



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: July 21, 2022

AGENDA TITLE

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8541 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5, 14 and 22 of the Boulder Home Rule Charter to change the regular municipal election of 2023 for elections of candidates to 2024 and every even-numbered year thereafter, move commencement of direct election of the mayor to 2026, implement the transition by extending the terms of all nine existing council members for one year and specifying how the mayor will be selected prior to 2026; specifying the form of the ballot and other election procedures; and setting forth related details

AND/OR

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8546 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5, 14 and 22 of the Boulder Home Rule Charter to change the regular municipal elections of candidates to even-numbered years beginning in 2026; implement the transition by reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years; specifying the form of the ballot and other election procedures; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Tate, City Attorney
Kathy Haddock, Senior Counsel
Elesha Johnson, City Clerk

EXECUTIVE SUMMARY

At the special meeting on June 14, 2022, council requested that staff present an ordinance with proposed ballot language to change the regular municipal election of 2023 for election of candidates to 2024 and every even-numbered years thereafter rather than odd-numbered years, start the direct election of the mayor in 2026, and the procedures for the transition including how the mayor will be selected prior to the 2026 election. At the council meeting on June 21, 2022, council requested some revisions to the language and that the proposed ordinance include only amendments to the Charter about changing regular elections to even-numbered years. Proposed Ordinance 8541 (**Attachment A**) is to implement this change.

After publication of the packet for July 21, Mayor Brockett and Mayor Pro Tem Friend asked for an alternative ordinance to implement the change by not extending the terms of existing council members or changing the date for commencement of direct election of the mayor but reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years so that the even year elections could commence in 2026. Proposed Ordinance 8546 (**Attachment B**) is to implement this change. They also asked about the application of Charter Section 4 regarding term limits and Charter Section 38A regarding the number of signatures required on petitions for initiative, referendum or recall if either of these measures were to pass.

Proposed Ordinance 8541 (Attachment A) includes the following changes to the Charter:

The amendments to Section 5 include:

- A. Extend the terms of all nine existing council members for one year. This would occur only one time to effect the change to even numbered years;
- B. Specify that for the candidates elected to fill the five seats that will end in 2024:
 - i. the four candidates receiving the highest number of votes will receive four-year terms to 2028; and
 - ii. the candidate receiving the fifth highest number of votes will receive a two-year term to 2026.

- C. All candidates for council elected at regular elections starting in 2024 will receive four-year terms; and
- D. Changes the year that direct election of the mayor will start, 2026.

The amendments to Section 14 include:

- A. State how the mayor will be selected after the 2024 election from among council members and how removal may occur. This language was in the Charter until removed in 2020. It is only necessary until the mayor is directly elected, then can be removed from the Charter;
- B. Change the start date for direct election of the mayor to 2026; and
- C. Clarify that the term of the mayor is two years (rather than is required to serve for two years).

The amendment to Section 22 includes:

- A. Changes the regular municipal election of the city from odd-numbered years to even-numbered years starting in 2026.

Proposed Ordinance 8546 (Attachment B) includes the following changes to the Charter:

The amendment to Section 5 includes:

- A. Reduce the terms of the four council members elected in 2023 and 2025 only to three-year terms, otherwise terms remain at four years.

The amendments to Section 14 include:

- A. Increase the term of the mayor elected in 2023 only; and
- B. Clarify that the term of the mayor is two years other than the mayor elected in 2023 (rather than is required to serve for two years).

The amendment to Section 22 includes:

- A. Changes the regular municipal election of the city from odd-numbered years to even-numbered years starting in 2026.

The proposed Charter amendments are written so that if they are approved by the voters, they can be removed after 2026 when the transition is over and the language regarding the items necessary only for the one-time transition would be obsolete.

Application to Term Limits

Section 4 of the Charter applies term limits to the number of terms a person serves (except for some service as the mayor); it does not apply to the number of years served.

The provision does not allow someone to run for a council seat if they have “been elected to three or more terms of office.” Therefore, any term that someone was appointed to serve on council is not counted. It also doesn’t matter if the person was elected to only a two-year term or a four-year term or didn’t serve a full term to which they were elected; the fact they were elected to a term on council, regardless of the length of the term or whether the person served the entire term, counts as one of the three term limit.

Section 4 also has term limits for the office of mayor as follows:

No person shall be eligible for the office of mayor if such person has previously served eight years as mayor, or if such person has previously served three terms as a councilmember and four years as a mayor.

Number of signatures on petitions

Section 38A of the Charter requires petitions for initiative or referendum signed by “ten percent of the average number of voters in the previous two municipal candidate elections.” A recall petition requires 20 percent of the same number. That number is substantially less than it was before the changes in 2018. In 2018 the voters changed the requirement from signatures of five percent of the registered electors in the city. The number of registered electors in the city was far greater than the number of voters in recent elections because of the way voter rolls were purged.

