

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2022

COUNCIL BILL NO. CB22-0875
COMMITTEE OF REFERENCE:
Finance & Governance

6 **A BILL**

7 **For an ordinance submitting to a vote of the registered electors of the City and**
8 **County of Denver at a special municipal election to be held in conjunction with**
9 **the coordinated election on November 8, 2022, a proposed amendment to the**
10 **Charter of the City and County of Denver concerning election procedures.**

11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** There is hereby submitted to the registered electors of the City and County of
13 Denver for their approval or rejection at a special municipal election to be conducted at the same
14 time and in conjunction with the coordinated election to be held in the City and County of Denver on
15 November 8, 2022, a proposed amendment to the Charter of the City and County of Denver, as
16 follows:

17
18 **Effective upon publication and filing with the Secretary of State in accordance**
19 **with the Constitution and laws of the State of Colorado, the following sections**
20 **of the Charter of the City and County of Denver are amended to read as follows:**
21

22 **Section 2.** § 3.1.7 of the Charter of the City and County of Denver is amended by deleting
23 the language stricken and adding the language underlined to read as follows:

24 **§ 3.1.7 - Vacancies in the Office of District Councilmember.**

25 When any District Councilmember is unable, by reason of resignation, unexcused absence
26 as provided in Section 3.1.6 of this Charter, moving from the district in which the Councilmember
27 resided when elected, or death, to perform the duties of office for the time remaining prior to
28 expiration of his or her term of office, the Council shall declare by resolution that a vacancy exists.
29 Such vacancy shall be filled by a special election within the Council District, which shall be called by
30 the Council to be held not less than seventy-five (75)~~30~~ days nor more than eighty-nine (89)~~60~~ days
31 after the Council declares that such vacancy exists, unless another City-wide election has been

1 scheduled to be held within 90 days after such vacancy is declared; and the candidate receiving the
2 greatest number of votes at said election shall qualify and take such office immediately, and shall
3 hold such office for the unexpired portion of the term in which the vacancy occurs. The name of a
4 candidate filling a vacancy for district Councilmember shall be placed upon the ballot in same manner
5 as provided in section 8.2.7 of this Charter, except that a verified petition shall have been filed in the
6 candidate's behalf not more than fifteen (15) days after such vacancy is declared.

7 **Section 3.** § 8.2.7 of the Charter of the City and County of Denver is amended by deleting
8 the language stricken and adding the language underlined to read as follows:

9 **§ 8.2.7 - Nomination of candidates.**

10 The name of a candidate for district Councilmember shall be placed upon the ballot when a
11 verified petition of not less than one hundred (100) signatures of registered electors, who reside in
12 the district in which the candidate resides, shall have been filed in the candidate's behalf at least
13 ~~fifty-five (55) days~~ seventy-five (75) days before the day of election in the manner and form and
14 under the conditions established by the Clerk and Recorder, unless otherwise provided by ordinance
15 in pursuance of this Charter. The name of a candidate for Mayor, Auditor, Clerk and Recorder or
16 Councilmember-at-large shall be placed upon the ballot when a verified petition of not less than three
17 hundred (300) signatures of registered electors shall have been filed in the candidate's behalf at
18 least ~~fifty-five (55) days~~ seventy-five (75) days before the day of election in the manner and form and
19 under the conditions established by the Clerk and Recorder.

20 **Section 4.** § 8.3.1 of the Charter of the City and County of Denver is amended by deleting
21 the language stricken and adding the language underlined to read as follows:

22 **§ 8.3.1 - Rights of initiative, referendum and recall reserved to the people.**

23 (A) The people of the City and County of Denver reserve the right to propose and enact
24 ordinances—by initiative; to require that existing ordinances be referred to a vote of the electorate—
25 by referendum; and to recall elected officials. The right of initiative, referendum, or recall shall be
26 exercised by petition of the registered electors of the City and County of Denver. ~~Such petitions shall~~
27 ~~be filed with the Clerk and Recorder as follows: a petition for an initiated ordinance may be filed at~~
28 ~~any time; a petition for referendum shall be filed within ninety (90) days after final passage and~~
29 ~~publication of an ordinance; and a petition for recall shall be filed no less than six (6) months after,~~
30 ~~nor less than one (1) year before a regularly scheduled municipal election in which the office in~~
31 ~~question has been or will be filled.~~

1 (B) An ordinance initiated by petition shall not contain more than one subject, which must
2 be clearly expressed in its title. If any subject is embraced in the proposed initiated ordinance that is
3 not expressed in the title, the proposed initiated ordinance is void only as to the portion not expressed
4 in the title.

5 (BC) An ordinance may be initiated by petition of registered electors numbering at a
6 minimum two (2) percent of the total number of active registered electors as of January 1 each odd-
7 numbered year.

8 (CD) An enacted ordinance may be referred by petition of registered electors numbering at
9 a minimum two (2) percent of the total number of active registered electors as of January 1 each
10 odd-numbered year.

11 (DE) Recall may be exercised by petition of registered electors entitled to vote for a
12 successor and numbering at a minimum twenty-five (25) per-cent of the vote cast for that office in
13 the municipal election in which the official was elected. For Councilmember-at-large, registered
14 electors shall number at a minimum ten (10) per-cent of the total vote cast for the offices of
15 Councilmember-at-large at the election at which the official was elected.

16 (EF) City Council shall not amend or repeal an initiated ordinance adopted by a vote of the
17 people within six (6) months after final passage. After the first six months and within ten (10) years
18 following final passage of any initiated ordinance adopted by a vote of the people, the initiated
19 ordinance may be amended or repealed by City Council only by two-thirds ($\frac{2}{3}$) vote. Whenever City
20 Council amends or repeals an initiated ordinance adopted by a vote of the people, City Council may
21 do so only after it holds a public hearing.

22 (fG) City Council shall not reenact an ordinance repealed by a referendum within one (1)
23 year after repeal by a vote of the people. After the first year and up to ten (10) years following repeal
24 of an ordinance by a referendum, the repealed ordinance may be reenacted by City Council only by
25 two-thirds ($\frac{2}{3}$) vote. Whenever City Council reenacts an ordinance repealed by a referendum, City
26 Council may do so only after it holds a public hearing.

27 **Section 5.** § 8.3.2 of the Charter of the City and County of Denver is amended by deleting
28 the language stricken and adding the language underlined to read as follows:

29 **§ 8.3.2 - Provisions applicable to all petitions.**

30 (A) Filing a petition. Petitions for an initiative, referendum, or recall shall be filed with the
31 Clerk and Recorder as follows: a petition for an initiated ordinance may be filed at any time; a petition
32 for referendum shall be filed within ninety (90) days after final passage and publication of an

1 ordinance; and a petition for recall shall be filed no less than six (6) months after, nor less than one
2 (1) year before a regularly scheduled municipal election in which the office in question has been or
3 will be filled.

4 (AB) *Petitioners' committee.* Any five (5) registered electors of the City and County of
5 Denver may begin proceedings for initiative, referendum, or recall by filing with the Clerk and
6 Recorder an affidavit constituting themselves as a petitioners' committee for such purpose and
7 specifying the intent of the committee to circulate either an initiative, a referendum, or a recall
8 petition. The petitioners' committee shall be responsible for circulating and filing the petition. For
9 recall of a Councilmember from a council district, members of the petitioners' committee shall be
10 residents of that district.

11 (BC) *Contents of affidavit, ~~ballot title,~~ and petition sample.* The affidavit shall contain the
12 notarized signatures of each member of the petitioners' committee; shall state the names,
13 addresses, and telephone numbers of each member of the petitioners' committee and an address
14 to which notices to the committee shall be sent; and shall specify one member of the committee to
15 serve as the primary contact. Any affidavit for an initiative or referendum shall specify in full the text
16 of the ordinance to be initiated or referred ~~and shall include a ballot title which shall contain in~~
17 ~~summary form the major provisions of the ordinance, which shall be true and impartial and shall not~~
18 ~~be an argument, nor likely to create bias, either for or against the measure. The title for an initiative~~
19 ~~shall begin with the words: "Shall the voters for the City and County of Denver adopt...." unless~~
20 ~~different wording is required by the State Constitution. The title for a referendum shall begin with the~~
21 ~~words: "Shall the voters of the City and County of Denver repeal...." unless different wording is~~
22 ~~required by the State Constitution.~~ Any affidavit for a recall shall state the name of the elected official
23 to be recalled and a statement of the grounds upon which recall is sought. The petitioners' committee
24 shall append to any affidavit a sample petition form in a style and format that complies with the
25 requirements of this Charter and of the Clerk and Recorder.

26 (CD) *Review and approval of affidavit, ~~ballot title~~ and petition sample by Clerk and Recorder.*
27 The affidavit, ~~ballot title,~~ and petition sample shall be reviewed by the Clerk and Recorder; for a
28 determination of compliance with the requirements of this Charter, with any and all other applicable
29 State or City and County laws, and with the rules of the Clerk and Recorder. ~~In reviewing the ballot~~
30 ~~title, the Clerk and Recorder shall consider the public confusion that might be caused by a misleading~~
31 ~~title.~~ The Clerk and Recorder shall have three (3) full working business days from the time of the
32 filing of the affidavit to review the affidavit, and petition sample, ~~and ballot title.~~ At the end of the three

1 (3) ~~working business~~ days, the Clerk and Recorder must either accept or reject the affidavit, and
2 ~~petition sample, or ballot title~~. If the affidavit, or ~~petition sample, or ballot title~~ is rejected, the Clerk
3 and Recorder shall make written findings specifying the defects in the affidavit, or ~~petition sample,~~
4 ~~or ballot title~~. ~~The petitioners' committee, if not satisfied with the decision of the Clerk and Recorder,~~
5 ~~may institute legal proceedings with the appropriate court.~~ No petition shall be circulated, nor shall
6 any signatures be procured, until such affidavit, and ~~petition sample, and ballot title~~ are approved by
7 the Clerk and Recorder.

8 (E) Title setting. The Clerk and Recorder shall, in consultation with the City Attorney and
9 the City Council staff, designate and fix a proper and fair title for each initiative, referendum, or recall,
10 as provided by ordinance. All such titles shall be referred to the City Attorney prior to being fixed,
11 and it shall be the duty of the City Attorney to make an examination thereof and to certify that the
12 title conforms to the requirements of the Charter and established by ordinance.

13 (1) If an initiative contains more than one subject, such that a ballot title cannot be fixed
14 that clearly expresses a single subject, no title shall be set and the measure shall not be submitted
15 to the people for adoption or rejection at the polls. In such circumstance, however, the measure may
16 be revised and resubmitted for the fixing of a proper title without the necessity of review and comment
17 on the revised measure in accordance with § 8.3.7 of the Charter, unless the revisions involve more
18 than the elimination of provisions to achieve a single subject, or unless the official or officials
19 responsible for the fixing of a title determine that the revisions are so substantial that such review
20 and comment is in the public interest. The revision and resubmission of a measure shall not operate
21 to alter or extend any filing deadline applicable to the measure.

22 (2) When designating and fixing the title of an initiative or referendum, the Clerk and
23 Recorder shall consider the public confusion that might be caused by a misleading title and shall
24 avoid a title for which the general understanding of the effect of an affirmative or negative vote will
25 be unclear. The title must correctly and fairly express the true intent and meaning of the measure,
26 must be brief, and must unambiguously state the principle of the provision sought to be added,
27 amended, or repealed. The Clerk and Recorder shall post a proposed title for an initiative and shall
28 solicit public input on the proposed title for a period of five (5) business days. Upon conclusion of the
29 public input period, the Clerk and Recorder shall designate and set the final title.

30 (F) Appeal. The petitioners' committee, if not satisfied with the decision of the Clerk and
31 Recorder under this section, shall have the right to appeal, as provided in ordinance.

1 **Section 6.** The paper ballot for said election shall carry the following designation, which shall
2 be the title and submission clause:

3 **REFERRED QUESTION _____**

4 Shall the Charter of the City and County of Denver be amended to modernize procedures for
5 access to the ballot in city-wide elections by: requiring initiatives to contain only one subject; updating
6 deadlines for candidate nominations to match mail-in ballot procedures; requiring the clerk and
7 recorder, in consultation with city council staff and the city attorney, to set the title of a proposed
8 initiative, referendum, or recall; allowing public comment on proposed titles for an initiative; and
9 removing unnecessary detail in the charter regarding the wording of ballot questions and allowing
10 ballot question wording to be addressed by city ordinance in lieu of the Charter?

11 **Section 7.** The proper officials of the City and County of Denver as are charged with duties
12 relating to the election shall, before the election, issue such calls, make such certifications and
13 publications, give such notices, make such appointments, and do all such other acts and things in
14 connection with the submission of this Charter amendment to the registered electors of the City and
15 County of Denver at the election as are required by the Constitution and laws of the State of Colorado
16 and the Charter and ordinances of the City and County of Denver.

17 **Section 8.** The ballots cast at such election shall be canvassed and the results ascertained,
18 determined, and certified in accordance with the requirements of the Constitution and laws of the
19 State of Colorado and the Charter and ordinances of the City and County of Denver.

20 **Section 9.** If any section, paragraph, clause, or other portion of this ordinance is held to be
21 invalid or unenforceable for any reason, the validity of the remaining portions of this ordinance shall
22 not be affected.

23
24 [BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

1 COMMITTEE APPROVAL DATE: July 26, 2022

2 MAYOR-COUNCIL DATE: August 2, 2022

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Anshul Bagga DATE: August 3, 2022

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15
16 Kristin M. Bronson, Denver City Attorney

17
18 BY: *Jonathan Griffin*, Assistant City Attorney DATE: Aug 4, 2022
19 _____