



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 19, 2019

AGENDA TITLE

Introduction, first reading, and consideration of a motion to publish by title only Ordinance 8318 allowing for electronic signatures on petitions for initiatives, referenda and recalls; 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 an ordinance implementing Ballot Measure 2G, which passed with 71.17 percent of the vote at the November 6, 2018 election. Measure 2G authorized the use of electronic and online petitions as permitted by the Boulder Revised Code. The proposed ordinance is derived from Denver Election Rule 12, which permits electronic petitioning in the City and County of Denver. City staff has been working with staff from the City and County of Denver to arrange for a license of proprietary software that Denver uses for electronic petitioning. Denver elections staff will not be able to dedicate sufficient time to this project until after Denver's April 2019 election. It is unlikely, therefore, that electronic petitioning will be available for petitions in the current election cycle.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and to publish by title only Ordinance 8318 allowing for electronic signatures on petitions for initiatives, referenda and recalls; and setting forth related details.

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 – Implementation of this ordinance may require additional staff and/or monetary resources to implement.
- Staff time – Implementation of this ordinance can be accomplished within staff's existing work plan.

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 describes 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 (resigned), Michael Schreiner, John Spitzer and Valerie Yates. 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.

The working group recommended that council consider ballot measures to amend the City Charter as specified in its report dated April 17, 2018. On September 4, 2018, council adopted Ordinance 8274, asking voters to consider amendments to Charter sections 38 (initiative petitions), 45 (referendum petitions), and 56 (recall petitions). At the November 6, 2018 election 35,465 electors voted in favor of the measure and 14,363 voted against.

ANALYSIS

Measure 2G authorized the council to allow for on-line signing or endorsement of initiative petitions. 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 proposed ordinance would allow for a similar process using electronic devices to collect signatures, while maintaining the integrity provided by a circulator.

The working group recommended creating a second working group to develop a process for collecting signatures electronically without a circulator. The second working group would work out details of implementation and develop its recommendations based on resources, database access, available technology, industry best practices, security and any criteria developed by the city council.

This recommendation of the current working group would 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. This is not something that could be accomplished without affecting council's 2019 workplan.

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.

City staff will continue to work with Denver to license Denver's software, which is one of the only tools of its kind in the market. Staff is also exploring other options for software, though if the city cannot license Denver's tool we may need to develop custom software for the project which is much more time and labor intensive. The proposed ordinance provides that the provisions will be effective 30 days after the city manager enters into a software management agreement.

ATTACHMENTS

A – Proposed Ordinance 8318

ORDINANCE 8318

AN ORDINANCE ADDING A NEW SECTION 13-1-7, B.R.C. 1981, ALLOWING FOR ELECTRONIC SIGNATURES ON PETITIONS FOR INITIATIVES, REFERENDA AND RECALLS; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A new section 13-1-7, “Electronic Petitions,” B.R.C. 1981, is adopted to read as follows:

13-1-7. Electronic Petitions.

- (a) This section provides a framework for those persons seeking to submit municipal petitions for initiatives, referendum, or recall to circulate and submit digital versions of petitions, previously approved as to form by the clerk, through an internet based system for tablets. The digital petition application is intended to provide an alternative circulation choice, increased accessibility to the ballot, enhanced voter accessibility options, and improved voter validation. The digital petition application shall be an exact electronic version of the hardcopy paper petition.
- (b) The digital petition application will:
 - (1) Maintain compliance with applicable provisions in the charter, this code and state statutes concerning the circulation and determination of sufficiency of petitions for initiatives, referendum, and recall, including but not limited to requirements for circulators. Nothing in this section shall be construed to waive the duty of a circulator;
 - (2) Serve as an alternative method for the collection of signatures from registered electors for petitions for initiatives, referendum, and recall and will not supplant existing method of collecting signatures with hardcopy petitions;
 - (2) Preserve the integrity and security of the signature gathering process to ensure that petitions are circulated in person and signed only by registered electors of the City of Boulder;
 - (4) Provide protection against tampering, fraudulent use, and illegal manipulation of approved petitions by secure access to the digital petition with an authorization code provided by the clerk and recorder; and

1 (5) Capture only digitized, manual signatures, as set forth herein, utilizing a stylus or
2 other specialized marking device. For the purposes of this section, a digitized,
3 manual signature means a graphical image created by the elector in affixing the
4 elector's handwritten signature to the digital petition.

5 (c) Except as permitted herein no other form of digital or electronic signatures will be allowed
6 on or in the digital petition application.

7 (d) Any information contained in the digital petition application shall only be maintained on
8 securable devices with appropriate data protections.

9 (e) The circulator of any electronic petition shall make an affidavit that each digitized, manual
10 signature is the genuine signature of the person whose name it purports to be. With each
11 signature shall be stated the place of residence of the signer, giving the street and number
12 or other description sufficient to identify the place, and the date the signer signed the
13 petition.

14 (f) The city manager may issue rules necessary to implement this section.

15 Section 2. This ordinance shall be effective 30 days after the city manager enters into a
16 licensing agreement for software necessary and appropriate for digital petition applications.

17 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
18 the residents of the city, and covers matters of local concern.

19 Section 4. The city council deems it appropriate that this ordinance be published by title
20 only and orders that copies of this ordinance be made available in the office of the city clerk for
21 public inspection and acquisition.
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 19th day of February 2019.

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4 _____
Suzanne Jones,
Mayor

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6 Attest:

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Lynnette Beck,
City Clerk

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10 READ ON SECOND READING, PASSED AND ADOPTED this 5th day of March 2019.

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Suzanne Jones,
Mayor

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14 Attest:

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Lynnette Beck,
City Clerk

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