



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 1, 2020

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8420 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2020, the question of amending Article II Sections 3, 4, 5, 7, 8, 14, and 15 of the Boulder City Charter to provide for the direct election of the mayor by ranked choice (instant runoff) voting; 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
Luis Toro, Senior Assistant City Attorney
Pamela Davis, Acting City Clerk

EXECUTIVE SUMMARY

An initiative for a charter amendment to change the way the mayor is chosen to a direct election using the “ranked choice” or “instant runoff” voting method, and conducting the mayoral election in Presidential election years, was approved for circulation, and has submitted signatures to the Clerk’s office. On August 11, 2020, council passed Ordinance 8420 on First Reading. The proposed ordinance (**Attachment A**) would submit this proposed charter amendment to the voters on the November 2020 ballot, with the first mayoral election would be held as part of the general municipal election in 2023. The new proposed charter amendment would also establish a two-year term for the mayor, set term limits for the mayor, change provisions regarding the council to reflect

the direct election of the mayor, establish provisions for filling a mayoral vacancy, and clarify that the mayor would receive the same compensation as council members. The powers of the mayor would not change. Council raised a concern that under the proposed ordinance a person could run for both a member of the city council and the mayor in the same election. Staff has prepared an alternative version that would clarify that a person could run for one position or the other, but not both (**Attachment B**). If council wishes to include this amendment, council should amend the ordinance by substituting the version in **Attachment B** and passing by emergency. Staff has included proposed alternative motion language.

STAFF RECOMMENDATION

Suggested Motion Language

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

Motion to adopt Ordinance 8420 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2020, the question of amending Article II Sections 3, 4, 5, 7, 8, 14, and 15 of the Boulder City Charter to provide for the direct election of the mayor by ranked choice (instant runoff) voting; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.

Or in the alternative

Motion to adopt by emergency Ordinance 8420 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 3, 2020, the question of amending Article II Sections 3, 4, 5, 7, 8, 14, and 15 of the Boulder City Charter to provide for the direct election of the mayor by ranked choice (instant runoff) voting; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – None.
- Environmental – None.
- Social – The measure is intended to promote the principle of self-government by enabling Boulder citizens to vote directly for the mayor via ranked choice voting.

OTHER IMPACTS

- Fiscal – The measure may increase the cost of holding a municipal election if the Boulder County Clerk and Recorder does not agree to hold a coordinated election with the city that involves ranked choice voting.

- Staff times – There may be a slight increase in staff time needed to conduct an election using ranked choice voting.

BOARD AND COMMISSION FEEDBACK

None.

PUBLIC FEEDBACK

None.

BACKGROUND

A charter amendment petition has been circulated by the group “Our Mayor, Our Choice.” The proposed amendment would take the authority to name a mayor away from council and give it to the voters through an election conducted under the “ranked choice” or “instant runoff” system in Presidential election years. The petitioners have submitted approximately 5,800 signatures that are currently under review by the City Clerk’s Office. This would fall short of the 8,096 signatures that would be required under state law for a charter amendment. The proposed ordinance would submit to the voters a modified version of that proposed charter amendment.

ANALYSIS

The proposed ordinance would submit to the voters a modified version of the charter amendment proposed in the petition. The main difference between the charter amendment proposed by this ordinance, and the charter amendment petition currently under clerk review, is that the mayor would be elected during the regular municipal election starting with the November 2023 election, instead of during Presidential election years.

The proposed charter amendment would not give the mayor any new powers. The mayor would continue to have an equal vote with other council members and would preside over council meetings as is currently done. What would change is that every two years, beginning with the general municipal election to be held in 2023, the mayor would be elected by the voters via a system known as “ranked choice” or “instant runoff” voting. Under that system, voters rank the candidates in order of preference. If no candidate receives 50 percent of first choice votes, then the candidate with the fewest first choice votes is eliminated, and ballots cast with that candidate as the first choice are redistributed among the remaining candidates based on those voters’ second choice. The process continues until a candidate reaches 50 percent and is declared the winner. The Colorado Secretary of State has issued a Rule governing how municipalities may conduct ranked choice elections. 8 C.C.R. 1505-1, Rule 26. It is anticipated that the city will conduct ranked choice elections consistently with that Rule.

Because the mayor would be elected every two years and have the same vote as a council member, the proposed charter amendment would change the current system for electing council members. Under the new system, the top four vote-getters in a council election will get a four-year term. If a council member who is in the middle of a four-year term wins election as mayor, then the fifth-place finisher in the council election will get a two-year term.

The proposed charter amendment would also establish term limits for the mayor. No person could run for mayor if he or she had previously served eight years as mayor, or three terms on the council and four years as mayor. Vacancies in the office of mayor would be filled the same way as council vacancies, except that in the event of a mayoral vacancy the mayor pro tem would serve as mayor until a successor is elected.

The proposed charter amendment would also clarify that the mayor will receive the same compensation as council members.

The proposed emergency alternative (**Attachment B**) would add language to Section 5 of the Charter to clarify that no person may run for both mayor and council member at the same election, nor hold both offices at the same time.

