



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 18, 2022

AGENDA TITLE

Continued second reading and consideration of a motion to amend and pass Ordinance **8534** submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of **whether to repeal Ordinance 8483 regarding the annexation of CU South**; specifying the form of the ballot and other election procedures; and setting forth related details

Continued second reading and consideration of a motion to continue Ordinance **8539** submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 65, 102 and 130 and repeal Sections 69, 132, 133, and 134 from the Boulder Home Rule Charter if the initiative to create a **library district** on the Boulder County Ballot is approved at this election; specifying the form of the ballot and other election procedures; and setting forth related details

Continued second reading and consideration of a motion to continue Ordinance **8540** submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend **Sections 5 and 9 of the Boulder Home Rule Charter** to prohibit running for more than one office at an election, allow a council member whose term does not expire at the election to run for mayor in the election, fill a vacancy for the expired term, and change the swearing-in date of newly elected officials; specifying the form of the ballot and other election procedures; and setting forth related details

Continued second reading and consideration of a motion to amend and pass Ordinance **8546** submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5, 14 and 22 of the Boulder Home Rule Charter to change the regular municipal **elections of candidates to even-numbered** years beginning in 2026;

implement the transition by reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years; specifying the form of the ballot and other election procedures; and setting forth related details

Continued second reading and consideration of a motion to amend and pass 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, Climate Initiatives Director
Carolyn Elam, Sustainability Sr. Manager, CI
Yael Gichon, Climate Initiatives Principal Project Manager

EXECUTIVE SUMMARY

Council held second reading and a public hearing on August 11, 2022 on the five ordinances setting the ballot titles for six ballot items for the November 8, 2022 election. After closing the public hearing and some discussion, council continued second reading on all five ordinances to August 18, 2022. Council had changes to Proposed Ordinances 8534 and 8546. Staff has recommended changes to Proposed Ordinance 8542. The three proposed ordinances that have changes, 8534, 8542 and 8546, will be brought back for adoption on September 1 on third reading. The two proposed ordinances that do not have changes will be brought back for adoption on September 1 on continued second reading. There will need to be a separate motion for each proposed ordinance. Following is a description and proposed changes, if any, to each ordinance.

STATUS OF EACH BALLOT ISSUE ORDINANCE

For background on the following proposed ordinances, the second reading memorandum can be found [here](#).

Proposed Ordinance 8534 – Referendum on CU South is Attachment A. The change directed by council is to Section 5. The changes are redlined and highlighted. Section 5 is changed from the standard ordinance clause that the ordinance is necessary for the public health safety and welfare to specify that the ordinance is adopted to place the referendum on the ballot as required by the Colorado Constitution and the Charter.

Proposed Ordinance 8539 – Repeal of Charter Library Provisions if Library District Passes is Attachment B with no changes from the August 11, 2022, council meeting.

Proposed Ordinance 8540 – Clarifying Candidate Provisions of the Charter is Attachment C with no changes from August 11, 2022, council meeting.

Proposed Ordinance 8546 – Even year candidate Elections is Attachment D. The changes to the ballot language and Charter change as requested by council on August 11, 2022, are redlined and highlighted. The change to the ballot language adds: (1) the even-year November election date will be the “same date as the state ballot issue election”; and (2) changes the last section of the proposed amendment to Charter Section 14 to make clear it is the term of the mayor that extends until their successor is elected or qualified and not the person that is mayor.

Proposed Ordinance 8542 – Climate Tax and Debt Authorization is Attachment E. The attached redlined version includes changes recommended by staff. Staff is recommending minor changes intended to clarify and correct language that was not used consistently and align the code changes to the ballot issue. The changes are itemized below with the reference to the page and line number of the proposed ordinance on which the changes appear.

- Make “emissions” plural (page 2, line 18);
- Consistently use the term “incentives” rather than alternatively “grants” “rebates” or “incentives” (page 2, lines 21 and 24) (incentives is used as an umbrella term that can include both grants or rebates as well as cost sharing or non-monetary benefits);
- Eliminate “in high-risk areas” as a limitation on undergrounding line (page 3, line 25) (the areas where reliability of the system may be most affected by undergrounding may have different definitions than “high-risk”);
- Eliminate “grants/rebates for qualifying” as a limitation on financial assistance for low-income utility customers (page 3, line 1);
- Clarify the language regarding the methods to participate in public or private funding sources to meeting the city’s climate goals (page 5, lines 2-5); and
- In the language for the code changes:
 - Eliminate the reference to the greenhouse gas emissions targets as the only climate goal qualifying for funds from the climate tax (page 6, line 10-11) (the city’s broad climate-based goals include many components including

- the emissions reduction targets, resilience to climate-driven events, stabilizing funding and equity considerations);
- Add two new categories of use of funds that are included in the ballot issue (page 6, lines 15-18).

