CITY OF BOULDER
PLANNING BOARD MEETING AGENDA
DATE: March 17, 2016
TIME: 6 p.m.
PLACE: 1777 Broadway, Council Chambers

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1. **CALL TO ORDER**

2. **APPROVAL OF MINUTES**
   The February 18, 2016 and March 3, 2016 minutes are scheduled for review.

3. **PUBLIC PARTICIPATION**

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS**
   A. Call Up Item: USE REVIEW (LUR2016-00015): Use Review for a 2,500 square foot meeting/event space comprised of a 2,000 square foot meeting room and a 500 square foot pre-function area within a 7,000 square foot retail building currently under construction within the Gunbarrel Gateway property located at 6315 Lookout Road. The call-up period expires on March 15, 2016.

5. **PUBLIC HEARING ITEMS**
   A. AGENDA TITLE: Reconsideration of Initial Screening of a Map Change Request at 2801 Jay Road (Request #29) as part of the Boulder Valley Comprehensive Plan Major Update. *This is a continuation of the initial screening of public requests and that the public hearing was held on February 2, 2016.*

   B. AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

6. **MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**
   A. Form-Based Code Update

   B. Planning Board 2016 Retreat Agenda

7. **DEBRIEF MEETING/CALENDAR CHECK**

8. **ADJOURNMENT**

CITY OF BOULDER PLANNING BOARD
MEETING GUIDELINES

CALL TO ORDER
The Board must have a quorum (four members present) before the meeting can be called to order.

AGENDA
The Board may rearrange the order of the Agenda or delete items for good cause. The Board may not add items requiring public notice.

PUBLIC PARTICIPATION
The public is welcome to address the Board (3 minutes* maximum per speaker) during the Public Participation portion of the meeting regarding any item not scheduled for a public hearing. The only items scheduled for a public hearing are those listed under the category PUBLIC HEARING ITEMS on the Agenda. Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.

DISCUSSION AND STUDY SESSION ITEMS
Discussion and study session items do not require motions of approval or recommendation.

PUBLIC HEARING ITEMS
A Public Hearing item requires a motion and a vote. The general format for hearing of an action item is as follows:

1. Presentations

a. Staff presentation (10 minutes maximum*)
b. Applicant presentation (10 minute maximum*). Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.
c. Planning Board questioning of staff or applicant for information only.

2. Public Hearing

Each speaker will be allowed an oral presentation (3 minutes maximum*). All speakers wishing to pool their time must be present, and time allotted will be determined by the Chair. No pooled time presentation will be permitted to exceed ten minutes total.

- Time remaining is presented by a Green blinking light that means one minute remains, a Yellow light means 30 seconds remain, and a Red light and beep means time has expired.
- Speakers should introduce themselves, giving name and address. If officially representing a group, homeowners' association, etc., please state that for the record as well.
- Speakers are requested not to repeat items addressed by previous speakers other than to express points of agreement or disagreement. Refrain from reading long documents, and summarize comments wherever possible. Long documents may be submitted and will become a part of the official record.
- Speakers should address the Land Use Regulation criteria and, if possible, reference the rules that the Board uses to decide a case.
- Any exhibits introduced into the record at the hearing must be provided in quantities of ten (10) to the Secretary for distribution to the Board and admission into the record.
- Citizens can send a letter to the Planning staff at 1739 Broadway, Boulder, CO 80302, two weeks before the Planning Board meeting, to be included in the Board packet. Correspondence received after this time will be distributed at the Board meeting.

3. Board Action

d. Board motion. Motions may take any number of forms. With regard to a specific development proposal, the motion generally is to either approve the project (with or without conditions), to deny it, or to continue the matter to a date certain (generally in order to obtain additional information).
e. Board discussion. This is undertaken entirely by members of the Board. The applicant, members of the public or city staff participate only if called upon by the Chair.
f. Board action (the vote). An affirmative vote of at least four members of the Board is required to pass a motion approving any action. If the vote taken results in either a tie, a vote of three to two, or a vote of three to one in favor of approval, the applicant shall be automatically allowed a rehearing upon requesting the same in writing within seven days.

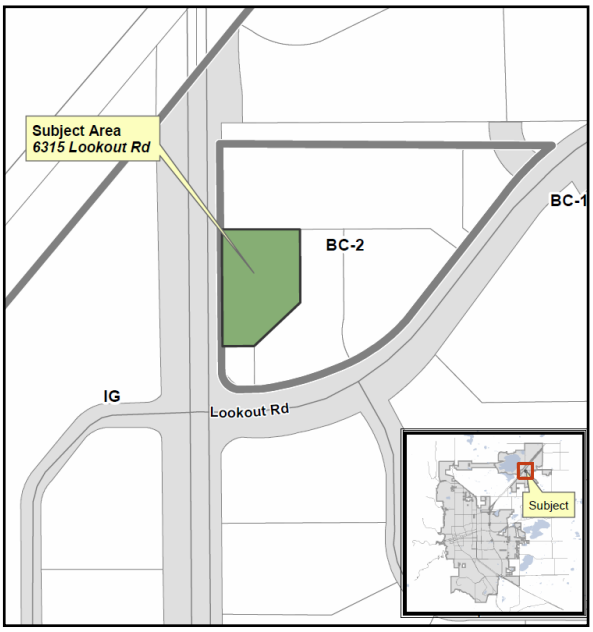
MATTERS FROM THE PLANNING BOARD, DIRECTOR, AND CITY ATTORNEY
Any Planning Board member, the Planning Director, or the City Attorney may introduce before the Board matters which are not included in the formal agenda.

ADJOURNMENT
The Board's goal is that regular meetings adjourn by 10:30 p.m. and that study sessions adjourn by 10:00 p.m. Agenda items will not be commenced after 10:00 p.m. except by majority vote of Board members present.

*The Chair may lengthen or shorten the time allotted as appropriate. If the allotted time is exceeded, the Chair may request that the speaker conclude his or her comments.

MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin, Case Manager
DATE: March 3, 2016
SUBJECT: **Call Up Item:** USE REVIEW (LUR2016-00015): Use Review for a 2,500 square foot meeting/event space comprised of a 2,000 square foot meeting room and a 500 square foot pre-function area within a 7,000 square foot retail building currently under construction within the Gunbarrel Gateway property located at 6315 Lookout Road. The call-up period expires on **March 15, 2016.**



Process Summary. The owner of 6315 Lookout Rd. (near the intersection of 63rd Street and Lookout Road) would like to add a meeting/event space within a retail building that would serve both the existing adjacent hotel and the restaurant recently permitted and under construction within the same retail building. While a meeting space is considered to be compatible with a hotel use and a restaurant, the building is located on a separate lot from the hotel and the meeting space (defined as a "conference center" use is therefore considered a primary use which requires a use review under the Business Community -2 (BC-2) zoning district.

Background. The planned meeting/event space is intended to be located within a building currently under construction. The building was approved through a Site Review (LUR2008-00022) for the Gunbarrel Gateway site, currently built out with a Hampton Inn Hotel. During the permitting process for the tenant finish, it was found that the planned use as a meeting space (conference space) required the Use Review. The site's zoning of BC-1 is *business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*" The project site is also within the boundaries of the Gunbarrel Community Center Plan which designates the site as "Community Business." The plan defines this as,

> "*a focal point for commercial activity serving a subcommunity. These areas are designated to serve the daily convenience shopping and service needs of the local population, and are generally less than 150,000 to 2000,000 square feet in area*." Example uses within the plan are noted as, "*restaurants, personal services, large or small retail, banks, hotels, motels, medical or dental offices, recreational facilities, schools, day care, art studios and professional offices*."

As a part of the retail building's construction, where the meeting space will be located, a tenant finish for a restaurant was issued that includes a roof top patio. Additional improvements also include landscaping and buildout of a parking area to serve the building.

Project Proposal. The 2,500 square foot meeting space is planned as banquet space for the adjacent restaurant as well as conference space for the adjacent hotel. The applicant indicated that on weekends it can be used as a wedding venue or party facility and on weekdays it can serve as a meeting space for nearby businesses and community organizations as well as hotel guests. The hours of operation planned are from 7:30AM to 12:00 AM. It will have no dedicated employees but will utilize employees already at the adjacent hotel and/or restaurant, with management of the space operated by the hotel.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section

9-4-3, "*Public Notice Requirements*," B.R.C. 1981 have been met. There were no comments received regarding the application.

Analysis. The proposal was found to be consistent with the Use Review criteria pursuant to subsection 9-2-15(e), "*Criteria for Review*," B.R.C. 1981. Refer to **Attachment B** for the complete Use Review analysis.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981. The proposal was **approved** by staff on **March 3, 2016** and the decision may be called up before Planning Board on or before **March 17, 2016**. Questions about the project or decision should be directed to the Case Manager, Elaine McLaughlin at (303) 441-4130 or at mclaughline@bouldercolorado.gov

Attachments:

A. Signed Disposition
B. Analysis of Use Review Criteria

CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • email plandevelop@bouldercolorado.gov
www.boulderplandevelop.net

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION:	**Approved with conditions**
PROJECT NAME:	**GUNBARREL GATEWAY CONFERENCE SPACE**
DESCRIPTION:	**USE REVIEW to install a 2,500 s.f. conference center.**
LOCATION:	**6315 LOOKOUT RD**
COOR:	**N10E03**
LEGAL DESCRIPTION:	**Lot 2, Gunbarrel Business Park Replat B, City of Boulder, County of Boulder, State of Colorado**
APPLICANT:	**BILL MCDERMID**
OWNER:	**Boulder Hospitality, LLC**
APPLICATION:	**Use Review, LUR2016-00015**
ZONING:	**BC-2**
CASE MANAGER:	**Elaine McLaughlin**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved on: MARCH 3, 2016
Date

By: _____
David Driskell, Executive Director of Community Planning and Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: MARCH 17, 2016

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Address: 6315 LOOKOUT RD

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant on January 27, 2016 and the written statement dated Feb. 1, 2016** on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:

   a. Size of the approved interior use shall be limited to 2,500 square feet.

   b. The approved interior use shall be closed from 12:00 a.m. to 6:00 a.m. seven days per week.

   c. Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.

2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.

3. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following:

   a. the Development Agreement recorded at Reception No. 2972299 on October 9, 2008 in the records of the Boulder County Clerk and Recorder; and

   b. the Subdivision Agreement recorded at Reception No. 03214070 on April 4, 2012 in the records of the Boulder County Clerk and Recorder.

(e) Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

√ (1) Consistency With Zoning and Nonconformity: The use is consistent with the purpose of the zoning district as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981, except in the case of a nonconforming use;

The project site is zoned BC-2; the zoning district purpose for BC-2 is defined as, "*business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*" The project site is also within the boundaries of the Gunbarrel Community Center Plan which designates the site as "Community Business." The plan defines this as,

> "*a focal point for commercial activity serving a subcommunity. These areas are designated to serve the daily convenience shopping and service needs of the local population, and are generally less than 150,000 to 2000,000 square feet in area*." Example uses within the plan are noted as, "*restaurants, personal services, large or small retail, banks, hotels, motels, medical or dental offices, recreational facilities, schools, day care, art studios and professional offices*."

The location of the proposed conference space in Retail Building 1 was considered as a part of the Site Review approval for Gunbarrel Gateway, under case no. LUR2008-00022. The intent of both the zoning and the Site Review approval is to permit active uses in this area of Gunbarrel.

√ (2) Rationale: The use either:

√ (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

The intent of the small conference facility is to provide meeting space that would serve the hotel, and be augmented by the adjacent restaurant, also within Retail Building 1. There's a particular synergy to having both the restaurant use (which is permitted by right in the zoning district), the conference space, and the hotel. All of them provide services to the site and the surroundings. Similarly, not only could the conference space be used by hotel guests, but is within close proximity to a number of offices within the Gunbarrel Business Park.

n/a (B) Provides a compatible transition between higher intensity and lower intensity uses;

n/a (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or

n/a (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (f) of this section;

√ (3) Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The conference space is compatible with the adjacent restaurant and the hotel. Because the majority of the users of the space will be hotel guests, this compatibility will likely have a minimal negative impact on the use of nearby properties. Residential uses are located well away from the site such that impacts would likely not occur.

__√__ **(4)** **Infrastructure: As compared to development permitted under section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;**

The infrastructure for the site is already integrated into the urban context of the site.

__√__ **(5)** **Character of Area: The use will not change the predominant character of the surrounding area;**

The character of the area is that of a community business area as designated by the land use. There are offices and industrial buildings along with banking services and other uses. The existing hotel will be augmented with the construction of Retail Building 1 where the planned conference space will be located.

__n/a__ **(6)** **Conversion of Dwelling Units to Nonresidential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts to nonresidential uses that are allowed pursuant to a use review, or through the change of one nonconforming use to another nonconforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a daycare center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.**

Not applicable to this case, this is not a proposed conversion of residential to non-residential use.

C I T Y O F B O U L D E R
MEETING OF THE PLANNING BOARD

MEETING DATE: March 17, 2016

AGENDA TITLE
Reconsideration of Initial Screening of a Map Change Request at 2801 Jay Road (Request #29) as part of the Boulder Valley Comprehensive Plan Major Update

REQUESTING STAFF:
David Driskell, Executive Director, Planning, Housing & Sustainability
Susan Richstone, Deputy Director, PH&S
Lesli Ellis, Comprehensive Planning Manager, PH&S
Jeff Hirt, Planner II, PH&S
Caitlin Zacharias, Associate Planner, PH&S
Nicole Wobus, Long Range Planning Manager, Boulder County
Pete Fogg, Senior Planner, Boulder County
Abigail Shannon, Senior Planner, Boulder County
Steven Giang, Planner I, Boulder County

OBJECTIVE:
This is a continuation of the initial screening of public requests. The public hearing for this item was held on Feb. 2, 2016.

PURPOSE
At the Feb. 29, 2016 meeting, City Council requested that Planning Board reconsider 2801 Jay Road (Request 29) for the list of public requests to be analyzed further as part of the major update to the BVCP. This memo provides information on the actions taken by City Council on Feb. 29, 2016 and includes details on both requests that regard **2801 Jay Rd.**, including #29 (a request for change from PUB to MXR).

SUMMARY OF CITY COUNCIL ACTION ON FEB. 29, 2016
On Feb. 29, 2016, City Council provided the following input and took the following actions.

1. Asked Planning Board to reconsider Request 29, a land use change for 2801 Jay Road which is the subject of this memo and further described in the analysis section that follows. Eight of the council members expressed interest in further study because: (1) the land use is transitioning from a public use; (2) the BVCP major update is the opportune time to explore a land use change; and (3) it might be an appropriate site for housing which is a community need; and (4) the analysis should not presuppose the outcome.

In addition, council:

2. Did not recommend further consideration and analysis of Request 30, a service area contraction at 2801 Jay Rd. because the property has been in Area II and developed for over 25 years (no action taken).
3. Approved moving forward four requests for analysis as part of the BVCP major update:
   - 3261 3rd St. *(Request 25)*
   - 3000 N. 63rd St. & 6650 Valmont Rd. (Valmont Butte #1) *(Request 26)*
   - 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #2 *(Request 35)*
   - 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #3 *(Request 36)*
4. Passed a motion to support a facilitated process for Twin Lakes (Requests 35 and 36). (See **Attachment B**.)
5. Decided to not further consider and analyze Request 32, a service area contraction request, for 5399 Kewanee Drive and 5697 South Boulder Road (Hogan-Pancost) to change the properties from Area II and III (a vote of 5 to 4).

BACKGROUND – 2801 Jay Road

Planning Board has previously received information about the two 2801 Jay Road requests (29 and 30) in the Feb. 2, 2016 memo. Additionally, the presentation and public comments from the joint public hearing with City Council on Feb. 2 can be found on the Boulder Channel 8 archive, here.

Request 29 for a land use change from Public (PUB) to either Medium (MR) or Mixed Density (MXR) Residential was put forward for the purposes of creating a mixed density affordable housing project, with the applicant expressing flexibility to determine the appropriate use of the site.

On Oct. 1, 2015, as part of a concept review, Planning Board indicated that a residential use could potentially be supportable on this site and that the BVCP process may be the appropriate venue to evaluate the kind of land uses appropriate and future intensity. Staff originally recommended further analysis of Request 29 to determine the appropriate intensities for the property as it transitions from a public church use to a future use. The property has been developed and used as a place of worship since 1990.

On Feb. 2, 2016, Planning Board expressed concerns about intensifications of the site, not recommending further analysis of Request 29, and asking for further study of the alternative Request 30.

Request 30 is a request to change the property designation from Area II to Area III-Planning Reserve because of concerns related to consistency of redevelopment with neighborhood character, incremental development, traffic, and safety, among other reasons. The purpose of the Planning Reserve is to maintain the option of future service area expansion and is an interim classification until it is decided whether the property should be placed in Area III-Rural or in the Service Area (Area II). Because of existing urban development on the property, Area II and Public land use designations, and contiguity with the city's existing service area, staff did not recommend further analysis of Request 30. The BVCP also does not contain clear criteria regarding how to change the designation of a property from Area II to Area III-Planning Reserve.

SUMMARY OF ACTIONS TO DATE ON INITIAL SCREENING

Based on results from initial screening hearings, the following requests will move forward for additional analysis:

Land use map changes in Area I

- 2130 Arapahoe Ave. & 6287 Arapahoe Ave. (Naropa) *(Request 1)*
- 385 Broadway (member of the public) *(Request 3)*
- 0, 693, & 695 S. Broadway (Table Mesa Shopping Center) *(Request 12)*
- 3485 Stanford Ct. (Mt. Calvary Lutheran Church) *(Request 13)*

Note: The requestor withdrew 4801, 4855, 4865, 4885, and 4895 Riverbend Rd. (Boulder Community Health), so Request 10 will not move forward as part of the BVCP.

Land use map changes for Area II, Area III:

- 3261 3rd St. *(Request 25)*
- 3000 N. 63rd St. & 6650 Valmont Rd. (Valmont Butte #1) *(Request 26)*
- 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #2 *(Request 35)*
- 6655 & 6500 Twin Lakes Rd., 0 Kalua Rd #3 *(Request 36)*

*Note: City Council passed a motion to recommend a facilitated process occur for the two Twin Lakes requests above, so that process is being scoped and will proceed concurrently with staff analysis. (See **Attachment B**.)*

Policy and text requests:

- Enhance public benefit (Ch. 2: Built Environment) *(Request 16)*
- Clarification re: ditches (Ch. 2: Built Environment, Ch. 9: Agriculture and Food, and VI: Urban Service Criteria and Standards) *(Request 17)*
- Reflect public interest in renewable energy and reduction of carbon footprint (Ch. 4: Energy and Climate) *(Request 18)*

Level of Detail and Analysis

In general, the BVCP analysis following the initial screening has focused on issues such as intensity of development, mix of uses, and ability to provide urban services to a property or area. Criteria for further analysis will be based on BVCP criteria that are outlined in the Amendment Procedures, including consistency with the policies and overall intent of the comprehensive plan, compatibility with the surrounding area, and minimal effect on service provision, among others. **Attachment A** contains additional information about the approach for analysis of the above requests and reports to be produced.

Attachment B contains the motion by City Council regarding the Twin Lakes facilitated process.

Attachments

A. Analysis Approach for Public Requests
B. City Council Motion for a Facilitated Process for Twin Lakes

Attachment A: Approach to Analysis of BVCP Public Requests

This section helps to clarify what to expect regarding level of detail and timing for analysis of the public requests. Staff is currently sorting the requests according to level of complexity, required review (two or four-body), and expected level of community engagement, among other factors to determine when hearings might take place. This is information that was shared with City Council as part of the Feb. 29, 2016 memo.

In general, the BVCP analysis following the initial screening has focused on issues such as intensity of development, mix of uses, and ability to provide urban services to a property or area. Criteria for further analysis will be based on BVCP criteria that are outlined in the Amendment Procedures (p. 59, land use map changes, 2010 BVCP) and minor adjustments to the service area boundary (p. 61, 2010 BVCP)). These criteria include consistency with the policies and overall intent of the comprehensive plan, compatibility with the surrounding area, and minimal effect on service provision, among others.

Specifically, analysis during the further analysis phase in past major updates has entailed the following:

1. Summary Data: zoning and future BVCP land use designations, parcel acreage, square footage of existing buildings, and dwelling units and jobs based on current and proposed land use designations
2. Site Location and Context: including a description of what is permitted under the current land use designation, surrounding land uses, transit, and any environmental concerns
3. Discussion of relevant history and key issues: key issues vary by property and may included the following, among others: land use discrepancy with BVCP, development potential after floodplain re-mapping, consistency with adopted area plans, previous council direction, preservation of rural or historic character, and compatibility with surrounding area
4. Summary points from public engagement: most requests involved a public engagement component

In past updates, staff has not provided detailed analysis regarding environmental resources, hydrology, or site design. In addition to the criteria in the Amendment Procedures, compatibility with policies and land use designations in existing subcommunity or area plans and priorities for the major update are among additional considerations used in the further analysis phase. In 2010, for example, staff recommendations were based on prior or ongoing detailed studies or adopted plans and did not include any new detailed studies for the BVCP process (e.g., recommendations based on adopted plans (TVAP and the North Boulder Subcommunity Plan) and prior studies (RH-2 zoning district study, University Hill Study)). In general, the 2010 staff recommendations cite existing policies and regulations without conducting technical analysis to comprehensively examine the implications of potential alternative land use designation and zoning scenarios.

In 2010, the volume of public comment was substantially less for final decisions than seen for the 2015 requests. Nevertheless, of the ten 2010 requests that made it to the final stages, four had at least one public meeting, and some had several focused smaller group meetings with community members.

Attachment B: Twin Lakes Facilitated Process

Language from the Motion as Passed by City Council

Move that BVCP Requests #35 and #36 be further considered and analyzed, with the following request: That Boulder County Housing Authority, Boulder Valley School District, and Twin Lakes Action Group engage in an open and transparent facilitated discussion comprised of representatives of each group who are vested with the authority to speak for and bind their respective constituents. Each group should have equal representation and the discussion should be facilitated by an independent facilitator selected by the City of Boulder, with facilitator compensation shared between the City of Boulder and Boulder County. Boulder Valley School District shall be requested to be part of the process and if agreeable to pay an equitable share of the costs.

The three groups are expected to do the following, with the timing of work to align with the BVCP process:

1. Jointly formulate recommendations for areas of expertise and selection of experts to inform the desired land use patterns for the area. The areas for study should include the suitability for urban development, desired land use patterns, and environmental constraints.
2. Jointly recommend the appropriate range of potential housing units with consideration given to intensity and community benefit, regardless of who holds title to the property.
3. Following the outcome of the BVCP process and 1 and 2 above, jointly recommend a timeline for the formulation of a set of guiding principles to inform next steps.

While Council requests these groups engage in such good faith facilitated discussions, the failure of such discussions, for any reason, shall not affect Council's determination that BVCP Requests #35 and #36 be further considered and analyzed.

C I T Y O F B O U L D E R
PLANNING BOARD AGENDA ITEM

MEETING DATE: March 17, 2016

AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

REQUESTING DEPARTMENT:
Planning, Housing + Sustainability
Tom Carr, City Attorney
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Development Land Use Review Manager
Hella Pannewig, Assistant City Attorney

OBJECTIVES:
1. Hear Staff presentation
2. Planning Board discussion
3. Recommendations on changes to the code

PURPOSE

The purpose of this item is Planning Board consideration of a recommendation to City Council on the following two proposed code changes to the city's signage regulations:

1. To allow for letter heights on canopies and awnings of 24" inches in the Boulder Valley Regional Center where a maximum letter height of 12" currently exists.

2. To bring the city's sign code into compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

BACKGROUND / ANALYSIS:

In February, 2016, The Dairy Center for the Performing Arts applied for a permit for a canopy sign that is not consistent with the city's sign code regulations. Currently, lettering heights for such signs are limited to 12" in height. On February 29, 2016, City Council requested that staff bring forward an amendment to the city's sign code to allow for larger, 24" letter heights in the Boulder Valley Regional Center (BVRC). The boundaries of the BVRC are as follows:

Sign codes are restrictions on speech and therefore must conform to the First Amendment to the United States Constitution. A government may impose reasonable time, place and manner restrictions on speech if there is a rational basis for the restriction. For sign codes, the rational basis is generally esthetics and the need to limit distractions for drivers. Such restrictions have been upheld to the extent that they regulate the manner of speech, but not the content. That is, the government can restrict how a party speaks, but not what the party says. To restrict the content of speech there must be a compelling government interest. During the 2015 term, the United States Supreme Court struck down the sign code for the Town of Gilbert, Arizona as a content-based restriction on speech. *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015). The court took a broad view of what constituted a content-based regulation. The holding in *Reed* was that if one needed to read the sign to determine whether the code applied, the code was a content-based regulation. The city's current sign code includes certain exceptions which make it vulnerable to the *Reed* decision. These include exemptions for signs for lost animals, real estate signs and garage sale signs currently found in Section 9-9-21(c)(1)(C) B.R.C. 1981. One could argue that because the city needs to read the sign to determine whether the exemption applies makes the city's sign code a content-based regulation. Thus, if staff were to recommend that signs advertising performing arts organizations be exempt, the ordinance could be considered a content-based regulation, hence the additional proposed changes to the city's sign code found in **Attachment A**.

STAFF RECOMMENDATION (MOTION LANGUAGE):
Staff recommends that Planning Board recommend approval to the City Council of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981 to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations.

Approved By:

David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS

A. Draft ordinance

ORDINANCE NO. 8108

AN AMENDING CHAPTER 9-9-21, "SIGNS," BY ELIMINATING ANY CONTENT-BASED RESTRICTIONS AND AMENDING THE RESRICTION ON AWNING SIGNS TO ALLOW AWNING SIGNS IN THE BOULDER VALLEY REGIONAL CENTER TO INCLUDE LETTERS OF NOT GREATER THAN TWENTY-FOUR INCHES IN HEIGHT AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-9-21 is amended to read as follows:

9-9-21. - **Signs**.

(a) Application and Legislative Intent:

(1) Application of Section: This section applies only to signs erected on private property by the owner or lessee in possession of that property, or by persons acting with the permission or at the request of the owner or lessee. It applies only to signs which are visible beyond the boundaries of the property upon which they are located. There are two exceptions to this rule which are most conveniently included in this section: signs erected on private property as part of a sign program which was a condition of approval of development under this title; and signs on private vehicles located on public property. This section does not apply to a sign carried by a person, whether on public or private property. This section does not apply to signs, other than those on vehicles, on public property.

(2) Intent: The purpose of this section is to protect the health, safety, and welfare of the residents of the city by regulating the design, construction, and installation of private signs in the city. The city council recognizes that signs are necessary means of visual communication for the public convenience and that businesses and individuals have the

right to identify themselves and convey messages by using signs that are accessory and incidental to the use on the premises where the signs are located. In this section the council intends to provide a reasonable balance between the right of a business or an individual to identify itself and to convey its message and the right of the public to be protected against the visual discord that results from the unrestricted proliferation of signs, especially off-premises billboards. The ability to convey messages by signs is important to the proper and efficient functioning of society. However, the natural desire to speak more "loudly" through signs which are more numerous, larger, higher, and closer to the street than the signs used by one's neighbors and competitors requires a set of rules applicable to all similarly situated. With a level playing field the community as a whole benefits and no individual is disadvantaged in communicating. The council also intends by this section to ensure that signs are compatible with adjacent land uses and with the total visual environment of the community and that the value of nearby property and the economic health of the community as a whole are protected from visual blight. Another purpose of this section is to protect the public from hazardous conditions by prohibiting signs that: are structurally unsafe, particularly in light of the unique wind hazards in the city, obscure or distract the vision of motorists, or compete or conflict with necessary traffic signs and warning signals. In adopting this section, the council recognizes that the size of signs that provide adequate identification in pedestrian-oriented areas differs from that necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater.

(A) The city council recognizes that since the sign code was originally enacted in 1971, most nonconforming signs have been eliminated through attrition and through the

amortization provision of chapter 48 of the Revised Code of the City of Boulder, Colorado 1965. But nonconforming signs may enter the city as it annexes developed land, and code changes may make conforming signs nonconforming. The council recognizes that permitting the continuation of such nonconforming signs provides an unfair competitive advantage over persons whose signs conform to the section requirements and intends that signs that do not conform with this section be eliminated as expeditiously as practicable to protect the public safety and welfare and the visual environment.

(B) The city council recognizes the right of residents of the city to fully exercise their right to free speech by the use of signs containing noncommercial messages that are subject to minimum regulations regarding size, number, structural safety and visual setbacks.

(C) The city council finds that certain types of signs are not appropriate for regulation by permit under this section because they:

(i) Would not create a structural safety or traffic safety hazard;

(ii) Would promote public safety or the dissemination of public information;

(iii) Would not give rise to aesthetic or traffic concerns;

(iv) In the case of art, are deemed a privilege of individual creative expression;

(v) In the case of other noncommercial signs, are accessory to the exercise of first amendment rights;

~~(vi) With respect to real estate signs, the council finds that a small "for sale" or "for rent" sign is an important means of advertising real estate and does not create a~~

~~traffic hazard. In fact, appropriate real estate signs prevent traffic hazards by easing the task of the motorist looking for the property. In addition, the council finds that a substantial portion of such rentals occur as a result of prospective tenants examining areas of interest to them looking for signs indicating that space is for rent, and that approximately fifty-four percent of the dwelling units in the city are rental units;~~

~~(vii) With respect to permitted construction warning signs, the council finds that such signs are essential to warn persons entering the property of dangers created by the construction and that their prompt and unfettered use constitutes a compelling governmental interest and requires a different form of regulation;~~

~~(viii) With respect to permitted garage sale signs, the council finds that sporadic "garage sale" signs for garage sales permitted under this title do not constitute a commercial use of residential property and do not compromise the residential values served by the restrictions on home occupations, and that other means of advertising such sales are unacceptably burdensome. The need for such sales in the City, and the attendant signs on the premises where the occupant lives and is holding the sale, is particularly high because of the large college student population (approximately one-fourth of the City's population), and the high proportion of persons living in rental housing as opposed to owner-occupied housing (approximately fifty-four percent of the dwelling units in Boulder are rental units), and who have from time to time a pressing need to unburden themselves from possessions they have determined they cannot reasonably take with them to their new place of abode;~~

~~(ix) With respect to permitted lost animal signs, the council finds that notices in newspapers or other means of communicating this information are inadequate, and that notice of the animal's loss near the site of the loss is necessary to increase the likelihood and timeliness of the animal's return to its owner, and promotes the government's interest in avoiding euthanasia and the other costs attendant upon stray animals;~~

(vi~~x~~) With respect to permitted private traffic signs, the council finds that such signs serve a compelling governmental interest in the safe movement of traffic in private parking lots and drives and serve a function which cannot effectively be served in any other manner;

(vii~~xi~~) With respect to signs required by law, the council finds that the law requiring the sign is sufficient regulation of the sign, and that it is inappropriate for the government to require a sign to be posted but count it against allowable private signage, and that such signs by definition serve a compelling governmental interest in a site-specific manner which cannot otherwise be served as effectively;

(~~xii~~) ~~With respect to small permitted residential wind signs, the council finds that the safety valve for personal expression provided by such signs serves a compelling governmental interest and is within the penumbra of the First Amendment;~~

(v~~x~~iii) With respect to permitted utility warning signs, the council finds that the dispersed nature of utility lines throughout all the community does not lend

itself to the property by property regulation otherwise used in this code, and that warning of the location of utilities and of their hazards so that persons will not be injured thereby, so that fire, police, and other public emergency services may be conducted expeditiously and safely, and so that the essential public functions served by such utilities will not be impaired constitutes a compelling governmental interest and requires a different form of regulation;

(v~~x~~iv) With respect to permitted vehicular signs, the council finds that regulation of bumper stickers and other forms of personal expression is inappropriate in a free and highly mobile society and that such signs are ordinarily small, whereas regulation of commercial signs on motor vehicles, which the council finds are often large, is appropriate for those who have chosen to engage in commerce within the City and serves a substantial governmental interest in aesthetics and traffic safety;

(x~~v~~) With respect to permitted window signs, the council finds that such signs present no structural hazards and provide a method by which messages may be displayed on short notice by the property owner or tenant as that person perceives the need to communicate without need for any government role in the protection of the broader public interest, and that within the limitations given have not and will not cause aesthetic blight or traffic hazards of the sort unacceptable to the community; and

(x~~v~~i) With respect to signs on bicycles, the council finds that the use of signs on bicycles will not cause aesthetic blight or traffic hazards of the sort unacceptable to the community and will service a substantial governmental

interest by reducing the cost of an environmentally beneficial transportation option that will relieve vehicular congestion, reduce greenhouse gas emissions and improve public health by providing opportunities for exercise; and

(x~~v~~ii) ~~Because of the extraordinary importance, amounting to a compelling societal and governmental interest, of election campaigning for public office and of voting on initiatives and referenda, and because political speech has its fullest and most urgent application during a political campaign from the time a candidate is nominated for electoral office until the day after the election, and from the time an initiative or referendum is placed on the ballot until the day after the election, the limit of one noncommercial residential sign within the residential noncommercial sign setback should not apply to signs urging the election or defeat of such candidates, or the passage or defeat of such measures, and the applicable provisions of this sign code reflect this determination. Without in any way limiting the applicability of the general severability provisions of section 1-1-4, "Severability of Parts of Code," B.R.C. 1981, but mindful of the possibility that a reviewing court might disregard such an otherwise clear expression of legislative intent because of its generality, the city council intends that this exception for signs during campaigns be considered severable from the remainder of the sign code should it for some reason be found wanting under the state or federal constitutions, just as it intends all other provisions of this sign code to be severable.~~

(D) Council finds that commercial signs towed over the City by aircraft are a distraction to motorists, pedestrians, and other users of the public streets and ways,

and impair traffic safety, and constitute unfair competition for earthbound advertisers who comply with the City's sign code when made by multiple passes over the City, and therefore are detrimental to the health, safety, and welfare of the people of the City, and urges the Federal Aviation Administration to place suitable restrictions upon any certificate of waiver to prohibit towing such signs over the City.

(b) Prohibitions and Prohibited Signs:

(1) Conformity With Sign Code Required: No person shall display, construct, erect, alter, use, or maintain any sign in the City except in conformance with the provisions of this section. No person shall display, alter, use, maintain, or enlarge any legal, nonconforming sign except in conformity with the provisions of this section. No person shall perform or order the performance of any act contrary to the provisions of this section or fail to perform any act required by the provisions of this section.

(2) Sign Permit Required: Except as provided in subsection (c) of this section, no person shall display, construct, erect, alter, or relocate any sign without first applying to the city manager and obtaining a permit under this section.

(3) Specific Signs Prohibited: No person shall erect, install, post, display, or maintain any of the following signs:

(A) Animal: A sign that involves the use of a live animal.

(B) Flashing: A sign with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

(C) Height: A sign twenty-five feet or more above the ground level.

(D) High Window: A window sign exceeding four square feet in area twelve feet or more above the ground level.

(E) Illuminated: An illuminated sign with any of the following characteristics:

(i) A beam or ray of light used to illuminate the sign shines directly from the sign onto the surrounding area.

(ii) Direct or reflected light from any light source associated with the sign creates a traffic hazard or distraction to operators of vehicles or pedestrians on the public right-of-way.

(iii) The sign is directly illuminated and is in a residential or an agricultural zoning district.

(iv) If a sign is indirectly or internally illuminated and is in a residential or an agricultural zone, the illumination may not continue between the hours of 11:00 p.m. and 7:00 a.m., unless the illumination is required for safety purposes.

(v) No illuminated sign visible from and located within three hundred feet of any property in a residential zoning district may be illuminated between the hours of 11:00 p.m. or one-half hour after the use to which it is appurtenant is closed, whichever is later, and 7:00 a.m.; but this time limit does not apply to any light primarily used for the protection of the premises or for safety purposes.

(F) Illusion: A sign with optical illusion of movement by means of a design giving the illusion of motion or changing of copy, including, without limitation, a sign that presents a pattern capable of reversible perspective.

(G) Moving: A sign with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for gauges and dials that may be animated to the extent necessary to display correct measurement. Electronic signs which change the message not more than once per minute are considered copy changes and not prohibited moving signs. Vertical rotating cylindrical signs, in which the text or graphic is on the surface of the cylinder, and nothing beyond the radius of cylinder surface rotates, whose rotating part does not exceed twelve inches in diameter and thirty inches in height, are not considered prohibited moving signs.

(H) Non-Appurtenant or Off-Premises: An off-premises commercial sign not appurtenant and clearly incidental to the principal use of the property where located.

(I) Obstructing: A sign or sign structure that obstructs or interferes in any way with ingress to or egress from or use of any standpipe, fire escape, required door, required window, or other required exit way; or any sign that obstructs any window to such an extent that light or ventilation is reduced to a point below that required by any provision of this code or other ordinance of the City.

(J) Projected Image: A sign that incorporates a projected image.

(K) Roof: A roof sign, except as specifically permitted by subsection (d)(11) of this section.

(L) Sound: A sign or building that emits any sound, except for a non-commercial sign~~work of art~~ located in a zoning district other than an agricultural or a residential district, which may emit noncommercial human voice or music recordings which do not exceed fifty dBA, measured at the nearest property line, between 8:00 a.m. and 6:00 p.m.

(M) String of Lights: A string of light bulbs used in connection with commercial premises for commercial purposes and attached to or suspended from a structure. This prohibition does not apply to a string of lights in a window for which a permit has been issued under subparagraph (d)(14)(I) of this section, concerning wall signs.

(N) Traffic Vision Obstruction: A freestanding sign or sign structure between a height of two and one-half feet and ten feet above the street elevation, other than a pole twelve inches or less in cross-sectional area, within the corner triangular areas described in Section 9-9-7, "Sight Triangles," B.R.C. 1981.

(O) Unsafe: A sign or structure that constitutes a hazard to safety or health including, without limitation, any sign that is structurally inadequate by reason of inadequate design, construction, repair, or maintenance, is capable of causing electrical shock to persons likely to come into contact with it, or has less than three feet horizontal or eight feet vertical clearance from overhead electric conductors that are energized in excess of seven hundred fifty volts.

(P) Vehicular: A sign displayed on a motor vehicle if:

(i) The vehicle is not in operable condition;

(ii) The sign is roof-mounted and has more than two faces or any face exceeds four square feet in area;

(iii) More than two signs are mounted on the roof of the vehicle;

(iv) The sign, if not roof-mounted, is not painted on or securely affixed on all edges to the surface of the side of the body of the vehicle;

(v) The principal use of the vehicle at the time of the display is for display of the sign;

(vi) It is a commercial sign which does not identify the owner of the vehicle or a good or service which may be purchased from the owner;

(vii) It is a commercial sign and the vehicle is not being operated in the normal course of business;

(viii) It is a commercial sign and the vehicle is not parked or stored in the normal course of business in an area appropriate to the use of the vehicle for delivery or another commercial purpose; or

(ix) It is a commercial sign and the vehicle, if parked on private property, is not parked within the setback requirements of this section, unless no other reasonable provision can be made for such parking.

(x) It is a specific defense to a charge of violation of subparagraph (b)(3)(P)(vi) of this section that the vehicle was licensed by the Colorado Public Utilities

Commission for the commercial transportation of passengers, or was engaged in such transportation but was exempt from such licensure.

(Q) Wind: A wind sign, except as permitted for flags in subparagraph (c)(1)(B) of this section, or in a residential or agricultural zone as permitted in subparagraph (c)(1)(I) of this section.

(R) Bicycles: A sign displayed on a bicycle if:

i. The bicycle is not in operable condition; or

ii. The signs exceed two square feet in area.

(c) Signs Exempt From Permits:

(1) Specific Signs Exempted: The following signs are permitted in all zoning districts and are exempt from the permit requirements of this section, but shall in all other respects comply with the requirements of this code except as expressly excepted below:

(A) Construction site signs ~~Warning~~: A sign not exceeding sixteen square feet erected by a licensed construction contractor on property on which it is working ~~to warn of danger or hazardous conditions~~. Such sign is also exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section.

(B) Flags: Up to three different flags per property, subject to the following restrictions:

(i) The total area of all flags shall not exceed seventy square feet;

(ii) The area of each such flag shall be exempt from the sign area limitations of paragraph (d)(2) of this section, but shall not exceed forty square feet, with no one dimension of any flag greater than eight feet;

(iii) The flag pole or other structure on which such a flag is displayed shall be treated as part of any building to which it is attached for all height computations and not as an appurtenance or a part of the sign;

(iv) No freestanding flagpole shall exceed twenty feet in height outside of the principal building setbacks or thirty-five feet in height within the principal building setbacks; and

(v) No flag bearing an explicit commercial message shall constitute an exempt flag.

(C) Garage Sale: One ~~garage sale~~ sign per property in an agricultural or residential district placed on private property owned or leased by the person holding a~~the garage~~ sale, for a period not to exceed ten consecutive days and not more than twice in a calendar year. The sign must be within the total signage permitted for the parcel. This provision does not restrict the content of the sign.

(D) Lost Animal: One ~~lost animal~~ sign per property placed on private property with the permission of the owner for a period not to exceed ten consecutive days, in an agricultural or residential district and within the total signage permitted for such parcel. This provision does not restrict the content of the sign.

(E) Noncommercial: A sign ~~work of art~~ that in no way identifies or advertises a product, service, or business or impedes traffic safety, a political sign, or any other noncommercial sign.

(F) Private Traffic: A private traffic directional sign guiding or directing vehicular or pedestrian traffic onto or off of a property or within a property that does not exceed three square feet per face in area and six feet in height, does not contain any advertising or trade name identification, and is not illuminated, internally illuminated, or indirectly illuminated. But a private traffic control sign that conforms to the standards of the state traffic control manual defined in subsection 7-1-1(a), B.R.C. 1981, may exceed three square feet per face in area but shall not exceed seven square feet per face or eight feet in height. Such sign also is exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section.

(G) Real Estate: At any time that a property is offered for sale or rent, ~~O~~one temporary, non-illuminated ~~real estate~~ sign per property or per dwelling unit street frontage, set back at least eighteen inches from the nearest public sidewalk, that does not exceed six square feet per face in area and a total of twelve square feet in area and four feet in height in the RR, RE, RL, RM, RMX, RH, and MH zones or sixteen square feet per face and a total of thirty-two square feet in area and seven feet in height in any other zone, but only if the sign remains in place no more than seven days after sale or rental of the subject property. The area of such a sign shall not be deducted from the allowable sign area or number of freestanding signs for the building or business unit. If the property owner or tenant is not using this real estate sign allowance,

such person in possession of the property may place a noncommercial sign conforming to~~with~~ these limitations in lieu of such a real estate sign. This provision does not restrict the content of the sign.

(H) Sign Required by Law: A sign required or specifically authorized for a public purpose by any federal, state, or city law of any type, including, without limitation, the number, area, height above grade, location or illumination authorized by the law under which such sign is required or authorized. But no such sign may be placed in the public right-of-way unless specifically authorized or required by law. Except for a warning sign or barricade of a temporary nature, any such sign shall be securely affixed to the ground, a building, or another structure. So much of such a sign as is required by law also is exempt from all other provisions of this section.

(I) Residential Wind Sign: A wind sign in a residential or an agricultural zone, within the limitations set forth in subsection (d) of this section, notwithstanding the prohibition of subparagraph (b)(3)(Q) of this section.

(J) Utility Warning: A sign not exceeding sixteen square feet erected by a public utility within a utility easement on property on which it is working to warn of danger or hazardous conditions or to indicate the presence of underground cables, gas lines, and similar devices. Such a sign also is exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section.

(K) Vehicular: A sign displayed on a motor vehicle if not prohibited by this section.

(L) Window: A non-illuminated window sign of no more than four square feet in area and placed no more than twenty-five feet above finished grade, if the total area of

such signs fills less than twenty-five percent of the area of the architecturally distinct window, and such signs do not exceed twenty-five percent of the total allowable sign area for the building or business unit. The area of a window sign not exempt from permit requirements under this subparagraph is calculated as a part of and limited by the total allowable sign area for the premises.

(M) Cottage Foods and Fresh Produce Signs. On any premises meeting the requirements of Chapter 6-17, a sign meeting the size restrictions applicable to residential detached dwellings in Table 9-13 of this section. This provision does not restrict the content of the sign.

(2) Copy Change and Maintenance: No permit is required for copy changes or maintenance on a conforming sign if no structural changes are made. This exception does not apply to copy changes in signs covered by a private sign program as specified in subsection (k) of this section.

(d) Size Limitations and Other Rules for Certain Signs:

(1) Awning: An awning sign that extends more than fifteen inches beyond a wall of a building shall comply with the following conditions:

(A) The total area of such awning sign may not exceed the lesser of one hundred fifty square feet or one square foot of sign area for every linear foot of awning length. Awning length is that portion of the awning that is parallel to the building wall on which it is located.

(B) No awning sign may project above, below, or beyond the face of the architectural projection on which it is located, except for an awning sign that meets the following standards:

(i) An awning sign may project horizontally beyond the face of a marquee or canopy no more than twelve inches, measured from the bottom of the sign, if necessary to accommodate the letter thickness and required electrical equipment;

(ii) An awning sign composed entirely of individual opaque alphanumeric characters twelve inches or less in height, or for any awning sign in the Boulder Valley Regional Center twenty-four inches or less in height, may project above the point at which they are attached to the marquee or canopy by no more than the height of the character plus two inches;

(iii) The canopy or marquee to which the awning sign is attached must be located over an entry to the building; and

(iv) The awning sign shall be substantially parallel with the building wall to which the canopy or marquee is attached.

(C) Awning signs that extend fifteen inches or less from a wall of a building shall be considered to be wall signs, subject to the requirements of paragraph (d)(14) of this section.

(D) Permission to construct, install, and maintain an awning sign over the public right-of-way must be obtained from the city manager pursuant to section 4-18-3,

"Sidewalk Banner or Awning Permit Required," B.R.C. 1981, prior to the issuance of the sign permit.

(E) For purposes of determining projection, clearance, height, and materials, an awning sign shall be considered a part of and shall meet the requirements for a marquee, canopy, or awning, as specified in the city building code, chapter 10-5, "Building Code," B.R.C. 1981.

(F) If an awning sign is located on a marquee, canopy, or awning and is internally illuminated through translucent material, the entire illuminated area of the awning or awning sign shall be included in the calculation of the area of the sign.

(2) Banner: A banner is permitted for any permitted use in a business or industrial zoning district if the person wishing to display such sign applies therefore and obtains a permit, but such sign may be displayed for a maximum period of thirty consecutive days at the same location, one time during the first year of such use by the occupant. The area of the single sign permitted under this exception shall not exceed fifty square feet in total area and shall not exceed twenty feet in height, including, without limitation, the appurtenance on which the banner is displayed. Such a sign shall be firmly attached on at least all four corners.

(3) Downtown Pedestrian District:

(A) An application for a permit for a sign to be located in the downtown pedestrian district, as shown on the map in appendix E, "Downtown Pedestrian District," of this title, and which otherwise complies with all applicable provisions of this section and is not exempted under subparagraph (d)(3)(B) of this section shall be

presented by the city manager to the downtown management commission for comment. The downtown management commission shall return the application within ten working days to the manager with its comments. The manager shall forward the comments to the applicant, who may resubmit the application to the manager in its original form or as amended based upon the downtown management commission's comments. If the downtown management commission fails to give its comments to the manager by the ten-working-day deadline, or if the applicant resubmits the original application unaltered after considering the downtown management commission's comments, the manager shall issue the permit. If the application is resubmitted with amendments, the manager shall issue the permit if the amended application still complies with all other applicable provisions of this section.

(B) Sign permit applications which meet the following criteria are exempt from the downtown management commission comment procedure of subparagraph (d)(3)(A) of this section:

(i) The top of the sign is located no higher than the windowsill level of the second story of the building;

(ii) The sign is not internally illuminated;

(iii) If the sign is indirectly illuminated the light source must not be visible to pedestrians on public property, and all mounting hardware and electrical ducting must be concealed or integrated into the sign design;

(iv) If the sign is illuminated by neon, it does not exceed four square feet in area;

(v) The sign is not painted directly on the wall of a structure;

(vi) The sign uses a commercially available typeface;

(vii) The sign is rectangular or circular;

(viii) The sign is composed of colors from a palette approved by regulation by the downtown management commission; and

(ix) If a freestanding sign, it does not exceed seven feet in height or twenty square feet in area per sign face.

(4) Construction site: A sign erected by a licensed contractor at a construction site at which the contractor is working ~~identifying the type, duration, and responsible party of construction of a property~~ in any zoning district is permitted only if it is:

(A) Limited to a freestanding, wall, or window sign or signs not exceeding thirty-two square feet in total area and sixteen square feet per face and seven feet in height, with no riders or attachments in nonresidential zones, and twelve square feet in total area and six square feet per face and four feet in height in residential zones. Such signs are exempt from the sign area regulations of this section;

(B) Displayed only on the property to which the sign pertains, and no more than one such sign per street upon which the property has frontage; and

(C) Displayed only for the duration of construction for which a building permit has been obtained until issuance of a certificate of occupancy.

(D) A construction site sign may be erected only if an exempt real estate sign is not displayed on the same property.

(5) Fence-Wall: A sign displayed upon a fence, or upon a wall that is not an integral part of a building or that is used as a fence, shall be erected or mounted in a plane parallel to the fence or wall and shall not extend above the top of the fence or wall or project more than fifteen inches from the face of the fence or wall. Such sign is subject to all requirements of this section applicable to freestanding signs, including, without limitation, maximum area per sign, maximum sign height, minimum setback, and number of permitted signs.

(6) Freestanding:

(A) A freestanding sign in any zoning district shall be set back the following distances, and no point on any such sign may extend beyond the required setback line:

(i) Except in BMS, DT, and MU-1 districts, a sign up to and including seven feet in height shall be set back ten feet from any property line adjacent to a street. In the BMS, DT, and MU-1 districts, no setback is required for such a sign, but no sign may be located within eighteen inches of a public sidewalk or obstruct the view of motor vehicle operators entering or leaving any parking area, service drive, private driveway, street, alley, or other thoroughfare.

(ii) A sign over seven feet in height shall be set back at least twenty-five feet from any property line adjacent to a street in all zones.

(iii) No sign in a business or industrial district may be located less than twenty-five feet from any adjacent residential zoning district line.

(B) In addition to any other permitted signs on the property, no more than one freestanding sign may be maintained for each street frontage of the property.

(C) If a property has more than one street frontage, the freestanding sign permitted for each frontage must be located adjacent to that frontage, and the minimum permissible horizontal distance between freestanding signs on the same property is seventy-five feet.

(D) Except as otherwise provided in subparagraph (d)(6)(K) of this section, the maximum permissible total area of any freestanding sign is one hundred square feet; and the maximum permissible area of any one face of any freestanding sign is fifty square feet. For buildings with a linear frontage of less than or equal to one hundred feet, the maximum permissible sign area of all freestanding signs on a property is one and one-half square feet of sign area for every linear foot of building frontage up to a maximum of one hundred square feet per sign and fifty square feet per face. For a building with a linear frontage greater than one hundred feet, the allowable sign area for freestanding signs shall be deducted from the total allowable sign area for all signs for the building.

(E) Unless otherwise specified in subsection (e) of this section, the maximum permissible height of freestanding signs is the lesser of: twenty-five feet or one and one-fourth times the height of the principal building on the property where the sign is located.

(F) The horizontal distance between freestanding signs on adjacent properties must be not less than the height of the taller sign.

(G) The area of the support structure of a freestanding sign is counted in the total area of the sign to the extent that the support structure exceeds the minimum required

for the support of the sign. But if the sign is less than seven feet in height, a plain pedestal for a freestanding sign shall not be counted in the total area of the sign.

(H) A flag on flagpole shall not be subject to this paragraph, but shall be regulated as set forth in subparagraph (c)(1)(B) of this section.

(I) Supports for a freestanding sign shall be designed in accordance with the requirements of this code and shall not be placed upon any public right-of-way or public easement, except pursuant to the terms of a lease to the adjacent property owner.

(J) Where a freestanding sign is located in a vehicular parking or circulation area, a base or barrier of concrete or steel, not less than thirty inches high, shall be provided to protect the base of the sign from damage by vehicles.

(K) The maximum total sign area for freestanding signs may be increased by one-third when such signs are located adjacent to the following major streets or specified portions thereof:

(i) Arapahoe Avenue - from 28th Street to the east city limits;

(ii) Baseline Road - from Broadway to Foothills Parkway;

(iii) 28th Street - from Arapahoe Avenue to Iris Avenue;

(iv) 30th Street - from Arapahoe Avenue to the Diagonal Highway;

(v) 63rd Street - from the north city limits to the south city limits; and

(vi) Lookout Road - from the west city limits to the east city limits.

But the increased sign area permitted in this subparagraph does not include any increase in sign height.

(L) All freestanding signs located within two hundred fifty feet of the nearest right-of-way line of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east of Foothills Parkway and visible from such parkway shall be further limited to a maximum height of twelve feet.

(7) Historic District or Building: In addition to satisfying the provisions of this section, signs installed or maintained on a historic building or in a historic district must comply with the provisions of chapter 9-11, "Historic Preservation," B.R.C. 1981.

(8) Noncommercial Nonresidential: A noncommercial sign, including, without limitation, a work of art or a political sign in all nonresidential zoning districts that does not impede traffic safety is exempt from the total sign area and setback limitations of this section, except the following:

(A) Noncommercial freestanding, projecting, suspended, and awning signs are subject to the total sign area and setback limitations of this section.

(B) Prior to placing a noncommercial wall sign of more than nine square feet in area on an exterior wall, the building owner shall give thirty calendar days' notice to the city manager by delivery or by first class mail, effective on mailing, including the building address and a colored representation of the sign. The city manager may comment on the sign but shall have no power to prevent it from being placed on the building wall.

(C) Noncommercial signs on temporary construction barriers not located in the public right-of-way shall be deemed not to be wall or freestanding signs subject to regulation under this section during that period of time for which a building permit for the property which necessitated the barrier is valid.

(9) Noncommercial Residential: A noncommercial sign, including, without limitation, a work of art or a political sign, in all residential zoning districts, that does not impede traffic safety is exempt from the total sign area and setback limitations and wind sign prohibitions of this section, subject to:

(A) Noncommercial signs shall be set back at least eighteen inches from any public sidewalk adjacent to a street or from the curb or outer edge of the roadway if there is no such sidewalk.

(B) Noncommercial signs within twenty-five feet of any public sidewalk adjacent to a street, or thirty feet of the curb or outer edge of the roadway if there is no such sidewalk, shall not exceed seven feet in height or thirty-two square feet in total area, with no face larger than sixteen square feet, and there shall be only one such sign. However, during a political campaign from the time a candidate is nominated for electoral office or nominated or certified for a primary election, or a recall election date is set, until the day after the election, and from the time an initiative or referendum or other measure to be voted upon by the electors is placed on the ballot until the day after the election, this limit of one noncommercial residential sign in the setback shall not apply~~ to signs urging the nomination, election, or defeat of such candidates or recall of such officials, or the passage or defeat of such measures~~. These ~~election~~ signs in the setback in excess of the one otherwise

permitted may not exceed twelve square feet in total area per sign, with no face larger than six square feet.

(C) There are no setback, number, or area limitations in residential zoning districts for noncommercial signs which are set back farther than twenty-five feet from the property line. If a side of a residential building is closer than thirty feet to the public sidewalk, or thirty-five feet to the curb or outer edge of the roadway if there is no such sidewalk, then that area within five feet of such building side shall be excluded from the restrictions of subparagraph (d)(9)(B) of this section, if applicable.

(D) Reference in this paragraph to sidewalks, curbs, and roadway edges does not authorize placement of signs off premises on public property or in the public right-of-way.

(10) Projecting: A projecting sign shall comply with the following conditions:

(A) Signs projecting over public property may not project more than thirty-six inches from a wall of a building, and the maximum permissible total area for such a sign is the lesser of:

(i) One square foot of sign area for each linear foot of frontage of the building upon which such sign is displayed; or

(ii) Eighteen square feet per sign, with no face of the sign exceeding nine square feet.

(B) Signs projecting over private property may not project more than six feet from a wall of a building nor beyond the minimum required building setback line and may

not exceed twenty-four square feet in total area, and no face of a sign shall exceed twelve square feet.

(C) Projecting signs must have a minimum clearance above the sidewalk of eight feet and may not extend twelve feet or more above the sidewalk nor above the roof line.

(D) Any end panel on a projecting sign is considered a face of the sign and included in the area of that sign if the end panel is twelve inches or more in width.

(E) No more than one projecting sign may be maintained per tenant space frontage at the ground level of a building. The minimum horizontal distance between projecting signs on a building shall be twenty-five feet.

(11) Roof: A sign may be erected upon or against the side of a roof having an angle of forty-five degrees or more from the horizontal, but must be architecturally integrated with the building and roof by a dormer or similar feature. Such a sign is a wall sign and must comply with the provisions of paragraph (d)(14) of this section concerning wall signs, and must not project more than a total of fifteen inches horizontally, measured at the bottom of the sign, from the side of the roof upon which it is displayed.

(12) Subdivision: In addition to other such signs that may be allowed, signs erected at the time of ~~identifying a~~ subdivision of a property in any zoning district may be issued a sign permit if they comply with the following:

(A) A freestanding, wall, or window subdivision sign not exceeding thirty-two square feet in total area and sixteen square feet per face, not exceeding seven feet in height, and set back at least ten feet from any public right-of-way, with no riders or attachments;

(B) Displayed only on the subdivision for which a subdivision plan has been filed~~to which the sign pertains~~, no more than one such sign per street frontage, and with a minimum distance between such signs in a single subdivision or property of one thousand feet;

(C) Displayed on or after the date of filing of the subdivision plan and removed within two years from the date of issuance of the first building permit in the subdivision or within thirty days from the time that seventy-five percent of the properties or dwellings in the subdivision or filing thereof have been sold, whichever is sooner.

(13) Suspended: A suspended sign may not exceed ten square feet in total area or five square feet per face; may not project beyond the outside limits of the architectural projection to which it is attached; and shall have a minimum clearance above the sidewalk of eight feet. The minimum permissible horizontal distance between suspended signs is fifteen feet.

(14) Wall: A wall sign shall comply with the following conditions:

(A) The total area of all wall signs on a face of a building may not exceed fifteen percent of the area of that portion of the building face between ground level and the roof line or a line twenty-five feet above grade level, whichever is less.

(B) The total area of all wall signs on an architecturally distinct wall, where two or more such walls form a face of a building, shall not exceed twenty-five percent of such wall.

(C) No part of a wall sign may be located more than twenty-five feet above grade level.

(D) No wall sign may be attached to or displayed against any parapet wall that does not extend around the entire perimeter of the roof enclosed by the parapet. No sign on such a parapet wall may extend more than twenty-four inches above the roof elevation immediately behind the sign, unless approved as part of a site review under section 9-2-14, "Site Review," B.R.C. 1981.

(E) No wall sign may extend above the roof line of a building except as permitted on a parapet wall. No wall sign may be displayed on the wall of a mechanical room or penthouse or other such enclosed space which is not habitable by the occupants of the building.

(F) The length of a wall sign shall not exceed seventy percent of the length of the wall or the width of the leased space of the wall on which it is located, whichever is less.

(G) The lettering height for wall signs located within two hundred fifty feet of the right-of-way of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east of Foothills Parkway, and visible from such parkway, shall not exceed twenty-four inches.

(H) The lettering height for wall signs located within the B.V.R.C. and the BMS, MU-3, DT, and BT-2 zoning districts shall not exceed twenty-four inches for single lines of copy and a total of thirty-two inches for multiple lines of copy, and any graphic symbol may not exceed thirty inches in height.

(I) A string of lights which extends on or around the perimeter of a window is subject to the following conditions: the linear length of a string of lights counts as fifty

percent of the allowable square footage for wall signs. The maximum linear length of all strings of lights in windows cannot exceed ninety feet.

(e) Limitations on Area, Number, and Height of Signs by Use Module:

(1) Use Modules: The use modules set forth in section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, apply to this section, and the boundaries of such districts are determined by reference to the zoning map of the city and to interpretation of such map under section 9-5-3, "Zoning Map," B.R.C. 1981.

(2) Maximum Sign Area Permitted: The maximum sign area permitted per property, maximum area per sign face, maximum number of signs, and maximum height of freestanding signs in the use modules in the city are as in Table 9-13 of this section, except as modified by other provisions of this section.

TABLE 9-13: LIMITATIONS ON AREA, NUMBER, AND HEIGHT OF SIGNS BY USE MODULE

Maximum Sign Area Permitted Per Property	Maximum Area Per Sign Face	Maximum Number Signs Permitted	Maximum Height of Freestanding Signs
Residential and Agricultural Districts (RR, RE, RL, RM, RMX, RH, and A)			
For detached dwelling uses: 4 square	2 square feet	1 per use	7 feet

feet			
For attached dwelling uses: 32 square feet	16 square feet	1 per street frontage	7 feet
For other uses permitted by zoning chapter 9-6, "Use Standards," B.R.C. 1981: 32 square feet	16 square feet	1 per street frontage	7 feet
For other uses permitted by special review and for lawful nonconforming uses: the lesser of 50 square feet or the maximum sign area for the use in the zoning district in which the use is permitted by chapter 9-6, "Use Standards," B.R.C. 1981	16 square feet	The lesser of 1 per street frontage or 2 per use	7 feet
Public District (P)			
The greater of: 15 square feet or ½ square foot of sign area for each foot of street frontage	50 square feet for freestanding signs. See subsection (d) of this section for	1 per street frontage for freestanding signs. 1 per ground level tenant for	7 feet

	limits on other signs	projecting signs. No limit on other signs	
Downtown, Mixed Use, and Business - Transitional Districts (BMS, BT, MU, DT)			
Any use that is permitted in a residential zone shall be regulated as in the residential zoning districts			
For any use not permitted in residential zones, other than MU-3, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.25 square feet of sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square feet of sign area for each foot of frontage thereafter	See subsection (d) of this section for area restrictions	1 per street frontage for freestanding signs. 1 per ground level tenant for projecting signs. No limit on other signs	See paragraph (d)(6) of this section for height restrictions
Business - Community, Business - Commercial Services, Business - Regional, and Industrial Districts not in the B.V.R.C. (BC, BCS, BR, IS, IG, IM, and IMS)			
For any use permitted in residential	See subsection (d)		Varies with

zones, as regulated in residential zoning districts	of this section for area restrictions		setback; see paragraph (d)(6) of this section
In addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 2 square feet sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square foot sign area for each linear foot of frontage, except as provided in subparagraph (d)(6)(D) of this section	See subsection (d) of this section for area restrictions		See paragraph (d)(6) of this section for height restrictions
Boulder Valley Regional Center and Regional Business Districts Properties zoned BR-1 and properties located within the Boulder Valley Regional Center unless zoned BT-1 or BT-2			
For any use not permitted in residential zones, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.5	See subsection (d) of this section for area restrictions	1 per street frontage for freestanding signs. 1 per ground level	See paragraph (d)(6) of this section for height

square feet of sign area for each linear foot of total building frontage for the first 200 feet of each frontage, plus ½ square foot sign area for each additional linear foot of each frontage		tenant for projecting signs. No limit on other signs	restrictions

(f) Computation of Signs and Sign Area:

(1) Regular Shape: In computing the area of a sign, this section shall be administered using standard mathematical formulas for regular geometric shapes, including, without limitation, triangles, parallelograms, circles, ellipses, or combinations thereof.

(2) Irregular Shape: In the case of an irregularly shaped sign or a sign with letters or symbols directly affixed to or painted on the wall of a building, the area of the sign is the entire area within a single continuous rectilinear perimeter of not more than eight straight lines enclosing the extreme limits of any writing, representation, emblem, or any figure of similar character, together with any material or color forming an integral part or background of the display if used to differentiate such sign from the backdrop or structure against which it is placed, but if a freestanding sign structure is not a fence which functions as such, the sign area shall be the area of the entire structure.

(3) Sign Structures: In computing the area of a sign, the portion of the sign structure to be included is that which is visible and viewed in the same plane as the sign face and which is made a part of the background of the display.

(4) More Than One Element: The total surface area of signs composed of more than one sign element includes the vertical and horizontal spacing between each element of the sign.

(5) Three-Dimensional: For three-dimensional figure signs, the sign area is the total area, projected on a vertical plane, of each side of the sign that is visible beyond the boundaries of the property upon which the figure is located. For purposes of this paragraph, a figure is considered to have a side for each ninety degrees or part thereof of visibility from a public right-of-way.

(6) Attachments: Any temporary or permanent rider or attachment to a sign or sign structure is included as part of the total sign area for the sign to which it is attached.

(7) Two Faces: A sign is computed as having two display faces if the angle between two faces is equal to or less than sixty degrees. If a sign has two or more display faces, the area of all faces and all noncontiguous surfaces is included in determining the sign area.

(8) Number of Signs: For the purpose of determining the number of signs that may be subject to the provisions of this section, a sign shall be considered to be a single display surface or display device containing elements clearly organized, related, and composed to form a unit. Where elements are displayed in a random manner without an organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(9) One Use of Building Frontage: Building frontage used as the basis of determining permitted sign area for one use may not be used again as the basis for determining the permitted sign area for another use, but nothing in this paragraph shall be construed to

prohibit the additional use from erecting a sign that would otherwise be authorized by the provisions of this section.

(10) More Than One Frontage: For the purpose of determining the total allowable sign area for buildings with more than one frontage, the following criteria apply:

(A) If a building has more than one frontage, the maximum sign area for the building is based on the total horizontal length of not more than two contiguous frontages; and

(B) Signs may be located on any side of the building, but the total sign area on any one side of the building may not exceed the area permitted on the basis of that frontage considsign aered independently of other frontages.

(g) Permits and Applications:

(1) The owner or tenant of property on which a sign is to be located or an authorized agent thereof or a sign contractor licensed by the city shall apply for a sign permit in writing on a form furnished by the city manager, shall sign the application, and shall pay the fee prescribed in section 4-20-21, "Sign Contractor License Fees and Sign Permit Fees," B.R.C. 1981. There is no fee for signs placed by a homeowner on residential property, for banners, or for exempt signs.

(2) The owner of a multi-tenant or multiple use property or an agent of the owner shall apply for all sign permits for the property or shall develop a plan for apportioning permitted sign area among tenants and file such plan with the city manager, in which case each tenant may apply for a sign permit in conformity with the plan.

(3) The applicant shall submit the following information as part of the application:

(A) The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or installer;

(B) The street address or location of the proposed sign;

(C) Complete information required on application forms provided by the city manager, including a site plan and elevation drawings of the proposed sign, copy of the proposed sign, and other data pertinent to the application;

(D) Plans indicating the scope and structural detail of the work to be done, including details of all connections, guy lines, supports, footings, and materials to be used;

(E) Complete application for an electrical permit for all electric signs if the person building the sign is to make the electrical connection; and

(F) Statement of the sign's valuation.

(4) Within five working days of the date of the application, the city manager will either approve or deny the application or refer it back to the applicant for further information.

(5) No person issued a sign permit under this section shall change, modify, alter, or otherwise deviate from the terms or conditions of the approved application or permit without first requesting and obtaining approval to do so from the city manager.

(6) If the sign conforms to all other applicable requirements of this section, no permit is required for maintenance of the sign.

(h) Expiration of Permit:

(1) If a person to whom a permit is granted under this section has not commenced work on the sign within sixty days from the date on which the permit was issued or if substantial

building operations under such permit are suspended for a period of 60 consecutive days, the permit automatically expires, but the city manager may grant an extension of the time limits provided in this paragraph for construction delays that are not the result of willful acts or neglect by the permittee, upon a written request for such an extension received by the manager before expiration of the permit.

(2) The city manager shall not refund any permit fees paid under this section if any permit is revoked pursuant to subsection (t) of this section, or expires under this subsection.

(i) Inspections:

(1) In enforcing the provisions of this section, the city manager may enter any building, structure, or premises in the city at reasonable times to perform any duty imposed by this section.

(2) The city manager may require footing inspections on the day of excavation for a freestanding sign.

(3) The city manager may require inspection of an electrical sign before its erection within forty-eight hours after being notified that the sign is ready for inspection.

(4) A permit holder or agent thereof shall notify the city manager when a sign is complete and ready for final inspection, which shall be no more than sixty days after work is commenced.

(j) Licensed Sign Contractor Required to Install Signs: No person other than a sign contractor licensed under chapter 4-21, "Sign Contractor License," B.R.C. 1981, shall install any sign for which a permit is required under this section, except:

(1) A homeowner may install a sign on the premises of such person's residence, for which a permit is otherwise required, if the homeowner obtains a permit and complies with all requirements of this section other than that of licensed sign contractor installation.

(2) Banner signs for which permits are required.

(3) Window signs for which permits are required.

(k) Signs in Approved Site Review Developments:

(1) A sign located in an approved site review development shall conform to all requirements of this section, including those of the district in which the property is located, except for those subsections dealing with sign setbacks from property lines and spacing between projecting and freestanding signs if alternative setbacks and spacing are specifically shown on a site plan approved under section 9-2-14, "Site Review," B.R.C. 1981, or approved as part of a sign program for the site review project. In no case may the total square footage for signage permitted under this section be increased through a site review or sign program.

(2) Sign lettering and graphic symbol height as specified in subparagraph (d)(14)(H) of this section concerning wall signs may also be varied in accordance with paragraph (k)(1) of this section.

(3) If a condition of site review development approval requires a uniform sign program, the following additional conditions shall apply:

(A) The owner or developer of the site review development shall submit a uniform sign program to the city manager for approval prior to the issuance of any sign permits within the planned unit development. Such program shall include, as a minimum:

(i) Type of sign permitted (wall sign, projecting sign, awning sign, window sign, etc.).

(ii) Type of construction (individual letters, cabinet, internal or indirect illumination, etc.).

(iii) Color.

(iv) Size of sign (maximum height of letters, maximum length of sign, and maximum size).

(v) Location of sign.

(B) The aggregate area of all signs and the size of any freestanding sign shall not exceed that permitted in subsection (e) of this section.

(C) The owner or developer of the site review development shall notify all potential tenants or property owners of the sign program at the time of sale or lease of the property.

(D) The property owner or developer or an authorized representative shall review all signs for compliance with the sign program prior to a tenant applying for a sign permit and shall countersign the application signifying such compliance.

(E) The sign program may not be altered without written permission of the city manager. In addition, no changes may be made without the written permission of a majority of tenants whose existing signs are in compliance with the previously established sign program.

(4) The city manager shall apply the following standards in approving or denying a sign program or request to alter a sign program:

(A) All signs shall be in compliance with law;

(B) The program shall ensure a reasonable degree of sign uniformity and coordination within the program area and will enhance the visual quality of the area;

(C) The program shall be simple, clear, and to the point;

(D) The program shall limit the number of signs allowed for each tenant of the area;

(E) Signs shall be compatible with the area in color, shape, and materials;

(F) A color plan for signs is required;

(G) Signs are simple and clearly legible; ~~and~~

(H) Freestanding signs are integrated in appearance with their surroundings; and

(I) The city manager shall not consider the content of the sign.

(5) The city manager may write uniform sign program guidelines to serve as an example of a sign program which meets the requirements of this subsection.

(l) Structural Design Requirements:

(1) Signs and sign structures shall be designed and constructed as specified in this subsection to resist wind and seismic forces. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground so as not to overstress any of the elements thereof. The overturning moment produced from lateral forces may not exceed two-thirds of the dead load resisting

moment. The structural frame of the building or the anchoring of the sign shall be adequate to resist uplift due to overturning. The weight of earth superimposed over footings may be used in determining the dead load resisting moment, if it is carefully placed and thoroughly compacted.

(2) Signs and sign structures shall be designed and constructed in compliance with the city building code, chapter 10-5, "Building Code," B.R.C. 1981, including all requirements to resist seismic forces.

(3) Wind loads and seismic loads need not be combined in the design of signs or sign structures. Signs shall be designed to withstand the loading that produces the larger stresses. Vertical design loads, other than roof live loads, shall be assumed to be acting simultaneously with the wind or seismic loads.

(4) The design of structural members shall conform to the requirements of the city building code, chapter 10-5, "Building Code," B.R.C. 1981. Vertical and horizontal loads exerted on the soil shall not produce stresses exceeding those specified in the city building code.

(5) The working stresses of wire rope and its fastenings shall not exceed twenty-five percent of the ultimate strength of the rope or fastening. Working stresses for wind loads combined with dead loads may be increased as specified in the city building code, chapter 10-5, "Building Code," B.R.C. 1981.

(m) Construction Standards:

(1) Signs and sign structures shall be securely built, constructed, and erected in conformity with the requirements of this subsection.

(2) Supports for signs or sign structures shall not be placed on property not owned or leased by the sign owner.

(3) Materials of construction for signs and sign structures shall be of the quality and grade specified for buildings in the city building code, chapter 10-5, "Building Code," B.R.C. 1981. Plastic materials shall be those specified in the building code that have a flame spread rating of 0-25 or less and a smoke density no greater than that obtained from the burning of untreated wood under similar conditions when tested in accordance with the building code standards in the way intended for use. The products of combustion shall be no more toxic than the burning of untreated wood under similar conditions.

(4) All sign structures, except for construction signs, those signs specifically excepted in subparagraphs (c)(1)(A), (c)(1)(E), (c)(1)(G), (c)(1)(H), (c)(1)(J), and (c)(1)(L) of this section, window signs, and signs located inside buildings, shall have structural members of heavy timber or incombustible material. Wall signs, projecting signs, and awning signs shall be constructed of incombustible material, except as provided in paragraph (m)(5) of this section or as specifically approved by the city manager. No combustible materials other than approved plastic shall be used in the construction of electric signs.

(5) Nonstructural elements of a sign may be of wood, metal, approved plastic, or any combination thereof.

(6) Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil either vertically or horizontally do not exceed safe values. Braced ground signs shall be anchored to resist specified wind or seismic loads acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil for

effective resistance to pull-out amounting to a force of twenty-five percent greater than the required resistance to a depth of not less than three feet. Anchors and supports shall be guarded and protected when near driveways, parking lots, or similar locations where they could be damaged by moving vehicles.

(7) Signs attached to masonry, concrete, or steel shall be safely and securely fastened thereto by means of metal anchors, bolts, or approved expansion screws of sufficient size and anchorage to support safely the loads applied.

(8) No anchor or support of any sign, except flat wall signs, shall be connected to or supported by an unbraced parapet wall.

(9) Display surfaces in all types of signs shall be of metal or other approved materials.

(10) Signs intended for temporary placement of less than six months and which have no electrical or other special features:

(A) If less than six square feet per face and under four feet in height, may be constructed of any sturdy material and shall be anchored securely to the ground or a building, fence, or other structure and may be supported by any suitable support which will withstand the wind loading.

(B) A freestanding sign more than six square feet in area or four feet or more in height shall have at least two supports pounded at least two feet into the ground.

(C) Construction ~~warning~~ site signs placed over concrete or asphalt or other materials into which posts may not conveniently be driven may instead be held in place by weights sufficient to withstand the wind.

(11) The city manager may approve the use of any material if an applicant submits sufficient technical data to substantiate such proposed use and if the manager determines that such material is satisfactory for the use intended.

(12) Where any freestanding sign has a clearance of less than eight feet from the ground, there shall be provided a barrier or other adequate protection to prevent hazard to pedestrians and motorists.

(n) Electric Signs:

(1) An electric sign shall be constructed of incombustible material. An electric sign shall be rain tight, but service holes fitted with waterproof covers may be provided to each compartment of such sign. All electric signs installed or erected in the city shall bear the label of Underwriters Laboratories, Inc., on the exterior of the sign.

(2) No electric sign shall be erected or maintained that does not comply with the city electrical code, chapter 10-6, "Electrical Code," B.R.C. 1981.

(3) No electric equipment or electrical apparatus of any kind that causes interference with radio or television reception shall be used in the operation of an illuminated sign. Whenever interference is caused by a sign that is unfiltered, improperly filtered, or otherwise defective, or by any other electrical device or apparatus connected to the sign, the city manager may order the sign disconnected until it is repaired.

(o) Sign Maintenance: No person shall fail to maintain a sign on such person's premises, including signs exempt from the permit requirements by subsection (c) of this section, in good structural condition at all times. All signs, including all metal parts and supports thereof that are not galvanized or of rust-resistant metals, shall be kept neatly painted. The

city manager is authorized to inspect and may order the painting, repair, alteration, or removal of a sign that constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, dilapidation, or obsolescence, under the procedures prescribed by subsection (t) of this section.

(p) Continuation of Legal Nonconforming Signs: A legal nonconforming sign that is not required to be discontinued under the provisions of subsection (q) of this section, may be continued and shall be maintained in good condition as required by subsection (o) of this section, but it shall not be:

(1) Structurally changed to another nonconforming sign, to a degree that would require a sign permit;

(2) Structurally altered in order to prolong the life of the sign, except to meet safety requirements;

(3) Altered so as to increase the degree of nonconformity of the sign;

(4) Expanded;

(5) Re-established after its discontinuance for ninety days;

(6) Continued in use after cessation or change of the business or activity to which the sign pertains;

(7) Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent of the appraised replacement cost as determined by the city manager; or

(8) If the landmarks board finds that a sign which otherwise would violate this section was, before January 6, 1972, an integral part of a building, since designated as a landmark, or in a historic district since designated, pursuant to chapter 9-11, "Historic Preservation," B.R.C. 1981, and is a substantial aspect of the pre-1972 historic character of such building, then such a sign is exempt from the provisions of paragraphs (p)(2), (p)(6), and (p)(7) of this section, and the period of discontinuance for such a sign in paragraph (p)(5) of this section shall be one year.

(q) Discontinuance of Prohibited Legal Nonconforming Signs:

(1) Except as provided in paragraph (q)(2) or (q)(3) of this section, a legal nonconforming sign prohibited by subsection (b) of this section shall be removed or brought into conformity with the provisions of this section within sixty days from the date on which the sign became nonconforming.

(2) A legal nonconforming sign described in subparagraph (b)(3)(C), (b)(3)(D), (b)(3)(H), or (b)(3)(K) of this section is subject to the amortization provisions of subsection (r) of this section, unless excepted by paragraph (q)(3) of this section.

