



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: July 21, 2022

AGENDA TITLE

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8542 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the questions of authorizing the City Council to replace the existing utility occupation tax and climate action plan excise tax with a new climate tax beginning January 1, 2023, and expiring December 31, 2040, and authorizing debt to be repaid from such tax up to a principal amount of \$52,900,000 to meet the city's climate goals; specifying the form of the ballot and other election procedures; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Tate, City Attorney
Kathy Haddock, Senior Counsel
Kara Skinner, Chief Financial Officer
Jonathan Koehn, Interim Climate Initiatives Director
Carolyn Elam, Sustainability Sr. Manager, CI
Yael Gichon, Climate Initiatives Principal Project Manager

EXECUTIVE SUMMARY

At its [study session regarding ballot issues on May 10, 2022](#), council directed that staff bring an ordinance to council that placed two ballot issues before the electors: (1) replacing the existing utility occupation (UOT) and climate action plan (CAP) taxes with a climate tax, and (2) authorizing debt to be issued to be paid from that tax and other available revenues. At the study session, staff proposed a climate tax with a

recommended rate of \$5 million for the first year, adjusted annually for inflation, levied on the provider of electricity and natural gas. The current tax revenues from the CAP and UOT is \$3.9 million annually. Since the study session, staff gathered additional feedback from executive leadership and the community, and conducted additional analysis, and is now recommending the tax be set at \$6.5 million for the first year, adjusted annually. This recommended increase is intended to enhance city efforts on climate resilience, with emphasis on wildfire mitigation. These recommendations are discussed further below.

Proposed Ordinance 8542 (**Attachment A**) includes the ballot issues for both the new climate tax and the debt authorization, and the changes to the code necessary to repeal the UOT and CAP tax and impose the new climate tax. The changes to the code go into effect only if the tax ballot measure passes. Both issues allow use of the revenues from the tax and the proceeds of the bonds as set forth in the tax ballot issue.

The debt authorization amount is set at the staff recommendation of \$52,900,000. The financial strategy committee of council is discussing options on July 19, 2022, and may have another recommendation. The ballot issue must include the maximum debt authorization – principal amount and total maximum repayment amount. The full principal amount authorized in the ballot issue is not required to be issued. The actual amount of the debt issued, the debt structure, the terms of the debt, the use of bond proceeds, and the budget and appropriations to repay the debt are all determined by council up to the amount authorized in the ballot issue. The ballot issue also allows the City Council to determine whether the debt can be paid from other legally available revenue so the interest rate will be lower on the debt than if only the climate tax revenue was pledged.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance 8542 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the questions of authorizing the City Council to replace the existing utility occupation tax and climate action plan excise tax with a new climate tax beginning January 1, 2023, and expiring December 31, 2040, and authorizing debt to be repaid from such tax up to a principal amount of \$52,900,000 to meet the city's climate goals; specifying the form of the ballot and other election procedures; and setting forth related details

BACKGROUND

In June 2021, the city outlined its new approach to climate action that aligns with the urgency of the crisis and the scale of change required. For more detailed information, see the June 8, 2021, [council memo](#).

Aligned with the city's new approach on climate action, in October 2021 council adopted a new set of aggressive science-based climate targets:

- Reduce emissions 70% by 2030 from a 2018 baseline.
- Become a net-zero positive city by 2035.
- Become a carbon positive city by 2040.

These goals reflect the maturing of climate science and global recognition that much more significant GHG emissions reductions are necessary, and the fact that cities must set much more aggressive targets. In addition to the mitigation of GHG emissions, there is an increasingly urgent need to prepare for significant climate change disruptions and to address the inequities that climate change perpetuates.

A Study Session was held with City Council on Feb. 22, 2022, with the goal of providing council and the community an overview of the city's current and proposed sources of funding for climate work, given the pending expiration of the CAP tax in March 2023. Staff proposed options to fund future climate work beyond the expiration of the CAP tax and the UOT. The UOT funds projects, pilots, initiatives, and research that supports the city's clean energy goals, including efforts conducted in partnership with Xcel Energy, and is set to expire 2025.

Council indicated support for staff's recommendation to pursue a ballot measure to create a new climate tax to replace the existing CAP tax and UOT. Staff's February 2022 recommendation included strategies to address inequities in current funding mechanisms and avoid undue financial burden to the community moving forward.

Council also expressed support for the identified strategies that prioritize systems change, recognize the important role of local government, leverage regional actions to reach the goals, and prepare our community for inevitable stressors. Attachment D of the February staff memorandum, Achieving Systems-scale impact for Climate Actions—Potential "Big Moves," details the types of programs that the Climate Initiatives department would prioritize going forward if Boulder voters support the new climate tax proposal.

Council requested that staff initiate polling to gauge the level of community support for a climate tax. The results of the polling and other community feedback are included in the Analysis section below.

ANALYSIS

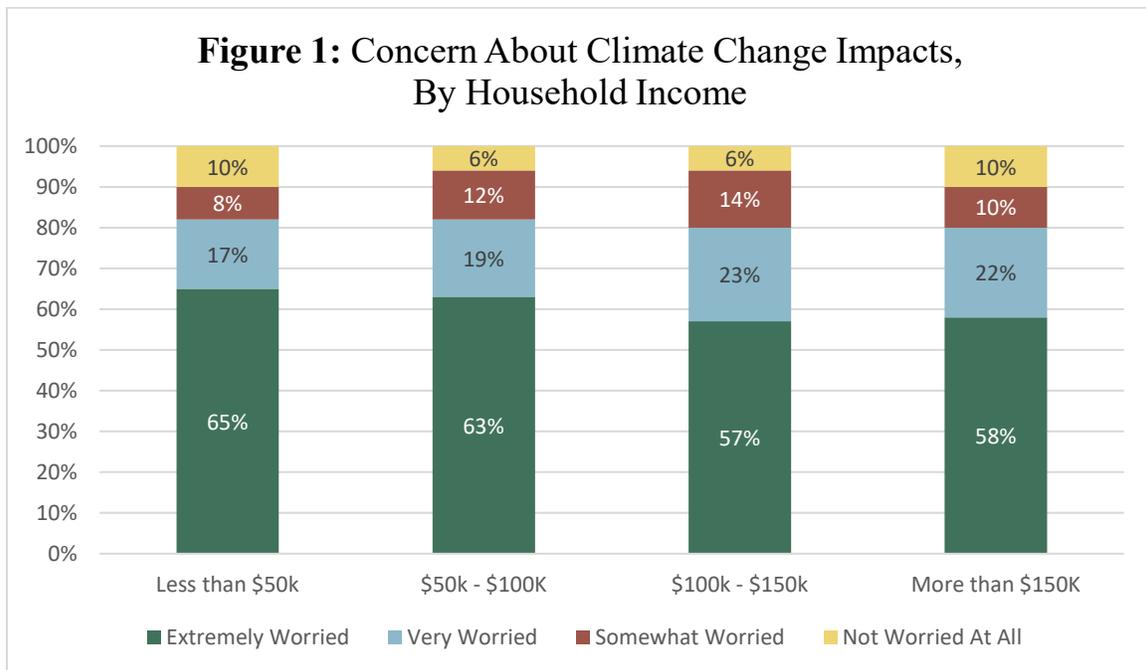
Public Feedback

In May and June 2022, at the direction of council, the city conducted a statistically valid survey to collect feedback on the tax proposal. Broadly, the results confirm that the community is deeply concerned about the climate crisis and is largely supportive of the city’s tax proposal.

Key findings include:

- More than three-in-four respondents (78%) say they would vote yes on the city’s proposed climate tax if it were levied at \$5 million annually; 54% would “definitely” vote yes.
- City Council also asked staff to study community support for an annual tax of \$8 million. At the \$8 million amount, 71% of respondents said they would vote yes, with 43% reporting that they would “definitely” vote yes.
- Respondents are concerned about climate change and global warming. More than half of voters (58%) are “extremely worried,” while another 20% say they are “very worried.”
- A plurality of respondents (36%) ranked “addressing the impacts of climate change” as the most important issue facing the city.

Reviewing the crosstabs of the results also reveal interesting insights into who is most concerned about climate in our community. When asked how worried they are about the impacts of climate change and global warming in Boulder, respondents with the lowest incomes reported the highest level of concern (Figure 1).



When asked whether they would vote to approve the climate tax at a rate of \$8 million annually, Asian, White, and Hispanic/Latino voters showed the most support, while Black and people identifying as other were more likely to reject the tax (Figure 2). Renters were also more likely than homeowners to support the tax (Figure 3). Those with the lowest reported incomes were most supportive of the tax (Figure 4).

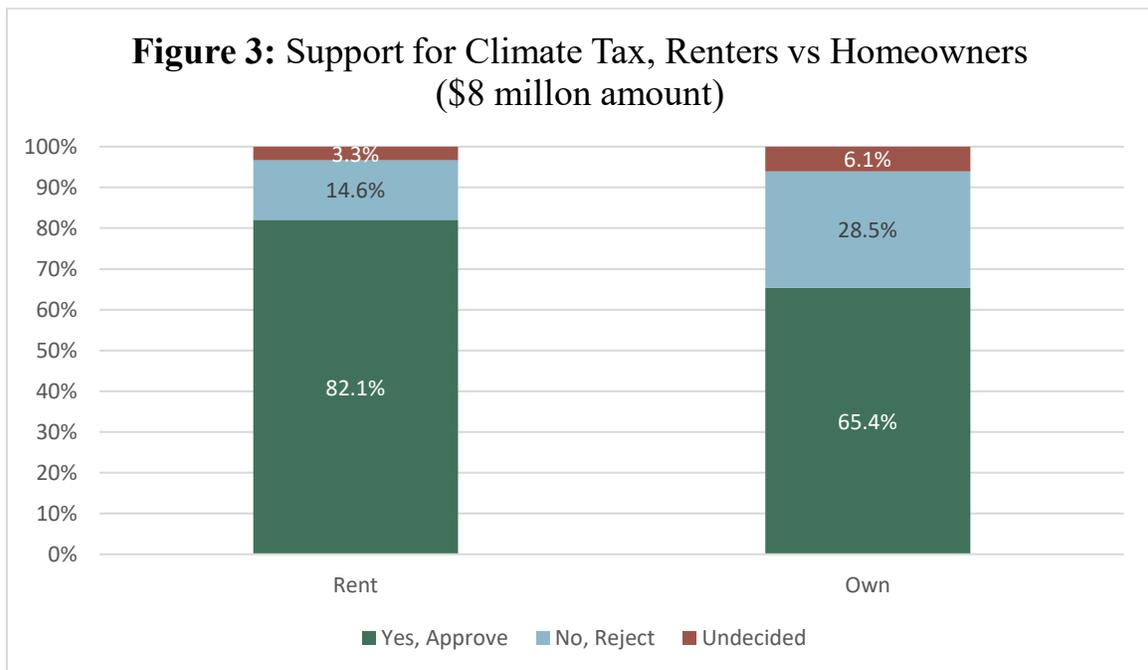
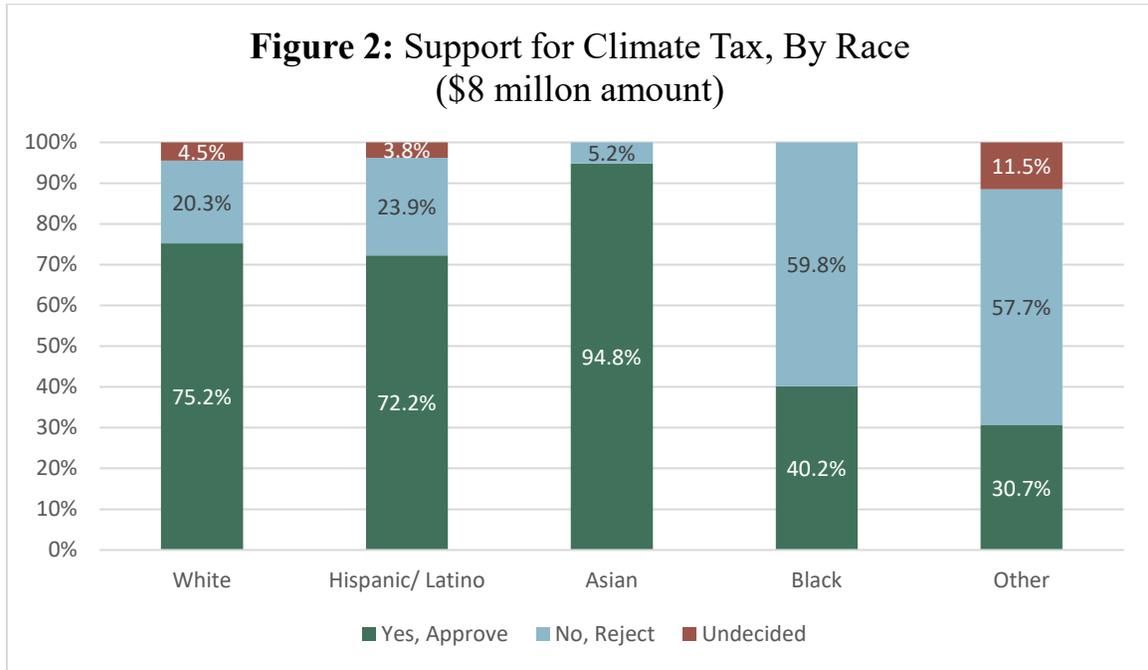
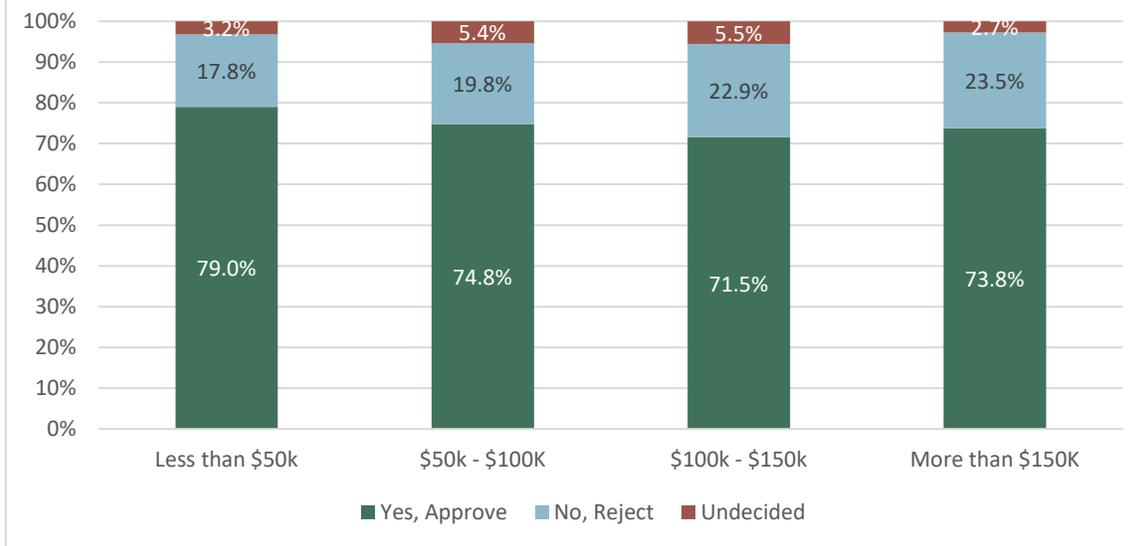


Figure 4: Support for Climate Tax, By Household Income (\$8 million amount)



[A summary of the results](#) is available online.