ATTACHMENTS

A – Proposed Ordinance 8420

B – Proposed Ordinance 8420 Emergency Alternative

ORDINANCE 8420

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, THE QUESTION OF AMENDING ARTICLE II SECTIONS 3, 4, 5, 7, 8, 14, and 15 OF THE BOULDER CITY CHARTER TO PROVIDE FOR THE DIRECT ELECTION OF THE MAYOR BY RANKED CHOICE (INSTANT RUNOFF) VOTING; 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 3, 2020.

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 3, 4, 5, 8, 14, and 15 of the City Charter to amend the charter to provide for the direct election of the mayor by ranked choice voting, and to set the term of office and term limits for the mayor. 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. Article II, shall be amended to read as follows:

....

Sec. 3. - Legislative officers-the council.

The legislative officers of the city shall consist of the mayor and nine ~~eight~~ council members elected from the city at large, each having an equal vote, and collectively called the council.

Sec. 4. - Qualifications of council members and the mayor.

No person shall be eligible to office as council member or mayor unless, at the time of the election, such person is a qualified elector as defined by the laws of the State of Colorado, at least twenty-one years of age, and shall have resided in the City of Boulder for one year immediately prior thereto.

No person shall be eligible to the office of a council member if such person has previously been elected to three or more terms of office. No person shall be eligible to the office of mayor if such person has previously served eight years as mayor, or if such person has previously served three terms as a council member and four years as mayor.

Sec. 5. - Terms of office-election-recall.

The terms of office for council members shall be four years and two years as hereinafter, provided: beginning with the 2023 regular municipal election, when the mayor shall first be elected pursuant to section 14 of this charter, the four candidates receiving the highest number of votes shall be elected for four-year terms, and the candidate receiving the fifth highest number of votes shall be elected for a two-year term.

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

If there shall be vacancies to be filled at a general municipal election, other than those occurring due to the expiration of a regular term, the vacancy term shall be for two years, and additional council members or a mayor shall be elected until there shall be a council of ~~nine~~ eight council members and a mayor.

In the event that a council member whose term is not ending the November of the election wins election to the office of mayor in the regular municipal election, then the council candidate receiving the fifth highest number of votes in that same election shall complete that council member's term.

The terms of all council members and the mayor shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate. All council members and the mayor shall be subject to recall as provided by this charter.

....

Sec. 7. - Compensation.

Council members and the mayor shall receive as compensation \$100.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city

maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. For purposes of this section only, a “meeting” shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter. Council members serving on January 1, 2020 and after may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans.

Sec. 8. - Vacancies.

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

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

- (a) If the vacancy or vacancies occur in a calendar year before August 1, then the election shall be held in November of that calendar year. Otherwise it will be held at the November election of the next calendar year.
- (b) However, an election to fill a vacancy may be held on a date earlier than those noted above if another city election is scheduled for the earlier date and if council determines, based upon the certification of the designated election official, that it is feasible to schedule the election on that earlier date.

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

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

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

If a vacancy exists in the office of mayor, the mayor pro tem shall serve as acting mayor until a new mayor is elected and takes office pursuant to this section.

....

Sec. 14. - Selection and term of office of mayor.

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

Sec. 15. - Powers and duties of mayor.

The mayor shall have all the powers, rights, and privileges of a council member. The mayor shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by this charter or by the council. The mayor shall have no power of veto. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for serving civil processes, and by the governor for military purposes. In time of emergency, the mayor shall, if the council so orders, take command of the police and maintain and enforce the laws, temporarily superseding the city manager in police affairs. The mayor shall be ex officio a member of all council committees. During the mayor's absence or disability, the mayor's duties shall be performed by the mayor pro tem ~~an acting mayor, appointed by the council from its own number.~~

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

Ballot Question No. ____

Charter Amendments Related to Direct Election of the Mayor

Shall Article II, Sections 3, 4, 5, 7, 8, 14, and 15 of the Boulder City Charter be amended to provide for the direct election of the mayor by ranked choice (instant runoff) voting?

For the Measure ____

Against the Measure ____

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

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

7 Section 7. The election shall be conducted under the provisions of the Colorado
8 Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this
9 ordinance.

10 Section 8. The officers of the city are authorized to take all action necessary or appropriate
11 to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the
12 election for the city.

13 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
14 the residents of the city, and covers matters of local concern.

15 Section 10. The city council deems it appropriate that this ordinance be published by title
16 only and orders that copies of this ordinance be made available in the office of the city clerk for
17 public inspection and acquisition.
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY, this 11th day of August 2020.

3
4 _____
5 Sam Weaver,
6 Mayor

7 Attest:

8 _____
9 Pamela Davis,
10 City Clerk

11 READ ON SECOND READING, PASSED AND ADOPTED, this 1st day of September
12 2020.

13 _____
14 Sam Weaver,
15 Mayor

16 Attest:

17 _____
18 Pamela Davis,
19 City Clerk

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1 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY, this 11th day of August 2020.

3
4 _____
5 Sam Weaver,
6 Mayor

7 Attest:

8 _____
9 Pamela Davis,
10 City Clerk

11 READ ON SECOND READING, AMENDED, PASSED AND ADOPTED AS AN
12 EMERGENCY MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT, AND
13 ORDERED PUBLISHED BY TITLE ONLY this 1st day of September 2020.

14
15 _____
16 Sam Weaver,
17 Mayor

18 Attest:

19 _____
20 Pamela Davis,
21 City Clerk