



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 3, 2023

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8586 submitting to the qualified electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of whether or not to amend Section 8-3-21, "Prohibited Items," B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk; specifying the form of the ballot and other election procedures; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manger
Teresa Taylor Tate, City Attorney
Erin Poe, Deputy City Attorney
Elesha Johnson, City Clerk

EXECUTIVE SUMMARY

Proposed Ordinance 8586 (**Attachment A**) is the result of an initiative petition process. On June 15, 2023, the city clerk issued her Certificate of Sufficiency of an initiated ballot measure entitled Safe Zones 4 Kids. There are sufficient signatures to place the measure before the voters at the November 7, 2023, General Municipal Coordinated Election. If the voters approve the measure, the Boulder Revised Code will be amended as provided for in Proposed Ordinance 8586.

The council is requested to consider Proposed Ordinance 8586 which sets the ballot title for an initiated measure that has been commonly referred to as the Safe Zones 4 Kids initiative. This people's ordinance proposes to amend Section 8-3-21, "Prohibited Items," B.R.C. 1981, by adding a provision that prioritizes the removal of prohibited items, such

as tents, temporary structures and propane tanks, from various described locations in the city, including proximity to schools, multi-use paths, or sidewalks.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance 8586 submitting to the qualified electors of the city of Boulder at the General Municipal Coordinated Election to be held on Tuesday, November 7, 2023, the question of whether or not to amend Section 8-3-21, “Prohibited Items,” B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk; specifying the form of the ballot and other election procedures; and setting forth related details

ANALYSIS

The Safe Zones 4 Kids ballot measure is the result of the initiative process. The council may pass the measure or refer it to the voters at the November 2023 election. The city clerk will present the petition to council and certify that the petitioners have gathered enough signatures under a separate agenda item. Proposed Ordinance 8586 sets the ballot title for this petition as required by city Charter Sec. 40. The council has the option of adopting the proposed amendments to the Boulder Revised Code. If the council does not adopt the text amendments, then the council is required to send the matter to a vote of the electors at the November 2023 election. See city Charter Sec. 41.

On June 15, 2023, the city clerk issued her Certificate of Sufficiency of an initiated ballot measure summarized as “Safe Zones 4 Kids.” There are sufficient signatures to place the measure before the voters at the November 7, 2023, General Municipal Coordinated 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 in the proposed ordinance 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.

NEXT STEPS

Second reading and public hearing is scheduled for August 3, 2023.

ATTACHMENT

A – Proposed Ordinance 8586

ORDINANCE 8586

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 WHETHER OR NOT TO AMEND SECTION 8-3-21, "PROHIBITED ITEMS," B.R.C. 1981, TO PRIORITIZE REMOVAL OF PROHIBITED ITEMS, SUCH AS TENTS, TEMPORARY STRUCTURES, OR PROPANE TANKS, WITHIN FIVE HUNDRED FEET OF A SCHOOL OR FIFTY FEET OF ANY MULTI-USE PATH OR SIDEWALK; 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 June 9, 2023, a petition committee presented a petition with sufficient signatures of registered electors to initiate a vote on proposed amendments to the Boulder Revised Code pursuant to Sec. 39 of the Boulder Home Rule Charter. Under Charter Sec. 40, the City Council is required to either enact the proposed ordinance or set the ballot title for the proposed amendment.

Section 2. A general municipal coordinated election will be held on Tuesday, November 7, 2023.

Section 3. At the election, an initiative will be set forth for voters to consider a change to Section 8-3-21, B.R.C. 1981, to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk.

1 Section 4. At the election, a question shall be submitted to the electors of the city of
2 Boulder eligible by law to vote, that will allow voters to determine whether Section 8-3-21,
3 B.R.C. 1981, should be amended, unless council decides to pass the measure instead of referring
4 it to the voters. The material to be added is shown in Section 5 below as underlined.

5
6 Section 5. If a majority of all the votes cast at the election on the measure submitted are
7 for the measure, the measure shall be deemed to have passed and the Boulder Revised Code shall
8 be amended to read as follows:

9 **8-3-21. - Prohibited Items.**

- 10 (a) No person shall erect or use any tent, net, or other temporary structure for the purpose of
11 shelter or storage of property in a park or recreation area, on any open space land, or on
12 any other public property, unless done pursuant to a written permit or contract from the
13 city manager. The prohibitions of this section do not apply to temporary shade structures
14 in any park or recreation area within the corporate limits of the city. A temporary shade
15 structure is a structure such as an umbrella or awning that provides overhead covering or
16 weather protection, but not designed for overnight use or privacy and cannot be fully
17 enclosed. No temporary shade structure shall remain in a park between sundown and
18 sunrise.
- 15 (b) No person shall possess a propane tank on any public property except that persons with a
16 city-approved permit may possess one UL-listed residential, propane-fueled gas grill or
17 heater in a city park provided that the propane is a maximum twenty poun bottle
18 connected to the grill or heater. No permitted tank shall be located closer than ten feet
19 from the nearest combustible structure. No person shall leave any park without first
20 having completely extinguished any fire. The prohibitions of this sub-section do not
21 apply to the possession of multiple propane tanks for the purpose of transportation to or
22 from private property or in connection with an approved city special event permit.
- 19 (c) Prohibited items located on city property within a radius of five-hundred feet from any
20 point on a school property line or within fifty feet on both sides of any multi-use path or
21 sidewalk are subject to prioritized removal. Signage or other notification methods may be
22 used to identify these boundaries.

22 Section 6. The official ballot shall contain the following ballot title, which shall also be
23 the designation and submission clause for the measure:
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Ballot Question No. ____

Shall Section 8-3-21, B.R.C. 1981, be amended to add a provision to prioritize removal of prohibited items, such as tents, temporary structures, or propane tanks, within five hundred feet of a school or fifty feet of any multi-use path or sidewalk pursuant to Ordinance 8586?

For the measure ____ Against the measure ____

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.

Aaron Brockett,
Mayor

Attest:

City Clerk

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

Aaron Brockett,
Mayor

Attest:

City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 3, 2023

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8587 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 whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions, and changes to other election procedures; 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
Elesha Johnson, City Clerk

EXECUTIVE SUMMARY

At the study session on May 11, 2023, the council requested that staff present an ordinance with proposed ballot language for Charter clean-up and changes to Charter Sections 27, 37, 39, 46, and 57, as recommended by the Charter Review Committee. The proposed changes have three primary goals:

1. Amend the city clerk's certification of candidate petitions so that people who wish to sign petitions in support of mayoral or City Council candidates would not have to do so in person before the city clerk.

2. Give the city clerk five additional days to process ballot initiative, referendum, or recall petitions (15 instead of the current 10). The deadline to submit petition signatures for review would also be amended from 150 days before the election to 160 days before the election. This change is intended to reduce the need for overtime or weekend work to process paper petitions.
3. Clarify language providing that state law governs amendments to the city's Charter.

Proposed Ordinance 8587 (**Attachment A**) includes the requested provisions.

The amendment to Charter Sec. 27 would strike language requiring that signers to petitions appear personally before the city clerk.

The amendments to Charter Sec. 37 include:

- A. striking "charter amendments" to help clarify that state law governs the process for Charter amendments; and
- B. a new sentence affirmatively stating that the Charter may be amended in accordance with state law.

The amendment to Charter Sec. 39 would change the timing provisions of filing a petition to 160 days before an election instead of 150 days.

The amendment to Charter Sec. 46 would change the number of days that the city clerk has to approve a petition to 15 days from 10 days.

The amendment to Sec. 57 would change the number of days the city clerk has to verify petition signatures from 10 to 15.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance 8587 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 whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions, and changes to other election procedures; specifying the form of the ballot and other election procedures; and setting forth related details

ANALYSIS

Charter amendments are governed by state law. A home rule charter amendment may be initiated by the adoption of an ordinance by the governing body submitting the proposed amendment to a vote of the registered electors of the municipality. C.R.S. § 31-2-210. Such ordinance shall also adopt a ballot title for the proposed amendment. If a majority of the registered electors voting thereon vote for a proposed amendment, the amendment shall be deemed approved.

C.R.S. § 31-2-222 provides the following guidance on ballot titles:

Proposals to adopt, amend, or repeal home rule charters, including the formation of a new charter commission, shall appear upon the official ballot by ballot title only and, if more than one, shall be numbered consecutively in such order as the governing body may provide and shall be printed on the official ballot in that order, together with their respective numbers prefixed in boldface type. Each ballot title shall appear once on the official ballot and shall be separated from the other ballot titles next to it by heavy black lines and shall be followed by the words “yes” and “no” as follows:

(HERE SHALL APPEAR THE	
BALLOT TITLE IN FULL)	
YES	
NO	

NEXT STEPS

Second reading and public hearing is scheduled for August 3, 2023.

ATTACHMENT

A – Proposed Ordinance 8587

ORDINANCE 8587

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 WHETHER TO AMEND SECTIONS 27, 37, 39, 46, AND 57 OF THE BOULDER HOME RULE CHARTER TO SPECIFY THAT STATE LAW APPLIES TO CHARTER CHANGES, GIVE THE CITY CLERK ADDITIONAL TIME TO PROCESS PETITIONS, AND CHANGES TO OTHER ELECTION PROCEDURES; 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 general municipal coordinated election will be held on Tuesday, November 7, 2023.

Section 2. At the election, a question shall be submitted to the electors of the city of Boulder eligible by law to vote, that will allow voters to determine whether to amend Sections 27, 37, 39, 46, and 57 of the Boulder Home Rule Charter to specify that state law applies to charter changes, give the city clerk additional time to process petitions and changes to other election procedures. The material to be removed is shown stricken through with solid line and the material to be added is shown as underlined:

Sec. 27. - Form of nomination petition.

...

CITY CLERK’S CERTIFICATION OF PETITION

State of Colorado,)
County of Boulder,) ss.
City of Boulder.)

I hereby certify that each and every person whose signature appears on this petition personally appeared before me on the day and date set opposite such person's name, was duly sworn as to the matters set forth in said petition, and signed such person's name as petitioner for the purpose above set forth; and I further certify that I have examined the official registration list of persons qualified to vote at the next ensuing municipal election named in such petition; that (state the number) of the above petitioners appear as duly registered electors in the City of Boulder; and that to the best of my knowledge and belief this petition is _____ sufficient.

In testimony whereof, I have hereunto set my hand and the seal of the City of Boulder this (twenty-second day before election) day of _____, A.D. _____.

City Clerk
(CITY SEAL)*

Sec. 37. - Power to initiate charter amendments and legislation.

The people shall have the power at their option to propose ~~charter amendments,~~ legislative ordinances, including ordinances granting franchises or privileges, and other legislative measures, and to adopt the same at the polls, such power being known as the initiative. A petition, meeting the requirements hereinafter provided and requesting the council to pass a legislative ordinance, resolution, order, or vote (all of these four terms being hereinafter included in the term “measure”) therein set forth or designated, shall be termed an initiative petition and shall be acted upon as hereinafter provided. The people shall have the power at their option to propose charter amendments in accordance with state law.

Sec. 39. - Filing of petition; protest.

By the last business day on or before ~~160~~150 calendar days before the November election, the committee of petitioners shall submit its petition. The city clerk shall ascertain by examination the number of registered electors whose signatures are appended thereto, dated no more than 180 calendar days prior to the date of filing, and whether this number meets the requirements of section 38A. By 140 calendar days before the November election the clerk shall attach to said petition a certificate showing the result of said examination. If by the city clerk’s certificate, of which notice in writing shall be given to one or more of the persons designated, the petition is shown to be insufficient, it may be amended within ten days from the date of said

1 certificate by filing supplementary petition papers with additional signatures. The city clerk shall
2 make like examination of the amended petition, with such examination being completed
3 by 120 calendar days before the November election, and shall certify whether the petition is
4 sufficient or insufficient on or before that day. If the clerk’s certificate shall show the same to be
5 insufficient, the city clerk shall file the petition in the clerk's office and shall notify each member
6 of the committee of that fact. The final finding of the insufficiency of a petition shall not
7 prejudice the filing of a new petition for the same purpose.

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14 **Sec. 46. - Certificate of petition.**

15 Within ~~fifteen~~ten days after the filing of the petition the city clerk shall ascertain whether
16 or not the petition is signed by registered electors of the city of at least ten percent of the average
17 number of voters in the previous two municipal candidate elections, and the clerk shall attach to
18 such petition a certificate showing the result of such examination. If by the city clerk’s certificate
19 the petition is shown to be insufficient, it may be amended within ten days from the date of said
20 certificate by the filing of supplementary petition papers with additional signatures. The city
21 clerk shall within ten days after such amendment make like examination of the amended petition
22 and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably
23 possible by comparison with the election records of the Boulder County Clerk or the Secretary of
24 State.

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27 **Sec. 57. - Petition may be amended or new petition made.**

28 Within ~~fifteen~~ten days from the filing of said petition the city clerk shall ascertain by
29 examination thereof and of the registration books and election returns whether the petition is
30 signed by the required number of registered electors and shall attach thereto a certificate showing
31 the result of such examination. The clerk shall, if necessary, be allowed extra help.

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

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Ballot Question No. ____

Shall Sections 27, 37, 39, 46, and 57 of the city Charter be amended pursuant to Ordinance 8587 to:

- remove the requirement that signers to petitions appear personally before the city clerk;
- clarify that state law governs the process for charter amendments;

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- change the timing provisions of filing a petition to 160 days before an election instead of 150 days;
- change the number of days that the city clerk has to approve a petition to 15 days from 10 days; and
- change the number of days that the city clerk has to verify petition signatures from 10 to 15?

YES _____

NO _____

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 20th day of July 2023.

Aaron Brockett,
Mayor

Attest:

City Clerk

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

Aaron Brockett,
Mayor

Attest:

City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 3, 2023

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8588 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, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth related details;

OR

Second reading and consideration of a motion to adopt Ordinance 8591 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, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts, cultural, and heritage programs, parks, and other general fund purposes; 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

At the May 11, 2023, study session, council members considered extending a 0.15 cent sales and use tax, which expires December 31, 2024, and dedicating the funding to specific city needs. Council members expressed support for extending the tax. The council is requested to adopt on second reading Proposed Ordinance 8588 (**Attachment A**) which proposes to extend the sales and use tax that will expire and update the revenue earmark to fund general fund services and programs. This proposed ordinance is intended to conflict and compete with Ordinance 8589, which sets the ballot title for an initiated measure that proposes to extend the same sales and use tax for 20 years and revises the revenue earmark for arts, cultural, and heritage purposes.

At the July 13, 2023, study session, council members expressed interest in seeing a proposed ordinance that would divide the earmark of the 0.15 cent sales and use tax between the arts, culture, and heritage and general fund purposes. The council is requested to adopt on second reading Ordinance 8591 (**Attachment B**). That proposed ordinance is presently drafted in a form that would require cooperation from the committee of the petitioners as a compromise ballot measure. If the committee of the petitioners were inclined to agree to a compromise, then it would replace the initiated ballot measure that is described in Ordinance 8589, so long as the petitioners withdraw the petition. Council members may consider whether this is a viable option during the public hearing that is scheduled for August 3, 2023.

During council discussion on August 3, 2023, council has two options to consider:

- Option 1. – move forward with two conflicting measures (Ordinance 8588 and the initiative Ordinance 8589); or
- Option 2. – move forward with compromise Ordinance 8591.

In the event council chooses to proceed with Option 1., compromise Ordinance 8591 will not be passed on second reading. Ordinance 8588 and the initiative Ordinance 8589 should be passed on second reading.

If council chooses Option 2. and moves forward with compromise Ordinance 8591, conflicting measures Ordinance 8588 and Ordinance 8589 can be continued pending withdrawal of the petitioners' initiative. If petitioners fail to withdraw their petition,

council can pass conflicting Ordinance 8588 and Ordinance 8589 at a later meeting and repeal compromise Ordinance 8591. The regular council meeting on August 17th has time scheduled under public hearings for ballot items, if needed.

STAFF RECOMMENDATION

Suggested Motion Language

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

Motion to adopt Ordinance 8588 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, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth related details

OR

Motion to adopt Ordinance 8591 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, to fund fire and emergency response services, public safety services, homelessness solutions and services, arts, cultural, and heritage programs, parks, and other general fund purposes; as a voter approved revenue change; specifying the form of the ballot and other election procedures; and setting forth 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). Proposed Ordinance 8588 was drafted in response to council member feedback received at the May 11, 2023, study session. The ballot measure proposes to extend an existing sales and use tax and change the earmark for the revenue with updated language for general fund programs and services as described by the ballot title. Council directed staff to conduct a poll to gauge voter sentiment regarding renewal of the tax. At the July 13, 2023, special council meeting, the consultant presented high level results of the poll and complete [polling results](#) are posted on the city's website.

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. Proposed Ordinance 8588 is a competing ballot measure on the extension of the tax.

The council has the authority to refer any legislative matters to the voters. See city Charter Sec. 43. 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 in the proposed ordinance is intended to meet this standard.

In the proposed ordinance, the measure will maintain the status quo to extend the sales and use tax to fund general fund programs and services. The provisions related to the revenue earmark have been updated to reflect present general fund services and programs.

The two conflicting measures (this Ordinance 8588 and the initiative Ordinance 8589) which seek to continue the 0.15 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 are adopted or approved 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 their provisions conflict.

If this measure is approved and receives the higher affirmative vote, the Boulder Revised Code will be amended as provided for in Proposed Ordinance 8588. 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 the existing 0.15 sales and use tax is not renewed prior to expiration, it would reduce the ongoing, undedicated funding for general operating programs in the General Fund by \$5.5 million in 2025.

OPTIONS RELATED TO THE TERM OF THE TAX

Council also asked staff to seek potential voter interest in the term of the tax at the May 11 study session. Staff polled on two options, a tax extension through 2044 and a tax extension that does not sunset in the future. Polling indicated no marked difference

between the two options. Municipal financial best practice is to have general purpose revenues that fund ongoing services as permanent revenues whenever possible.

The council may consider other options related to the end date to the tax continuation. The proposed ordinance has an end date of December 31, 2044. Another option would be to continue the tax to a specific shorter or longer timeframe or do not include a date that the tax would sunset.

If the council amends the ordinance at second reading, there is ample time thereafter to complete a third reading of the proposed ordinance.

OPTION RELATED TO A NEGOTIATED ALTERNATIVE TO THE INITIATED BALLOT MEASURE

At the June 13, 2023, study session, council members expressed interest in seeing a proposed ordinance that would divide the earmark of the 0.15 cent sales and use tax between the arts, culture, and heritage and general fund purposes. The proposed ordinance is presently drafted in a form that would require cooperation from the committee of the petitioners as a compromised ballot measure. If the committee of the petitioners were inclined to agree to a compromise, then it would replace the initiated ballot measure that is described in Ordinance 8589.

Proposed Ordinance 8591 is drafted to include elements from both the petition and the conflicting measure that is described above. It includes that same expiration date of December 31, 2044. Also, the revenue earmark for the 0.15 cent sales and use tax is divided in half, with one half to be used for general fund purposes and the other for arts, cultural, and heritage purposes.

The city Charter Sec. 41 provides that, for initiated measures, if the committee of the petitioners determine to proceed with the measure as initiated, the measure shall be submitted by the council to the vote of the electors at the next election. Sec. 41 also anticipates that the council may pass something in a form that is different from what was included in the petition. If a different measure is passed by the council, the committee of the petitioners will need to agree to withdraw the petition if the objective is to have only one question presented to the voters. As noted above for Ordinance 8588, if the committee of the petitioners do not agree to a compromised measure and withdraw their petition, then such a measure could also be drafted as a conflicting measure, resulting in two ballot measures on the ballot.

If the council shall fail to pass the measure or shall pass it in a form different from that set forth in the petition, if the committee of the petitioners determines to proceed with the measure as initiated, the measure shall be submitted by the council to the vote of the electors at the next November election occurring not less than 56 days after the date of the final action by the council. If a November election is not to be held within six months from such date, then the council may call a special election to be held not less than 60 nor more than 150 days from such date unless otherwise provided by applicable law.

Prior to an election being set on an initiative petition, within 10 days after the date of final action on such measure by the council, the committee of petitioners shall certify to the city clerk the requirement of submission of the measure to the voters. The certification by the committee of petitioners must be by unanimous vote of the members of the committee legally competent to act at such time. Upon receipt of the certificate, the city clerk shall certify the fact to the council at its next meeting, and such measure shall be submitted by the council to the vote of the electors in a November or special municipal election as hereinbefore provided.

NEXT STEPS

Second reading and public hearing is scheduled for August 3, 2023.

ATTACHMENTS

- A – Proposed Ordinance 8588
- B – Proposed Ordinance 8591

ORDINANCE 8588

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, TO FUND FIRE AND EMERGENCY RESPONSE SERVICES, PUBLIC SAFETY SERVICES, HOMELESSNESS SOLUTIONS AND SERVICES, ARTS AND CULTURAL PROGRAMS, PARKS, AND OTHER GENERAL FUND PURPOSES; AS A VOTER APPROVED 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 have approved a sales and use tax in the amount 0.15 cents on each dollar of sales by Ordinance 7300, which tax expires at the end of 2024;

B. The electorate should consider authorizing the 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, designate the revenue generated for fire and emergency response services, public safety services, homelessness solutions and services, arts and cultural programs, parks, and other general fund purposes;

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

1 use tax; and

2 D. The purposes that will be served by the continued collection of the tax are critical for
3 the continued provision of essential general fund city services.

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

6
7 Section 1. A general municipal coordinated election will be held on Tuesday, November
8 7, 2023.

9 Section 2. At the election, there shall be submitted to the electors of the city of Boulder
10 eligible to vote the question of extending the existing 0.15 cents city sales and use tax from
11 December 31, 2024, until December 31, 2044, for fire and emergency response services, public
12 safety services, homelessness solutions and services, arts and cultural programs, parks, and other
13 general fund purposes.
14

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

17 **Ballot Questions No. _____**

18 WITHOUT RAISING ADDITIONAL TAXES, SHALL THE
19 EXISTING 0.15 CENT CITY SALES AND USE TAX FOR
20 GENERAL FUND PURPOSES, APPROVED BY THE VOTERS
21 BY ORDINANCE 7300, BE EXTENDED BEYOND THE
22 CURRENT EXPIRATION DATE OF DECEMBER 31, 2024,
23 UNTIL DECEMBER 31, 2044, AS A VOTER-APPROVED
24 REVENUE CHANGE TO FUND FIRE AND EMERGENCY
25 RESPONSE SERVICES, PUBLIC SAFETY SERVICES,
HOMELESSNESS SOLUTIONS AND SERVICES, ARTS AND
CULTURAL PROGRAMS, PARKS, AND OTHER GENERAL
FUND SERVICES; 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

1 REVENUE AND SPENDING LIMITS OF ARTICLE X,
2 SECTION 20 OF THE COLORADO CONSTITUTION?

3 For the measure _____

Against the measure _____

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

7 Section 5. Pursuant to Sec. 53 of the Charter of the City of Boulder, if two or more
8 measures adopted or approved at the same election conflict in any of their provisions, they shall
9 go into effect in respect to such of their provisions as are not in conflict and the one receiving the
10 highest affirmative vote shall prevail insofar as their provisions conflict. If this measure is
11 approved and receives more votes than the other initiative which pertains to the extension of the
12 0.15 cent sales and use tax last approved pursuant to Ordinance 7300, then this measure will
13 become the law and such other initiative will not be implemented.

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

16 **3-2-5. - Rate of Tax.**

- 17 (a) Except as specified in Subsection (b) of this section, the amount of the tax hereby levied
18 is 3.86 percent of the purchase price of tangible personal property or taxable services sold
19 or purchased at retail.
- 20 (b) The amount of the tax hereby levied on food sold in or by a food service establishment
21 shall be the amount levied in Subsection (a) of this section plus 0.15 percent of the
22 purchase price of such food. Cover charges, admission, or entrance fees and mandatory
23 service or service-related charges shall be included as part of the purchase price of such
24 food. However, a mandatory service or service-related charge shall not be included as
25 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.

1 ...

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

3 ...

4 (6) General: 0.15 percent shall be deemed for the purposes of fire and emergency
5 response services, public safety services, homelessness solutions and services, arts
6 and cultural programs, parks and other general fund purposes through midnight on
7 December 31, 2044.

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

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

13
14 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
15 TITLE ONLY this 20th day of July 2023.

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17 _____
18 Aaron Brockett,
19 Mayor

18 Attest:
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20 _____
21 City Clerk

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

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8591

AN ORDINANCE SUBMITTING TO THE 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, TO FUND FIRE AND EMERGENCY RESPONSE SERVICES, PUBLIC SAFETY SERVICES, HOMELESSNESS SOLUTIONS AND SERVICES, ARTS, CULTURAL, AND HERITAGE PROGRAMS, PARKS, AND OTHER GENERAL FUND PURPOSES; AS A VOTER APPROVED 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 have approved a sales and use tax in the amount 0.15 cents on each dollar sales, which tax expires at the end of 2024;

B. The electorate should consider authorizing the City Council to continue a 0.15 cents on each dollar sales and use tax from its present expiration date of December 31, 2024, and beginning January 1, 2025, designate the revenue generated for fire and emergency response services, public safety services, homelessness solutions and services, arts, cultural, and heritage programs, parks, and other general fund purposes;

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; and

1 D. The purposes that will be served by the continued collection of the tax are critical for
2 the continued provision of essential general fund city services and will support arts, cultural, and
3 heritage programs.

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

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

8 Section 2. At the election, there shall be submitted to the electors of the city of
9 Boulder eligible to vote the question of extending the existing 0.15 cents city sales and use tax
10 from December 31, 2024, until December 31, 2044, for fire and emergency response services,
11 public safety services, homelessness solutions and services, arts and cultural programs, parks,
12 and other general fund purposes.
13

14 Section 3. The official ballot shall contain the following ballot title, which shall also be
15 the designation and submission clause for the issue:
16

17 **Ballot Question No. ____**

18 WITHOUT RAISING ADDITIONAL TAXES, SHALL THE
19 EXISTING 0.15 CENT CITY SALES AND USE TAX FOR
20 GENERAL FUND PURPOSES, APPROVED BY THE VOTERS
21 BY ORDINANCE 7300, BE EXTENDED BEYOND THE
22 CURRENT EXPIRATION DATE OF DECEMBER 31, 2024,
23 UNTIL DECEMBER 31, 2044, TO FUND FIRE AND
24 EMERGENCY RESPONSE SERVICES, PUBLIC SAFETY
25 SERVICES, HOMELESSNESS SOLUTIONS AND SERVICES,
ARTS, CULTURAL, AND HERITAGE PROGRAMS, PARKS,
AND OTHER GENERAL FUND SERVICES WITH THE
REVENUE FROM SUCH TAX EXTENSION AND ALL
EARNINGS THEREON BE USED TO FUND SERVICES AND
PROJECTS AS FOLLOWS:

- 50% FOR FIRE AND EMERGENCY RESPONSE SERVICES, PUBLIC SAFETY SERVICES, HOMELESSNESS SOLUTIONS AND SERVICES, PARKS, AND OTHER GENERAL FUND PURPOSES;
- 50% FOR ARTS, CULTURE, AND HERITAGE PURPOSES;

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. If this measure is approved by the voters, 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) Arts and General: 0.15 percent shall be used for the purposes and in the amounts as follows:

1 (A) Public Safety and General Fund: 0.075 percent shall be deemed for the
2 purposes of fire and emergency response services, public safety services,
3 homelessness solutions, parks, and other general fund purposes through
4 midnight on December 31, 2044.

5
6 (B) Arts, Cultural, and Heritage Programs: 0.075 percent shall be deemed for
7 the purposes of arts, culture, and heritage through midnight on December
8 31, 2044.

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

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

14 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
15 TITLE ONLY this 20th day of July 2023.

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Aaron Brockett,
Mayor

Attest:

City Clerk

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

2023.

Aaron Brockett,
Mayor

Attest:

City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 3, 2023

AGENDA TITLE

Second reading and consideration of a motion to adopt 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

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 adopt 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). Proposed Ordinance 8589 (**Attachment A**) 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.

During council discussion on August 3, 2023, council has two options to consider:

- Option 1. – move forward with two conflicting measures (Ordinance 8588 and the initiative Ordinance 8589); or
- Option 2. – move forward with compromise Ordinance 8591.

In the event that council chooses to proceed with Option 1., compromise Ordinance 8591 will fail on second reading. Ordinance 8588 and the initiative Ordinance 8589 should be passed on second reading.

If council chooses Option 2. and moves forward compromise Ordinance 8591, conflicting measures Ordinance 8588 and Ordinance 8589 can be continued pending withdrawal of the petitioners' initiative. If petitioners fail to withdraw their petition, council can pass the conflicting Ordinance 8588 and Ordinance 8589 at a later meeting and repeal compromise Ordinance 8591. The regular council meeting on August 17th has time scheduled under public hearings for ballot items, if needed.

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

Second reading and public hearing is scheduled for 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 APPROVED 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.

Aaron Brockett,
Mayor

Attest:

City Clerk

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

Aaron Brockett,
Mayor

Attest:

City Clerk