Verbatim Responses Highlight Fire Preparedness Concerns

The poll introduced respondents to the areas of focus the climate tax is proposed to address – climate equity, climate resilience, energy systems, circular materials economy, natural climate solutions, land use and financial systems. Respondents were also afforded the opportunity to provide [verbatim responses](#), so that in their own words they could articulate their concerns and recommended priorities. The verbatim responses illustrate a high propensity among respondents to increase efforts related to wildfire preparedness (Figure 5).

Figure 5: Selected Responses to City of Boulder Poll Question: Among the following issues the city is facing, please rank them in order of importance to you and your family.
 ~ OTHER RESPONSES



Poll Methodology

There were 1,180 responses to the survey from City of Boulder residents ages 18 and older. The survey was conducted online and via telephone May 19, 2022 through June 2, 2022 by polling firm Magellan Strategies. The poll has a margin of error of +/-2.83%.

A statistically valid and representative survey provides respondents with multiple ways to participate in the survey through different data collection methods. This survey utilized four data collection methods to interview respondents. The first method sent three MMS text messages over a two-week period to 30,000 registered voters inviting them to participate in the survey. The second data collection method interviewed a random sample of registered voters on their cellphone. The third data collection method invited Boulder residents to participate in the survey via email. Finally, the fourth data collection method invited residents to participate in the survey through a link on the City of Boulder’s website.

Other Feedback

Business Poll

A separate survey for local businesses was released on July 12, 2022 and the feedback from that survey will be shared with council as it becomes available.

Focus Groups and Climate Conversations

Climate Initiatives staff are hosting three Climate Conversations this summer to share information on the city's climate work. The first session focused on energy and took place on June 29, 2022. During the [Q&A](#), participants were particularly interested in the city's efforts to pair renewable energy with a resilient energy system. [A summary of the session is available online.](#)

The city is also conducting several focus groups designed to gather input on how to invest climate funds from community groups, target communities and businesses throughout the summer, including:

- Ponderosa Mobile Home Community.
- Foundations for Leaders Organizing Water and Sustainability (FLOWS) technicians.
- CU student groups.
- Boulder Age Well Center participants.
- Community Connectors in Residence.
- Boulder Chamber of Commerce.

Staff also participated in a community webinar hosted by Empower our Future.

Summaries of the feedback received at these sessions will be provided to council in a subsequent memorandum and a Heads Up. Initial feedback, including that gathered through the initial webinars, direct feedback to staff, and conversations with business leadership, is consistent with the survey results, indicating strong support for the tax and proposed measure to be funded.

Be Heard Boulder

Community members have also shared ideas, questions and feedback online using the city's [Be Heard Boulder Platform](#). Participants have used the tool to clarify how the city plans to invest a renewed climate tax, shared ideas on how the city can support accelerated electrification of buildings and transit and asked about progress of the city's partnership with Xcel and policy efforts.

Boulder County Poll

While not related to the city's climate tax proposal, it is also useful to examine the results of Boulder County's statistically valid public opinion poll. The survey, conducted in April and May 2022, sought to better understand community reaction towards major issues facing county government, as well as reaction to nine possible tax ballot proposals, covering such areas as transportation infrastructure, affordable housing, behavioral and mental health services, wildfire mitigation, and mountain rescue services.

According to the results, the most important issues Boulder County faces today are "lack of affordable housing" (27%), "need more wildfire mitigation" (17%), "homeless issues" (10%) and "do more on climate" (7%). These results are similar to the findings from the city poll and indicate that climate and wildfire preparedness are top-of-mind for the region.

From a \$5 Million to \$6.5 Million Tax Recommendation

The original target for the new climate tax of \$5 million was developed in late 2021/early 2022 during a period of time when staff, community, and council were just starting to face the stark reality of wildfire risk after the Marshall Fire. After participating in the initial response efforts in support of our neighboring communities and assessing and recovering damage from the associated wind event in Boulder, city departments began in earnest to develop ways the city could meet challenge of wildfire risk mitigation and preparedness.

On April 26, 2022, council held a study session focused on wildfire threat. During the Adjustment-to-Base 2022 Budget amendment process in May, council approved investments in additional wildfire equipment, expansion of wildfire risk assessments, and accelerated investments in climate resilience work in Climate Initiatives and Open Space & Mountain Parks. Departments continues to develop proposals to combat the extreme risk from the climate emergency for the 2023 Budget during May and June 2022.

During the initial evaluation of budget priorities, especially in evaluating wildfire preparedness and resilience proposals across all departments, it became clear that in addition to continuing to prioritize efforts to stabilize climate through aggressive emissions reductions, the issue of climate-related resilience, especially in the context of wildfire, has become an urgent citywide need and priority. It is also clear that the General Fund will not have the capacity to support the types of investments required to meet the immediacy of the moment. Departments submitted a total of \$4.5 million in proposals related to resilience, disaster preparedness and emergency response. While some of these proposals may be supported by the General Fund or other sources in the 2023 Budget, the new and expanded climate tax affords an appropriate opportunity to enhance city investment in resilience efforts specific to the climate emergency.

In Boulder, no one city department holds sole responsibility for addressing the climate emergency. The city is most effective in serving the community when it draws on

expertise across the entire organization. With this in mind, city leadership formed a cross-departmental team to prioritize the initial areas of focus that could be supported through the \$1.5 million incremental increase in the proposed tax amount.

