

**SUBJECT: CONSIDERATION OF ORDINANCE NO. 1901, SERIES 2025 –
REZONING PROHIBITION**

**ORDINANCE NO. 1901, SERIES 2025 – AN INITIATED
ORDINANCE AMENDING SECTION 17.16 OF THE LOUISVILLE
MUNICIPAL CODE REGARDING A PROHIBITION OF
RESIDENTIAL REZONING**

OR

**RESOLUTION NO. 63, SERIES 2025 – A RESOLUTION
REFERRING AN INITIATED ORDINANCE REGARDING
RESIDENTIAL REZONING TO A VOTE OF THE REGISTERED
ELECTORS OF THE CITY OF LOUISVILLE AT A REGULAR
ELECTION TO BE HELD NOVEMBER 4, 2025 AND DESIGNATING
THE CITY CLERK TO SET THE BALLOT TITLE**

DATE: SEPTEMBER 4, 2025

**PREPARED BY: MELINDA CULLY, DEPUTY CITY ATTORNEY
GENNY KLINE, INTERIM CITY CLERK**

PRESENTED BY: GENNY KLINE, INTERIM CITY CLERK

SUMMARY:

A resident initiative petition regarding the prohibition of rezoning in certain areas of the city was received by the Interim City Clerk's Office on July 2, 2025. The Interim City Clerk issued an initial statement of petition sufficiency on July 23, 2025. On August 8, 2025, a protest to the petition was filed by three Louisville residents. The Protest Hearing was conducted on August 28, 2025, and the hearing officer's determination was received on September 2, 2025. The hearing officer determined that the petition sufficiency was upheld, and the initiative could be either adopted by Council or placed on the ballot for consideration by the electors of the City of Louisville.

State statute gives City Council 20 days to either adopt the proposed ordinance without alternation or refer the proposed ordinance to the registered electors of Louisville.

ANALYSIS:

State statute gives City Council 20 days to either adopt the proposed ordinance without alteration or refer the proposed ordinance to the registered electors of Louisville.

If Council chooses to adopt the ordinance, first reading tonight will allow for second reading and the public hearing to be conducted at the September 16, 2025 meeting. This meets the 20-day deadline required by law.

If Council chooses to refer the initiative to the voters, the resolution will meet the 20-day deadline. This will also allow the Interim City Clerk to set the ballot title and provide the ballot language to the Boulder County Clerk prior to the deadline of September 5, 2025 for the November 4, 2025 regular election.

2025 COUNCIL WORK PLAN:

Conducting inclusive, transparent, effective and fiscally responsible elections are an integral part of Core Services.

FISCAL IMPACT:

Budgeted?: **Yes**

While the City Clerk's Office budgets annually for election expenses, the cost of adding this item to the November ballot will not be known until after the election is complete. A budget amendment may be necessary.

ALTERNATIVE(S):

Council may adopt the initiative as written or refer the question to the registered electors of Louisville.

RECOMMENDATION:

Staff recommends the City Council consider initiated Ordinance No. 1901, Series 2025 as required by state statute and determine whether the ordinance should be passed as written or referred to the voters during the November 4, 2025 regular election.

ATTACHMENT(S):

1. Ordinance No. 1901, Series 2025
2. Resolution No. 63, Series 2025
3. Initiative Petition – Rezoning
4. Protest Petition - Rezoning
5. Final Statement of Petition Sufficiency - Rezoning
6. Ruling from Protest Hearing Officer Karen Goldman

**ORDINANCE NO. 1901
SERIES 2025**

**AN INITIATED ORDINANCE AMENDING CHAPTER 17.16 OF THE LOUISVILLE
MUNICIPAL CODE REGARDING A PROHIBITION ON RESIDENTIAL REZONING**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF LOUISVILLE, COLORADO:**

Section 1. Chapter 17.16 of the Louisville Municipal Code is hereby amended by the addition of the following new Section 17.16.360 to read as follows:

Section 17.16.360. Prohibition on Residential Rezoning.

A. Prohibition on Residential Rezoning in Certain Areas.

In order to support the fiscal health of the City and its ability to provide adequate service levels, no property located within the Centennial Valley, Redtail Ridge, or Avista Adventist Hospital zoning districts shall be rezoned or otherwise approved for residential use.

For the purposes of this ordinance, Centennial Valley zoning district shall include all areas covered by the 2015 Centennial Valley GDP, Redtail Ridge zoning district shall include all areas covered by the ConocoPhillips 2010 GDP, and Avista Adventist Hospital zoning district shall include all areas covered by the Avista Adventist Hospital 2002 GDP.

This prohibition shall apply to:

1. Any rezoning application that would designate property for residential uses;
2. Any amendment to, or new application for, a General Development Plan (GDP), Special Review Use (SRU), Planned Unit Development (PUD), or Small Area Plan that includes or enables residential use within the affected zoning districts.

B. Affordability exception.

Exceptions may be made for development of market-rate housing that includes 30% on-site deed-restricted affordable housing. For the purposes of this exception:

1. On-site deed-restricted affordable housing shall mean dwelling units that are restricted to ownership or rental by those households at or below 80% of the area median income ("AMI").

2. On-site deed-restricted affordable housing shall comply with the requirements in Louisville Municipal Code Chapter 17.76 "Inclusionary Housing" as published on May 1, 2025.
3. On-site deed-restricted affordable housing shall meet the requirements of 17.76.050.A. "On-site location." The on-site option shall be the only option to satisfy the requirements for this exception.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this 4th day of SEPTEMBER 2025.

Christopher M. Leh, Mayor

ATTEST:

Genny Kline, Interim City Clerk

APPROVED AS TO FORM:
Kelly PC

Melinda Culley, Deputy City Attorney

**PUBLIC HEARING AND SECOND READING WILL BE THE 16th DAY OF
SEPTEMBER, 2025, AT 6:00 P.M. AT LOUISVILLE CITY HALL, 749 MAIN STREET,
LOUISVILLE, CO 80027.**

**PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of
_____, 2025.**

Christopher M. Leh, Mayor

ATTEST:

Genny Kline, Interim City Clerk

**RESOLUTION NO. 63
SERIES 2025**

**A RESOLUTION REFERRING AN INITIATED ORDINANCE REGARDING
RESIDENTIAL REZONING TO A VOTE OF THE REGISTERED ELECTORS OF THE
CITY OF LOUISVILLE AT A REGULAR ELECTION TO BE HELD NOVEMBER 4,
2025 AND DESIGNATING THE CITY CLERK TO SET THE BALLOT TITLE**

WHEREAS, on September 4, 2025, the City Clerk of the City of Louisville submitted to the City Council a petition for an initiated ordinance amending Chapter 17.16 of the Louisville Municipal Code regarding a prohibition on residential rezoning in certain areas (the “Rezoning Initiative”), the text of which initiated ordinance is set forth on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, C.R.S. § 31-11-104 requires that if an initiated ordinance is not adopted by the legislative body within twenty days following the final determination of petition sufficiency, then the legislative body shall refer the initiated ordinance, in the form petitioned for, to the registered electors of the municipality at a regular or special election held not less than sixty days and not more than one hundred fifty days after the final determination of petition sufficiency; and

WHEREAS, following a protest hearing, the petition was determined sufficient on September 2, 2025; and

WHEREAS, the City Council deems it appropriate to refer the Rezoning Initiative to a vote of the City’s registered electors at the regular election to be held on November 4, 2025; and

WHEREAS, Section 1.16.045 of the Louisville Municipal Code provides the ballot title for an initiated measure shall be fixed by the City Council or its designee and Section 7-4(c) of the Louisville Home Rule Charter provides the City Clerk shall hold at least one (1) public hearing prior to setting the ballot title for the initiated ordinance, and shall take into consideration any comments received at the public hearing in setting the ballot title.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF LOUISVILLE, COLORADO:**

1. The Rezoning Initiative is hereby submitted to a vote of the City’s registered electors at the regular election to be held on November 4, 2025. Such election shall be held as a part of the coordinated mail ballot election pursuant to the Uniform Election Code of 1992, articles 1 to 13 of title 1, C.R.S., as amended.

2. Pursuant to Section 7-4(c) of the City of Louisville Home Rule Charter and

Section 1.16.045 of the Louisville Municipal Code, the Interim City Clerk is authorized and designated to set the ballot title for the initiated ordinance. The Interim City Clerk shall hold at least one (1) public hearing prior to setting the ballot title for the initiated ordinance, and shall take into consideration any comments received at the public hearing in setting the ballot title.

3. The officers and employees of the City are hereby authorized and directed to take all necessary and appropriate actions to effectuate the provisions of this Resolution in accordance with Colorado law.

PASSED AND ADOPTED this 4th day of September 2025.

Christopher M. Leh, Mayor

ATTEST:

Genny Kline, Interim City Clerk

EXHIBIT A
TEXT OF REZONING INITIATIVE

Chapter 17.16 of the Louisville Municipal Code is hereby amended by the addition of the following new Section 17.16.360 to read as follows:

Section 17.16.360. Prohibition on Residential Rezoning.

A. Prohibition on Residential Rezoning in Certain Areas.

In order to support the fiscal health of the City and its ability to provide adequate service levels, no property located within the Centennial Valley, Redtail Ridge, or Avista Adventist Hospital zoning districts shall be rezoned or otherwise approved for residential use.

For the purposes of this ordinance, Centennial Valley zoning district shall include all areas covered by the 2015 Centennial Valley GDP, Redtail Ridge zoning district shall include all areas covered by the ConocoPhillips 2010 GDP, and Avista Adventist Hospital zoning district shall include all areas covered by the Avista Adventist Hospital 2002 GDP.

This prohibition shall apply to:

1. Any rezoning application that would designate property for residential uses;
2. Any amendment to, or new application for, a General Development Plan (GDP), Special Review Use (SRU), Planned Unit Development (PUD), or Small Area Plan that includes or enables residential use within the affected zoning districts.

B. Affordability exception.

Exceptions may be made for development of market-rate housing that includes 30% on-site deed-restricted affordable housing. For the purposes of this exception:

1. On-site deed-restricted affordable housing shall mean dwelling units that are restricted to ownership or rental by those households at or below 80% of the area median income ("AMI").
2. On-site deed-restricted affordable housing shall comply with the requirements in Louisville Municipal Code Chapter 17.76 "Inclusionary Housing" as published on May 1, 2025.

3. On-site deed-restricted affordable housing shall meet the requirements of 17.76.050.A. "On-site location." The on-site option shall be the only option to satisfy the requirements for this exception.

**WARNING:
IT IS AGAINST THE LAW:**

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

**DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO
VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF
COLORADO AND REGISTERED TO VOTE.**

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

Summary: This initiated ordinance prohibits the City from rezoning the following properties for residential use: Centennial Valley (consisting of the property within the 2015 Centennial Valley General Development Plan); Redtail Ridge (consisting of the property within the 2010 ConocoPhillips General Development Plan); and Avista Adventist Hospital (consisting of the property within the Avista Adventist Hospital General Development Plan). The ordinance allows exceptions for housing that includes thirty percent (30%) on-site deed restricted inclusionary housing limited to households at or below eighty percent (80%) of the area median income (AMI).

Petition Representatives

Janette Kotichas
278 Juniper Street
Louisville, CO 80027

Jean Morgan
1131 Spruce Street
Louisville, CO 80027

INITIATIVE PETITION

This petition requests that an ordinance to add a section to Louisville Municipal Code Chapter 17.16, as shown below, be submitted to a vote if not passed by the City Council. (City Charter Article 7).

Section 17.16.360. Prohibition on Residential Rezoning.

A. Prohibition on Residential Rezoning in Certain Areas.

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1	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
2	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
3	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
4	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
5	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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6	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
7	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
8	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
9	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
10	Printed Name	Signature		
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11	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
12	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
13	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
14	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
15	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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16	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
17	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
18	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
19	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
20	Printed Name	Signature		
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21	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
22	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
23	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
24	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
25	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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26	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
27	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
28	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
29	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
30	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

Affidavit of Circulator

Affiant's Printed Name

Residence Address (Street # and Name)

City

County

Date Signed

- a. That the affiant has read and understands the laws governing the circulation of petition;
- b. That the affiant was eighteen years of age or older at the time the section of the petition was circulated and signed by the listed electors;
- c. That the affiant circulated the section of the petition;
- d. That each signature thereon was affixed in the affiant's presence;
- e. That each signature thereon is the signature of the person whose name it purports to be;
- f. That, to the best of the affiant's knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector; and
- g. That the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

Affiant's Signature

Subscribed and sworn to me in the county of _____, State of Colorado, this _____ day of _____, 20 ____

Notary seal

Notary's Official Signature

Commission Expiration

**BEFORE THE CITY CLERK
OF THE CITY OF LOUISVILLE, COLORADO**

Re: No Rezoning Initiative Petition filed July 2, 2025

INITIAL STATEMENT OF PETITION SUFFICIENCY

The undersigned City Clerk of the City of Louisville, Colorado, hereby finds and states as follows:

1. On May 12, 2025, the City Clerk received written notice of a proposed initiated ordinance to amend Section 17.16.360 of the Louisville Municipal Code, which would prohibit certain properties from being rezoned for residential use (the “No Rezoning Petition”), and the form and first printer’s proof of petition. The two persons designated to represent the proponents of the petition are identified thereon as Janette Kotichas and Jean Morgan.
2. On June 4, 2025, the City Clerk approved the form and printer’s proof of the petition section for the No Rezoning Petition.
3. On July 2, 2025, the proponents filed with the City Clerk signed petition sections for the No Rezoning Petition.
4. Section 7-1(c) of the Louisville Home Rule Charter requires that an initiative petition be signed by at least five percent (5%) of the registered electors of the City on the date that the notice of the proposed ordinance is submitted to the City Clerk.
5. According to the Boulder County Clerk, the number of registered electors in the City on May 12, 2025 was 16,238. Therefore, the required number of signers on the No Rezoning Petition was 812.
6. Based upon my review of signatures, the No Rezoning Petition has more than 812 valid signatures. Accordingly, I hereby find that the No Rezoning Petition has a sufficient number of valid signatures.
7. C.R.S. § 31-11-104(1) requires that the signed sections of an initiative petition be filed with the City Clerk within one hundred and eighty (180) days of the Clerk’s approval of the petition form. Accordingly, I find that the No Rezoning Petition was timely filed.
8. C.R.S. § 31-11-110 provides for a protest period that must run before the City Council may act on an initiative petition. A protest may be filed by any registered elector who resides in the City within 40 days after the initiative petition is filed. After the protest period runs, or on the date on which any protest proceeding is

concluded, whichever is later, I will issue a final statement of petition sufficiency or insufficiency.

ISSUED this 24th day of July 2025.

CITY OF LOUISVILLE



Genny Kline, Interim City Clerk

CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing INITIAL STATEMENT OF PETITION SUFFICIENCY were sent via email and placed in the U.S. mail, postage prepaid, this 24th day of July 2025, addressed to:

Janette Kotichas
278 Juniper Street
Louisville, CO 80027

Jean Morgan
1131 Spruce Street
Louisville, CO 80027

By: G. Kline
Genny Kline, Interim City Clerk

BEFORE THE CITY CLERK OF THE CITY OF LOUISVILLE, COLORADO

**In re: Initiative Petition to Amend Chapter 17.16, Louisville Municipal Code
(Residential Rezoning)**

PROTEST

Introduction

Protestors, Tim Bierman, Don P. Brown, Jr., and Karen Brown, registered electors of the City of Louisville, Colorado, hereby submit this Protest under C.R.S. § 31-11-110 against the sufficiency and validity of the initiative petition to amend Chapter 17.16 of the Louisville Municipal Code regarding residential rezoning. The City Clerk has jurisdiction to hear this protest pursuant to C.R.S. § 31-11-110(1). Protestors have standing as residents and registered electors of the City and have timely filed this Protest within forty days of the petition's filing. Protestors respectfully request that the City Clerk conduct a hearing, declare the petition insufficient and invalid, and refuse to certify the proposed initiative to the ballot.

Background

On July 2, 2025, an initiative petition seeking to add Section 17.16.360 to the Louisville Municipal Code, entitled "Prohibition on Residential Rezoning" was filed. The initiative described in the petition targets three large development areas in the City—Centennial Valley, Redtail Ridge, and the Avista Adventist Hospital campus—and attempts to prohibit any rezoning or land use change that would allow residential development on those properties. The petition recites that this ban is imposed "in order to support the fiscal health of the City and its ability to provide adequate service levels." The measure, however, also creates a (purported) *exception* to the ban: if a proposed development in the affected areas dedicates at least 30% of its new housing units as deed-restricted affordable housing (for households at or below 80% of area median income), then the rezoning may proceed. The petition mandates that this 30% affordable housing requirement be satisfied only through on-site units—expressly disallowing any alternate means of compliance such as fee-in-lieu payments or off-site units, by stating that "the on-site option shall be the only option" to meet the affordability quota.

I. The Petition Violates the Single-Subject Rule in the City Charter and Colorado Constitution

The initiative described in the petition should be rejected because the proposed ordinance contains more than one subject. Section 7-1 of Louisville's Home Rule Charter requires the City Clerk to reject a proposed initiative ordinance if it "contains

more than one (1) subject” or if its provisions are “not necessarily or properly connected” (i.e. are disconnected or incongruous). In this respect the Charter echoes the single-subject rule in the Colorado Constitution, which provides: “No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title . . . If a measure contains more than one subject . . . no title shall be set and the measure shall not be submitted to the people.” Colo. Const. art. V, § 1(5.5). The single-subject rule exists to prevent “logrolling”—the practice of packaging together disparate proposals to secure support from different factions—and to avoid voter surprise or fraud caused by concealing substantive effects in a complex initiative. See *In re Proposed Initiatives 2021–2022 #67, #115, & #128*, 2022 CO 37, ¶ 15 (Colo. 2022) (discussing the purposes of the single-subject requirement). If an initiative’s provisions lack a necessary or proper connection to each other, or if the measure seeks to accomplish two or more separate purposes, it violates this rule and cannot be submitted to voters.

Here, the initiative manifestly embraces two unrelated subjects: (1) a moratorium on rezonings that would allow residential development in three defined areas of the City, and (2) an affordable-housing set-aside requirement dictating that any such rezoning (if it were to occur) include at least 30% on-site deed-restricted units for low- and moderate-income households.

Either proposal could stand alone as an independent policy question, and each appeals to different voter interests. One deals with growth and land-use restriction, while the other addresses the provision of affordable housing. Voters might favor one of these policies and dislike the other. For example, a voter who is concerned with limiting growth might support a freeze on new residential development but have no interest in imposing affordable housing requirements (or might even oppose such requirements for potentially encouraging development). Conversely, a voter who strongly supports affordable housing initiatives might welcome a 30% inclusionary zoning requirement in new developments, but object to an outright ban on residential rezonings that could stifle all new housing opportunities. By forcing voters to accept or reject both provisions as a package, the initiative “combines subjects with no necessary connection for the purpose of garnering support from various factions”—precisely the logrolling tactic the single-subject rule is designed to prohibit. The measure also raises the risk of voter surprise: a voter focusing on the ban might not appreciate the significant affordable-housing mandate tucked into the measure (or vice versa). See *In re Title, Ballot Title, Submission Clause for 2011-2012 No. 3*, 2012 CO 25, ¶ 11 (“the single subject rule helps avoid voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision ‘coiled up in the folds’ of a complex initiative.”) (internal citations omitted).

The initiative flouts these single-subject principles. It attempts to yoke together a development moratorium with an affordable-housing mandate, two policies that are not necessarily or properly connected. Indeed, the provisions are not only disconnected but mutually undermine one another: the measure purports to prohibit any rezoning that allows residential development, yet in the same breath concedes that a rezoning may

proceed if a heavy affordable-housing condition is met. In effect, the initiative is internally split between a no-growth mandate and a conditional-growth allowance, each of which addresses a different policy goal (municipal service capacity in the former, housing affordability in the latter). Because the initiative forces voters into an all-or-nothing choice on two incongruous subjects, it violates the Charter's single-subject rule and must be rejected.

II. The Petition Conflicts with Colorado Statutes on Affordable Housing, Rendering it Misleading and Invalid

Further underscoring the initiative's single-subject violation, the second subject embedded in this measure—the 30% affordable housing mandate—is not only separate but is also illegal under state law. Municipalities in Colorado may impose affordable housing mandates on new development *only if* they comply with the requirements of C.R.S. § 29-20-104(1)(e.5)–(e.7). Those provisions carve out a narrow “safe harbor” from the general ban on rent control (C.R.S. § 38-12-301) for local inclusionary housing regulations. To fall within this safe harbor, a municipal affordable housing ordinance imposing affordable housing requirements must, at a minimum, (i) offer developers a menu of options for compliance (i.e. it must “provide[] a choice of options to the property owner or land developer” and create “alternatives to the construction of new affordable housing units on the building site”), and (ii) be accompanied by concrete measures to increase the overall housing supply or incentivize development of affordable units.

In other words, a city can require a percentage of affordable units in new housing only if developers have flexibility in how to meet that requirement (such as paying a fee in lieu, building affordable units off-site, dedicating land, etc.), and the city simultaneously takes pro-housing actions like upzoning for greater density, reducing regulatory barriers, or offering financial incentives for affordable housing. This was the Colorado General Assembly's carefully balanced response to the Supreme Court's decision in *Town of Telluride v. Lot Thirty-Four Venture, LLC*, 3 P.3d 30 (Colo. 2000), which had invalidated a local affordable-housing ordinance as a form of rent control contrary to state law. The General Assembly, via C.R.S. § 29-20-104, now permits inclusionary zoning ordinances, but only if they adhere to the prescribed options-and-incentives framework to avoid choking off housing development (as this initiative would do). A local measure that fails to meet these statutory conditions remains preempted by state law. *See Telluride*, 3 P.3d at 37 (a local affordable housing mandate that functions as rent control is invalid unless expressly authorized by statute).

The initiative runs afoul of these state law requirements at every turn. It imposes a rigid 30% affordable-unit mandate on any development allowed under its exception, without providing any alternative means of compliance or relief for the developer. In fact, the initiative explicitly says that “[t]he on-site option shall be the only option” to satisfy the 30% requirement. There is no allowance for paying a fee instead of building units, no option to build the affordable units elsewhere, and no density bonus or other incentive to offset the cost. This inflexibility directly violates C.R.S. § 29-20-104(1)(e.5)'s mandate

that local governments must offer a “choice of options” and an alternative to on-site construction if they choose to require affordable units.

Indeed, the initiative undertakes no action that could be seen as increasing overall housing supply or incentivizing affordable development; to the contrary, its primary thrust is to reduce development by banning rezonings. Nothing in the petition would demonstrate that it has “taken one or more... actions to increase the overall number and density of housing units” or to create incentives for affordable housing, as required by C.R.S. § 29-20-104(1)(e.7). The initiative’s scheme is the antithesis of what the statute envisions: instead of encouraging more housing, it halts housing growth; instead of coupling mandates with incentives, it couples a mandate with a prohibition. Such a law would not fall under the statutory safe harbor, and thus the general ban on rent control (C.R.S. § 38-12-301) would apply, preempting the local ordinance. In short, the initiative’s affordable housing requirement is clearly illegal under state law and cannot be effectuated.

While Protestor acknowledges that typically a preemption challenge to a municipal ordinance would be resolved in court after the ordinance’s enactment, here the conflict with state law further illustrates the single-subject violation in the initiative. A subject that is barred by state law can never be “necessary” to, or logically interwoven with, a companion subject; instead, it stands as an independent (and impermissible) objective. The Petition therefore packages together one policy (a development moratorium) with another that is patently unlawful, confirming that the measure impermissibly logrolls two unrelated matters.

The unavoidable illegality of the second subject also breeds voter deception. Because state law precludes the City from enforcing the 30 percent mandate, electors who support the Petition in the belief that it will deliver a large tranche of deed-restricted homes will be disappointed: that promise is illusory. Put another way, voters may be misled into voting for the initiative on the basis of an illegal requirement that cannot become law. This outcome is barred by the single-subject rule and its prohibition on packaging together various subjects to gain electoral approval.

WHEREFORE, Protestors request that the City Clerk enter a determination that the initiative petition is not sufficient and invalid, and that no election shall be held on the proposed ordinance. Protestors further request such other or further relief as is just and proper to effectuate the purposes of Louisville’s Home Rule Charter, C.R.S. § 31-11-110 and Article V, § 1 of the Colorado Constitution.

Respectfully submitted this 8th day of August, 2025.

Shea Law, LLC

/s/ Michael Shea

Michael Shea, CO Bar # 33119

Shea Law, LLC

387 N. Corona St. #902

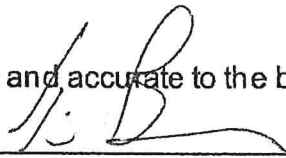
DENVER, CO 80218

Phone Number: 303-887-4505

E-mail: jmshealaw@gmail.com

Attorney for Protestors

I swear under oath that this protest is true and accurate to the best of my knowledge.



Tim Bierman
905 Lincoln Avenue
Louisville, Colorado 80027

STATE OF COLORADO
Boulder COUNTY

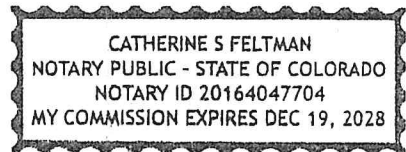
Subscribed and Sworn to me on this

[SEAL]

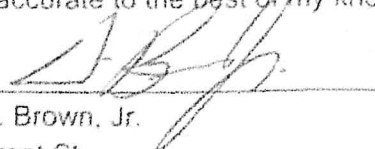
7th day of August, 2025

Notary public: Catherine Stelter

My commission expires: December 19, 2028



I swear under oath that this protest is true and accurate to the best of my knowledge.


Don P. Brown, Jr.
505 Grant St.
Louisville, Colorado 80027

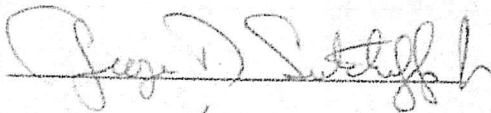
STATE OF NEW HAMPSHIRE
GRAFTON COUNTY

Subscribed and Sworn to me on this

[SEAL]

7th day of AUGUST, 2025

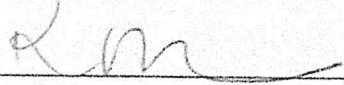
Notary public:



My commission expires: 2/26/2030

George D. Sutcliffe, Jr.
Notary Public, State of New Hampshire
My Commission Expires Feb. 26, 2030

I swear under oath that this protest is true and accurate to the best of my knowledge.


Karen Brown
505 Grant St.
Louisville, Colorado 80027

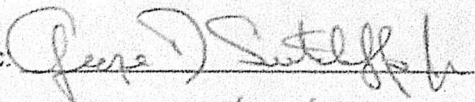
STATE OF NEW HAMPSHIRE
GRAFTON COUNTY

Subscribed and Sworn to me on this

[SEAL]

7th day of AUGUST, 2025

Notary public:



My commission expires: 2/26/2030

George D. Sutcliffe, Jr.
Notary Public, State of New Hampshire
My Commission Expires Feb. 26, 2030

**IN THE MATTER OF THE PROTESTS OF TIM BIERMAN,
DON P. BROWN, JR., AND KAREN BROWN TO THE
SUFFICIENCY DECISIONS OF THE CITY CLERK OF THE CITY
OF LOUISVILLE PERTAINING TO REZONING AND IMPACT
FEE INITIATIVE PETITIONS, FILED ON JULY 2, 2025**

DECISION OF THE HEARING OFFICER

INTRODUCTION

A hearing on protests to two initiative petitions, one dealing with rezonings in certain areas of the City of Louisville, Colorado and the other dealing with impact fees was held on Thursday, August 28, 2025, at 9:00 a.m. The hearing officer was Karen Goldman, appointed by the City of Louisville. Assisting the hearing officer was legal advisor, Mark Grueskin.

BACKGROUND INFORMATION

The initiative petition was filed by a committee composed of Janette Kotichas and Jean Morgan ("Petitioners"). The two protests were filed by Tim Bierman, Don P. Brown, Jr. and Karen Brown, represented by Michael Shea ("Protesters").

The following actions took place prior to the hearing for the rezoning initiative:

1. On Jun 4, 2025, the petition was approved as to form by the city clerk.
2. The number of minimum signatures required on the initiative petition was 812.
3. The number of signatures filed was 1,141.
4. The deadline for filing the initiative petition was Dec 1, 2025 and the petition was filed on July 2, 2025.
5. The city clerk reviewed 941 of those signatures and upon review, on July 24 determined that 821 were valid, more than the minimum number required.
6. The deadline for filing a protest was Aug 11 and a protest was filed on Aug 8, 2025.
7. The hearing officer was appointed on Aug 5, 2025.

The following actions took place prior to the hearing for the impact fee initiative:

1. On May 15, 2025, the petition was approved as to form by the city clerk.
2. The number of minimum signatures required on the initiative petition was 811.
3. The number of signatures filed was 1,126.
4. The deadline for filing the initiative petition was Nov 11, 2025, and the petition was filed on July 2, 2025.
5. The city clerk reviewed 917 of the filed signatures and upon review, on July 24 determined that 832 were valid, more than the minimum number required.
6. The deadline for filing a protest was Aug 11, 2025 and a protest was filed on Aug 8, 2025.
7. The hearing officer was appointed on Aug 5, 2025.

Administrative notice was taken of the following documents filed in the proceeding and made part of the administrative record:

1. The Verified Election Protest filed with the City Clerk on August 8, 2025. (identified as Exhibit 3 in Protesters' Exhibit List).
2. Notice of Protest Hearing from the City Clerk sent August 18, 2025.
3. Corrected Notice of Protest Hearing sent August 19, 2025.
4. Joint Stipulations of Fact filed by the Protesters and Respondents August 21, 2025.
5. Motion to Dismiss and Response to Petition Protest filed by Respondents on August 21, 2025.
6. Protesters' Exhibit List filed August 21, 2025.
7. Protesters' Witness List filed August 21, 2025.
8. Respondents' Proposed Witness and Exhibits List filed August 21, 2025.
9. Pre-Hearing Order entered August 25, 2025.
10. Protesters' Response to the motions to deny the protest and certify the initiatives for the ballot.
11. Protesters' Reply to Petition Representatives' Response to Verified Protest filed August 25, 2025.

The protest to the Clerk's sufficiency decision as to the filed rezoning initiative made two arguments:

1. The initiative petition violates the single-subject rule in the Louisville Charter and the Colorado Constitution.

2. The initiative petition conflicts with state statutes on affordable housing.

The filed initiative petition regarding the impact fees seeks to amend an existing ordinance to provide impact fees for an expanded list of capital facilities, specifically library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. It requires a new impact fee study by June 1, 2026 and updated studies every five (5) years thereafter by an independent entity and the formation of an Impact Fee Liaison Committee.

The protest to the Clerk's sufficiency decision as to the filed impact fee initiative made two arguments:

1. That the initiative petition is administrative and not legislative and therefore lies outside the scope of the initiative power.
2. The initiative violates the single-subject requirement of the Louisville Charter and the Colorado Constitution, Art.V §1(5.5) by combining multiple distinct subjects.

Additionally, the Protesters filed a motion to limit evidentiary presentations by the Petitioners, and the petition committee filed a motion to deny the protest and certify these initiatives to the ballot. In turn, both of these motions were discussed with the parties at hearing.

ARGUMENTS – REZONING INITIATIVE

1. Michael Shea, representing the Protesters, stated that the rezoning initiative prohibits residential rezoning on three (3) parcels of land within the City of Louisville and allows exceptions to the prohibition if a proposed development in the affected areas dedicates at least 30% of its new housing units as deed-restricted affordable housing for households at or below 80% of area median income.
2. He stated that these two subjects were at odds: one portion restricts development and the other portion allows it with affordable housing. This was 'logrolling', presenting two different views so as to garner more votes.
3. Mr. Shea further stated that having these different views in one initiative creates confusion and can deceive voters; some may like restricting residential development and not at expense of affordable housing, while others may like the ability to create affordable housing

and not like residential development in the three parcels of land included in the initiative.

4. Mr. Shea stated that the Colorado General Assembly believed that affordable housing was its own issue and identified it as a statewide concern.
5. Mr. Shea clarified that the argument about a potential violation of state law was intended as a single subject argument, not a matter of resolving legal conflicts to be decided by the Hearing Officer.
6. Matt Jones, a resident of Louisville and a former Colorado Senator speaking in favor of the initiative, stated that, in his fourteen years in the State Senate, he had dealt with many bills and understood the single-subject requirement. He stated his belief that this initiative met the single-subject criteria.
7. Mr. Jones stated the main purpose of the initiative was rezoning, that residential rezoning cannot occur in three parcels in Louisville unless there is an exception made for a certain percentage of the housing to be affordable housing.
8. Tamar Krantz stated that the affordable housing exception is part of a legislative act.
9. Janette Kotichas, the Petitioner, said that all elements in the initiative relate to rezoning, including the exception, and the initiative does not violate the single-subject rule.

ARGUMENTS – IMPACT FEES

1. Mr. Shea stated that the two issues in the impact fee ordinance were single-subject and that the ordinance is administrative in that it expands the category of impact fees.
2. Mr. Shea stated that various court cases named tests that were used to determine whether an initiative was administrative or legislative and that *Vagueur v. City of Aspen* was the overarching case. That case determined that tests were rooted in the separation of powers, and that administration was an executive branch function. Mr. Shea stated that an initiative cannot be placed on a ballot if it is administrative.
3. Mr. Shea noted that the City Council hires and oversees the City Manager who is the chief administrative officer and the City Council cannot interfere with the City Manager's procedures. Eliminating the role the City Manager plays in reviewing impact fee studies from the current ordinance crosses the line as redeployment of staff is an administrative matter.
4. Mr. Shea stated that the initiative contains more than one subject; the first is an expansion of the facilities subject to impact fees; the second is the creation of a committee to work with an independent contractor to study the appropriate level of impact fees; the third is an increase

in the number of impact fee studies. In response to a question from the Hearing Officer whether the initiative provides any detailed information as to how the committee and independent contractor will perform their responsibilities, Mr. Shea noted he was unaware of what the Petitioners had in mind.

5. In response to another question from the Hearing Officer, Mr. Shea stated that the administrative structure – committee and independent contractor – related to all the new proposed fees. He stated that, by divesting the City Manager of any authority in the process, the initiative thereby micromanages the process through exact schedules and identifying who must be worked with.
6. Petitioner Kotichas stated that there are already ordinances that allow for an outside person to provide study information, such as an outside auditor. She also noted that an independent contractor, TischlerBise, was hired in 2017 to assess impact fees. She stated the initiative did not take any authority away from staff.
7. Matt Jones again spoke on the topic of single-subject. He said the initiative was all about impact fees and expands what is to be covered. He noted the City was already doing impact fee studies; the initiative required they be done more often.
8. Mr. Jones stated that this initiative is a change to existing law and is a redeployment of resources. City Council still must vote on any future impact fee proposal.
9. In closing, Mr. Shea reiterated that the rezoning initiative violates the single-subject requirement and that the impact fee contained multiple subjects, micromanages City staff, and is an administrative, not a legislative, ordinance.
10. Ms. Kotichas stated that the last impact fee study was conducted in 2017, the citizens have a hallowed right to the initiative process, and the burden of proof is on the Protesters.

APPLICABLE LEGAL STANDARDS

A. Single subject standards

The single subject of an initiative is tested on a review of the measure's subject matter. If an initiative contains multiple purposes that are 'distinct and separate,' the measure violates the single subject requirement. *In re Title, Ballot Title & Submission Clause for 2015-2016 #73*, 369 P.3d 565, 568, 2016 CO 24, ¶14. This requirement means that 'an initiative's subject matter must be necessarily and properly connected rather than disconnected or incongruous.' *Id.*

The single subject requirement does not prevent an initiative from having multiple purposes so long as those purposes are 'interrelated.' *In re Title, Ballot Title & Submission Clause for 2009-2010 #45*, 234 P.3d 642, 644 (Colo. 2010). Similarly, '(a)n initiative is not transformed into a multi-subject proposal simply because it specifies mechanisms for carrying out the initiative's single subject.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #200A*, 992 P.2d 27, 31, (Colo. 2000). Such permitted mechanisms include provisions for implementation or enforcement that are 'tied to an initiative's central focus.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #258A*, 4 P.3d 1094, 1099 (Colo. 2000).

Reasonable limits on the single subject inquiry are consistent with the liberal construction of the fundamental right of initiative, as required by the Colorado Supreme Court. 'Multiple ideas might well be parsed from even the simplest proposal by applying ever more exacting levels of analytic abstraction until an initiative measure has been broken into pieces. Such analysis, however, is neither required by the single subject requirement nor compatible with the right to propose initiatives guaranteed by Colorado's constitution.' *In re Title, Ballot Title & Submission Clause for 1997-1998 #74*, 962 P.2d 927, 929 (Colo. 1998). Accordingly, an initiative must be viewed 'as a whole rather than piecemeal' in order to appropriately evaluate whether it has one subject or multiple subjects. *In re #45, supra*, 234 P.3d at 646.

B. Administrative vs. legislative initiative standards

The Supreme Court has identified three tests for determining whether an initiative is administrative or legislative in nature.

- First, 'action(s) that relate to subjects of a permanent or general character are legislative, while those which are temporary in operation and effect are not.'
- Second, 'acts that are necessary to carry out existing legislative policies and purposes...are deemed to be administrative, while acts constituting a declaration of public policy are deemed to be legislative.'
- Third, the courts presume that, 'where an original act is legislative, an amendment to that act is likewise legislative'.

Vagneur v. City of Aspen, 2013 CO 13, ¶¶39-40 (citations omitted).

Nevertheless, even with these three standards, there is not a single way of analyzing whether a measure is legislative or administrative in nature. Instead, this assessment requires a 'case-by-case inquiry.' *Id.* at ¶48. In so doing, the following concepts about 'legislation' apply.

Legislative power is defined by the work product it generates, namely, the promulgation of laws of general applicability; when the government legislates, it establishes a generally applicable rule that sets the governing standard for all cases coming within its terms. Legislative power is also defined by the nature of legislative decision-making. When a government legislates, it weighs broad, competing policy considerations, not the specific facts of individual cases.

Id. at ¶46 (citations omitted).