(3) Existing legal signs in the city which became nonconforming solely because of a change in this sign code enacted by Ordinance No. 5186 (1989) or Ordinance No. 6017 (1998) are subject to all the requirements of subsection (p) of this section, but are not subject to the sixty-day discontinuance provisions of paragraph (q)(1) of this section or the amortization provisions of subsection (r) of this section. Such amortization provisions are also inapplicable to lawfully permitted nonconforming advertising devices, as those terms are defined and applied in the Outdoor Advertising Act, 43-1-

401 et seq., C.R.S. The city manager is authorized, subject to appropriation, to remove such devices by eminent domain proceedings.

(r) Amortization Provisions: Except for signs described in paragraph (q)(1) or (q)(3) of this section, or a temporary sign, a legal nonconforming sign shall be brought into conformity or removed under the following schedule:

(1) A sign that exceeds the maximum area or height limitations of this section by twenty percent or less will be treated as a conforming sign and need not be removed or altered, but if such sign is replaced or renovated it shall conform to all requirements of this section.

(2) A sign having an original cost of $100.00 or less shall be brought into conformity with the provisions of this section or removed within sixty days after the date on which the sign became nonconforming under this section.

(3) A sign having an original cost exceeding $100.00 that is nonconforming only in the respect that it does not meet the requirements of this section concerning height, setback, distance between signs on the same or adjacent properties, or limitations on window signs, shall be brought into conformity with the requirements of this section or removed or a contract for timely completion of such work shall be executed within one hundred eighty days after the date upon which the sign became nonconforming under this section.

(4) A sign having an original cost exceeding $100.00 that is nonconforming as to permitted sign area or any other provision of this section that would require the complete removal

or total replacement of the sign may be maintained for the longer of the following periods:

(A) Three years from the date upon which the sign became nonconforming under the provisions of this section by annexation or code amendment; or

(B) A period of three to seven years from the installation date or most recent renovation date that preceded the date on which the sign became nonconforming. But if the date of renovation is chosen as the starting date of the amortization period, such period of amortization shall be calculated according to the cost of the renovation and not according to the original cost of the sign. The amortization periods in Table 9-14 of this section apply according to the original cost of the sign, including installation costs, or of the renovation:

TABLE 9-14: AMORTIZATION SCHEDULE

Sign Code or Renovation Cost	Permitted Years From Installation or Renovation Date
$ 101 through $1,000	3 years
$1,001 through $3,000	4 years

$3,001 through $10,000	5 years
Over $10,000	7 years

(5) To be eligible for an amortization period longer than three years pursuant to subparagraph (r)(4)(B) of this section, the owner of a sign shall, within one year from the date on which the sign became nonconforming, file with the city manager a statement setting forth the cost of such nonconforming sign, the date of erection or the cost and date of most recent renovation, and a written agreement to remove or bring the nonconforming sign into conformity with all provisions of this section at or before the expiration of the amortization period applicable to the sign.

(s) Appeals and Variances:

(1) Any aggrieved person who contests an interpretation of this section which causes denial of a permit, or who believes a violation alleged in a notice of violation issued pursuant to paragraph (t)(2) or (t)(3) of this section, to be factually or legally incorrect, may appeal the denial or notice of violation to the BOZA or board of building appeals in a manner provided by either such board under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, or may, in the case of a denial, request that a variance be granted. An appeal from a denial and a request for a variance may be filed in the alternative.

(A) An appeal from an interpretation which causes denial of a permit or from a notice alleging a violation of subsections (l), (m), (n), and (o) of this section shall be filed with the BOZA.

(B) An appeal from any other interpretation alleging any other violation of this section shall be filed with the BOZA.

(C) An appellant shall file the appeal, request for variance, or both in the alternative with the BOZA within fifteen days from the date of notice of the denial or the date of service of the notice of violation. The appellant may request more time to file. If the appellant makes such request before the end of the time period and shows good cause therefore, the city manager may extend for a reasonable period the time to file with either board.

(2) No person may appeal to or request a variance from the BOZA if the person has displayed, constructed, erected, altered, or relocated a sign without a sign permit required by paragraph (b)(2) of this section. The boards have no jurisdiction to hear an appeal nor authority to grant any variance from the permit requirements of this section. But the BOZA has jurisdiction to hear an appeal of a notice of violation alleging violation of the permit requirements if the appeal is from the manager's interpretation that a permit is required, and the appellant's position is that the device is not a sign or that it is exempt from the permit requirements under subsection (c) of this section.

(3) An applicant for an appeal or a variance under this subsection shall pay the fee prescribed by subsection 4-20-47(b), B.R.C. 1981.

(4) Setbacks, spacing of freestanding and projecting signs, and sign noise limitations are the only requirements which the BOZA may vary. If an applicant requests that the BOZA grant such a variance, the board shall not grant a variance unless it finds that each of the following conditions exists:

(A) There are special physical circumstances or physical conditions, including, without limitation, buildings, topography, vegetation, sign structures, or other physical features on adjacent properties or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question, and such special circumstances or conditions are peculiar to the particular business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises in the area; or

(B) For variances from the noise limitations of subparagraph (b)(3)(L) of this section, the proposed variance is temporary in duration (not to exceed thirty days) and consists of a temporary exhibition of auditory art; and

(C) The variance would be consistent with the purposes of this section and would not adversely affect the neighborhood in which the business or enterprise or exhibition to which the applicant desires to draw attention is located; and

(D) The variance is the minimum one necessary to permit the applicant reasonably to draw attention to its business, enterprise, or exhibition.

(5) If an applicant requests that the board of building appeals approve alternate materials or methods of construction or modifications from the requirements of subsections (l), (m), (n), and (o) of this section, the board may approve the same under the standards and

procedures provided in the city building code, chapter 10-5, "Building Code," B.R.C. 1981.

(6) Except as provided in paragraph (s)(7) of this section, the BOZA has no jurisdiction to hear a request for nor authority to grant a variance that would increase the maximum permitted sign area on a single property or building, or from the prohibitions of paragraph (b)(3) of this section. But the BOZA has jurisdiction to hear an appeal of a permit denial or of a notice of violation alleging that a sign would exceed the maximum permitted sign area or is prohibited if the appellant's position is that the sign does not exceed such area or is not prohibited by such paragraph.

(7) The BOZA or board of building appeals may make any variance or alternate material or method approval or modification it grants subject to any reasonable conditions that it deems necessary or desirable to make the device that is permitted by the variance compatible with the purposes of this section.

(8) The city manager's denial or notice of violation becomes a final order of the BOZA or board of building appeals if:

(A) The applicant fails to appeal the manager's denial or order to the board within the prescribed time limit;

(B) The applicant fails to appeal the order of the board to a court of competent jurisdiction within the prescribed time limit; or

(C) A court of competent jurisdiction enters a final order and judgment upon an appeal filed from a decision of the board under this section.

(t) Enforcement:

(1) The city manager may enforce the provisions of this section in any one or more of the following ways:

(A) by issuing a criminal summons and complaint, followed by prosecution in municipal court.

(B) If the city manager desires to use self-help to remove a sign for which a permit has been issued, by issuing a notice of violation, revoking a permit, removing a sign, and collecting the cost of removal pursuant to paragraph (t)(2) of this section.

(C) If the city manager desires to use self-help to remove or correct a sign for which no permit has been issued, by issuing a notice of violation, correcting the violation, and collecting the cost of correction pursuant to paragraph (t)(3) of this section.

(D) by removing any sign posted in violation of subsection 5-4-15(a), B.R.C. 1981, concerning posting signs on government property. Such signs are a public nuisance. After such removal the manager may also file a civil complaint in municipal court against the person who posted the sign or the beneficiary of the sign or both. The court shall award the city as damages the costs of removal of the sign and restoration of the surface upon which it was posted. This judgment shall be enforceable as any civil judgment.

(E) by filing a civil complaint for declaratory or injunctive relief in District Court.

These remedies are cumulative and not exclusive, and use of one does not foreclose use of any other also.

(2) If the city manager finds that any sign for which a permit has been issued does not comply with the permit or approved permit application or violates any provision of this

section or any other ordinance of the city, the manager may send a notice of violation to the owner of the sign by first class mail to the address on the sign permit application. The notice shall state the violation, and any required corrections, and that if the corrections are not made within thirty days or an appeal filed within fifteen days pursuant to subsection (s) of this section, the permit shall be revoked, and the manager may then proceed as specified in paragraphs (t)(4) and (t)(5) of this section.

(3) The city manager may issue a notice of violation ordering the sign owner or possessor or property owner to alter or remove a sign which is in violation of this section and for which no permit has been issued within thirty days from the date of the notice. Notice under this paragraph is sufficient if it is mailed first class to the address of the last known owner of the real property on which the sign is located as shown on the records of the Boulder County Assessor. The notice shall state the violation, order removal of the sign or state any reasonable corrections which would bring the sign into compliance with this section, and that if removal or correction is not accomplished within thirty days or an appeal filed within fifteen days pursuant to subsection (s) of this section, the manager may proceed as specified in paragraphs (t)(4) and (t)(5) of this section. If the violation is of paragraph (b)(2) or (b)(3) of this section, the manager may require removal of the illegal sign within one day from the date of actual notice or five days from the date of mailing of mailed notice.

(4) If the property owner or sign owner or possessor fails to complete alteration or removal as required by the notice given as prescribed by paragraph (t)(2) or (t)(3) of this section, or to appeal pursuant to subsection (s) of this section, or loses such appeal and it becomes a final order pursuant to paragraph (s)(8) of this section, the city manager may

cause such sign to be altered or removed at the expense of the owner or possessor of the property or sign and charge the costs thereof to such person.

(5) If any property owner fails or refuses to pay when due any charge imposed under this subsection, the city manager may, in addition to taking other collection remedies, certify due and unpaid charges, including interest, to the Boulder County Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, as provided in section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) The penalty for violation of any provision of this section is a fine of not more than $2,000.00 per violation. In addition, upon conviction of any person for violation of this section, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this subsection is a violation of this subsection, and is punishable by a fine of not more than $4,000.00 per violation, or incarceration for not more than ninety days in jail, or both such fine and incarceration.

(u) Rules and Regulations: The city manager is authorized to adopt reasonable procedural rules and interpretive regulations consistent with the provisions of this section to aid in its implementation and enforcement.

(v) Compliance With State Law Required: In addition to compliance with this section, all signs to which the provisions of the Outdoor Advertising Act, 43-1-401 et seq., C.R.S., and its

supplemental regulations apply shall comply with such Act and regulations. [18] Signs which do not so comply shall be deemed illegal nonconforming signs under this section.

(w) Substitution Clause: It is the intention of the city council that this sign code not favor commercial over noncommercial messages. However, all sign codes are complex, and sometimes when provisions which do not appear to be related are read together, unintended results may occur. If any provision of this code is judicially construed to allow a commercial message but not a noncommercial message, then the property owner may substitute any noncommercial message under the same limitations as to physical characteristics and location of the sign as would apply to a commercial message on such sign.

Section 2. The following definitions in section 9-16-1 are amended as follows, all other definitions remain unchanged.

~~Construction sign means a temporary sign announcing development, construction, or other improvement of a property by a building contractor or other person furnishing services, materials, or labor to the premises, but does not include a real estate sign. (Signs)~~

Political sign means a noncommercial sign~~ concerning candidates for public office or ballot issues in a primary, general, municipal, or special election~~.

~~Real estate sign means a sign indicating the availability for sale, rent, or lease of the specific property, building, or portion of a building upon which the sign is erected or displayed. (Signs)~~

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 29th day of February 2016.

_____
Suzanne Jones
Mayor

Attest:

_____
Lynnette Beck
City Clerk