The best practice in preventing and responding to wildland fire risk is to apply a multi-pronged approach, which includes:

- Response
- Mitigation/Land and Property Management
- Community Outreach and Education
- Partnerships
- Coordination
- Grant Funding
- Evacuation Planning
- City Codes and Compliance
- Equipment and Technology

The following provides more specific examples of how funding could be invested:

- Funding for OSMP, Fire-Rescue, and Parks & Recreation to accelerate wildfire mitigation and ecosystem restoration efforts on city-owned lands, with an emphasis on a defined wildland/urban interface region.
- Funding for Fire-Rescue for a dedicated team to focus on wildfire risk assessment and mitigation; there is currently significant demand and a sizeable waiting list for this service.
- Funds going toward grant programs (ideally, the city would have bonding capacity against these dollars to accelerate these programs over a five-year period). For all grant programs, a tiered approach would be used so that those with the lowest financial capacity would have access to the highest amount of dollars. This is consistent with the city's commitment to racial equity.
 - Strategic undergrounding of power lines: In combination with private investment and special improvement district financing, these funds would be used to accelerate undergrounding in wildland/urban interface areas and other areas of defined wildfire risk.
 - Wildfire risk mitigation program: Financing and grant tools to assist homeowners and businesses in the wildland/urban interface zones in risk reduction efforts to include vegetation removal/replacement, roofing and siding replacement, and fence reconstruction.

Staff would also explore coupling these programs with any ordinances that would require wildfire mitigation for all existing structures within the highest risk areas.

Customer Bill Impact

The proposed climate tax would be levied on the provider of natural gas and electricity. As is true with the UOT, currently the only provider is Xcel Energy, and it passes the tax on to customers. Table 1 outlines the range of annual cost at different tax rates.

Table 1: Current and Projected Average Annual Cost of City of Boulder Climate Taxes

Customer Type	Current Annual Cost (CAP + UOT)	Proposed Annual Cost (Climate Tax at \$5 million)	Proposed Annual Cost (Climate Tax at \$6.5 million)	Proposed Annual Cost (Climate Tax at \$8 million)
Residential	\$42.95	\$38.20	\$49.66	\$61.12
Commercial	\$292.42	\$374.90	\$487.37	\$599.84
Industrial	\$1,084.11	\$1389.89	\$1,806.85	\$2,223.82
Total Revenue for Climate Efforts	\$3.9 million	\$5 million	\$6.5 million	\$8 million

Equity Considerations

Staff recognizes that this tax could be a hardship to energy burdened members of our community. The tax is levied on the incumbent energy utility by ordinance. The utility in turn passes the cost of the tax onto its customers through the utility bill and the city cannot dictate how that occurs. However, staff can work with the current provider and the uses of the tax allow for rebates or grants to offset impact on qualifying low-income customers. For example, staff will request that the utility exempt customers that are enrolled in the LEAP (Low-Income Energy Assistance Program). Also, staff could develop a rebate mechanism for other qualifying low-income customers or customers that are identified for exemptions.

Options for Debt Amount

Table 2: Summary of Debt Authorization Amounts

Annual Debt Service (\$ millions)	Bond Par Amount (\$millions)	Total Maximum Repayment Costs (\$millions)	Term of Debt (years)
\$4	\$42.3	\$60.0	15
\$4	\$50.8	\$79.9	20
\$5	\$52.9	\$75.0	15
\$5	\$63.5	\$100.0	20
\$6.5	\$68.8	\$97.5	15
\$6.5	\$82.6	\$130.0	20

The ballot issue must include the maximum debt authorization – principal amount and maximum repayment amount. In the proposed ordinance, the debt authorization amount is left blank for council to give more direction. The amount in the ballot issue is a maximum and does not require that debt be issued in that amount. The actual amount of the debt issued, the debt structure, the terms of the debt, the use of bond proceeds, and the budget and appropriations to repay the debt are all determined by council at the time the actual debt is issued, but the debt totals (par and repayment costs) cannot exceed the amounts included in the ballot issue.

Staff has been working with the city’s financial advisor and bond counsel to evaluate using various debt authorization amounts and the respective annual tax revenue that would be required for debt service. A summary of this analysis is shown in **Table 2** above.

The staff recommendation is for the ballot issue to set the tax at \$6.5 million for the first year, adjusted annually by inflation, and set to expire in 2040. This recommendation is based on the staff proposal of the 15-year tax with a maximum \$5.0 million annual debt service, leaving at least \$1.5 million for on-going operating expenses. This would ask voters for total debt authorization of \$52.9 million with a maximum total repayment cost of \$75.0 million. Again, including this debt service level on the ballot does not obligate the city to issue that amount of debt, but sets the maximum that could be issued. If council chooses a debt authorization level that requires repayment over a 20-year term, the duration of the tax in the tax ballot issue would need to be extended from 2040 to 2045. Also, if council chooses a debt authorization level that would require annual debt service of up to \$6.5 million, staff recommends increasing the amount of the tax above \$6.5 million to provide capacity for annual ongoing operating costs.

NEXT STEPS

Second reading and public hearing is scheduled for August 4, 2022.

ATTACHMENT

A – Proposed Ordinance 8542

ORDINANCE 8542

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTIONS OF AUTHORIZING THE CITY COUNCIL TO REPLACE THE EXISTING UTILIZING OCCUPATION TAX AND CLIMATE ACTION PLAN EXCISE TAX WITH A NEW CLIMATE TAX BEGINNING JANUARY 1, 2023, AND EXPIRING DECEMBER 31, 2040, AND AUTHORIZING DEBT TO BE REPAID FROM SUCH TAX UP TO A PRINCIPAL AMOUNT OF \$52,900,000 TO MEET THE CITY’S CLIMATE GOALS; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS

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

Section 1. A special municipal coordinated election is called to be held on Tuesday, November 8, 2022.

