

**BOULDER CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Boadway
Wednesday, March 5, 2014
6 p.m.**

AGENDA

1. **CALL TO ORDER AND ROLL CALL**
2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.
3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time.
 - A. Consideration of a **motion to approve the City Council Meeting Minutes from November 19, 2013 Morning Meeting**
 - B. Consideration of a **motion to approve the City Council Meeting Minutes from January 7, 2014**
 - C. Consideration of a **motion to approve the City Council Meeting Minutes from January 21, 2014**
 - D. Consideration of a **motion to approve the City Council Meeting Minutes from February 4, 2014**
 - E. Consideration of a motion to **approve the Study Session summary from February 11, 2014**
 - F. Consideration of a **motion to amend Resolution No. 936 and No. 936A**
 - G. **Second reading** and consideration of a motion to adopt **Ordinance No. 7964 vacating and authorizing** the city manager to execute a **Deed of Vacation and Quitclaim Deed for the property known as 3211 Pearl and a separate 1,820 square-foot portion of Pearl Street right-of-way generally located east of the BNSF Railway Company crossing, near the western terminus of Pearl Street along the frontage of 3211 Pearl Street, and** consideration of a **motion to authorize the city manager**, pursuant to Section 2-2-8, "Conveyance of City Real Property Interests," **to dispose of the vacated 1,820 square-foot portion of Pearl Street** and setting forth related details

Applicant: City of Boulder, Public Works – Transportation

- H. Introduction, **first reading** and consideration of a motion to order published by title only, an **ordinance amending Titles 4, 5, 6 and 8, B.R.C. 1981, to modify the general penalty provisions** and amending Titles 5 and 7 by repealing Section 7-5-15 **regarding pedestrian interference with vehicles** Section 7-5-25 regarding **staying on medians** and adding those provisions to new Sections 5-6-15 and 5-6-16, B.R.C. 1981, and setting forth related details
- I. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance amending Title 5, “General Offenses,” Chapter 5, “Offenses Against Government Operations,” B.R.C. 1981, by adding a new Section 5-5-20 prohibiting unlawful conduct on public property and amending Chapter 2 “General Provisions,”** by amending Section 5-2-4, B.R.C. 1981 **to allow for criminal penalties under the new Section 5-5-20** and setting forth related details
- J. Introduction, **first reading** and consideration of a motion to order published by title only, an **ordinance amending Sections 4-20-60, “Voice and Sight Control Evidence Tag Fees,” 6-1-16, “Dog Running at Large Prohibited,” 6-13-4, “Voice and Sight Control Evidence Tags Upon Violations,” and adding a new Section 6-13-4.5, “Terms of Voice and Sight Control Evidence tag,” B.R.C. 1981,** and setting forth related details
- K. Consideration of a **motion to approve** the City Manager’s signature, Jane Brautigam, on an **Intergovernmental Agreement to create a multi-agency Governmental Authority on the Colorado Information Sharing Consortium (CISC)**

4. **POTENTIAL CALL- UP CHECK IN**

Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda Item 8-A1.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

- A. **Second reading** and consideration of a motion to adopt **Ordinance No. 7959, amending Chapter 7-6, “Parking Infractions,” B.R.C. 1981,** by adding a new Section 7-6-30 **prohibiting parking by non-electric vehicles at electric vehicle charging stations,** amending Section 7-6-2 by adding a penalty of \$20 and setting forth related details
- B. **Second reading** consideration of a motion to adopt **Ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981,** by adding a new Section 6-3-12 **requiring bear resistant containers in a designated area** of the city; amending Section 6-3-2, by adding new definitions; adding administrative penalties for violations, amending Section 6-12-5, “Containers for Recycling or Composting Collection,” and setting forth related details

6. **MATTERS FROM THE CITY MANAGER**

A. Consideration of a **motion to revise** the city of **Boulder’s 2014 State and Federal Legislative Agenda**

B. Update on 2014 Human Services Fund allocations

7. **MATTERS FROM THE CITY ATTORNEY**

None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

A. Potential Call-Ups

None

B. Board and Commission Applicant List Posting Request

9. **PUBLIC COMMENT ON MATTERS** (15 min.) Public comment on any motions made under Matters.

10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.