DISCUSSION – REZONING INITIATIVE

The initiative petition filed by Petitioners has, as its purpose, to amend the Louisville Municipal Code, Chapter 17.16, by adding a section prohibiting residential rezoning for property located within the Centennial Valley, Redtail Ridge, and Avista Adventist Hospital zoning districts which are covered by the General Development Plans in each location. The initiative petition further creates exceptions to this prohibition in these three areas only for development of market-rate housing that includes 30% on-site deed-restricted affordable housing. This on-site option is the only option to satisfy the requirements for this exception.

Protesters argued that combining these two items, restricting residential rezoning with exceptions for affordable housing in the restricted areas, are two separate and opposite topics and violate the single-subject rule found in Article 7, Section 7-1(b) of the Louisville Charter:

When an initiative petition is presented to the City Clerk for approval as to form, the City Clerk shall reject the form and disapprove its circulation if, in addition to any other applicable grounds, the proposed ordinance contains more than one (1) subject. The City Clerk shall determine that the ordinance contains more than one (1) subject if the matters addressed in the ordinance are not necessarily or properly connected, or are disconnected or incongruous.

Protesters argued that both restricting residential rezoning and allowing rezoning under specific circumstances are actually two separate subjects and each can stand alone. Protesters further argued that linking them together could be confusing to the voters: those who are in favor of the rezoning restriction might be dismayed to find out they are also voting 'no' on affordable housing; those who are in favor of affordable housing might not know that an affirmative vote also allows rezoning in the designated areas.

Protesters also argued that combining these two separate subjects is 'logrolling', a term used to indicate that unrelated subjects are combined in order to gain voters' support.

Protesters clarified that they were not seeking a decision by the Hearing Officer that the 30% affordable housing mandate would violate affordable housing statutes if it became law. Instead, they were identifying its interplay with state law as evidence of a second subject and impermissible logrolling

If Petitioners had submitted an initiative petition containing two subjects, one dealing with proposed rezoning prohibition and the other having nothing at all to do with the rezoning, that would clearly be a violation of the single-subject requirement in the Louisville Charter. A violation of the Charter would also occur if the submitted initiative included a restriction for residential rezoning throughout the entire corporate boundaries of Louisville with an exception for affordable housing in only three areas located within Louisville. Neither is the case for this initiative. There is a very clear connection between restricting residential rezoning in only three areas of Louisville with an exception to that restriction only within the same three areas of Louisville if affordable housing is created. This prohibition and the exception to this prohibition are clearly 'interrelated' which is consistent with an initiative's single subject. *See In re #45 supra*, 234 P.3d at 644. Therefore, the single-subject provision of the Louisville Charter has not been violated.

As to whether or not an initiative's interplay with state law is a second subject, the Supreme Court has been clear. An initiative's impacts on other laws is not a second subject. 'The effects of this measure could have on Colorado...law if adopted by voters are irrelevant to our review of whether (the proposed initiative) and its Titles contain a single subject'. *In re Title, Ballot Title & Submission Clause for 2011-2012 No. 3*, 2012 CO 25, ¶20 n.2. '(T)he fact that the provisions of a measure may affect more than one other statutory provision does not itself mean that the measure contains multiple subjects.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #255*, 4 P.3d 485, 496 (Colo. 2000). That includes whether local laws would conflict with state law under a proposed initiative. *In re Title, Ballot Title & Submission Clause for 2013-2014 #90*, 2014 CO 63, ¶19. Regardless, the Hearing Officer in this proceeding does not decide if state laws would be violated by this initiative. As such, this ground does not warrant reversal of the Clerk's sufficiency decision.

Regarding Protesters' concern about voter confusion by having two opposite subjects contained in the initiative, these two parts of the initiative are not contradictory. One part sets a general prohibition; the other establishes an

exception to that prohibition. Voters are not confused by a single subject initiative that contains related provisions. See *In re Title, Ballot Title & Submission Clause for 2013-2014 #89*, 2014 CO 25, ¶19 ('there is no serious risk that the voters will be unaware of the primary effects of (the) initiative) because each of the sections relates to the same subject'). Article 11 of Title 31, Municipal Initiatives, Referenda, and Referred Measures, provides the means for ensuring voter understanding of an initiative. In accordance with C.R.S. 31-11-111(1), when an initiative petition election date has been set, the legislative body 'shall promptly fix a ballot title for each initiative or referendum'. C.R.S. 31-11-111(3) further states:

In fixing the ballot title, the legislative body or its designee shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a 'yes' or 'no' vote would be unclear...The ballot title shall correctly and fairly express the true intent and meaning of the measure.

Thus, while the measure addresses only one subject and will not confuse voters, the City Council can clearly communicate the initiative's prohibition and exception when setting the ballot title so voters have an additional tool to understand the meaning.

DISCUSSION - IMPACT FEE INITIATIVE

The initiative petition filed by Petitioners increases the number and type of capital facilities subject to impact fees beyond those currently identified in Chapter 3.18 of the Louisville Municipal Code. Additionally, the ordinance would require the preparation of a new impact fee study by June 1, 2026 and updated studies every five (5) years performed by an independent entity, as well as an Impact Fee Liaison Committee to advise City staff and consultants during the development of the impact fee study.

Protesters argued that combining these three items violate the single-subject rule found in Article 7, Section 7-1(b) of the Louisville Charter:

When an initiative petition is presented to the City Clerk for approval as to form, the City Clerk shall reject the form and disapprove its circulation if, in addition to any other applicable grounds, the proposed ordinance contains more than one (1) subject. The City Clerk shall determine that the ordinance contains more than one (1) subject if the matters addressed in the ordinance are not necessarily or properly connected or are disconnected or incongruous.

Protesters argued that there are two separate subjects in the initiative: 1) the expansion of fees of new development which are not covered by current law; and 2) the imposition to new detailed administrative requirements governing how impact fees are calculated and updated and that each of these subjects has a different purpose, not necessarily dependent on the other.

Under current law, impact fees are imposed for only three (3) types of capital facilities – libraries, transportation, and parks and trails. Under the Impact Fee initiative, nine (9) additional capital facilities are added to this list – open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. Protesters do not dispute that adding these additional impact fees to the list of capital facilities is a single subject, nor could they. *See In re Proposed Petition to amend TABOR No. 32*, 908 P.2d 125, 129 (Colo. 1995) (concluding that an initiative met the single-subject requirement even though it applied a tax credit to six different taxes).