Section 2. At that election, two measures shall be submitted to the electors of the City of Boulder entitled by law to vote. The first will allow electors to consider whether to replace the existing Utility Occupation Tax set to expire on December 31, 2025 and the Climate Action Plan Excise Tax set to expire March 31, 2023 with a Climate Tax commencing January 1, 2023 and expiring December 31, 2040. The second measure will allow electors to consider whether to approve new debt payable from such Climate Tax up to a maximum principal amount of \$52,900,000. This new tax and the debt will help meet the city’s climate goals, maintain existing programs and services, and stabilize funding sources as well as leverage future opportunities to meet the city’s climate goals.

1 QUALIFYING FINANCIAL ASSISTANCE FOR LOW-INCOME
2 UTILITY CUSTOMERS; LEVERAGE FOR OTHER FUNDING
3 SOURCES SUCH AS FEDERAL INFRASTRUCTURE,
4 CLIMATE, AND RESILIENCE FUNDS TO MEET LOCAL
5 NEEDS; AND COST-SHARING AGREEMENTS FOR
6 EMISSIONS MITIGATION AND CLIMATE RESILIENCE?

7 YES/FOR _____ NO/AGAINST_____

8 **BALLOT ISSUE NO. _____**

9 SHALL CITY OF BOULDER DEBT BE INCREASED UP TO
10 \$52.9 MILLION (PRINCIPAL AMOUNT) WITH A MAXIMUM
11 REPAYMENT COST NOT TO EXCEED \$75 MILLION (SUCH
12 AMOUNT BEING THE TOTAL PRINCIPAL AND INTEREST
13 THAT COULD BE PAYABLE OVER THE MAXIMUM LIFE OF
14 THE DEBT) SUCH DEBT TO BE ISSUED ONLY IF THE
15 VOTERS APPROVE THE CLIMATE TAX IN BALLOT ISSUE
16 _____ AND PAYABLE FROM THE CLIMATE TAX AND FROM
17 OTHER LEGALLY AVAILABLE REVENUES AS
18 DETERMINED BY COUNCIL; WITH THE PROCEEDS OF
19 SUCH DEBT AND EARNINGS THEREON BEING USED FOR
20 THE SAME PURPOSES AS THE CLIMATE TAX IN THE
21 BALLOT ISSUE?

22 YES/FOR _____ NO/AGAINST_____

23 Section 4. If a majority of all the votes cast at the election on the tax increase issue
24 submitted are for the issue, the issue shall be deemed to have passed and the Boulder Revised Code
25 shall be amended as follows:

~~Chapter 12 -- Climate Action Plan Excise Tax REPEAL~~

~~3-12-1. Legislative Intent.~~

26 ~~It is the purpose of this chapter to raise revenue to implement the City's Climate Action~~
27 ~~Plan, including incentives, services and other assistance to Boulder residents and businesses to~~
28 ~~improve energy efficiency, expand the use of renewable energy, and take other necessary steps~~
29 ~~toward reducing local greenhouse gas emissions. Additionally, the city council determines and~~
30 ~~declares that the consumption of electricity within the City is the exercise of a taxable privilege.~~
31 ~~The city council further declares that the purpose of the levy of the taxes imposed by this chapter~~

1 is for the raising of funds for the payment of the expenses incurred to implement the Climate
 2 Action Plan; and in accordance with this purpose, all of the proceeds of this excise tax should be
 placed in and become a part of a separate special revenue fund of the City.

3 **~~3-12-2. Imposition of Climate Action Plan Excise Tax.~~**

4 (a) ~~Any person consuming electricity shall pay a Climate Action Plan excise tax at the rate
 5 prescribed by subsection (c) of this section, as applicable.~~

6 (b) ~~The Climate Action Plan excise tax shall expire on March 31, 2023.~~

7 (c) ~~The Climate Action Plan excise tax rates shall be:~~

<i>Category</i>	<i>Tax</i>
Residential	\$0.0049 per kWh
Commercial	0.0009 per kWh
Industrial	0.0003 per kWh

13 **~~3-12-3. Exemptions.~~**

14 The portion of electricity voluntarily purchased as utility provided wind power shall be
 15 exempt.

16 **~~3-12-4. Payment of Tax.~~**

17 Any incumbent electricity provider operating within the City pursuant to a franchise or
 18 otherwise (“Provider”) shall bill and collect the Climate Action Plan excise tax and shall remit
 19 said tax to the city manager in the manner required by section 3-12-5, “Payment Schedule,
 20 Reporting and Inspection of Records,” B.R.C. 1981. The tax may be expressly identified on any
 consumer bills as the “The City of Boulder Climate Action Plan Excise Tax” or as the “Climate
 Action Plan Tax.”

21 (a) ~~For the Climate Action Plan excise tax amounts billed pursuant to this chapter, payment
 22 shall be made by the Provider in monthly installments not more than thirty days following
 23 the close of the month for which payment is to be made. Initial and final payments shall be
 prorated for the portions of the months at the beginning and end of the term of this excise
 tax.~~

24 (b) ~~In addition, the Provider shall also submit monthly reports to the city supporting the amount
 25 of the Climate Action Plan excise tax remitted for that month including energy use and
 amounts remitted by sector and Windsource electricity purchases exempted by sector.
 Electronic or paper reports are acceptable.~~

(e) ~~It shall be the duty of the Provider to keep and preserve, for a period of three years, suitable records and other such books or accounts, including, without limitation, original sales and purchase records, as may be necessary to determine the amount of the Climate Action Plan excise tax for the collection of which the Provider is liable under this chapter. The city manager and agents and representatives thereof are entitled at any reasonable time, upon adequate notice, to examine the books and records of the Provider and to make copies of the entries or contents thereof.~~

~~3-12-6, 3-12-7. Reserved.~~

Chapter 13 - Climate Utility Occupation Tax

3-13-1. Legislative Purpose, Findings, and Intent.

(a) Purpose. It is the purpose of this chapter to implement the city's climate tax as a utility occupation tax on the delivery of electricity and natural gas passed by the voters on November 8, 2022.

(1) ~~Passed by the voters on November 2, 2010, as a replacement for a fee paid under franchise agreement with a utility provider.~~

(2) ~~Amended by the voters on November 1, 2011, to increase the amount of the tax and extend the tax to December 31, 2017.~~

(3) ~~Further amended by the voters on November 3, 2015, to extend that portion of the tax that was initially approved by the voters in 2010 until December 31, 2022.~~

(4) ~~Further amended by the voters on November 7, 2017, to extend that portion of the tax that was initially approved by the voters in 2011 until December 31, 2022 and increased the amount of this portion of the tax for 2018 and 2019.~~

(5) ~~Further amended and repurposed by the voters on November 3, 2020, to extend that portion of the tax that was initially approved by the voters in 2011 until December 31, 2025 to pay all costs associated with the formation of a municipal electric utility and to be used to fund projects, pilots, initiatives, and research that support the city's clean energy goals in the context of the city's racial equity goals and the community's commitment to the Paris Climate Agreement and to extend that portion through December 31, 2025.~~

(b) Findings. The city council finds that:

(1) The occupation of delivering electricity and natural gas within the city is the exercise of a taxable privilege;

(2) The city has levied a utility occupation tax on the delivery of electricity and natural gas since 2010; levy of the portion of the utility occupation tax approved by the voters on November 2, 2010, and imposed by this chapter:

(A) ~~The tax is to replace a franchise fee and therefore should not be assessed against any public utility obligated to pay a franchise fee; and~~

(B) ~~The revenue collected should be limited to amounts reasonably expected to be collected under a franchise.~~

1 (3) The levy of the portion of the ~~climate utility occupation~~ tax approved by the voters
2 on November ~~8, 2022~~, 2011, and imposed by this chapter is to provide funding to
3 pay:

3 ~~(A) All costs associated with municipalization;~~

4 ~~(B) Costs of projects, pilots, initiatives, and research that support the city’s clean
5 energy goals in the context of the city’s racial equity goals; and~~

5 ~~(C) Costs of programs and services that are part of the partnership with Xcel
6 Energy approved by the voters on November 3, 2020 as ballot issue 2D;
7 and~~

6 ~~(C) Costs authorized in the ballot issue approved by the voters.~~

7 (c) Intent. The city council intends to use the funds collected pursuant to this tax for general
8 fund purposes to meet the city’s climate goal to reduce greenhouse gas emissions 70% by
9 2030; become a Net Zero city by 2035 and become a Carbon-Positive city by 2040. ~~during~~
10 ~~the time when the city explores a clean energy future with more stable energy rates and to~~
11 ~~implement such plans, and for the purpose of funding the costs of further exploration and~~
12 ~~planning for the creation of a municipal utility and acquisition of an existing electric~~
13 ~~distribution system. The city council intends to give full effect to the ballot measures~~
14 approved by the voters.

12 (d) Usage of Funds. Funds shall be used, including but not limited to the following purposes:

13 (1) Providing energy-related assistance to disadvantaged members of the community,
14 including support for utility bill payments and access to renewable energy;

14 (2) Improving system reliability and modernizing and supporting clean energy-related
15 businesses, including, without limitation, new approaches in electrification of
16 buildings and transportation and enhancement of resilience;

15 (3) Implementing a partnership agreement with Public Service Company of Colorado;
16 and

16 (4) Increasing access to energy efficiency and renewable energy solutions.

17 **3-13-2. Imposition of Occupation Tax.**

18 (a) Payment of Tax Required. No utility delivering electricity and gas to residential,
19 commercial, or industrial customers shall fail to pay to the city manager the utility
20 occupation tax imposed by this chapter.

21 ~~(b) Original Tax Effective Date and Expiration Date. The utility occupation tax of \$4,100,000~~
22 ~~was effective January 1, 2011. For that portion of the tax approved by the voters in 2010 for~~
23 ~~general fund purposes described Section 3-13-9(a), B.R.C. 1981, the tax shall expire on~~
24 ~~December 31, 2022 or earlier if the taxpayer is obligated to pay a comparable fee under a~~
25 ~~franchise agreement or other license or permit agreement with the city.~~

24 ~~(c) Extension and Increase Dates. The increase in the amount of the utility occupation tax~~
25 ~~approved by the voters in 2011, extended and temporarily increased in 2017, and extended~~
to December 31, 2025 and repurposed in 2020 for funding the costs of municipalization and

for projects, pilots, initiatives, and research that support the city’s clean energy goals in the context of the city’s racial equity goals.