The number of signatures required is designed to fluctuate with the number of active voters in the jurisdiction’s election. If you believe that more voters will vote for municipal candidates in even year elections than odd year elections, more signatures will be required on petitions by changing to even year elections. That fluctuation in the number of signatures required is anticipated by the design of the number of signatures required on a petition that is in the Colorado Constitution; the number of signatures required on a petition is set by the number of voters rather than a specific number based on population.

However, if the percentage of required signatures was of the total number of voters at an election and many voters did not vote “down ballot” to the municipal candidates, that result would skew the petition requirements in a way that probably does not happen in odd years when only local candidates are on the ballot. As an example,

IF:

Total number of ballots cast in XX election = 100,000

Total number of people voting for mayor in XX election = 75,000

THEN, the number of signatures required on an initiative or referendum petition would be:

If of all voters including those not voting “down ballot” = 10,000

If only voters voting for mayor = 7,500

Since the number of signatures in the Charter is the average of the past two municipal candidate elections, it will not need to be changed with the switch to even year elections as I believe this number should be based on the total number that voted for a municipal candidate. However, it could also be interpreted to be a percentage of the total number of people who voted in the election, even if they did not vote for a municipal candidate. To prevent that interpretation, Charter Section 38A could be amended to say, “ten percent of the average number of voters who voted for mayor in the previous two municipal candidate elections.”

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only Ordinance 8541 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5, 14 and 22 of the Boulder Home Rule Charter to change the regular municipal election of 2023 for elections of candidates to 2024 and every even-numbered year thereafter, move commencement of direct election of the mayor to 2026, implement the transition by extending the terms of all nine existing council members for one year and specifying how the mayor will be selected prior to 2026; specifying the form of the ballot and other election procedures; and setting forth related details

AND/OR

Motion to introduce and order published by title only Ordinance 8546 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5, 14 and 22 of the Boulder Home Rule Charter to change the regular municipal elections of candidates to even-numbered years beginning in 2026; implement the transition by reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years; specifying the form of the ballot and other election procedures; and setting forth related details

NEXT STEPS

Second reading and public hearing is scheduled for August 11, 2022.

ATTACHMENT

A – Proposed Ordinance 8541 Revised

B – Proposed Ordinance 8546

ORDINANCE 8541

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO AMEND SECTIONS 5, 14 AND 22 OF THE BOULDER HOME RULE CHARTER TO CHANGE THE REGULAR MUNICIPAL ELECTION OF 2023 FOR ELECTIONS OF CANDIDATES TO 2024 AND EVERY EVEN-NUMBERED YEAR THEREAFTER, MOVE COMMENCEMENT OF DIRECT ELECTION OF THE MAYOR TO 2026, IMPLEMENT THE TRANSITION BY EXTENDING THE TERMS OF ALL NINE EXISTING COUNCIL MEMBERS FOR APPROXIMATELY ONE YEAR AND SPECIFYING HOW THE MAYOR WOULD BE SLECTED PRIOR TO 2026; 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 special municipal coordinated election is called to be held on Tuesday, November 8, 2022.

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 determine whether to amend the Boulder Home Rule Charter to change the regular municipal election of 2023 for election of candidates to 2024 and every even-numbered year thereafter rather than odd-numbered years according to the process set forth below, start direct election of the mayor at the November 2026 regular election, and implement the transition by extending the terms of all nine existing council members for approximately one year, and specifying how the mayor will be selected prior to 2026. The material

1 to be removed is shown stricken through with solid line and the material to be added is shown as
2 underlined.

3 **Sec. 5. – Terms of office-election-recall.**

4 To switch candidate elections from odd-numbered years to even-numbered years, the terms
5 of all nine council members currently in office shall be extended for one year. For the five council
6 terms that will then expire in 2024, at the 2024 election (a) the terms of the four candidates with
7 the highest number of votes will be four-year terms to the election in 2028, and (b) the term of the
8 candidate with the fifth highest number of votes shall be a two-year term to the election in 2026.
9 Thereafter ~~the terms of office for council members shall be four years, and two years as~~
10 ~~hereinafter provided:~~

11 Beginning with the 2026~~3~~ regular municipal election, when the mayor shall first be
12 elected pursuant to Section 14 of this charter, the four candidates receiving the highest number of
13 votes shall be elected for four-year terms.

