding the election, the votes
2 cast for that person shall not be counted.

3 **37. - Power to initiate charter amendments and legislation-ordinances.**

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

11 **38B. - Submission of initiative form for comment.**

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

25 **39. - Filing of petition; protest.**

26 Within ten days after the filing of the petition the time determined by the city manager, or
27 if none, the time in state law, the city clerk shall ascertain by examination the number of
28 registered electors whose signatures are appended thereto, dated no more than one-hundred
eighty days prior to the date of filing, and whether this number is at least five or fifteen per-cent,
as the case may be, of the number of registered electors of the city as of the day the petition was
filed is submitted for comment pursuant to section 38B. The clerk shall attach to said petition a
certificate showing the result of said examination. If by the city clerk's certificate, of which
notice in writing shall be given to one or more of the persons designated, the petition is shown to
be insufficient, it may be amended within ten days from the date of said certificate by filing
supplementary petition papers with additional signatures. The city clerk shall within ten days
after such amendment make like examination of the amended petition, and if the clerk's
certificate shall show the same to be insufficient, the city clerk shall file the petition in the clerk's
office and shall notify each member of the committee of that fact. The final finding of the
insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

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

41. - Election on initiated measures.

5 If the council shall fail to pass the measure or shall pass it in a form different from that
6 set forth in the petition, ~~then~~;

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7 (a) ~~if the petition was a "fifteen percent petition" and the~~ committee of the petitioners
8 determines to proceed with the measure as initiated, the measure shall be submitted by
9 the council to the vote of the electors at the next November election occurring not less
10 than fifty-six days after the date of the final action by the council. If a November election
11 is not to be held within six months from such date, then the council ~~shall~~ may call a
special election to be held not less than sixty nor more than one-hundred fifty days from
such date unless otherwise provided by applicable law.

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12 (b) ~~If the petition was a "five percent petition" the measure shall be submitted at the next~~
13 ~~November election occurring more than one hundred twenty days from the date the~~
~~petition was certified by the city clerk to the council.~~

14 Prior to an election being set on an initiative petition, within ten days after the date of final action
15 on such measure by the council, the committee of petitioners shall certify to the city clerk the
16 requirement of submission of the measure to the voters. The certification by the committee of
17 petitioners must be by unanimous vote of the members of the committee legally competent to act
18 at such time. Upon receipt of the certificate, the city clerk shall certify the fact to the council at
its next meeting, and such measure shall be submitted by the council to the vote of the electors in
a November or special municipal election as hereinbefore provided.

43. - Power of referendum.

20 The people shall have power at their option to approve or reject at the polls any legislative
21 measure passed by the council or submitted by the council to a vote of the electors, excepting,
22 however, measures levying a tax for or appropriating money to defray the general expenses of
23 the city government or any existing department or commission thereof; also, excepting
24 measures creating improvement districts and levying special assessments in payment therefor;
25 also, measures ordering the construction of public improvements and levying assessments on
26 the property specially benefited thereby, for the payment thereof. Such power shall be known
27 as the referendum; which power shall be invoked and exercised as herein provided. All
28 legislative measures, save those hereinabove specifically excepted, submitted to the council by
initiative petition and passed by the council without change or passed in an amended form and
not required by the committee of the petitioners to be submitted to a vote of the electors shall
be subject to the referendum in the same manner as other measures.

1 **48. - Title of ballots.**

2 Proposed measures and charter amendments shall be submitted by ballot title. There shall
3 appear upon the official ballot a ballot title which may be distinct from the legal title of any
4 such proposed measure or charter amendment and which shall be a clear, concise statement,
5 without argument or prejudice, descriptive of the substance of such measure or charter
6 amendment. The ballot title shall be prepared by a committee the petitioners if for an initiated
or a referendum measure, or by a committee of the council ~~when submitted by the council
which may be a committee of the whole.~~

7 **63. - The city manager-qualifications and appointment.**

8 The city manager shall be the chief executive and administrative officer of the city. As
9 such, the manager shall possess, have, and exercise all the executive and administrative powers
10 vested in the city. The manager shall be chosen by the council solely on the basis of executive
11 and administrative qualifications. The choice need not be limited to the inhabitants of the city
or state.

12 The city manager shall devote full time and business interest to the management of the
13 city's affairs, and shall not, during the manager's term of office, be an employee of, or perform
14 any executive duty for any person, firm, corporation, or institution other than the City of
15 Boulder. The manager's salary shall be fixed by the council; ~~and the manager shall be required
to give a bond, for the faithful performance of the duties of the office, in such amount as the
council may determine.~~ The manager shall be appointed for an indefinite period, and shall be
16 removable by the council at pleasure. If removed at any time after six months of service, the
17 manager may demand written charges and a public hearing on the same before the council, and
18 the same shall be given the manager prior to the date on which the manager's final removal
19 shall take effect. Pending such hearing, the council may suspend the manager from office; and
20 during such suspension, or in case of the manager's absence or disability from any other cause,
21 the council shall designate some properly qualified person, other than a member of the council,
22 to perform the duties of the office.