(d) ~~Tax Rate. The utility occupation tax shall be \$6,500,000 in the following amounts, effective January 1, 2023. The rate of tax due on January 1 of 2024 and each year thereafter until December 31, 2040, shall be increased by the [CPI]:~~

Year	Tax Rate without an effective franchise with taxpayer	Tax Rate with an effective franchise with taxpayer
2021	\$6,556,362	\$2,071,985
2022	\$6,556,362	\$2,071,985
2023		\$2,071,985
2024		\$2,071,985
2025		\$2,071,985

The tax rate in each year shall be adjusted annually as provided in Section 3-13-3, “Adjustments,” B.R.C. 1981.

3-13-3. Adjustments.

(a) ~~Limitations on Tax Increases. Beginning January 1, 2012, the maximum annual tax rate increase shall be the lesser of three percent or the average amount of rate increases made by public utility companies delivering natural gas or electricity in the city in the previous year as calculated pursuant to Subsections (b) through (d) of this section.~~

(b) ~~Annual Utility Rate Study. The city manager shall review the rate tariffs filed by all investor-owned public utility companies delivering gas or electricity in the city.~~

(1) ~~The city manager shall list all electrical rates in the electrical tariff expressed in terms of cents per kilowatt hour from lowest to highest and select from that list the median electric rate. If there is more than one investor-owned electric utility company delivering electricity in the city, the city manager shall ascertain the median electrical rate for each such company and then produce an average median rate charge for electricity in the city.~~

(2) ~~The city manager shall ascertain the standard rate per decatherm charged by each public utility company delivering gas in the city. If there is more than one investor-owned gas utility company delivering gas in the city, the city manager will average the standard rate per decatherm for each such company to produce an average standard rate per decatherm charged for delivering gas in the city.~~

(c) ~~Annually, the city manager shall calculate an average increase by comparing the rates determined in Subsection (b) of this section with comparable rates charged in the previous calendar year to produce a percentage average increase for each such rate. The city manager shall then average those rate increases and compare that average to determine whether it is~~

greater than or less than three percent. The utility occupation tax shall then be increased by the lesser of the two percentages. The city manager will recommend any such tax increase, subject to the limitations of this section, to the city council concurrent with the annual budget process.

~~(d) Tax Increase Date. The effective amount of tax due shall be increased as of January 1 of each year.~~

~~(e) Credit if franchise fee paid. Any franchise fee paid by the taxpayer to the city in any year shall be credited to the portion of the utility occupation tax approved on November 2, 2010 due in that year. Such credit will not be applied to that portion of the utility occupation tax that was approved on November 3, 2020.~~

3-13-4. Payment of Tax.

Utility occupation tax payments shall be remitted to the city manager in equal monthly installments not more than thirty days following the end of each month. The first payment following the November 8, 2023, 2020 election shall be due February 20, 2023. Initial and final payments shall be prorated for the portions of the months at the beginning and end of the term of this utility occupation tax.

3-13-5. Designation of Tax.

Persons taxed under the provisions of this chapter are hereby authorized to reflect this tax under the title of “Climate Utility Occupation Tax.”

3-13-6, 3-13-7. Reserved.

3-13-8. Tax not on Interstate Commerce; not a Franchise.

The tax provided in this chapter is upon occupations and businesses in the performance of local functions and is not a tax upon functions relating to interstate commerce. None of the terms of this chapter mean that the city has granted any provider a franchise.

3-13-9. Dedicated Revenues.

~~(a) General Fund Revenue. The amount of the occupation tax revenue attributable to the ballot measure passed by the voters in 2010 (Ord. No. 7751) and extended in time by the voters in 2011 (Ord. No. 7804) shall be used for general revenue needs of the city.~~

~~(b) Revenue for Electric Utility Exploration and Planning for Creation. The amount of the increase in the occupation tax revenue attributable to the ballot measure passed by the voters in 2011 shall be used for the purpose of funding the costs of further exploration of and planning for both the creation of a municipal electric utility and acquiring an existing electric distribution system.~~

~~(c) Revenue that Supports City’s Clean Energy Goals. The amount of the repurposing of the climate occupation tax revenue passed by the voters in 2022 that is not necessary for the costs of municipalization shall be used for the purpose of funding the costs of projects,~~

1 pilots, initiatives, and research that support the city’s clean energy goals in the context of
2 the city’s racial equity goals.

3 Section 5. If a majority of all the votes cast at the election on the tax increase issue and
4 the debt authorization issue submitted are for the issues, the issue shall be deemed to have passed
5 and any bonds issues shall be in compliance with the charter and as determined by City Council.

6 Section 6. This ordinance is necessary to protect the public health, safety, and welfare
7 of the residents of the city, and covers matters of local concern.

8 Section 7. The City Council deems it appropriate that this ordinance be published by
9 title only and orders that copies of this ordinance be made available in the office of the city clerk
10 for public inspection and acquisition.
11

12
13 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
14 TITLE ONLY this 21st day of July 2022.

15
16 _____
Aaron Brockett,
Mayor

17 Attest:

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20 _____
City Clerk

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READ ON SECOND READING, PASSED AND ADOPTED this 4th day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk