



COUNCIL AGENDA ITEM
MEETING DATE: August 3, 2021

TO: City Council

FROM: Sandra Llanes, Interim City Attorney
Kathleen Haddock, Senior Counsel

DATE: August 2, 2021

AGENDA

ITEM: **Item 4B - 1st Rdg Ord 8486 Ballot Measure Sec. 46**

In response to the e-mail traffic with suggested changes to Sections 44 and 46 to conform to Section 38A in Ordinance 8486, we have reviewed the related Charter sections. Our goal is to make sure the intent of the voters in 2018, that made significant improvements to our election code, is accurately reflected in Ordinance 8486 related to signatures on initiative, referendum and recall petitions. As a result, staff recommends changes to Sections 38A, 44, and 46 to create clarity and uniformity.

The proposal e-mailed involved putting the words “registered electors” more than once in the same sentence to mirror the text in Section 38A. We believe that creates confusion and uses the term inaccurately. When the city clerk receives petitions for initiative, referendum or recall, the clerk first determines which signatures are from city registered electors. Only those signatures are counted. When determining the number of signatures of city registered electors that are required, the clerk averages only the number of voters from the past two city elections that voted for candidates because once the challenge period for an election has passed, all votes are considered valid; there is no further examination of whether any of them were registered.

Therefore, we recommend correcting and simplifying the language in Sections 38A, 44, and 46 and the ballot question to read as follows:

ORDINANCE 8486

Sec. 38A. - Signatures required for initiative, referenda and recall petitions.

A petition signed by registered electors of the city of at least ten percent of the average ~~of the~~ number of voters ~~registered electors of the city who voted~~ in the previous two municipal candidate elections shall be required for an initiative and referendum petition to be sufficient. A petition signed by registered electors of the city of at least twenty percent of the average ~~of the~~ number of ~~registered electors of the city who voted~~ voters in the previous two municipal candidate elections shall be required for a recall petition to be sufficient.

Sec. 44. - Referendum petition.

If, within thirty calendar days after final passage of any measure by the council, a petition signed by registered electors of the city of at least ten percent of the average ~~of the number of registered~~ ~~electors of the city who voted~~ in the previous two municipal candidate elections ~~is~~ 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, the measure shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken.

Sec. 46. - Certificate of petition.

Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by registered electors of the city ~~to the number of~~ at least ten percent of the average number of registered electors of the city voters in the previous two municipal candidate elections as of the day the petition was filed, and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State.

Ballot Question No. ____

Shall Sections 38A, "Signatures required for initiative, referenda and recall petitions," 44, "Referendum petition" and 46, "Certificate of petition," of the Boulder City Charter be amended to clarify that the number of signatures for initiative, referenda and recall petitions are the signers of referendum petitions required to be registered electors of the city and conform to changes to Section 44 of the Charter approved by the voters in 2018 that requires that that the number of signatures of registered electors on a referendum petition must be at least ten percent of the average number of voters registered electors of the city who voted in the previous two

municipal candidate elections consistent with other changes
approved by the voters in 2018?

For the Measure _____

Against the Measure _____

ATTACHMENT:

Revised Ordinance 8486

ORDINANCE 8486

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2021, THE QUESTION OF AMENDING SECTIONS 38A, 44, AND 46 OF THE BOULDER HOME RULE CHARTER RELATING TO THE NUMBER OF SIGNATURES OF REGISTERED ELECTORS REQUIRED ON INITIATIVE, REFERENDA AND RECALL PETITIONS; 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 general municipal coordinated election will be held in the City of Boulder, county of Boulder and state of Colorado, on Tuesday, November 2, 2021.

Section 2. At that election, a question shall be submitted to the electors of the city of Boulder entitled by law to vote, that will allow voters to consider the following amendments to Sections 38A, 44, and 46 of the city Charter pertaining to the number of signatures of registered electors required on initiative, referenda and recall petitions. These amendments are proposed to conform to the intent of the changes to the Charter made by the voters in 2018. The material to be added to the Charter is shown by underlining and material to be deleted is shown stricken through with solid lines.

1 **Sec. 38A. - Signatures required for initiative, referenda and recall petitions.**

2 A petition signed by registered electors of the city of at least ten percent of the average of
3 ~~the number of voters~~ registered electors of the city who voted in the previous two municipal
4 candidate elections shall be required for an initiative and referendum petition to be sufficient. A
5 petition signed by registered electors of the city of at least twenty percent of the average of ~~the~~
6 number of ~~registered electors of the city who voters~~ in the previous two municipal candidate
7 elections shall be required for a recall petition to be sufficient.

6 **Sec. 44. - Referendum petition.**

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

10 **Sec. 46. - Certificate of petition.**

11 Within ten days after the filing of the petition the city clerk shall ascertain whether or not
12 the petition is signed by registered electors of the city ~~to the number~~ of at least ten percent of the
13 average number of registered electors of the city voters in the previous two municipal candidate
14 elections as of the day the petition was filed, and the clerk shall attach to such petition a
15 certificate showing the result of such examination. If by the city clerk's certificate the petition is
16 shown to be insufficient, it may be amended within ten days from the date of said certificate by
17 the filing of supplementary petition papers with additional signatures. The city clerk shall within
18 ten days after such amendment make like examination of the amended petition and certify the
19 result thereof. The City Clerk shall verify signatures to the extent reasonably possible by
20 comparison with the election records of the Boulder County Clerk or the Secretary of State.

17 Section 3. The official ballot shall contain the following ballot title, which shall also
18 be the designation and submission clause for the measure:
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Ballot Question No. ____

Shall Sections 38A, “Signatures required for initiative, referenda and recall petitions,” 44, “Referendum petition,” and 46, “Certificate of petition,” of the Boulder City Charter be amended to clarify that the number of signatures for initiative, referenda and recall petitions are required to be registered electors of the city and that the number of signatures of registered electors on a referendum petition must be at least ten percent of the average number of voters in the previous two municipal candidate elections consistent with other changes approved by the voters in 2018?

For the Measure ____

Against the Measure ____

Section 4. 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 5. 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.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of August 2021.

Sam Weaver,
Mayor

Attest:

City Clerk

1 READ ON SECOND READING, PASSED AND ADOPTED this 17th day of August
2 2021.

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4 _____
5 Sam Weaver,
6 Mayor

7 Attest:

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9 _____
10 City Clerk