



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 20, 2023**

**AGENDA TITLE**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8589 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of, without raising additional taxes, extending the existing 0.15 cents city Sales and Use Tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, and earmark the revenue from this tax extension to fund arts, culture, and heritage; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth related details.

**PRESENTERS**

Nuria Rivera Vandermyde, City Manager  
Teresa Taylor Tate, City Attorney  
Erin Poe, Deputy City Attorney  
Kara Skinner, Chief Financial Officer  
Mark Woulf, Budget Officer

**EXECUTIVE SUMMARY**

The purpose of this agenda item is the introduction and first reading of Proposed Ordinance 8589 (**Attachment A**). On June 15, 2023, the city clerk issued her Certificate of Sufficiency of an initiated ballot measure summarized as “Extension of Existing Tax to Support Arts, Culture and Heritage.” There are sufficient signatures to place the measure before the voters at the November 7, 2023, General Municipal Coordinated Election.

## 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 8589 submitting to the registered electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of, without raising additional taxes, extending the existing 0.15 cents city sales and use tax approved by the voters by Ordinance 7300 beyond the current expiration date of December 31, 2024, until December 31, 2044, and earmark the revenue from this tax extension to fund arts, culture, and heritage; as a voter approved revenue change; specifying the form of the ballot and other election related procedures and setting fort related details

## ANALYSIS

The Taxpayer Bill of Rights requires that extensions of expiring taxes require voter approval. Colo Constitution, Art. 10, Sec. 20(4)(a). This proposed ordinance is before the council because it was initiated by a committee of petitioners. The ballot measure proposes to extend an existing sales and use tax adding an earmark for the revenue for arts, cultural, and heritage uses as described by the ballot measure.

On June 15, 2023, the city clerk issued her Certificate of Sufficiency of an initiated ballot measure summarized as “Extension of Existing Tax to Support Arts, Culture and Heritage.” There are sufficient signatures to place the measure before the voters at the November 7, 2023, General Municipal Coordinated Election. The petition is being submitted to the council under a different agenda item as required by city Charter Sec. 40. Since extensions of existing taxes require voter approval, the next step is to prepare the ballot title for consideration of the voters. Under city Charter Sec. 40, the council is required to set the title for the ballot measure in anticipation of the November 2023 election.

City Charter Sec. 48 sets the standard for the title of ballots. In part, it states that ballot titles “shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such measure or charter amendment.” The ballot title proposed is based on the language that was in the petition that was circulated for signatures. For initiatives, the Charter requires the council to seek input from the committee of the petitioners prior to setting the ballot title. See city Charter Sec. 48. This can occur at the hearing that will take place on second reading. If any modifications to the title are made at second reading, there is ample time to complete a third reading of the ballot measure ordinance.

In a separate ordinance, staff will propose another measure that will maintain the status quo to extend the sales and use tax to fund general fund programs and services. The two conflicting measures (this Ordinance 8589 and Ordinance 8588) both seeking to continue the 0.15 cent sales and use tax are proposed for the ballot at this year's election. The measures are in conflict regarding the authorized uses of the revenue generated by the tax.

Pursuant to city Charter Sec. 53, if two or more measures adopted or approved are on the same topic, the following rules apply to implementation:

- If the measures do not conflict, they are all implemented in accordance with the provisions in the Charter.
- If measures conflict, the measure receiving the highest affirmative vote shall prevail insofar as the provisions that conflict.

If this measure is approved and receives a higher affirmative vote, the Boulder Revised Code will be amended as provided for in Proposed Ordinance 8589. There is language in both ordinances noting that they conflict with one another. This is done to make it clear that there will not be an effort to harmonize the two ordinances if both pass, but rather that the ordinance that passes and has the most votes will be the law that is implemented.

If this measure is approved and receives the higher affirmative vote, it would reduce the ongoing, undedicated funding for general operating programs in the General Fund by \$5.5 million in 2025.

## **NEXT STEPS**

The proposed schedule is as follows:

First Reading: July 20, 2023.

Second Reading and public hearing: August 3, 2023.

## **ATTACHMENT**

A – Proposed Ordinance 8589

ORDINANCE 8589

AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2023, THE QUESTION OF, WITHOUT RAISING ADDITIONAL TAXES, EXTENDING THE EXISTING 0.15 CENTS CITY SALES AND USE TAX APPROVED BY THE VOTERS BY ORDINANCE 7300 BEYOND THE CURRENT EXPIRATION DATE OF DECEMBER 31, 2024, UNTIL DECEMBER 31, 2044, AND EARMARK THE REVENUE FROM THIS TAX EXTENSION TO FUND ARTS, CULTURE, AND HERITAGE; AS A VOTER APROVED REVENUE CHANGE; SPECIFYING THE FORM OF THE BALLOT AND OTHER ELECTION PROCEDURES; AND SETTING FORTH RELATED DETAILS

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The voters of the city approved a general-purpose sales and use tax in the amount of 0.15 cents on each dollar of sales, which tax expires at the end of 2024;

B. Petitioners have submitted a petition to request that the voters consider authorizing City Council to continue a 0.15 cents on each dollar of sales and use tax from its present expiration date of December 31, 2024, and beginning January 1, 2025, and earmark the revenue generated solely for arts, culture, and heritage purposes; and

C. It is appropriate for voters to approve of the continued collection, retention and expenditure of the full tax proceeds and any related earnings from this portion of the sales and use tax.

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

3 Section 1. A general municipal coordinated election will be held on Tuesday,  
4 November 7, 2023.

5 Section 2. At the election, there shall be submitted to the electors of the city of  
6 Boulder eligible to vote the question of extending the existing 0.15 cent sales and use tax from  
7 December 31, 2024, until December 31, 2044, for arts, culture, and heritage purposes.

8 Section 3. The official ballot shall contain the following ballot title, which shall also be  
9 the designation and submission clause for the measure:  
10

11 **Ballot Question No. \_\_\_\_**

12 WITHOUT RAISING ADDITIONAL TAXES, SHALL THE  
13 EXISTING 0.15% (ONE-FIFTEENTH OF ONE CENT) CITY  
14 SALES AND USE TAX APPROVED BY THE VOTERS IN  
15 ORDINANCE NO. 7300 FOR GENERAL FUND PURPOSES BE  
16 EXTENDED FROM ITS CURRENT EXPIRATION ON  
17 DECEMBER 31, 2024, THROUGH DECEMBER 31, 2044, WITH  
18 100% OF ALL REVENUES COLLECTED FROM AND AFTER  
19 JANUARY 1, 2025, AND ALL EARNINGS THEREON,  
20 RETAINED AND USED AS A VOTER-APPROVED REVENUE  
21 CHANGE UNDER COLORADO CONSTITUTION, ART. X,  
22 SEC. 20 (AND ANY OTHER LAWS LIMITING THE RECEIPT  
23 OR EXPENDITURE OF REVENUES), TO FUND ARTS AND  
24 CULTURE INITIATIVES THROUGH THE CITY’S OFFICE OF  
25 ARTS AND CULTURE, OR ANY SUCCESSOR ARTS  
ADMINISTRATION OFFICE, TO ENRICH THE LIVES OF ALL  
BOULDER RESIDENTS BY SUPPORTING DIRECTLY OR  
THROUGH ITS GRANTS PROGRAM: ARTS AND CULTURAL  
NONPROFITS FOR GENERAL OPERATING, PROJECT, AND  
CAPITAL NEEDS; VENUES AND ARTIST WORK SPACES;  
MURALS, TEMPORARY PUBLIC ART EXPERIENCES AND  
ART IN PUBLIC PLACES; CREATIVE WORKFORCE AND  
PROFESSIONAL ARTISTS; ARTS EDUCATION; DIVERSE  
PROGRAMMING, CULTURAL HERITAGE PROGRAMMING,  
THE PRESERVATION OF LOCAL HISTORY AND THE

VIBRANCY OF CREATIVE EXPERIENCES AVAILABLE TO THE COMMUNITY; AND IN CONNECTION THEREWITH SHALL ANY EARNINGS FROM THE REVENUES FROM SUCH TAX EXTENSION CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

For the measure \_\_\_\_\_ Against the measure \_\_\_\_\_

Section 4. Two conflicting measures (this Ordinance 8589 and Ordinance 8588) both of which seek to continue the 0.15 cent sales and use tax are on the ballot for this election. The measures are in conflict regarding the authorized uses of the revenue generated by the tax.

Section 5. Pursuant to Sec. 53 of the Charter of the City of Boulder, if two or more measures adopted or approved at the same election conflict in any of their provisions, they shall go into effect in respect to such provisions that are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as the provisions conflict. If this measure is approved and receives more votes than the other initiative which pertains to the extension of the 0.15 cent sales and use tax last approved pursuant to Ordinance 7300, then this measure will become the law and such other initiative will not be implemented.

Section 6. If this measure is approved and receives the higher affirmative vote, the Boulder Revised Code shall be amended to read as follows:

**3-2-5. - Rate of Tax.**

- (a) Except as specified in Subsection (b) of this section, the amount of the tax hereby levied is 3.86 percent of the purchase price of tangible personal property or taxable services sold or purchased at retail.
- (b) The amount of the tax hereby levied on food sold in or by a food service establishment shall be the amount levied in Subsection (a) of this section plus 0.15 percent of the purchase price of such food. Cover charges, admission, or entrance fees and mandatory service or service-related charges shall be included as part of the purchase price of such food. However, a mandatory service or service-related charge shall not be included as

part of the purchase price of such food if the full amount of the charge is passed on to the employees of the food service establishment who have provided direct service to each person paying the charge, and if all federal and state income and other applicable taxes due on such charge have been withheld by the food service establishment and paid to the appropriate government.

...

(c) Of the amount stated in (a) above:

...

(6) General: 0.15 percent shall be deemed for the purposes of arts, culture, and heritage purposes through midnight on December 31, 2044.

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

Section 8. 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 20th day of July 2023.

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Aaron Brockett,  
Mayor

Attest:

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City Clerk

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READ ON SECOND READING, PASSED AND ADOPTED this 3rd day of August  
2023.

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Aaron Brockett,  
Mayor

Attest:

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City Clerk