



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 14, 2018

AGENDA TITLE

Ordinances 8272, 8273 and 8274 related to the work of the Campaign Finance and Elections Working Group:

1. Second reading and consideration of a motion to pass Ordinance 8272 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 City Charter Sections 29, 38A, 38B, 39, 40, 44, 48 54 and 56 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.
2. Second reading and consideration of a motion to pass Ordinance 8273 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 Section 39 of the Boulder City Charter to require the city clerk to compare signatures on a petition to signatures on file in the statewide elections database; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.
3. Second reading and consideration of a motion to pass Ordinance 8274 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 Section 38 of the Boulder City Charter to allow for electronic petitions and the use of electronic signing of initiative petitions on-line; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Chief Deputy City Attorney
Kathy Haddock, Senior Counsel
Lynnette Beck, City Clerk
Tammye Burnette, City Manager's Office

EXECUTIVE SUMMARY

The purpose of this agenda item is for the council to consider a motion to adopt three ordinances related to the recommendations of the Campaign Finance and Elections Working Group. The three ordinances are related the working group's efforts on its review of election procedures.

1. Ordinance 8272 contains a majority of the working group's recommended charter amendments. It includes:
 - amendments to the initiative and referendum process;
 - clarification of charter amendment related to the withdrawal of a candidate from a city council election on the 65th day before the election;
 - an amendment to set the number of signatures required for an initiative, referendum, or recall to be at least 10 percent of the average number of voters in the last two municipal candidate elections;
 - establishing a fixed schedule for filing, review and consideration of an initiative, referendum, or recall petition;
 - setting standards for the city clerk's examination of initiative, referendum and recall petitions;
 - providing an opportunity for input from the petition committee to the city council prior to setting the ballot title; and
 - setting amendment standards for an ordinance passed by a vote of the people (which may not be repealed without another vote of the people) to require a two-thirds vote of the council members present and be consistent with the basic intent of the ordinance or be necessary to come into compliance with state or federal law.

2. Ordinance 8273 includes charter amendments to Section 39 of the City Charter to require the city clerk to compare each signature on a petition to signatures on file in the statewide voter registration database. Comparison of the signatures is intended to help further ensure authenticity of petitions.
3. Ordinance 8274 includes charter amendments to Section 38 of the City Charter to allow the city council to adopt ordinances to permit use of electronic petitions and to permit on-line electronic signing or endorsement of initiative, referendum, and recall petitions. Signatures are the result of actually signing one's name with a pen or a stylus. An endorsement is an approach where a voter would use another electronic method, rather than a signature, to ratify a voter's support of a petition.

Since the first reading of the three ordinances, staff has received a number of suggestions for clarifying the ordinance titles, ballot titles and the charter language. All of the suggestions are included in **Attachment E** of this memorandum.

BACKGROUND

At its December 19, 2017 meeting, the city council directed the city manager to form a working group to address concerns raised by council members and members of the public about the city's campaign finance and election laws. The [charter](#) for the working group was presented on January 4, 2018. The charter described the expectations established by the city council for analysis of the Boulder Home Rule Charter and Boulder Revised Code provisions related to campaign finance, initiative and referenda provisions and other election matters.

The working group includes Matt Benjamin, Ed Byrne, Allyn Feinberg, Mark McIntyre, Rionda Osman-Jouchoux, Steve Pomerance, Evan Ravitz, Tyler Romero, Michael Schreiner, John Spitzer and Valerie Yates. Tyler Romero recently resigned from the working group because he intends to move out of state to continue his education. The working group divided its responsibilities into two separate efforts:

- A review of many of the direct democracy provisions of the city, predominately related to municipal initiatives, initiated charter amendments, referenda and recall provisions; and
- Campaign finance reform matters on election procedures and requirements that include:
 - Providing for maximum campaign finance disclosure under existing law;
 - Providing for maximum campaign finance disclosure in ways that have not previously been judicially recognized, considering both the objectives of election integrity and constitutional rights;
 - Clarifying the role of the city clerk in election contests;
 - Clarifying combined campaign ads and literature; and
 - Other matters such as the use of social media or technology in elections.

Staff provided council with an update of the working group's efforts on April 17, 2018. The council also discussed the recommendations of the working group at the May 8, 2018 study session related to ballot issues. The consensus of the council was to move the recommendations of the working group forward to be further discussed as part of the 2018 ballot measure process.

The working group recommended that council consider ballot measures to amend the City Charter as specified in its report dated April 17, 2018. A copy of the working group's report is attached as **Attachment A**.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – No direct economic impacts are anticipated by these ballot measures.
- Environmental – No direct environmental impacts are anticipated.
- Social – Voter trust in the election process and the ability of the people to have an avenue to participate in direct democracy efforts is important to good governance.

OTHER IMPACTS

- Fiscal – Some of the recommendations of the working group may require additional staff and/or monetary resources to implement.
- Staff time – All of the recommendations of the working group can be accomplished within staff's existing work plan except for two of the recommendations.
 - The first is the change to require comparison of each signature to the statewide voter registration database. That work may require additional temporary employees and impact the clerk's office in the 10 days following submittal of petitions.
 - If the city pursues electronic petition signing, a second working group has been requested to provide recommendations to council on how to implement the new system. Such a working group is a large endeavor impacting the City Clerk's Office, City Attorney's Office, City Manager's Office, Communication Department and the Innovation and Technology Department. It would require modifications to the work plans for each department and perhaps affect other initiatives.

PUBLIC FEEDBACK

The focus of public engagement has been through the appointment of the resident working group. There are also opportunities for interested persons to participate in the process by attending city council public hearings or through written contact with the council. The working group holds open public meetings after providing public notice. The working group maintains a website that includes its scheduled meetings, working papers, agendas and materials. It can be found at the following link: <https://bouldercolorado.gov/elections/campaign-financeelections-working-group>.

ANALYSIS

The working group's recommendations addressed changes related to the 2017 Ballot Measure 2Q (see **Attachment A**), reducing the number of signatures required on initiative, referenda and recall petitions, timelines for the initiative process and recommendations related to signing or endorsing initiative, referenda and recall petitions electronically. The amendments to the charter that will be necessary to implement the recommendations for both initiative and referenda are addressed in the memorandum.

Ordinance 8272

**See Attachment B for the full Ordinance
Amendments to the ordinance are proposed in Attachment E**

The ballot title is proposed to read as follows:

Ballot Question No. ____

Initiative, Referendum and Recall Process Charter Amendments

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

- clarify the actions required to be taken if a candidate withdraws from a city council election;
- establish the number of signatures required for an initiative, referendum or recall to be at least 10 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;
- set standards for the city clerk's examination of petitions;
- 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 ____

Ordinance 8272 includes a majority of the working group's recommended charter amendments. The consensus of the council at its May 8, 2018 study session was to move these items forward together to be considered as charter amendments. The amendments are the result of the working group's review of the city's direct democracy charter provisions as well as a review of a ballot measure that was passed last year by the voters.

(It is often referred to as “2Q,” *see* Ordinance 8195 (2017)). The recommended changes include:

- amendments to the initiative and referendum process;
- charter amendments related to the withdrawal of a candidate from a city council election on the 65th day before the election;
- amendments to set the number of signatures required for an initiative or referendum or recall to be at least 10 percent of the average number of registered electors who voted in the previous two municipal candidate elections;
- an amendment to establish a fixed schedule for filing, review and consideration of an initiative petition;
- an amendment to set standards for the city clerk’s examination of initiative, referendum and recall petitions;
- an amendment to provide an opportunity for input from the petition committee to the city council prior to setting the ballot title; and
- an amendment to set standards for changing an ordinance passed by vote of the people to be amended (a) by two-thirds of the council members present and (b) 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.

Sec. 29 – Withdrawal from nomination. Prior to 2Q the charter implied that a nominee could not withdraw his or her name from the ballot after the 66th day before the election. 2Q attempted to correct that, but a drafting error left out what happened if a nominee withdrew on the 66th day before the election. The revision clarifies that if withdrawal from nomination occurs before the ballots are finalized for printing, that nominee’s name shall not appear on the ballot. If a nominee withdraws after the ballots have been finalized for printing, the ballots will not be reprinted to remove the nominee’s name, but no votes for that nominee will be counted with the other ballots.

Sec. 38B – Submission of initiative form for comment. The working group recommended 10 calendar days for staff to review the petition form. This timeline was removed by 2Q and replaced with a provision giving the city manager authority to adopt timelines. The working group recommended reinstating the timelines for municipal initiatives back into the city charter and using the statutory timelines for charter amendment initiatives, finding it acceptable to have two different timelines.

Sec. 39 – Filing of petition; protest - first paragraph - schedule. Ballot Measure 2Q removed the timelines from the charter and allowed the city manager to set the schedule for charter amendments. The purpose was an attempt to coordinate the schedules for charter amendments and municipal initiatives rather than the disparate schedules that exist

between the charter before 2Q and the state laws governing municipal initiatives and charter amendments. The working group recommended the following amendments:

- Providing that the city clerk would set the number of signatures required for initiative, referenda or recall petitions after council certifies the previous election results based upon 10 percent of the average of the previous two municipal candidate elections; and
- Requiring the petition committee to submit a signed petition to the city at least 150 days before the election. Once the city has received the petition, it has 10 days to review the petition and provide comments. Thereafter, the committee of petitioners has 10 days to gather additional signatures and cure the deficiency. The city will then have 10 days to review the signatures on the cured petition and submit its written determination of sufficiency. This process should finish at least 120 days before the election.

Sec. 40. – Submission of petition to council. The amendment provides that the council is required to take action on setting a ballot title prior to 70 days before the November election. It also requires that any challenges to a ballot title be made no later than seven days after the council sets the ballot title.

Sec. 48 – Designation of ballot title. 2Q removed the requirement that the petitioner committee set the ballot title for an initiative or referendum. The city council sets the ballot title. The working group recommended adding a requirement for council to consider input from the petitioner committee for an initiative petition.

Since the city is generally in the position of having to defend ballot titles if they are challenged, it is appropriate for the council to set the ballot title. The working group did not want to put the petitioner committee in the position of having to defend litigation or to risk using taxpayer funds to defend a ballot title that was not approved by council. The council continues to set ballot titles under the charter. The initiative petitioner committee will have a formal place in the process to help form the ballot title.

Sections 38A, 44, and 56 – Changing the Number of Signatures and Method for Calculating the Number Required for Initiative, Referenda and Recall Petitions. The working group recommended that the change to the signature requirement to at least 10 percent of the average number of voters at the past two municipal elections apply to the initiative process (Sec. 38A), the referendum process (Sec. 44) and the recall process (Sec. 56).

The working group concluded that the percentage of registered voters is artificially inflated because statewide voter registration records are not regularly purged to remove voters that have died or moved. It recommended that the number of signatures required for an initiative, referendum or recall petition be at least 10 percent of the average number of votes cast in the last two municipal candidate elections. Below is a summary of how a number of other Colorado communities set signature requirements for initiatives, referenda and recalls:

	Initiative	Referenda	Recall
Boulder (existing)	5% of the number of registered electors of the city (§39)	10% of the registered electors of the city (§44)	25% of the last preceding vote cast within the city for all candidates for governor (§56)
Boulder (proposed)	10% of the average of the number of registered voters of the city who voted in the previous two municipal candidate elections	10% of the average of the number of registered voters of the city who voted in the previous two municipal candidate elections	10% of the average of the number of registered voters of the city who voted in the previous two municipal candidate elections
Colorado Springs	20% of the total ballots cast for the office of Mayor in the last preceding election for such office	15% of the total ballots cast for the office of Mayor in the last preceding election for such office	25% of the total ballots cast for the office of Mayor (or council member) in the last preceding election for such office
Denver	5% of the total vote for the office of Mayor in the last election at which a Mayor was elected	5% of the total vote for the office of Mayor in the last election at which a Mayor was elected	25% of the vote cast for that office in the municipal election in which the official was elected
Fort Collins	10% of the total ballots cast in the last regular city election	10% of the total ballots cast in the last regular city election	25% of the entire vote cast at the last preceding regular city election for all candidates for the office
Longmont	10% of the number of persons who were registered electors of the city, as of the date of the last regular city election	10% of the number of persons who were registered electors of the city, as of the date of the last regular city election	25% of the electors of the entire vote cast at the last preceding election for all candidates for the office

The Colorado Constitution prohibits the city from increasing the number of signatures required for an initiative above 15 percent of the registered voters, or above 10 percent for a referendum petition. For a recall petition, a city cannot require more signatures than 25 percent of the entire vote cast at the last election for all of the candidates for the office which the incumbent to be recalled occupies. The working group proposed amendments that would not violate Colorado constitutional requirements related to signatures because in all instances, they would require less than the maximum set in the state constitution.

The initiative process applies to ordinances that are petitioned into law by a vote of the people. Under the present charter, it can be done if a committee collects signatures from five percent of the registered electors.

The referenda process is where a committee petitions to have an ordinance previously adopted by the council reconsidered through a public vote. Under the present charter, it can be done if a committee collects signatures from 10 percent of the registered electors.

The recall process is the process by which the people petition to recall a council member from office. Under the present charter, it can be done if a committee collects signatures

from 25 percent of the last preceding vote cast within the city for all candidates for governor.