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to amend and pass Ordinance 8534 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to repeal Ordinance 8483 regarding the annexation of CU South; specifying the form of the ballot and other election procedures; and setting forth related details

Motion to continue Ordinance 8539 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 65, 102 and 130 and repeal Sections 69, 132, 133, and 134 from the Boulder Home Rule Charter if the initiative to create a library district on the Boulder County Ballot is approved at this election; specifying the form of the ballot and other election procedures; and setting forth related details

Motion to continue Ordinance 8540 submitting to the registered electors of the City of Boulder at the Special Municipal Coordinated Election to be held on Tuesday, November 8, 2022, the question of whether to amend Sections 5 and 9 of the Boulder Home Rule Charter to prohibit running for more than one office at an election, allow a council member whose term does not expire at the election to run for mayor in the election, fill a vacancy for the expired term, and change the swearing-in date of newly elected officials; specifying the form of the ballot and other election procedures; and setting forth related details

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

Motion to amend and pass 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

NEXT STEPS

Final adoption of all five ballot item ordinances is scheduled for September 1, 2022.

ATTACHMENT

- A – Proposed Ordinance 8534
- B – Proposed Ordinance 8539
- C – Proposed Ordinance 8540
- D – Proposed Ordinance 8546
- E – Proposed Ordinance 8542

ORDINANCE 8534

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO REPEAL ORDINANCE 8483 REGARDING THE ANNEXATION OF CU SOUTH; 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. On October 21, 2021, a petition committee presented a referendum petition with sufficient signatures of registered electors for a vote on the repeal of Ordinance 8483, annexation of CU South. The referendum petition was deemed sufficient by the city clerk on November 1, 2021.

Section 2. A special municipal coordinated election is called to be held on Tuesday, November 8, 2022.

Section 3. The charter requires that the ballot title be a clear, concise statement, without argument or prejudice, descriptive of the substance of the measure and phrased so the voters determine if they are “for the measure” or “against the measure.”

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. ____

Repeal of Ordinance 8483, regarding the annexation of CU South

Should Ordinance 8483 regarding the annexation of CU South, be repealed?

For the Measure ____

Against the Measure ____

Section 5. This ordinance is necessary to place the referendum on the November 2, 2022, ballot as required by the Colorado Constitution and the Charter,~~protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.~~

Section 6. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

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

Aaron Brockett,
Mayor

Attest:

City Clerk

1 READ ON SECOND READING AND CONTINUED this 11th day of August 2022.

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Aaron Brockett,
Mayor

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6 Attest:

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City Clerk

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12 READ ON CONTINUED SECOND READING, AMENDED AND PASSED, this 18th
13 day of August 2022.

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Aaron Brockett,
Mayor

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18 Attest:

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City Clerk

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READ ON THIRD READING AND ADOPTED this 1st day of September 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8539

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO AMEND SECTIONS 65, 102 AND 130 AND REPEAL SECTIONS 69, 132, 133, AND 134 FROM THE BOULDER HOME RULE CHARTER IF THE INITIATIVE TO CREATE A LIBRARY DISTRICT ON THE BOULDER COUNTY BALLOT IS APPROVED AT THIS ELECTION; 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 the election, an initiative will be set forth for voters to consider forming a boulder public library district, and if funding for the district should be approved, the city will enter into negotiations to define the process of transferring the city’s library services to the district. This is anticipated to include any unspent funds in the library fund on the date of transfer.

Section 3. At the election, a question shall be submitted to the electors of the City of Boulder entitled by law to vote, that will allow voters to determine whether Sections 65, 102, and 130 should be amended and Sections 69, 132, 133, and 134 should be repealed from the Boulder Home Rule Charter if the voters approve the initiative that is on the Boulder County ballot to create a library district. The material proposed to be removed is shown stricken through with solid lines.

1 **Sec. 65. – Administrative departments.**

2 The following administrative departments are hereby created:

3 . . .

4 (f) ~~Department of library and arts.~~

5
6 **Sec. 69. ~~General powers and duties. REPEAL~~**

7 ~~There is hereby created a department of library and arts, the director of which will be~~
8 ~~subject to the supervision and control of the city manager in all matters, shall be the technical~~
9 ~~advisor of the library commission and shall have the administrative direction of the department of~~
10 ~~library and arts, and perform such duties pertaining to the department of library and arts as are in~~
11 ~~this charter, or may be required by ordinance or assigned by the city manager. The director may~~
12 ~~be designated as the secretary of the library commission and authorized to perform other necessary~~
13 ~~functions.~~

14
15 **Sec. 102. – Transfer of balances.**

16 At any time after the passage of the annual appropriation ordinance and after at least one
17 week’s public notice, the council may transfer unused balances, appropriated for one purpose to
18 another purpose and may by ordinance appropriate available revenues not included in the annual
19 budget. This provision shall not apply to the water; and park; ~~and library~~ funds.

20
21 **Sec. 130. – General provisions concerning advisory commissions.**

22 ~~At any time after the organization of the council elected under the provision of this charter,~~
23 ~~The council by ordinance may create and provide for such advisory commissions as it may deem~~
24 ~~advisable; provided that a library commission is hereby created, and the council shall, within~~
25 ~~ninety days from its organization, appoint the members thereof.~~

Except as otherwise specified in this charter, each of the existing advisory commissions,
including the library commission, shall be composed of five city residents. For any advisory
commissions appointed after January 1, 2019, the council shall specify in the ordinance forming
the advisory commission whether the commission shall have five or seven members, for any
advisory commission created by ordinance adopted in March 2018, the council may, by
subsequent ordinance, specify that the commission shall have seven members. All members of
a commission shall be appointed by the council, not all of one gender identity, who are well
known for their ability, probity, public spirit, and particular fitness to serve on such respective
commissions and who are at least eighteen years old and who have resided in the city of Boulder
for at least one year immediately prior to their appointment to serve on the commission. When
first constituted, the council shall designate the terms for which each member is appointed so
that the term of one commissioner shall expire on December 31 of each year; and thereafter the
council shall by March of each year appoint one member to serve for a term of five years. The

1 council shall have the power to remove any commissioner for non-attendance to duties or for
2 cause. All vacancies shall be filled by the council. When first appointed and annually thereafter
3 following the council's appointment of the commissioner, each commission shall organize by
4 appointing a chair, a vice-chair, and a secretary; all commissioners shall serve without
5 compensation, but the secretary of any commission, if not a member, may receive a salary to be
6 fixed by the council; any commission shall have power to make rules for the conduct of its
7 business. All commissioners shall serve until their successors are appointed.

8 ...

9 **Library Commission**

10 **Sec. 132. ~~Library commission established.~~ REPEAL**

11 ~~There shall be and is hereby established a library commission which shall have the
12 primary responsibility as an advisory commission with regard to the provision of library services
13 to the Boulder community. The members of the commission shall be qualified to serve on an
14 advisory commission pursuant to Section 130 shall not hold any other office in the city, and shall
15 serve without pay.~~

16 **Sec. 133. ~~Powers and duties of library commission.~~ REPEAL**

17 ~~The library commission shall not perform any administrative functions unless expressly
18 provided in this charter. The commission shall provide recommendations to the city council in
19 matters concerning the library, and the commission shall have the following duties:~~

- 20 (a) ~~Adopt bylaws, rules, and regulations for its guidance and governance;~~
- 21 (b) ~~Provide advice to assist in preparation and revision of a master plan for the
22 development and maintenance of a modern library system within the city;~~
- 23 (c) ~~Review annually the library budget prepared by the library director prior to its
24 submittal to the city manager and make recommendations regarding approval or
25 modification of the same;~~
- 26 (d) ~~Review periodically the director's operational service plans and make comments
27 and recommendations;~~
- 28 (e) ~~Make recommendations to the director and the city council on library facilities,
29 including capital improvements, maintenance of existing facilities, and need for
30 new facilities;~~
- 31 (f) ~~Review the library director's annual report and make comments and
32 recommendations;~~
- 33 (g) ~~Represent the library to the community and the community to the library with the
34 goal of building awareness, understanding, and support; and~~
- 35 (h) ~~Take steps as the library commission may deem feasible to encourage grants or gifts
36 in support of the library.~~

1 **Sec. 134. – Library fund. REPEAL**

2 The city council shall make an annual appropriation, which shall amount to not less than
3 the return of one third of a mill tax levied upon each dollar of assessed valuation of all taxable
4 property in the City of Boulder. All revenue from such tax shall be paid into the city treasury
5 and be designated the "Library Fund." Said fund shall be used only for the benefit of the library.

6 Revenues from the following sources shall be deposited in the Library Fund referenced
7 above. Expenditures of revenues from the following sources shall be made only upon the
8 favorable recommendation of the library commission.

9 (a) — Gifts, bequests, and donations to the fund.

10 (b) — Proceeds of the sale of any library property, or the pro rata portion of such property,
11 purchased with funds from the property tax appropriated pursuant to this section
12 134 or the predecessor section 135 or gifts, bequests, and donations.

13 Any portion of the fund remaining unexpended at the end of any fiscal year shall not in
14 any event be converted into the general fund nor be subject to appropriation for general purposes.
15 Money appropriated from the fund which is not expended in whole or in part shall be returned
16 to the fund and shall not be subject to appropriation for general purposes.

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

19 Ballot Question No. ____

20 Repeal of Library Commission and Tax if Library District Created

21 If the voters approve the initiative to create a library district that is
22 on the ballot of Boulder County at the November 8, 2022 election,
23 shall Sections 65, 102 and 130 of the Boulder Home Rule Charter
24 be amended and Sections 69, 132, 133, and 134 be repealed from
25 the Boulder Home Rule Charter and any remaining funds in the
Library Fund used all as set forth in Ordinance 8539?

For the Measure ____

Against the Measure ____

26 Section 5. This ordinance is necessary to protect the public health, safety, and welfare
27 of the residents of the city, and covers matters of local concern.

1 Section 6. The City Council deems it appropriate that this ordinance be published by
2 title only and orders that copies of this ordinance be made available in the office of the city clerk
3 for public inspection and acquisition.

4
5 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
6 TITLE ONLY this 21st day of July 2022.

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9 _____
 Aaron Brockett,
 Mayor

10 Attest:

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13 City Clerk

14 READ ON SECOND READING AND CONTINUED this 11th day of August
15 2022.

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 Aaron Brockett,
 Mayor

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CONTINUED this 18th day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON CONTINUED SECOND READING, PASSED AND ADOPTED, this 1st day
of September 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8540

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO AMEND SECTIONS 5 AND 9 OF THE BOULDER HOME RULE CHARTER TO PROHBIIT RUNNING FOR MORE THAN ONE OFFICE AT AN ELECTION, ALLOW A COUNCIL MEMBER WHOSE TERM DOES NOT EXPIRE AT THE ELECTION TO RUN FOR MAYOR IN THE ELECTION, FILL A VACANCY FOR THE EXPIRED TERM, AND CHANGE THE SWEARING-IN DATE OF NEWLY ELECTED OFFICIALS; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

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

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

Section 2. At that election, a question shall be submitted to the electors of the City of Boulder entitled by law to vote, that will allow voters to determine whether to amend the Boulder Home Rule Charter to prevent candidates from running for more than one office at the same election, allowing council members whose terms have not expired to run for mayor without resigning their seat unless elected mayor, filling vacancies for the vacated term, and changing the swearing-in date of newly elected officials to December. The material to be removed is shown stricken through with solid line and the material to be added is shown as underlined. The last sentence of the first paragraph of Section 5 shows as added but is relocated language from another

1 portion of Section 5.

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

3 . . .

4 A person may be a candidate for only one office at any election. A council member whose
5 term is not ending the November of the election may run for mayor without resigning their council
6 seat. Such council member shall not be required to resign as a council member unless they win
7 the election to the office of mayor. If a council member whose term is not ending the November
8 of the election wins election to the office of mayor, then the council candidate receiving the fifth
9 highest number of votes in that same election shall complete that council member's term.

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

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

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

19 The terms of all council members and the mayor shall begin at ~~10:00 a.m. on the third~~
20 ~~Tuesday in November~~ 5:00 p.m. on the day of the first business meeting of the council in
21 December following their respective elections. In the event that one or more of the prevailing
22 candidates is not determined by such time because the vote count is incomplete or inconclusive,
23 or a recount is required, the terms for such council member(s) shall not begin until the business
24 day following the final determination of the election results for that candidate. All council
25 members and the mayor shall be subject to recall as provided by this charter.

26 **Sec. 9. – Meetings of council.**

27 At ~~10:00 a.m. on the third Tuesday in November~~ 5:00 p.m. on the day of the first business
28 meeting of the council in December following each general municipal election, the council shall
29 meet at the usual place of holding meetings, at which time the newly elected council members
30 shall take office. Thereafter the council shall meet at such times as may be prescribed by ordinance
31 or resolution and shall meet in regular session at least once in each calendar month. The mayor,
32 acting mayor, or any five council members may call special meetings upon at least twelve hours'
33 written notice to each council member, served personally on each, or left at each member's place
34 of residence.

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

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING AND CONTINUED this 11th day of August
2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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CONTINUED this 18th day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON CONTINUED SECOND READING, PASSED AND ADOPTED, this 1st day
of September 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8546

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE SPECIAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, THE QUESTION OF WHETHER TO AMEND SECTIONS 5, 14 AND 22 OF THE BOULDER HOME RULE CHARTER TO CHANGE THE REGULAR MUNICIPAL ELECTIONS OF CANDIDATES TO EVEN-NUMBERED YEARS BEGINNING IN 2026; IMPLEMENT THE TRANSITION BY REDUCING THE TERMS OF THE COUNCIL MEMBERS ELECTED IN 2023 AND 2025 TO THREE YEARS AND INCREASING THE TERM OF THE MAYOR ELECTED IN 2023 TO THREE YEARS; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS.

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

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

Section 2. At that election, a question shall be submitted to the electors of the City of Boulder entitled by law to vote, that will allow voters to determine whether to amend the Boulder Home Rule Charter to change regular municipal elections to even-numbered years starting in 2026, and implement the transition by reducing the terms of the council members elected in 2023 and 2025 to three years and increasing the term of the mayor elected in 2023 to three years. Except for those elections, the terms of council members would be four years and the term of the mayor would be two years. The material to be removed is shown stricken through with solid line and the material to be added is shown as underlined.

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

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

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

9 . . .

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

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

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

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

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

Ballot Question No. ____

Change Regular Municipal Election to Even Years

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

For the Measure ____

Against the Measure ____

Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 5. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

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

Aaron Brockett,
Mayor

Attest:

City Clerk

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READ ON SECOND READING AND CONTINUED this 11th day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON CONTINUED SECOND READING, AMENDED AND PASSED, this 18th
day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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READ ON THIRD READING AND ADOPTED this 1st day of September 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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 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

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.

~~AREAS; GRANTS/REBATES FOR QUALIFYING FINANCIAL ASSISTANCE FOR LOW-INCOME UTILITY CUSTOMERS; MATCHING FUNDS OR OTHER LEVERAGE TO ACCESS PUBLIC OR PRIVATE FOR OTHER FUNDING SOURCES SUCH AS FEDERAL INFRASTRUCTURE, CLIMATE, AND RESILIENCE FUNDS TO MEET LOCAL NEEDS; AND COST-SHARING AGREEMENTS TO ACCELERATE MEETING THE CITY'S FOR EMISSIONS MITIGATION AND CLIMATE GOALS/RESILIENCE?~~

YES/FOR _____ NO/AGAINST _____

BALLOT ISSUE NO. _____

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

YES/FOR _____ NO/AGAINST _____

Section 4. If a majority of all the votes cast at the election on the tax increase issue

submitted are for the issue, the issue shall be deemed to have passed and the Boulder Revised Code shall be amended as follows:

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

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

~~It is the purpose of this chapter to raise revenue to implement the City's Climate Action Plan, including incentives, services and other assistance to Boulder residents and businesses to improve energy efficiency, expand the use of renewable energy, and take other necessary steps~~

1 toward reducing local greenhouse gas emissions. Additionally, the city council determines and
 2 declares that the consumption of electricity within the City is the exercise of a taxable privilege.
 3 The city council further declares that the purpose of the levy of the taxes imposed by this chapter
 4 is for the raising of funds for the payment of the expenses incurred to implement the Climate
 5 Action Plan; and in accordance with this purpose, all of the proceeds of this excise tax should be
 6 placed in and become a part of a separate special revenue fund of the City.

7 **3-12-2. Imposition of Climate Action Plan Excise Tax.**

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

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

11 (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

12 **3-12-3. Exemptions.**

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

15 **3-12-4. Payment of Tax.**

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

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

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

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

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

13 Chapter 13 - Climate Utility Occupation Tax

14 3-13-1. Legislative Purpose, Findings, and Intent.

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

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

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

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

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

27 (5) ~~Further amended and repurposed by the voters on November 3, 2020, to extend that~~
 28 ~~portion of the tax that was initially approved by the voters in 2011 until December~~
 29 ~~31, 2025 to pay all costs associated with the formation of a municipal electric utility~~
 30 ~~and to be used to fund projects, pilots, initiatives, and research that support the city's~~
 31 ~~clean energy goals in the context of the city's racial equity goals and the community's~~
 32 ~~commitment to the Paris Climate Agreement and to extend that portion through~~
 33 ~~December 31, 2025.~~

34 (b) Findings. The city council finds that:

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

37 (2) The city has levied a utility occupation tax on the delivery of electricity and natural
 38 gas since 2010; levy of the portion of the utility occupation tax approved by the voters
 39 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.~~

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

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

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

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

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

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

(d) Usage of Funds. Funds shall be used as described in the ballot measures related to the Climate Tax, including but not limited to the following purposes:

(1) Maintaining and expanding climate-focused programs and services;

(2) Financing capital projects and stabilizing the funding for initiatives to meet the city’s climate goals, including without limitation reduction of greenhouse gas emission, increasing resilience to climate-driven events;

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

~~(4)~~ Improving system reliability and modernizing and supporting clean energy-related businesses, including, without limitation, new approaches in electrification of buildings and transportation and enhancement of resilience;

~~(5)~~ Implementing a partnership agreement with Public Service Company of Colorado; and

(6) Increasing access to energy efficiency and renewable energy solutions.

3-13-2. Imposition of Occupation Tax.

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

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

(c) ~~Extension and Increase Dates.~~ The increase in the amount of the utility occupation tax 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 percentage change in the United State Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items. {CPH}:

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.~~

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

6 ~~(e) — Annually, the city manager shall calculate an average increase by comparing the rates~~
7 ~~determined in Subsection (b) of this section with comparable rates charged in the previous~~
8 ~~calendar year to produce a percentage average increase for each such rate. The city manager~~
9 ~~shall then average those rate increases and compare that average to determine whether it is~~
10 ~~greater than or less than three percent. The utility occupation tax shall then be increased by~~
11 ~~the lesser of the two percentages. The city manager will recommend any such tax increase,~~
12 ~~subject to the limitations of this section, to the city council concurrent with the annual~~
13 ~~budget process.~~

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

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

20 **3-13-4. Payment of Tax.**

21 Utility occupation tax payments shall be remitted to the city manager in equal monthly
22 installments not more than thirty days following the end of each month. The first payment
23 following the November 8, 2023, 2020 election shall be due February 20, 2023~~4~~. Initial and
24 final payments shall be prorated for the portions of the months at the beginning and end of the
25 term of this utility occupation tax.

26 **3-13-5. Designation of Tax.**

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

29 **3-13-6, 3-13-7. Reserved.**

30 **3-13-8. Tax not on Interstate Commerce; not a Franchise.**

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

34 **3-13-9. Dedicated Revenues.**

35 ~~(a) General Fund Revenue. The amount of the occupation tax revenue attributable to the ballot~~
36 ~~measure passed by the voters in 2010 (Ord. No. 7751) and extended in time by the voters in~~
37 ~~2011 (Ord. No. 7804) shall be used for general revenue needs of the city.~~

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

6 ~~(c) Revenue that Supports City's Clean Energy Goals. The amount of the repurposing of the~~
7 ~~climate occupation tax revenue passed by the voters in 2022~~0~~ that is not necessary for the~~
8 ~~costs of municipalization shall be used for the purpose of funding the costs of projects,~~
9 ~~pilots, initiatives, and research that support the city's clean energy goals in the context of~~
10 ~~the city's racial equity goals.~~

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

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

16 Section 7. The City Council deems it appropriate that this ordinance be published by
17 title only and orders that copies of this ordinance be made available in the office of the city clerk
18 for public inspection and acquisition.
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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 21st day of July 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING AND CONTINUED this 11th day of August 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

1 READ ON CONTINUED SECOND READING, AMENDED AND PASSED, this 18th
2 day of August 2022.

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Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON THIRD READING AND ADOPTED this 1st day of September 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk