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ORDINANCE 8412

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT THE GENERAL MUNICIPAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, THE QUESTION OF RAISING TAXES IN THE CITY OF BOULDER BY THE ADOPTION OF A RENTAL LICENSING EXCISE TAX TO FUND A PROGRAM TO PROVIDE LEGAL REPRESENTATION TO TENANTS WHO FACE THE LOSS OF HOUSING IN EVICTION AND ADMINISTRATIVE PROCEEDINGS; PROVIDE A LEGAL SERVICES COORDINATOR TO ADMINISTER THE PROGRAM; CREATE A TENANTS' COMMITTEE COMPRISED OF FIVE MEMBERS PAID A \$1,000 PER YEAR STIPEND; AND SPEND ANY EXCESS FUNDING FOR RENTAL ASSISTANCE FOR PERSONS THAT ARE VENERABLE TO EVICTION; AND IN THE EVENT THAT THE BALLOT QUESTION PASSES, A COUNCIL ADOPTED ORDINANCE TO IMPLEMENT THE PROGRAM AND TAX; SETTING FORTH THE BALLOT TITLE, AND 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 5, 2020, 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 section 39 of the Boulder Home Rule Charter. Under Charter section 40, the City Council is required to set the ballot title for the proposed amendment.

Section 2. A general municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 3, 2020.

1 Section 3. At that election, there shall be submitted to the electors of the City of Boulder  
2 entitled by law to vote the question of making the amendment to the Boulder Revised Code  
3 proposed by the petition committee with the following ballot title, which shall also be the  
4 designation and submission clause for the issue:

5  
6 **BALLOT ISSUE \_\_\_\_\_**

7 **No Evictions Without Representation**

8 SHALL THE CITY OF BOULDER’S TAXES BE INCREASED  
9 ANNUALLY BY [ADD AMOUNT IN WORDS] (\$\*,\*\*\*,\*\*\*.00)  
10 (FIRST FULL FISCAL YEAR INCREASE) COMMENCING ON  
11 JANUARY 1, 2021, AND BY WHATEVER ADDITIONAL  
12 AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM AN  
13 EXCISE TAX TO BE PAID BY LANDLORDS ON DWELLING  
14 UNITS WITH RENTAL LICENSES IN THE AMOUNT OF \$75 PER  
15 YEAR, WITH THE TAX RATE INCREASING EVERY YEAR  
16 THEREAFTER AT A RATE THAT DOES NOT EXCEED THE  
17 COLORADO CONSUMER PRICE INDEX ON EACH RENTAL  
18 LICENSE FOR A DWELLING UNIT THAT IS ISSUED BY THE  
19 CITY;

20 AND IN CONNECTION THEREWITH, SHALL ALL OF THE  
21 REVENUES COLLECTED BE USED TO FUND:

- 22 • THE ADMINISTRATIVE COST OF THE TAX, AND  
23 THEREAFTER TO  
24 • ESTABLISH, RUN AND FULLY FUND A PROGRAM TO  
25 PROVIDE LEGAL REPRESENTATION TO TENANTS WHO FACE  
THE LOSS OF HOUSING IN EVICTION AND ADMINISTRATIVE  
PROCEEDINGS;  
• PROVIDE A LEGAL SERVICES COORDINATOR TO  
ADMINISTER THE PROGRAM;  
• CREATE A TENANTS’ COMMITTEE COMPRISED OF  
FIVE MEMBERS PAID A \$1,000 PER YEAR STIPEND; AND  
• SPEND ANY EXCESS REVENUE FOR RENTAL  
ASSISTANCE FOR PERSONS THAT ARE VULNERABLE TO  
EVICTION; AND

1 SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH  
2 RATES AND ANY EARNINGS THEREON BE COLLECTED,  
3 RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE  
4 CHANGE WITHOUT LIMITATION OR CONDITION, AND  
5 WITHOUT LIMITING THE COLLECTION, RETENTION, OR  
6 SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE  
7 CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE  
8 COLORADO CONSTITUTION OR ANY OTHER LAW?

9 YES/FOR \_\_\_\_\_

10 NO/AGAINST \_\_\_\_\_

11 Section 4. If a majority of all the votes cast at the election on the measure submitted are  
12 for the measure, the measure shall be deemed to have passed and the city council further amends  
13 the Boulder Revised Code as follows:

14 Amending Chapter 2 as follows:

15 **Chapter 2 - Landlord - Tenant Relations, No Evictions Without Representation.**

16 **12-2-1. - Legislative Intent.**

17 The purpose of this chapter is to supplement the provisions of state law governing the  
18 rights and duties of landlords and tenants of residential property in the City, including the  
19 provision of legal representation *and rental assistance* to tenants in legal and administrative  
20 proceedings where such housing is imperiled.

21 Whereas, in the landmark case *Gideon v. Wainwright*, the United States Supreme Court  
22 declared that reason, reflection, and the fair administration of justice require that persons facing  
23 the loss of their liberty in criminal proceedings shall have the right to legal counsel;

24 Whereas, this protection does not extend to legal proceedings where tenants face the  
25 serious hardship of being forced out of their homes;

Whereas in the City of Boulder, tenants do not have a right to counsel in such  
proceedings and most tenants face such proceedings without legal representation;

Whereas, in August of 2017 the City of New York enacted local legislation to provide  
tenants in that City with legal representation in eviction proceedings;

Whereas, in 2018-2019 the cities of San Francisco, Newark, Cleveland, and Philadelphia  
also enacted legislation to provide tenants in those cities with legal representation in eviction  
proceedings; and

1           ***Whereas, in some instances the provision of rental assistance to tenants is an***  
2           ***efficacious tool to increasing housing security.***

3           Therefore the people of the City of Boulder declare that it is in the policy of the City of  
4           Boulder that Boulder tenants shall have a right to legal representation in eviction and  
5           administrative proceedings where they face the loss of housing and the City shall provide such  
6           representation to tenants to assist in the fair administration of justice ***and the City shall also***  
7           ***administer a rental assistance program to tenants faced with such proceedings.***

8           **12-2-2. - Definitions.**

9           The following terms used in this chapter have the following meanings unless the context  
10          clearly indicates otherwise:

11          Bank means a bank, credit union or similar institution that accepts deposits of money and  
12          insures such funds through the Federal Deposit Insurance Corporation, the National Credit Union  
13          Association or similar institution.

14          Covered proceeding means legal proceedings to evict a tenant from their place of  
15          residence pursuant to C.R.S. 13-40-101 *et. seq.*, counterclaims related thereto, the termination of  
16          Section 8 housing assistance, and appeals arising from any of the foregoing.

17          Interest means simple interest on the full amount of the security deposit on deposit.

18          Legal representation means full scope representation provided by a licensed attorney to a  
19          tenant in a covered proceeding. This includes, but is not limited to, filing responsive pleadings,  
20          appearing on behalf of the tenant in court, administrative proceedings, or alternative dispute  
21          resolution, and providing legal advice, advocacy, and assistance associated with such matters,  
22          and necessary fees and costs related thereto.

23          Security deposit means any advance or deposit of money, regardless of its denomination,  
24          the primary function of which is to secure the performance of a rental agreement for residential  
25          premises or any part thereof.

26          Tenant means any occupant of residential property, including but not limited to, any  
27          building, structure, vacant land, or part thereof offered for lease or rent for residential purposes,  
28          who is a respondent or defendant, or who has legal standing to be a respondent or defendant, in a  
29          covered proceeding.

30          **12-2-4. - Written Disclosures Required.**

31          (a) No operator shall allow any person to occupy a rental property as a tenant or lessee  
32          or otherwise for valuable consideration unless and until that operator has satisfied  
33          each of the following conditions:

34                  (1) The operator has executed and provided to the tenant a copy of a written lease,  
35                  rental agreement, set of site rules or other written instrument containing the  
36                  following information:

- 1 (A) The maximum occupancy levels permitted in the rental unit;
- 2 (B) Notice of the provisions contained in Sections 5-3-11, "Nuisance Party  
3 Prohibited," 5-6-6, "Fireworks," 5-4-12, "Depositing Trash on Property in  
4 Violation of Sign," and 5-4-16, "Outdoor Furniture Restrictions," and  
5 Chapter 5-9, "Noise," B.R.C. 1981;
- 6 (C) Notice of the provisions contained in Sections 6-2-3, "Growth or  
7 Accumulation of Weeds Prohibited," 6-3-3, "Trash Accumulation  
8 Prohibited," 6-3-12, "Bear-Resistant Containers Required," and 8-2-13,  
9 "Duty to Keep Sidewalks Clear of Snow," B.R.C. 1981; Section 6-3-3(b),  
10 relating to the responsibility of every owner, manager or operator of rental  
11 property to maintain a valid contract with a commercial trash hauler  
12 providing for the removal of accumulated trash from the property, and  
13 Paragraph 7-6-13(a)(1), B.R.C. 1981, concerning parking prohibited on  
14 sidewalks;
- 15 (D) The names of those individuals permitted, pursuant to the tenancy  
16 agreement, to occupy the rental unit;
- 17 (E) Notification to tenants that violation of the city's noise regulation  
18 requirements or residency within the rental unit of persons other than those  
19 lawfully occupying the unit pursuant to the tenancy agreement is cause for  
20 the termination of the tenancy;
- 21 (F) Notification that interest must be paid to tenants upon any security deposit  
22 collected pursuant to the provisions of Sections 12-2-2, "Definitions," and  
23 12-2-7, "Interest Rate On Security Deposits," B.R.C. 1981;
- 24 (G) Notification to tenants of the date and nature of any violations of law during  
25 the preceding twenty-four months for which the owner, manager or operator  
has received written notice of violation pursuant to Section 10-2.5-6,  
"Required Procedures Prior to Commencement of Public Nuisance Action,"  
B.R.C. 1981; and
- (H) Notification of the provisions contained in Sections 5-10-6, "Marijuana  
Odor Emissions," and Paragraphs 6-14-13(a)(6) and 6-16-13(a)(4), B.R.C.  
1981, prohibiting possession of more than six marijuana plants without a  
license; and
- (I) Notification to tenants of their right to legal representation and the  
availability of rental assistance provided in B.R.C. 12-2-9(a), including a  
complete copy of the text of that Section, with the use of the language in the  
form created, this section being mandatory.

Adding a new Section 12-2-9 as follows:

**12-2-9. - No Evictions Without Representation.**

- (a) Provision of Legal Representation *and Rental Assistance*. The City of Boulder shall establish, run, and fully fund a program to provide legal representation *and/or rental assistance* for all tenants within the city who face a covered proceeding. This legal representation shall be available to a tenant immediately after the tenant is served with a notice to quit or demand for possession pursuant to C.R.S. 13-40-101 *et. seq.*, or a notice of termination of Section 8 housing assistance, and shall last at least until such time as the notice to quit, demand for possession, or unlawful

1           detainer complaint is withdrawn, the case is dismissed, a final judgment in the  
2           matter is entered, or the Section 8 housing assistance termination proceedings are  
3           concluded. Written notification of this right to legal representation and how to  
4           access it must be provided by the landlord to a tenant at the time the right to legal  
5           representation attaches as described under this Section. The notice must be in the  
6           same form as required by B.R.C. 12-2-4(a)(1)(I).

7           (b) Implementation. The city manager shall promptly take all necessary steps to fully  
8           implement the provisions of this Section as soon as practicable, but not more than  
9           12 months after the effective date of this ordinance. The city shall have no  
10          obligation to provide legal services under this Section where a state or federal  
11          program provides full scope legal representation to a tenant facing eviction  
12          proceedings as a matter of right.

13          (c) Tenants' Committee. A Tenants' Committee is created to ensure that the legislative  
14          intent of this Section is fulfilled. Specifically, the Tenants' Committee shall oversee  
15          the *Tenants' Legal Services and Assistance Coordinator* and the legal service  
16          providers engaged to provide the services and *administer the rental assistance*  
17          *program provided for* herein, and shall advise the City Manager on its opinion of  
18          the merit and fitness of the *Tenants' Legal Services and Assistance* Coordinator for  
19          the purpose of informing and guiding the city manager in appointing and retaining  
20          the *Tenants' Legal Services and Assistance* Coordinator. The Tenants' Committee  
21          shall consist of five members who are tenants in the city of Boulder and do not own  
22          real property. The City shall endeavor to ensure that the Committee membership is  
23          reflective of the racial, gender, and sexual orientation of the City's tenants.

24          Committee members shall be disqualified and replaced as soon as practicable in the  
25          event that they cease to be qualified to serve on the committee. Committee  
26          members are to be paid a stipend of \$1,000 per year to be adjusted annually for  
27          inflation. The City Manager's office and City Attorney's office shall provide staff  
28          support to the Committee and *Tenants' Legal Services and Assistance* Coordinator.

29          (d) *Tenants' Legal Services and Assistance* Coordinator. The *Tenants' Legal Services*  
30          *and Assistance* Coordinator shall serve at the pleasure of the City Manager and can  
31          be selected from the City of Boulder's internal staff. The *Tenants' Legal Services*  
32          *and Assistance* Coordinator shall be responsible for contracting with and  
33          supervising legal service providers, including but not limited to non-profits, private  
34          law firms, and private attorneys, to ensure the provision of the legal representation  
35          provided for herein and the day-to-day responsibilities related thereto. *The*  
36          *Tenants' Legal Services and Assistance Coordinator shall also be responsible for*  
37          *administering a rental assistance program for tenants involved in a covered*  
38          *proceeding. The Tenants' Legal Services and Assistance Coordinator may*  
39          *partner with non-profit organizations to facilitate the rental assistance program*  
40          *as well if it serves the purpose of maximizing the efficacy and reach of the rental*  
41          *assistance program. The Tenants' Legal Services and Assistance Coordinator*  
42          *shall make its best efforts to allocate and facilitate the provision of legal*  
43          *representation and/or rental assistance to tenants in covered proceedings to*  
44          *maximize the housing security of said tenants.* The *Tenants' Legal Services and*  
45          *Assistance* Coordinator shall keep the Tenants' Committee informed as to its  
46          fulfilment of its responsibilities and shall be responsive to requests for information  
47          and inquiries from the Tenants' Committee.

- 1 (e) Reporting. No later than September 1, 2021 and annually by each September 1  
2 thereafter, the *Tenants' Legal Service and Assistance* Coordinator shall submit to  
3 the Mayor, and city manager, and post online, a review of the program established  
4 pursuant to this Section and information regarding its implementation, to the extent  
5 such information is available, including, but not limited to:
- 6 (1) The estimated number of individuals who experienced a covered proceeding;
  - 7 (2) The number of individuals who received legal representation *and/or rental*  
8 *assistance* disaggregated by the following characteristics of such individuals:
    - 9 (A) Postal code of residence;
    - 10 (B) Age of head of household;
    - 11 (C) Household size;
    - 12 (D) Estimated length of tenancy;
    - 13 (E) Approximate household income;
    - 14 (F) Receipt of ongoing public assistance at the time such legal services were  
15 initiated;
    - 16 (G) Tenancy in rent-regulated housing; and
    - 17 (H) Tenancy in housing operated by the Boulder city housing authority.
  - 18 (3) Outcomes immediately following the provision of full legal representation, as  
19 applicable and available, including, but not limited to, the number of:
    - 20 (A) Case dispositions where a case was dismissed or was otherwise decided  
21 substantially in favor of the tenant;
    - 22 (B) Case dispositions where judgment for possession in favor of landlord was  
23 entered;
    - 24 (C) Case dispositions where a stipulation agreement, or other similar  
25 agreement, was made preventing the entry of judgment for possession;
    - (D) Case dispositions where a stipulation agreement, or other similar  
agreement, was made providing a tenant with an opportunity to vacate a  
judgement for possession at a later date;
    - (E) Case dispositions where a tenant was required to vacate a residence, but  
was provided additional time to vacate and, in such cases, the amount of  
additional time provided to such tenants; and
    - (F) Case dispositions that otherwise resulted in a tenant vacating a residence  
prior to the end of their lease term; and
    - (G) Instances where the attorney was discharged or withdrew.
  - (4) Orders for possession filed in county court, writs of restitution issued in county  
court in forcible entry and detainer proceedings, and residential evictions  
conducted by the county sheriff.
- (f) Funding. The spending obligations required by this Section are to be funded  
through the no eviction without representation by the tax levied pursuant to Chapter  
3-20 "Rental License Excise Tax," B.R.C. 1981.
- (g) Amendment and Rulemaking. The Boulder City Council may amend this Section,  
and the City Manager may supplement the provisions of this Section through  
rulemaking, if such amendment or rulemaking serves the purpose of ensuring and  
effectuating the provision of legal representation *and/or rental assistance* to tenants  
faced with legal proceedings imperiling their homes.

1 (h) Severability. If any provision of this Section or any application thereof to any  
2 person or circumstance is held invalid, such invalidity shall not affect any provision  
3 or application of this Section that can be given effect without the invalid provision  
4 or application. To this end, the provisions of this Section are severable.

5 Adding a new Chapter 3-20 as follows:

6 **Chapter 20 - Rental License Excise Tax.**

7 **3-20-1. - Findings and Purpose.**

8 An excise tax on each dwelling unit that is not exempt from the rental license  
9 requirement will be used to fund legal representation for persons that may be subject to an  
10 eviction proceeding and to provide funding for rental assistance for persons that may be facing  
11 an eviction or need emergency rental assistance.

12 **3-20-2. - Imposition and Rate of Tax.**

13 There is levied and shall be paid and collected an excise tax of \$75 per year for each  
14 dwelling unit that is required go get a rental license by the city, unless it is exempt from the tax  
15 by Section 3-20-5, B.R.C. 1981.

16 **3-20-3. - License holder Liable for Tax.**

17 The rental license holder is responsible for payment of the tax.

18 **3-20-4. - Definitions.**

19 The definitions in Chapter 12-2, "Landlord-Tenant Relations, No Eviction Without  
20 Representation," B.R.C. 1981, shall apply to this Chapter.

21 **3-20-5. - Exemptions.**

22 The tax imposed by this Chapter shall not apply to any rental license if associated with  
23 any dwelling unit that is exempt from a rental license in Section 10-3-2, B.R.C. 1981.

24 **3-20-6. - Dedicated Revenues.**

25 The revenues from this sales tax shall be designated for the administrative cost of the tax,  
and once that obligation has been fulfilled, used for implementation and administration and  
enforcement of a program to provide representation to tenants who face the loss of housing in  
eviction and administrative proceedings, to provide a legal services coordinator to administer the  
program; to create a tenants' committee comprised of five members paid a \$1,000 per year  
stipend; and to pay any related expenses; and to spend any excess funding for rental assistance  
for persons that are vulnerable to eviction.

**3-20-7. - Tax Increase.**



1 The city council is authorized to increase the annual excise tax rate by an amount not to  
2 exceed the Colorado consumer price index or a similar index that is tied to the annual rate of  
inflation in the state or Denver metropolitan area.

3 Section 5. The election shall be conducted under the provisions of the Colorado  
4 Constitution, the Charter and ordinances of the City, the Boulder Revised Code, 1981, and this  
5 ordinance.

6 Section 6. The officers of the city are authorized to take all action necessary or  
7 appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to  
8 conduct the election for the city.

9 Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any  
10 reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining  
11 provisions of this ordinance.

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

14  
15 Section 9. The City Council deems it appropriate that this ordinance be published by title  
16 only and orders that copies of this ordinance be made available in the office of the city clerk for  
17 public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING AND ORDERED PUBLISHED BY

2 TITLE ONLY this 4th day of August 2020.

3  
4 \_\_\_\_\_  
5 Sam Weaver,  
6 Mayor

7 Attest:

8 \_\_\_\_\_  
9 Pamela Davis,  
10 City Clerk

11 READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY

12 TITLE ONLY this 18th day of August 2020.

13 \_\_\_\_\_  
14 Sam Weaver,  
15 Mayor

16 Attest:

17 \_\_\_\_\_  
18 Pamela Davis,  
19 City Clerk