23 **68. - General powers and duties.**

24 The chief financial officer shall be the director of finance and licensing, shall be city
25 treasurer, and purchasing agent, for all municipal purposes. Subject to the supervision and
26 control of the city manager in all matters, the chief financial officer shall keep and supervise all
27 accounts and have custody of all public moneys of the city; purchase, store, and distribute
28 supplies needed by the various departments, officers, boards or commissions of the city; collect
special assessments; issue licenses; collect license fees; and perform such other duties pertaining
to such department as are in this charter specified, or may be by ordinance required, or be
assigned by the city manager.

~~Until otherwise provided by the city manager, the city clerk of the City of Boulder
holding such office at the time this charter shall take effect shall be acting director of finance and
licensing, in charge of all other city officers or employees whose present duties are embraced
within the scope of this department as in this charter defined.~~

1 **72. - General powers and duties.**

2 The city manager shall, until otherwise by charter amendment provided, be ex-officio
3 director of public safety. Such director shall be the executive head of the divisions of fire and
4 police, with power to direct the activities of either or any of such divisions; and with power to
5 appoint, transfer, or remove any and all of the officers and employees therein.

6 Except as otherwise in this charter provided, the city manager shall in times of public
7 danger or emergency have power to deputize, appoint, and administer the oath of office to any
8 necessary and additional firefighters, police officers, or patrol officers, as the nature of the
9 emergency may require, during the period of such public danger or emergency.

10 The city manager shall be the chief administrative authority in all matters affecting the
11 inspection and regulation of the erection, maintenance, repair, ventilation, and occupancy of
12 buildings, as may be ordained by the council or established by general law. The city manager
13 shall be charged with the enforcement of all laws and ordinances relating to weights and
14 measures, and shall report to the proper United States or state authorities, as the case may be, any
15 violation of federal or state laws relating to weights, measures, or the sale of any class of
16 merchandise, supplies, foodstuffs, fuels, materials, necessities of life, or commodities of any
17 nature whatsoever. The city manager shall report to proper authorities any violations of liquor or
18 other general laws within the city's jurisdictional limits. Except as in this charter provided, the
19 manager shall direct all activities and enforce all ordinances pertaining to the safety of the
20 general public upon the streets, public lands, places, or parks, within public or private buildings,
21 or elsewhere within the jurisdiction of the City of Boulder.

22 ~~The city manager shall appoint a city probation officer, to work in cooperation with the~~
23 ~~department of public welfare in all correctional, juvenile, or reformatory matters, activities, and~~
24 ~~institutions of the City of Boulder.~~

25 **~~73. - Relief funds.~~**

26 ~~The council may by ordinance provide for relief funds for the employees of the~~
27 ~~department and provide for the administration of such funds as may be created by ordinance or~~
28 ~~laws of the state.~~

Section 3. The official ballot shall contain the following ballot title, which shall also be
the designation and submission clause for the measure:

Ballot Question No. ____

**Charter Amendments to Remove Conflicting Requirements
and Obsolete Provisions and Clarify Referendum
and Initiative for Legislative Issues**

Shall Sections 8, 22, 29, 37, 38B, 39, 41, 43, 48, 63, 68, 72 and 73 of the Charter be amended as specifically set forth in Ordinance 8195 including to:

- (1) Remove obsolete provisions;
- (2) Eliminate timelines for election related matters that conflict with state laws;
- (3) Clarify when council vacancy elections are required;
- (4) Clarify that initiative and referendum relate only to legislative matters; and
- (5) Authorize signature verification and protests of petitions.

For the Measure _____ Against the Measure _____

Section 4. 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 5. 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 6. 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 7. 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.

Section 8. The City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health, or property. The City Council amended the ordinance on final reading. This ordinance includes a ballot measure. Emergency passage is necessary to allow time for this matter to be placed on the November 7, 2017 ballot.

1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 1st day of August, 2017.

3 _____
4 Suzanne Jones
Mayor

5
6 Attest:

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8 _____
9 Lynnette Beck
City Clerk

10
11 READ ON SECOND READING, AMENDED AND PASSED this 15th day of August,
12 2017.

13
14 _____
15 Suzanne Jones
Mayor

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17 Attest:

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19 _____
20 Lynnette Beck
City Clerk

21
22 READ ON THIRD READING, PASSED AND ADOPTED, AS AN EMERGENCY
23 MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT this 5th day of September,
24 2017.

25
26 _____
27 Suzanne Jones
Mayor

1 Attest:

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4 _____
Lynnette Beck
City Clerk

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