The working group recommended that all three processes have a uniform standard for signatures of at least 10 percent of the average number of registered electors of the city who voted in the previous two municipal candidate elections. Below is a summary of the changes:

Charter Section	Charter Requirement	Number	Proposed amendment	Number
38A Initiative	5% of registered electors in the city (15% to call a special election)	4,166* (2018)	10% of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections	3,066**
44 Referendum	10% of the registered electors of the city	8,332* (2018)	Same as above	3,066**
56 Recall	25% of the last preceding vote cast within the city for all candidates for governor	Information has been requested	Same as above	3,066**

*Based on 83,316 registered City of Boulder electors on April 3, 2018

**Based on 29,552 ballots returned in 2015 and 31,765 ballots returned in 2017

Clarification of Section 54 Regarding Repeal of Initiated or Referred Measures. Section 54 of the charter prohibits council from repealing an ordinance that has been approved by the voters. This has been interpreted to allow amendments under limited circumstances but the standards for such amendments have not been clear.

The working group recommended that Section 54 be amended to allow amendments that are approved by two-thirds of the council members present if the amendment (i) does not change the basic intent of the ordinance, or (ii) is required to comply with state or federal law.

The working group proposed some language changes to the ballot title to improve readability. **See Attachment E.**

Ordinance 8273

See Attachment C for the full ordinance
Amendments to the ordinance are proposed in Attachment E

The Ballot Title is proposed to read as follows:

Ballot Question No. ____

Signature Verification

Shall Section 39 of the City Charter be amended pursuant to Ordinance 8273 to require the city clerk to compare the signatures on a petition to signatures on file in the statewide voter registration database to ensure authenticity?

For the Measure ____

Against the Measure ____

Staff recommends that the council amend the ballot question to use “Boulder County Clerk or the Secretary of State” database rather than the “statewide election database” used in the first reading ordinance as it is a more accurate description. Subsequently, the working group suggested the voter registration verification requirements apply to referenda and recall petitions as well. **See Attachment E.**

Sec. 39 – Filing of petition; protest – second paragraph – Verification of signatures. The working group recommended that the city clerk verify signatures to the extent reasonably possible by comparison with the statewide voter registration database when examining the signatures on petitions.

Presently, when a petition is submitted to the city clerk, the clerk compares all the information on each signature line of the petition (name, address and date of signing the petition) to voter registration records in an effort to ensure that the petition has been signed by a registered voter. The clerk also verifies that it appears that all the information on the signature line was completed by the signer. The clerk’s office does this check for 100 percent of the signature lines on a filed petition. Ballot Measure 2Q *permitted* the clerk to also compare signatures of the signer to the signature on the statewide voter registration records.

The city clerk also examines the petition to look for obvious defects within the petition. For example, there have been petitions submitted in the past where it was obvious that the circulator simply filled in all the information fields on a particular petition line or lines. In those cases, the clerk disqualifies the petition. If the committee wants to protest that decision, there is a process for doing so. The city clerk does not presently compare the petition signatures to the signatures contained in statewide voter registration database, and until recently did not have access to the portion of the database that included the signatures.

The working group recommended that the city clerk be *required* to do signature comparison for 100 percent of the signature lines of filed petitions comparing the petition with the signatures in the statewide voter registration database. Starting with the Spring 2019 elections, the city can gain read-only access to the signature portion of the database. This was done to allow municipalities to verify signatures on their mail ballots for elections.

The working group considered a few options related to auditing signatures to be verified. The working group decided that auditing was not a good option to pursue because, to be statistically valid, a relatively high number of signatures would need to be examined anyway. Also, given the small sample size, the result of invalidating signatures based on an audit percentage did not seem like a fair outcome to the committee of the petitioners. Finally, Denver takes the approach of verifying 100 percent of the signatures gathered on petitions. Presently, no other municipality in Colorado compares signatures on petitions.

Comparing actual signatures may require an increase in staff and funds to implement. If other practices, such as the use of eSign (discussed below), are adopted, once implemented, efficiencies can be made in this area. There are factors for council to consider when determining whether any additional cost has a comparable benefit: (i) defending any legal challenge if the clerk did invalidate a signature or petition on a signature comparison would probably require the retention of a handwriting expert; and (ii) verifying signatures requires the use of an additional non-city owned database. It may be possible to contract with a third party to verify signatures, but permissions for access to the database would have to be considered. Denver has expressed an interest in providing this service to the city for a cost-based fee if it has the capacity to complete the work.

Staff from the City and County of Denver have been invited to the August 14 council meeting to share their experiences and to be available for questions from council.

Alternative Approach. If the council does not want to change the charter to require comparison of all signatures, it could meet this objective by ordinance. The existing charter language provides that signature verification *may* be completed by the city clerk. The council can make this mandatory through an ordinance rather than in the charter. The advantage to this approach is that it would allow the council to make appropriate adjustments as the system is implemented rather than requiring another charter change to do so. It would also allow council to balance budget priorities in the context of other community needs.

Ordinance 8274

**See Attachment D for the full ordinance
Amendments to the ordinance are proposed in Attachment E**

The Ballot Title is proposed to read as follows:

Ballot Question No. ____

Electronic Initiative Petition and Voter Identification Charter Amendments

Shall Section 38 of the City Charter be amended pursuant to Ordinance 8274 to allow the Boulder City Council to adopt ordinances that permit use of electronic petitions and to permit on-line electronic signing or endorsement of initiative petitions?

For the Measure ____

Against the Measure ____

Sec. 38 – Preparation of initiative petitions. The working group recommended that the charter be amended to authorize the city council to adopt ordinances that will permit the use of electronic petitions and permit on-line electronic signing or endorsement of initiative petitions.

The working group would like the council to direct the city manager to form a future working group to evaluate the methods of accessing and signing initiative petitions in this manner. For discussion purposes, we describe “on-line” petitioning as petitioning that is conducted on-line and does not require a circulator as the point of contact. The petition could be accessed by an individual at any time on any device. We describe “electronic” petitioning as petitioning that is conducted electronically and requires a circulator and an iPad as the point of contact. (The differences between the two are detailed in the table below.) One potential advantage of having petitions on-line is that they could be available to registered electors 24 hours per day, seven days a week and a third person in the form of the circulator witnessing the signing would not be necessary. It was also noted that during this year’s petitioning season that opposition groups would menace petitioners. Full on-line petitioning would prevent this practice. Working group members also noted growing public support for on-line petitioning, noting the Boulder County democratic party includes on-line petitioning at the Secretary of State and County Clerk’s websites as part of its platform. See www.bocodems.org/2018-platform/.

On-line signing or endorsement of initiative petitions would require an amendment to the charter. The current initiative process contemplates a circulator witnessing and affirming that the petition was signed by the people whose names appear on the petition. The working group’s proposal is to enable on-line petitioning, where an individual can access a petition at any time, from any device, without a circulator as a point of contact. Because this is an evolving area, it makes sense for the authority to be in the charter and the regulatory authority directly assigned to the city council.

The implementation would be completed through the adoption of a subsequent ordinance after a second working group offers its recommendations. The second working group would work out details of implementation and develop its recommendations based on resources, database access, available technology, industry best practices and any criteria developed by the city council.

This recommendation of the current working group will have an impact on the city's staffing and budgeting. Staffing another working group and evaluating feasibility and implementation of signing petitions on-line without a circulator would require a coordinated effort from the City Clerk's Office, City Attorney's Office, City Manager's Office, Communication Department and the Innovation and Technology Department. It will require modifications to the work plans for each of these departments and potentially staffing and funding increases.

The scenario of on-line petitioning without a circulator is different from electronic petitioning with a circulator. The City and County of Denver has electronic petitioning through an application called eSign where petitions are uploaded to an iPad application. A circulator then collects signatures electronically. A signer types his or her personal information into designated fields in the application and his or her voter registration is confirmed immediately (or the signer can be directed to a site to register). The voter can then sign the petition form on the device. The process that Denver implemented looks very much like a traditional petition process that includes a circulator and a petition. By the iPad replacing the paper petition sections, the verification of the voter's current registration is accomplished at the time of signing rather than by later comparison to the voter registration database by the clerk. When all the signatures have been gathered, the petition sections are printed out for notarization.

Petitions:

<i>Type</i>	<i>Paper Petitioning</i>	<i>Electronic Petitioning</i>	<i>On-line Petitioning</i>
<i>Description</i>	Petitioning that is conducted with a paper petition and a circulator as the point of contact (current practice)	Petitioning that is conducted with an electronic device that has access to the registered elector database and requires a circulator as the point of contact (proposed practice)	Petitioning that is conducted on-line and does not require a circulator as the point of contact; the petition can be accessed by an individual at any time on any device (proposed practice)
<i>Platform</i>	Paper	Denver's existing eSign application (also being used in Washington, D.C.); After signatures are gathered, petition sections are printed for notarization	Use via web which has the potential to be accessible to everyone, at any time and place

Type	Paper Petitioning	Electronic Petitioning	On-line Petitioning
Considerations	--	<ul style="list-style-type: none"> • For petition circulators that choose to use eSign, voter registration is confirmed immediately, eliminating the need to guess at valid registration numbers and significantly decreasing clerk's office processing • If signatures are to be verified, eSign also produces a bar code to scan a voter's registration record and pull up signatures; the clerk's office would not need to manually search for the record with multiple points of voter information 	<ul style="list-style-type: none"> • Eliminates witness to signing of petition • Eliminates signature forgery and misrepresentation • Makes it convenient for people to read the entire petition text before making a decision
Potential Budget Impacts	The current paper system requires additional staffing resources (temporary employees and existing part-time city employees) of approximately \$4,000 for two consecutive (not concurrent) petitions; signature verification would add an additional review level and double the resources needed to approximately \$8,000 (more if multiple petitions are processed concurrently); a budget request will likely be necessary for petition processing; software costs are approximately \$1,000 for database updating	If all petition committees use this platform, there is the potential that petition processing could likely be done with existing or nominal increases in staffing resources; set up and software costs will be \$22,000 one-time; \$3,400 ongoing plus the cost for loaner iPads; one-time and on-going budget requests would be necessary for these expenses	If all petition committees use this platform, there is the potential that petition processing could likely be done with existing or nominal increases in staffing resources; Set up and software costs have not been evaluated at this time

<i>Type</i>	<i>Paper Petitioning</i>	<i>Electronic Petitioning</i>	<i>On-line Petitioning</i>
<i>Process</i>	<ul style="list-style-type: none"> • Does not verify a signer's voter registration when signing (clerk's office does this) • Does not identify if a signer signs a petition more than once (clerk's office tracks this) • For signature verification, requires accessing a separate database and searching for record 	<ul style="list-style-type: none"> • Verifies a signer's voter registration when signing • Identifies if a signer signs a petition more than once • Creates a bar code to pull up record with signatures for signature verification 	<ul style="list-style-type: none"> • May verify a signer's voter registration when signing • May identify if a signer signs a petition more than once • Eliminates third party witnessing signature
<i>Implementation</i>		This could be implemented by ordinance without a charter amendment	This would require a charter amendment for the authority; regulatory implementation would be done by ordinance

NEXT STEPS

Third reading and adoption is scheduled for the September 4, 2018 city council meeting.

ATTACHMENTS

A – Working Group Report of April 17, 2018

B – Proposed Ordinance 8272

C – Proposed Ordinance 8273

D – Proposed Ordinance 8274

E – Proposed amendments

Working group members also propose allowing on-line electronic petitions and on-line signing or endorsement of petitions to be used for referenda and recall petitions in addition to recall petitions. **See Attachment E.**

Report from the Campaign Finance and Elections Working Group to Boulder City Council

April 17, 2018

The Working Group's job is to focus on campaign finance and the initiative processes. This report only covers the initiative process.

The Working Group met on January 31, February 13, March 1 and 14, 2018 to work on the initiative and referendum portion of the Working Group charter. From those meetings, the Working Group is pleased to provide the council consensus recommendations for changes to the Boulder Revised Code and Home Rule Charter. We believe these satisfy the project deadlines of March 15 and April 15, 2018 in our Charter.

Background:

The working group received a primer on the distinctions between the two types of initiative processes: Charter Amendments and Municipal Initiatives.

Initiated Charter Amendments - change the city charter. The process is governed by state law and a time table set by the state. The city has limited ability to change any aspect of how charter amendments go to the ballot.

Municipal Initiatives, Recalls, and Referendum - add, create, or change the city code and allow for recalls of elected officials. We are allowed to set the rules, procedures and timing for these processes.

Guiding Principles:

The Working Group operated with two guiding principles:

1. The municipal initiative, referendum, and recall processes are aspects of "direct democracy," and it is highly likely that their use by citizens may conflict with the desires of those within the "representative" government. Therefore, the Working Group believes that the timelines and processes guiding these activities should be embedded in the city charter so as to provide certainty and independence from such potential conflicts.

2. The city's processes for municipal initiatives should be designed to be the best possible for Boulder citizens, and not therefore simply follow those in state law. Home rule cities are empowered to write their own regulations for municipal initiatives, referenda, and recalls. The process for charter amendments is governed by state law. For example, state law sets the maximum time for signature gathering, the latest time for submittal (which is quite close to when the measure would need to be submitted to the county clerk to be put on the ballot), the required number of signatures, and a number of important details in the petition's format. An ordinance or other regulation is not permitted that would conflict with either state laws or the Colorado Constitution. But state law allows a city to enforce ordinances regulating the process of amending its charter

that do not conflict with state law. The Working Group unanimously agreed that these two aspects of direct democracy should be managed as two distinct processes, because the state law processes for municipal initiatives are simply not the best.

We focused on the local processes (municipal initiative, referendum and recall), and did not try to add local laws to fill in any minor holes in the state's extensive rules for initiated charter amendments. To repeat, state law sets the required number of signatures, the petition format, and the timeline for such charter amendments. Thus, there is very little local flexibility.

Important Note: The municipal initiative rules and timeline for the 2018 election that were prepared by the city clerk are in conformance with the proposals of the Working Group, and the Working Group unanimously supports these rules and timeline.

This Report's Organization:

This report is organized by charter section and includes at the end two discussions: 1) the newly available means for signature verification, and 2) electronic voter verification for petition "signing." The issues covered in this report include:

- Setting timelines in the charter for municipal initiative processes, including review of initial petition, signature verification, title setting, and title challenges.
- Setting numerical signature requirements for municipal initiatives, referenda, and recalls, and suggesting expanding timelines for referenda and recalls.
- Clarifying the existing charter rule that municipal initiatives may not be repealed except by another vote of the citizens.
- Verifying actual signatures on petitions in addition to verification of voter registration information.
- Allowing for the use of electronic voter identification for petition "signing."

Here are the recommendations for changes to the charter language, with discussions below each charter section, in order. The proposed charter language is included below, and changes are shown in redline and strike out text. We suggest that you might put the current charter up on one part of your computer screen and this report next to it to be able to compare.

https://library.municode.com/co/boulder/codes/municipal_code?nodeId=THCHBOCO

Sec. 29 - Withdrawal from nomination.

Issue: The Working Group and staff agreed that the language in 2Q did not specify what should occur if a candidate withdraws on the 66th day before the election. Here is the recommended charter language for section 29; it has been rewritten to address that missing piece. It is also written to ensure that it will function even if the county changes its procedures.

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.

Sec. 38. - Preparation of initiative petitions.

Issue: This section has had a sentence added at the end to allow for electronic identity verification, a topic which is discussed at the end of this report. This sentence will likely need to be rewritten, depending on the results from future work on this opportunity.

Petitions shall be worded clearly and simply so the petition is not misleading or likely to cause confusion to voters. Petition drafts shall be consistent with applicable law. The draft shall present the ballot measure in such manner that a vote for the measure would be a vote for the proposition and that a vote against the measure would be a vote against the proposition. Signatures to initiative petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place, and the date the signer signed the petition. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five registered electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter named. All such papers shall be filed in the office of the city clerk as one instrument. Electronic petitions and electronic identity verification shall be allowed as permitted by the Boulder Revised Code.

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

Issue: As the council is aware, the number of registered voters has inflated over the last years because of changes in federal rules that made it more difficult to delete names from the voter list. The Working Group unanimously supports changing the signature requirement from five percent of the registered voters to ten percent of the average number of voters in the last two municipal candidate elections. This would make the required number be somewhat over 3,000 signatures, which approximates the Boulder signature number requirement prior to the changes in federal rules. Using the number of voters in a local election as a base makes sense because those are the people who actually participate in local elections.

For comparison, Fort Collins, which is also a university city with a population not too much bigger than Boulder, uses ten percent of the voters in the last local election as the basis for their signature requirement. And Denver also ties its signature requirement to the actual voter number in their municipal elections.

The Working Group approved the deletion of the option for a 15 percent initiative requiring a special election, as it seemed superfluous because the initiative elections can be done in any November, odd or even year. Here's the proposed Charter language:

~~Attached to every instrument filed as an initiative petition shall be a certificate signed by a majority of the committee of petitioners stating whether the petition is intended to be a “five per cent petition” or a “fifteen per cent petition.” The ballot for a five percent petition in compliance with this charter will be placed on the ballot at an election held in November. The ballot for a fifteen percent petition in compliance with this charter will be placed on the ballot at the next available election, which may be a special election other than a November election called by the city. 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 shall be required for an initiative, referendum, or recall petition to be sufficient.~~

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

Issue: The adoption of ballot measure 2Q removed from the charter the timelines related to municipal initiatives and designated that the timelines would be consistent with city manager rule, or failing that, with state law. The Working Group recommends reinstating the timelines for municipal initiatives back into the charter so that they are not subject to a city manager rule or ordinance, and finds it acceptable to have two different timelines, one for municipal initiatives and one for charter amendments. The recommended timeline allows for proper review as to form and substance, and ensures that if the signatures are certified, that there is time for negotiations between the council and the petitioners, as well as for any title challenges. For municipal initiatives, the Working Group recommends the following changes to section 38B regarding these dates, as well as changes to section 39, which is below:

Prior to obtaining any signatures on the petition, the committee of the petitioners shall submit the proposed petition form to the city manager for review and comment. Within ten days, ~~the time determined by the city manager, or if none is determined, the time provided in the applicable state law, the city manager~~ shall provide the committee of the petitioners with comments concerning the format or contents of the petition. Where appropriate, such comments may also contain suggested editorial changes to enhance the clarity and simplicity of the language in the petition. The committee of petitioners may amend the petition in response to some or all of the comments of the city manager and resubmit it for review. Any additional comments from the city manager on these amendments shall be provided within five calendar days. If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the city manager, the amended petition shall be resubmitted to the city manager in accordance 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.

Sec. 39. - Filing of petition; protest.

Issues: Again, the Working Group determined that the timeline should be in the charter and not left up to the city manager’s discretion. In particular, the signature certification process needs a specific timeline with a specific starting date so that the clerk can plan ahead to staff up for petition review. Also, the five percent of registered voters in the current language needs to be changed to ten percent of the actual voters averaged over the last two municipal (odd-year) elections.

Finally, all actual signatures should be checked, now that we know that they are available from the Secretary of State in an easily read on-line format that includes signature, name, and address (and DOB). Denver currently uses this process, and so is completely set up for this and their staff is trained for this work. And their elections staff has volunteered to do our signature checking at just the cost of the staff's time, making our process much simpler and less costly.

~~Within the time determined by the city manager, or if none, the time in state law, the city clerk shall ascertain by examination the number of 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 percent of the number of registered electors of the city as of the day the petition is submitted for comment pursuant to section 38B. By the last business day on or before 150 calendar days before the November election, the committee of petitioners shall submit its petition. The city clerk shall ascertain by examination the number of registered electors whose signatures are appended thereto, dated no more than 180 calendar days prior to the date of filing, and whether this number meets the requirements of section 38A. By 140 calendar days before the November election~~F~~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 make like examination of the amended petition, with such examination being completed by 120 calendar days before the November election, and shall certify whether the petition is sufficient or insufficient on or before that day. 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.

When examining the signatures on petitions, the clerk may verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State and shall compare the signatures as available, and comparison of signatures on a petition for duplication. The clerk may use facilities of other cities to assist in this process. Protests of petitions may be made as provided by Colorado law and ~~rules adopted by the city manager, the Boulder Revised Code but must be submitted by 40 calendar days after submittal of the petition to the clerk.~~

Sec. 40. - Submission of petition to council.

Issue: In the current version of the charter, the 60-day timelines for petition review by a council committee or the council as a whole do not fit with the charter requirement that allows the petition to be certified as late as 120 calendar days before the election, because there is not enough time between signature certification and when the title needs to be set. Here's the recommended replacement language to remove that provision:

If the petition shall be found to be sufficient, the city clerk shall so certify and submit the measure to the council at its next regular meeting, ~~at which meeting the council shall read and refer the same to an appropriate committee, which may be a committee of the whole. Provision shall be made for public hearings upon the measure before the committee to which it is referred. Thereafter the committee shall report the measure to the council, with its recommendation thereon, not later~~

~~than sixty days after the date upon which such measure was submitted to the council by the city clerk. Upon receiving the measure from the committee, the council shall at once proceed to consider it and shall take final action thereon within sixty days from the date of such committee report. Unless the committee of petitioners withdraws the petition, the council shall take final action, including setting the title, prior to 70 calendar days before the November election. Title challenges shall be filed no later than seven calendar days after setting of the ballot title.~~

Sec. 44. - Referendum petition.

Issue: The number of required signatures needs to be brought into agreement with that for municipal initiatives.

If, within thirty calendar days after final passage of any measure by the council, a petition signed by 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 ~~registered electors of the city to the number of at least ten percent of the registered electors of the city as of the day the petition is filed~~ 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.

Sec. 48 - Title of Ballots.

Issue: Ballot measure 2Q specified that the ballot title for initiatives be determined by council but failed to require consultation with the petitioners. This consultation is important because it is the petitioners' proposal and so they should have a say in how it is presented. And such consultation is also valuable to avoid possible title challenges by the petitioners, or possibly by third parties. Finally, having the council actually set the title is appropriate because the city will have to defend it against any challenges.

Here is the recommended charter language that allows for input by the petition committee but leaves the final decision to the council.

Proposed measures and charter amendments shall be submitted by ballot title. There shall appear upon the official ballot a ballot title which may be distinct from the legal title of any such proposed measure or charter amendment and which shall be a clear, concise statement, without 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. If the proposed measure is an initiative, council shall seek the input of the petitioner committee prior to setting the ballot title.

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

Issue: The current charter language simply states that a citizen initiative cannot be “repealed” except by another vote of the people. The question is – what constitutes “repeal”? The Working Group recommends adding language that clarifies what constitutes “repeal,” as below:

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

Notes on Signature Checking:

As laid out above, the Working Group is recommending changing the provision that the clerk compare signatures on the petition with signatures from the statewide voter registration database from being discretionary to being mandatory. For clarification, it is important to understand that, to date, the verification of the information on the petition has not included comparing actual signatures to the database. Previously, access to the statewide voter registration database was not available. Ballot measure 2Q added a provision authorizing the clerk to do such comparison assuming the database would be available to the clerk in the future.

The Working Group has determined (and staff agrees) that the actual signatures are now available and are already being used by Denver to check 100 percent of the actual signatures. So, the Working Group recommends changing the discretion to a requirement that, in addition to the present practices, the clerk also compares each signature on a petition with the signatures in the statewide voter registration database. And, as pointed out above, the Denver elections staff have offered to do this for Boulder at just the cost of the staff time.

Notes on Electronic Signatures and Electronic Identity Verification:

The members of the working group support establishing a mechanism for municipal ballot measure petitions that allows for online access to read about the petition and allows for online “signing” via electronic identity verification. The clear benefits of online access and signing include:

- access to and by a broader population of voters
- heightened integrity of the petition “signing” process and greater security than current physical signing process
- the opportunity to read the full text of petition language before signing
- improved efficiency, and reduced burden on administrative staff
- *the ability to sign at any time from any place*
- the ability to un-sign prior to the petition signing deadline

Our neighboring city of Denver has an app for this. You can read more about the success of their efforts at this link <http://303software.com/eSign>.

In addition, the Colorado Secretary of State uses a secure online process for voter registration. You can experience this tool at <http://GoVoteColorado.com>.

An example of this electronic identity verification process is how the Colorado Secretary of State (“SOS”) allows people to change party affiliation or address on the SOS website using their

Colorado ID numbers or last 4 digits of their social security numbers as identification.

If this provision is added to the charter, the Working Group requests that the council direct the city manager to appoint a new working group that would explore how to implement online “signing” of petitions and make recommendations to council.

Once the council has made a decision on this, charter section 38 would need to be amended to allow or require such a process.

The process for the city to create the mechanism to allow “signing” of initiative petitions on-line would impact the budget and work plans for several departments within the city, including Innovation and Technology, City Clerk, City Manager’s Office, City Attorney’s Office and Communication. However, once implemented, it may be considerably less costly than the current process of dealing with piles of paper.

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 CITY CHARTER SECTIONS 29, 38A, 38B, 39, 40, 44, 48 54 AND 56 REGARDING THE CITY'S INITIATIVE, REFERENDUM AND RECALL PROCESSES; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; 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 and 54 of the 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.

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.

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

~~Attached to every instrument filed as an initiative petition shall be a certificate signed by a majority of the committee of petitioners stating whether the petition is intended to be a “five percent petition” or a “fifteen percent petition.” The ballot for a five percent petition in compliance with this charter will be placed on the ballot at an election held in November. The ballot for a fifteen percent petition in compliance with this charter will be placed on the ballot at the next available election, which may be a special election other than a November election called by the city. 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 shall be required for an initiative, referendum, or recall petition to be sufficient.~~

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

Prior to obtaining any signatures on the petition, the committee of the petitioners shall submit the proposed petition form to the city manager for review and comment. ~~Within ten days, the time determined by the city manager, or if none is determined, the time provided in the applicable state law, the city manager shall provide the committee of the petitioners with comments concerning the format or contents of the petition. Where appropriate, such comments may also contain suggested editorial changes to enhance the clarity and simplicity of the language in the petition. The committee of petitioners may amend the petition in response to some or all of the comments of the city manager and resubmit it for review. Any additional comments from the city manager on these amendments shall be provided within five calendar days.~~ If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the city manager, the amended petition shall be resubmitted to the city manager in accordance 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.

Sec. 39. – Filing of petition; protest.

~~Within the time determined by the city manager, or if none, the time in state law, the city clerk shall ascertain by examination the number of 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 percent of the number of registered electors of the city as of the day the petition is submitted for comment pursuant to section 38B. By the last business day on or before 150 calendar days before the November election, the committee of petitioners shall submit its petition. The city clerk shall ascertain by examination the number of registered electors whose signatures are appended thereto, dated no more than 180 calendar days prior to the date of filing, 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 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

1 signatures. The city clerk shall make like examination of the amended petition, with such
 2 examination being completed by 120 calendar days before the November election, and shall certify
 3 whether the petition is sufficient or insufficient on or before that day. ~~and if~~ the clerk's certificate
 4 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.

5 When examining the signatures on petitions, the clerk may verify signatures to the extent
 6 reasonably possible by comparison with the election records of the Boulder County Clerk as
 7 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.

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

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

17 **Sec. 44. - Referendum petition.**

18 If, within thirty calendar days after final passage of any measure by the council, a petition
 19 signed by at least ten percent of the average of the number of registered electors of the city who
 20 voted in the previous two municipal candidate elections ~~registered electors of the city to the~~
 21 ~~number of at least ten percent of the registered electors of the city as of the day the petition is filed~~
 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.

22 **48. - Title of ballots.**

23 Proposed measures and charter amendments shall be submitted by ballot title. There shall appear
 24 upon the official ballot a ballot title which may be distinct from the legal title of any such proposed
 25 measure or charter amendment and which shall be a clear, concise statement, without argument or
 26 prejudice, descriptive of the substance of such measure or charter amendment. The ballot title shall
 27 be prepared by a committee of the council which may be a committee of the whole. If the proposed
measure is an initiative, council shall seek the input of the committee of the petitioners prior to
setting the ballot title.

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

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

Sec. 56. - Petition for recall.

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

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

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

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

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

The signatures to a recall petition need not all be appended to one paper, but each person shall add to such person's signature such person's place of residence, giving the street and number. The circulator of each such paper shall make affidavit before an officer competent to administer oaths that the statements contained therein are true and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All papers composing said petition shall be assembled and filed as one instrument, with endorsements thereon of the names and 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.

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. ____

Initiative, Referendum and Recall Process Charter Amendments

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

- clarify the actions required to be taken if a candidate withdraws from a city council election;
- establish the number of signatures required for an initiative, referendum or recall to be at least ten 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 an initiative petition;
- set standards for the city clerk's examination of initiative petitions;
- 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 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.

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

Attest:

READ ON SECOND READING, PASSED, this 14th day of August 2018.

Attest:

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1 READ ON THIRD READING, PASSED AND ADOPTED, this 4th day of September
2 2018.

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4 _____
5 Suzanne Jones
6 Mayor

7 Attest:

8 _____
9 Lynnette Beck
10 City Clerk
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ORDINANCE 8273

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 SECTION 39 OF THE BOULDER CITY CHARTER TO REQUIRE THE CITY CLERK TO COMPARE SIGNATURES ON A PETITION TO SIGNATURES ON FILE IN THE STATEWIDE ELECTIONS DATABASE; 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 Section 39 of the City Charter to require the city clerk to compare signatures on a petition to signatures on file in the statewide elections database. 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. Section 39 shall be amended to read as follows:

Sec. 39. - Filing of petition; protest.

Within the time determined by the city manager, or if none, the time in state law, the city clerk shall ascertain by examination the number of 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 percent of the number of registered electors of the city as of the day the petition 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

1 filing supplementary petition papers with additional signatures. The city clerk shall make like
 2 examination of the amended petition, and if the clerk's certificate shall show the same to be
 3 insufficient, the city clerk shall file the petition in the clerk's office and shall notify each member
 4 of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice
 5 the filing of a new petition for the same purpose.

6 When examining the signatures on petitions, the clerk ~~shall~~ may verify signatures to the
 7 extent reasonably possible by comparison with the election records of the Boulder County Clerk
 8 or the Secretary of State and ~~shall compare the signatures as available, and comparison of~~
 9 ~~signatures on a petition for duplication. The clerk may use facilities of other cities to assist in this~~
 10 ~~process. Protests of petitions may be made as provided by Colorado law and rules adopted by the~~
 11 ~~city manager, the Boulder Revised Code but must be submitted by 40 calendar days after~~
 12 ~~submittal of the petition to the clerk.~~

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

15 **Ballot Question No. ____**

16 **Charter Provisions Related to Signature Verification**

17 Shall Section 39 of the City Charter be amended pursuant to Ordinance
 18 8273 to require the city clerk to compare the signatures on a petition to
 19 signatures on file in the statewide election database to ensure authenticity?

20 For the Measure ____

21 Against the Measure ____

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

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

28 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.

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

Attest:

READ ON SECOND READING, PASSED, this 14th day of August 2018.

Attest:

K:\CCCO\o-8273 2nd Rdg-2875.docx

1 READ ON THIRD READING, PASSED AND ADOPTED, this 4th day of September
2 2018.

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4 _____
5 Suzanne Jones
6 Mayor

7 Attest:

8 _____
9 Lynnette Beck
10 City Clerk
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ORDINANCE 8274

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 SECTION 38 OF THE BOULDER CITY CHARTER TO ALLOW FOR ELECTRONIC PETITIONS AND THE USE OF ELECTRONIC SIGNING OF INITIATIVE PETITIONS ONLINE; 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 Section 38 of the City Charter to allow for electronic petitions and the use of electronic signing of initiative petitions online. 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. Section 38 shall be amended to read as follows:

Sec. 38. - Preparation of initiative petitions.

Petitions shall be worded clearly and simply so the petition is not misleading or likely to cause confusion to voters. Petition drafts shall be consistent with applicable law. The draft shall present the ballot measure in such manner that a vote for the measure would be a vote for the proposition and that a vote against the measure would be a vote against the proposition. Signatures to initiative petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place, and the date the signer signed the petition. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five registered electors who shall be officially

1 regarded as filing the petition and shall constitute a committee of the petitioners for the purposes
2 hereinafter named. All such papers shall be filed in the office of the city clerk as one instrument.
3 Electronic petitions and electronic identity verification shall be allowed as permitted by the
4 Boulder Revised Code.

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

7 **Ballot Question No. ____**
8 **Charter Amendments Related to Electronic Petitions**
9 **and Voter Identification**

10 Shall Section 38 of the City Charter be amended pursuant to Ordinance
11 8274 to allow the Boulder City Council to adopt ordinances that permit
12 use of electronic petitions and to permit online electronic signing or
13 endorsement of initiative petitions?

14 For the Measure ____

15 Against the Measure ____

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

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

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

24 Section 8. The city council deems it appropriate that this ordinance be published by title
25 only and orders that copies of this ordinance be made available in the office of the city clerk for
26 public inspection and acquisition.
27
28

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

3
4
5 _____
Suzanne Jones
Mayor

6 Attest:
7
8

9 _____
Lynnette Beck
City Clerk

10 READ ON SECOND READING, PASSED, this 14th day of August 2018.

11
12
13 _____
Suzanne Jones
Mayor

14 Attest:
15
16

17 _____
Lynnette Beck
City Clerk

18 READ ON THIRD READING, PASSED AND ADOPTED, this 4th day of September
19 2018.

20
21
22 _____
Suzanne Jones
Mayor

23 Attest:
24
25

26 _____
Lynnette Beck
City Clerk

**AMENDMENTS THAT HAVE BEEN PROPOSED BY COMMUNITY MEMBERS
SINCE THE COMPLETION OF THE WORKING GROUP'S REPORT**

The below suggested revisions to Ordinance 8272 have been drafted to include proposed changes to ordinance Section 2., ordinance title and ballot title. The proposed changes are further clarifications of the charter amendments.

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 CITY CHARTER SECTIONS 29, 38A, 38B, 39, 40, 44, 48, 54, AND 56 REGARDING THE CITY'S INITIATIVE, REFERENDUM AND RECALL PROCESSES; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

Ballot Question No. ____

Initiative, Referendum and Recall Process Charter Amendments

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

- clarify the actions required to be taken if a candidate withdraws from a city council election;
- establish the number of signatures required for an initiative, referendum or recall to be at least ten percent of the average number of registered electors of the city who voted in the previous two municipal candidate elections so as to return this number closer to the range that was in place prior to changes in federal law and registration procedures;
- amend the process and establish a fixed schedule for filing, review and consideration of an 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 initiative 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 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, ~~and 54,~~ and 56 of the 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.

The below suggested revisions to Ordinance 8273 have been drafted to include proposed changes to ordinance Section 2. language, ordinance title, so as to be more consistent with the ballot title, ballot title and charter language associated with sections 46 and 57.

ORDINANCE 8273

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 SECTIONS 39, 46, AND 57 OF THE BOULDER CITY CHARTER TO REQUIRE THE CITY CLERK TO THE EXTENT REASONABLY POSSIBLE AND SO AS TO ENSURE AUTHENTICITY COMPARE SIGNATURES ON A PETITION TO SIGNATURES WITH THE ELECTION RECORDS OF THE BOULDER COUNTY CLERK OR THE SECRETARY OF STATE ON FILE IN THE STATEWIDE ELECTIONS DATABASE; SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

Ballot Question No. ____

Charter Provisions Related to Signature Verification

Shall Sections 39, 46, and 57 of the City Charter be amended pursuant to Ordinance 8273 to require the city clerk to the extent reasonably possible and so as to ensure authenticity ~~to compare the~~ signatures on a petition to signatures with the election records of the Boulder County Clerk or the Secretary of State ~~on file in the statewide election database to ensure authenticity?~~

For the Measure ____

Against the Measure ____

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 39, 46, and 57 of the City Charter to require the city clerk to the extent reasonably possible and so as to ensure authenticity ~~to compare the~~ signatures on a petition to signatures with the election records of the Boulder Clerk or Secretary of State ~~on file in the statewide elections database~~. 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.

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 registered electors of the city 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.**

Sec. 57. - Petition may be amended or new petition made.

Within ten days from the filing of said petition the city clerk shall ascertain by examination thereof and of the registration books and election returns whether the petition is signed by the required number of registered electors and shall attach thereto a certificate showing the result of such examination. The clerk shall, if necessary, be allowed extra help.

If the certificate shows the petition to be insufficient, the clerk shall, within five days, so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within ten days from the filing of the certificate. The city clerk shall, within ten days after such amendment, make like examination of the amended petition and attach thereto a certificate of the result. If still insufficient or if no amendment is made, the clerk shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose. **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.**

The below suggested revisions to Ordinance 8274 have been drafted to include proposed changes to ordinance Section 2., ordinance title, so as to be more consistent with the ballot title, ballot title and charter language associated with sections 38, 45, and 56. The language permits the referendum and recall processes to use electronic petitions or on-line electronic signing or endorsement of petitions.

ORDINANCE 8274

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 SECTIONS 38, 45, AND 56 OF THE BOULDER CITY CHARTER TO ~~ALLOW FOR~~PERMIT USE OF ELECTRONIC PETITIONS AND TO PERMIT ON-LINE ELECTRONIC SIGNING OR ENDORSEMENT OF INITIATIVE, REFERENDUM, AND RECALL PETITIONS ~~THE USE OF ELECTRONIC SIGNING OF INITIATIVE PETITIONS ONLINE;~~ SETTING FORTH THE BALLOT TITLE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

Ballot Question No. ____

**Charter Amendments Related to Electronic Petitions
and ~~Voter Identification~~**

Shall Sections 38, 45, and 56 of the City Charter be amended pursuant to Ordinance 8274 to allow the Boulder City Council to adopt ordinances that permit use of electronic petitions and to permit on-line electronic signing or endorsement of initiative, referendum, and recall petitions?

For the Measure ____

Against the Measure ____

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 38, 45, and 56 of the City Charter to ~~allow for~~permit use of electronic petitions and to permit on-line electronic signing or endorsement of initiative, referendum, and recall ~~the use of electronic signing of initiative petitions online.~~ 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.

Sec. 38. - Preparation of initiative petitions.

Petitions shall be worded clearly and simply so the petition is not misleading or likely to cause confusion to voters. Petitions ~~—drafts~~ shall be consistent with applicable law. The ~~draft~~Petitions shall present the ballot measure in such manner that a vote for the measure would be a vote for the proposition and that a vote against the measure would be a vote against the proposition.

(a) For paper petitions that are circulated by a person ~~S~~signatures to initiative petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person

whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place, and the date the signer signed the petition. All such papers pertaining to any one measure shall have written or printed thereon the names and addresses of at least five registered electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter named. All such papers shall be filed in the office of the city clerk as one instrument.

(b) Electronic petitions and on-line electronic signing or endorsement of petitions shall be allowed as permitted by the Boulder Revised Code.

Sec. 45. - Signatures to petition.

The signatures thereto need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended thereto is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the place. All such papers shall be filed in the office of the city clerk as one instrument. A referendum petition need not contain the text of the measure designated therein and of which the repeal is sought. **Electronic petitions and on-line electronic signing or endorsement of petitions shall be allowed as permitted by the Boulder Revised Code.**

Sec. 56. - Petition for recall.

A petition signed by electors registered to vote for a successor to the incumbent sought to be removed equal in number to at least twenty-five percent of the last preceding vote cast within the city for all candidates for governor shall be addressed to the council and filed with the city clerk.

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

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

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

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

The signatures to a recall petition need not all be appended to one paper, but each person shall add to such person's signature such person's place of residence, giving the street and number. The circulator of each such paper shall make affidavit before an officer competent to administer oaths that the statements contained therein are true and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All papers composing said petition shall be assembled and filed as one instrument, with endorsements thereon of the names and 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. **Electronic petitions and on-line electronic signing or endorsement of petitions shall be allowed as permitted by the Boulder Revised Code.**