14 **Sec. 14. – Selection and term of office of mayor.**

15 Prior to the regular municipal election in 2026, the presiding officer of the council shall be
16 called mayor. The mayor shall be chosen by the council from its own number, upon the convening
17 of the new council following each regular municipal election. The mayor may be removed from
18 the office of mayor (but not from the office of council member) by a two-thirds vote of all members
19 of the council, and thereupon, or in case of vacancy or for any other cause, the council shall choose
20 a successor for the unexpired term. Beginning with the regular municipal election in 2026, if
21 three or more candidates run for the office of mayor, then the election shall be conducted by ranked
22 choice (instant runoff) voting. The term of office for the mayor shall be two years and ~~the mayor~~
23 ~~shall serve as mayor for a term of two years, and until a successor is duly chosen and qualified.~~

24 **Sec. 22. – Municipal elections defined.**

25 Beginning in November 2024, a ~~A~~ regular municipal election shall be held in the City of
Boulder on the same Tuesday in November of every even ~~odd~~-numbered year as the state ~~ballot~~
issue ~~general~~ elections in even ~~odd~~ number years, and shall be known as the regular municipal
election. All other municipal elections shall be known as special municipal elections.

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. ____

Change Regular Municipal Election to Even Years

Shall Sections 5, 14, and 22 of the Boulder Home Rule Charter be amended to change the regular municipal election date to even numbered years beginning with the November 2024 election date, shift the 2023 regular municipal election to 2024, extend the terms of all nine existing council members for approximately one year until their successors are elected and qualified; start direct election of the mayor at the November 2026 regular election, and implement the transition as more specifically provided in Ordinance 8541?

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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 21st day of July 2022.

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4 _____
5 Aaron Brockett,
6 Mayor

7 Attest:

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9 _____
10 City Clerk

11 READ ON SECOND READING, PASSED AND ADOPTED, this 11th day of August
12 2022.

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14 _____
15 Aaron Brockett,
16 Mayor

17 Attest:

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19 _____
20 City Clerk

ORDINANCE 8546

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO AMEND SECTIONS 5, 14 AND 22 OF THE BOULDER HOME RULE CHARTER TO CHANGE THE REGULAR MUNICIPAL ELECTIONS OF CANDIDATES TO EVEN-NUMBERED YEARS BEGINNING IN 2026; IMPLEMENT THE TRANSITION BY REDUCING THE TERMS OF THE COUNCIL MEMBERS ELECTED IN 2023 AND 2025 TO THREE YEARS AND INCREASING THE TERM OF THE MAYOR ELECTED IN 2023 TO THREE YEARS; 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 special municipal coordinated election is called to be held on Tuesday, November 8, 2022.

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 determine whether to amend the Boulder Home Rule Charter to change regular municipal elections to even-numbered years starting in 2026, and implement the transition by reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years. Except for those elections, the terms of council members would be four years and the term of the mayor would be two years. The material to be removed is shown stricken through with solid line and the material to be added is shown as underlined.

1 **Sec. 5. – Terms of office-election-recall.**

2 To switch candidate elections from odd-numbered years to even-numbered years, the terms
3 of the council members elected in 2023 and 2025 shall be for three years. Other than for those
4 council members elected in 2023 and 2025, the terms of office for council members shall be four
5 years, and two years as hereinafter provided: beginning with the 2023 regular municipal election,
6 when the mayor shall first be elected pursuant to Section 14 of this charter, the four candidates
7 receiving the highest number of votes shall be elected for four year terms.

8 The term of office for the mayor shall be two years.

9 . . .

10 **Sec. 14. – Selection and term of office of mayor.**

11 If three or more candidates run for the office of mayor, then the election shall be conducted
12 by ranked choice (instant runoff) voting. ~~The mayor shall serve as mayor for a term of two years,~~
13 ~~and~~ The term of office for the mayor elected in 2023 shall be three years. Thereafter, the term of
14 office for the mayor shall be for two years. The mayor shall serve until a successor is duly chosen
15 and qualified.

16 **Sec. 22. – Municipal elections defined.**

17 On the Tuesday in November of the state ballot issue election in 2023 and 2025, the City
18 of Boulder shall hold its regular municipal election. Beginning in November 2026, A regular
19 municipal election shall be held in the City of Boulder on the same Tuesday in November of
20 every ~~odd-even~~ numbered year as the state ~~ballot issue general~~ elections in ~~odd-even~~ number
21 years and shall be known as the regular municipal election. All other municipal elections shall be
22 known as special municipal elections.

23 Section 3. The official ballot shall contain the following ballot title, which shall also
24 be the designation and submission clause for the measure:
25

Ballot Question No. ____

Change Regular Municipal Election to Even Years

Shall Sections 5, 14, and 22 of the Boulder Home Rule Charter be amended to change the regular municipal election date to even numbered years beginning with the November 2026 election date, and reduce the term of the council members elected in 2023 and 2025 to three years and increase the term of the mayor elected in 2023 to three years to implement the transition, all as more specifically provided in Ordinance 8546?

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 21st day of July 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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READ ON SECOND READING, PASSED AND ADOPTED, this 11th day of August
2022.

Aaron Brockett,
Mayor

Attest:

City Clerk