If Petitioners had submitted an initiative petition containing two subjects, one dealing with increasing the number of capital facilities subject to impact fees and the other having nothing at all to do with imposing impact fees, that would clearly be a violation of the single-subject requirement in the Louisville Charter. The original ordinance on impact fees defines a 'Fee schedule or impact fee schedule' in Section 3.18.030(M) of the Louisville Municipal Code, such schedule attached as Appendix A. The proposed initiative seeks to quadruple the categories of capital facilities to the schedule. It also includes a definition of 'Impact Fee Study' in Section 3.18.030(N), the frequency of which the initiative seeks to increase. Section 3.18.303(O) defines 'Independent fee calculation study' as a study prepared by a fee payer. The initiated ordinance does not change that definition other than to add the newly-designated capital facilities so that they are covered by the mandated, periodically conducted study. It is clear that all of the additions and changes in the initiative directly relate to the expanded imposition of impact fees and thus are part of the initiative's single subject. *See In re Title, Ballot Title & Submission Clause for 1999-2000 No. 200A*, 992 P.2d 27, 31 (Colo. 2000) (provisions relating to 'information delivery, data gathering, and reporting requirements' are not a separate subject but instead implement an initiative as 'mechanisms for carrying out the initiative's single subject'). Imposition of new impact fees and setting forth the general means by which they are to be evaluated to meet proponents' intended goals are interrelated purposes and thus comprise a single subject. *See In re #45, supra*, 234 P.3d at 644.

In the alternative, Protesters argued that the proposed initiative is administrative in nature because it does not primarily establish a broad policy of general applicability given that it changes the City's scheme for calculating and regularly updating certain impact fees, including those affected by this initiative. They argue it would extend and operationalize the policy in a highly specific manner, specifying new categories of fees and prescribing detailed procedures on city staff.

Imposing new fees on certain parties or activities is a legislative policy change. See *Bloom v. City of Ft. Collins*, 784 P.2d 304, 308 (Colo. 1989) ('the particular mode adopted by a city in assessing the fee is generally a matter of legislative discretion'). The process employed in this initiative applies across the board to all the capital facilities funds affected by the measure. It does not make the administrative decision of the dollar level of any particular fee but leaves that to a public process to be conducted by persons with substantive background in related fields.

Protesters complain that the initiative dictates 'when and how staff must conduct fee studies to keep data current.' But given the unquestioned testimony at the hearing that the last impact fee study was conducted eight (8) years ago in 2017, it seems the initiative's requirement of having an impact fee study once every five (5) years is much more than an administrative detail. Instead, it is a new policy to require a regular, predictable updating of fee levels to meet then-current needs.

Protesters also argue that the initiative's Impact Fee Liaison Committee to advise City staff and consultants is an incursion into current administrative processes. But this aspect, too, is a generally applicable feature of the fee setting done under this measure. The initiative leaves it to this Committee to perform fact-specific duties in terms of evaluating the various fees and revenues generated rather than asking voters to pass on such fee levels themselves. As such, creation of the Committee with its limited scope is a legislative act.

Section 3.18.020 of the current ordinance identifies the policy goals in creating impact fees. The first two portions of that statement of intent are as follows:

- A. *Development bears proportionate share of costs of capital facilities.*
The intent of this chapter is to ensure that new development bears a proportionate share of the cost of city library capital facilities, transportation capital facilities, and parks and trail capital facilities.
- B. *Bear proportionate share of costs through impact fees.* It is the further intent of this chapter that new development pay for its fair

share of the costs of these library capital facilities, transportation capital facilities, and parks and trail capital facilities.

These wider policy goals are retained, but under the initiative, they would apply to a wide group of impact fees and capital facilities. In determining whether the initiative is administrative or legislative, one consideration is whether the *original* ordinance was administrative or legislative. If an adopted ordinance is legislative, then any amendments or changes to that ordinance are also legislative subject to the initiative powers granted to the citizens. *Margolis v. v District Court of County of Arapahoe*, 638 P.2d 297, 304 (Colo. 1981) ('since the original act of zoning is legislative, the amendatory act of rezoning is likewise legislative').

Ordinance. No. 1506-2006, § 2, adopted on December 19, 2006, effective Feb. 11, 2007, created the current chapter in the Louisville Municipal Code regarding impact fees. It was adopted through a legislative process and derived its authority pursuant to Article XX, § 6 of the Colorado State Constitution, the city's home rule Charter, the city's general police powers, and other relevant laws of the State of Colorado.

The ordinance sets general policy relating to impact fees, including a requirement for impact fee studies, and an independent impact fee study to be conducted by an independent entity. These elements are not eliminated from ordinance by the initiative petition; they remain in the Louisville Municipal Code but are extended to the additional capital facilities identified in the initiative. The expansion of this provision does not dictate the results of the proposed decision-making process or make a case-specific determination about such fees. It simply provides a new, generally applicable structure for conducting it.

Protesters argued that the City Manager's role in reviewing the study is removed from the current ordinance. The current ordinance only authorizes the City Manager to 'review' impact fees and the sufficiency of the revenues they generate. This initiative authorizes the Impact Fee Liaison Committee 'to advise city staff and consultants' in the fee-setting process. 'Advise' means 'to give (someone) a recommendation about what should be done; to give advice to'. *Advise*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/advise>. The City Manager or her designee are therefore not entirely preempted from being involved in this process.

Protesters further argued that the initiative usurped or micromanaged the City's administrative process, but this initiative does not dictate the fees to be set or the conclusions to be reached under the impact fee study. Neither does it prohibit any review or discussion by City staff.

Chapter 2.20 of the Louisville Municipal Code governs Boards and Commissions. Louisville currently has fourteen (14) boards and commissions. All members are both appointed and removed by the City Council. They are advisory in nature and their rules and procedures are established by the City Council by resolution. Staff are generally assigned to support them. Nothing in the initiative petition indicates any different processes to be followed if an Impact Fee Liaison Committee is established and, as noted above, City staff may continue to be involved in this process after being advised by the Committee.

CONCLUSION

Regarding the rezoning initiative, the Hearing Officer hereby finds that the initiative does not violate the single-subject requirement of the Louisville Charter and thus the City Clerk's initial determination of petition sufficiency is upheld.

Regarding the impact fee initiative, the Hearing Officer hereby finds that the initiative does not violate the single-subject requirement of the Louisville Charter and that the initiative is legislative in nature and thus the City Clerk's initial determination of petition sufficiency is upheld.

Accordingly, the Hearing Officer further finds that both initiatives are eligible to be placed on the ballot for consideration of the registered electors of the City of Louisville, Colorado.

/s/ Karen B. Goldman
Hearing Officer

CERTIFICATE OF SERVICE

I, Karen Goldman, hereby certify that on this 2nd day of September, 2025, a true and correct copy of the foregoing was served on the Parties, via email, addressed as follows:

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