11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted

12. **ADJOURNMENT**

This agenda and the meetings can be viewed at www.bouldercolorado.gov / City Council. Meetings are aired live on Municipal Channel 8 and the city’s Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting. DVDs may be checked out from the Main Boulder Public Library. Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk’s Office at (303) 441-3002, 8 a.m. – 5 p.m. Monday through Friday. ***48 hours notification prior to the meeting or preparation of special materials IS REQUIRED.*** If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three days prior to the meeting. *Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 días antes de la junta.* Electronic presentations to the city council must be pre-loaded by staff at the time of sign up and will NOT be accepted after 3:30 p.m. at regularly scheduled meetings. Electronic media must come on a prepared USB jump (flash/thumb) drive and no technical support is provided by staff.

This Page Intentionally Left Blank

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS**

Tuesday, November 19, 2013

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the regular November 19, 2013 City Council meeting to order at 10:00 a.m. in the Library Canyon Theater.

Those present were: Mayor Appelbaum and Council Members Ageton, Cowles, Jones, Karakehian, Morzel, and Plass. Council Members Becker and Wilson were absent.

Mayor Appelbaum noted that this was the last official meeting of the outgoing City Council and opened the floor for any council comments. Council members expressed their appreciation for the service provided by the outgoing members and Council Member Ageton thanked her colleagues and the general public for the opportunity to serve the community as a member of the Boulder City Council.

A. SWEARING IN OF THE NEW COUNCIL MEMBERS – 10:10 A.M.

It was announced that the final certification of the 2013 Coordinated election results were not yet available and that the official election results certification would be scheduled for the December 4, 2013 Council Meeting. City Clerk Lewis then invited the Council Elect members to gather on the dais to take the oath of office.

Council Member Matthew Appelbaum was sworn in for a four year term, Council Member Macon Cowles was sworn in for a two year term, Council Member Andrew Shoemaker was sworn in for a four year term, Council Member Sam Weaver was sworn in for a four year term and Council Member Mary Young was sworn in for a four year term.

The new council then took their places at the dais for the following motion:

Council Member Morzel moved, seconded by Council Member Plass, to continue the November 11 meeting until 6:00 p.m. that evening. The motion carried: 9:0.

2. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on November 19, 2013 at 10:15 AM.

Approved this ____ day of _____, 2014.

APPROVED BY:

ATTEST:

Matthew Appelbaum, Mayor

Alisa D. Lewis, City Clerk

This Page Intentionally Left Blank

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
January 7, 2014**

AGENDA

1. CALL TO ORDER AND ROLL CALL – 6:00 PM

Mayor Appelbaum called the regular January 7, 2014 City Council meeting to order at 6:00 PM in the Library Canyon Theater.

Those present were: Mayor Appelbaum, and Council Members Cowles, Jones, Karakehian, Plass, Shoemaker and Young. Council Members Morzel and Weaver were absent.

2. OPEN COMMENT AND COUNCIL/STAFF RESPONSE – 6:14 PM

1. Bill Obermeier – Spoke about Boulder Art’s Week occurring from March 28-April 6, 2014.
2. Anna Salim – Spoke as a member of the Arts Commission inviting Council and the public to Boulder Art’s Week.
3. Deborah Malden – Spoke on behalf of the Boulder Chamber regarding Boulder Art’s Week.
4. Zane Selvans – Spoke in opposition to the current occupancy limits related to rental housing in Boulder.
5. Emily Sigman – Spoke in opposition to the current occupancy limits on rental homes.
6. Steven Winter – Also spoke in opposition to the occupancy limits on rental homes.

3. CONSENT AGENDA

A. CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM OCTOBER 15, 2013

B. CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM OCTOBER 29, 2013

Motions on pages 4 and 5 were amended to reflect Council Member Jones vote.

C. CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM NOVEMBER 19, 2013

D. CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM DECEMBER 3, 2013

E. CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM DECEMBER 17, 2013

Council Member Jones moved, seconded by Council Member Cowles, to move Consent Agenda Items 3A-3E, with item 3E amended to reflect Council Member Jones vote on pages 4 and 5. The motion carried 7:0 with Council Members Morzel and Weaver absent. Vote taken at 6:25 PM.

4. POTENTIAL CALL- UP CHECK IN – 6:26 PM

No interest was expressed in calling-up item 8A-1.

ORDER OF BUSINESS

5. PUBLIC HEARINGS - 6:27 PM

A. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7953, DESIGNATING THE BUILDING AND PROPERTY AT 2003 PINE ST., TO BE KNOWN AS THE WHEELER-MACDONALD HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE

OWNER/APPLICANT: ANDREW AND KRISTIN MACDONALD

City Clerk Alisa Lewis swore in all those testifying at this quasi-judicial hearing.

Senior Planner James Hewat presented on this item. He noted that the applicant was not present to make a presentation.

The public hearing was opened at 6:35 PM.

1. Annah Wise-Worland – Spoke in favor of approving the landmark application for the Wheeler-MacDonald House.

There being no further speakers, the public hearing was closed at 6:38 PM.

Council Member Karakehian expressed excitement about the landmark application and praised the process for landmarking homes in Boulder.

Council Member Plass agreed with Council member Karakehian's comments.

Council Member Karakehian moved, seconded by Council Member Shoemaker, to adopt Ordinance No. 7953, designating the building and property at 2003 Pine Street, to be known as the Wheeler-MacDonald House, as an individual landmark under the City's Historic Preservation Ordinance. The motion carried 7:0, with Council Members Morzel and Weaver absent. Vote taken at 6:40 PM.

B. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7954, DESIGNATING THE BUILDING AND PROPERTY AT 1922 20TH ST., TO BE KNOWN AS THE MACKENZIE HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE

OWNER/APPLICANT: BENJAMIN AND ANNAH WORLAND

City Clerk Alisa Lewis swore in all those testifying at this quasi-judicial hearing.

Historic Preservation Planner Marcy Cameron presented on this item.

The public hearing was opened at 6:44 PM.

1. Benjamin Worland – Spoke as the owner/applicant in favor of approving the landmark application.
2. Annah Worland – Spoke as the owner/applicant in favor of approving the landmark application.

There being no further speakers, the public hearing was closed at 6:47 PM.

Council Member Plass thanked the applicants for their hard work.

Council Member Jones also thanked the applicants and acknowledged their work as ambassadors for downtown.

Council Member Cowles congratulated the applicants.

Council Member Plass moved, seconded by Council Member Jones, to adopt Ordinance No. 7954, designating the building and property at 1922 20th Street, to be known as the MacKenzie House, as an individual landmark under the City's Historic Preservation Ordinance. The motion carried 7:0 with Council Members Morzel and Weaver absent. Vote taken at 6:49 PM.

6. MATTERS FROM THE CITY MANAGER – 6:50 PM

A. FURTHER UPDATE REGARDING THE ENERGY TASK FORCE

Executive Director of Energy Strategy and Electric Utility Development Heather Bailey presented on this item.

Council Member Jones asked for clarification regarding Xcel's work on updating modeling assumptions and next steps.

Ms. Bailey responded that Xcel would present new products and services and that the pricing would be updated. The city would then take that information and incorporate into the modeling staff had been doing.

Council Member Young asked for Ms. Bailey to review the history of the task force and how they arrived at where they were currently.

Council Member Cowles pointed out that Council had directed staff in December to continue with the task force, but had not directed staff to calibrate their financial modeling with Xcel's.

Mayor Appelbaum noted that Council was in agreement that staff's proposed next steps were in alignment with the direction that had been given in December.

7. MATTERS FROM THE CITY ATTORNEY - None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 7:05 PM

A. POTENTIAL CALL-UPS

1. VACATION OF AN 829 SQUARE FOOT PORTION OF A UTILITY EASEMENT ON THE SOUTHEAST CORNER OF THE PROPERTY AT 1310 MEADOW AVENUE (ADR2013-00085)

B. UPCOMING TRIP TO WASHINGTON D.C. WITH UNIVERSITY OF COLORADO AND BOULDER VALLEY SCHOOL DISTRICT

Mayor Appelbaum presented on this item. He reviewed the history of the annual trip to Washington D.C. with representatives from BVSD and University of Colorado and noted that there had not been a trip in 2013 due to problems congress had been facing.

Council Member Cowles commented that he was pleased the trip would occur in 2014 and that Mayor Pro Tem Karakehian would be able to attend. He encouraged those on the trip to raise the issue of the current banking prohibitions related to the legalization of marijuana in Washington and Colorado.

Council Member Karakehian mentioned transportation, municipalization and housing as other topics that were going to be discussed.

C. COUNCIL EMPLOYEE EVALUATION PROCESS DISCUSSION

Council Member Plass presented on this item. He informed Council that the Council Employee Subcommittee had decided to hire a third party consultant to assist Council with the evaluation process. The consultant would assist in compiling data from anonymous surveys related to performance. He applauded the work of the consultant and partnership with human resources in 2013.

Mayor Appelbaum noted that he would like to have a full discussion related to the questions asked in the evaluation process because he felt some of them were duplicative.

Council Member Plass responded that they were looking into models already in place for evaluating city managers, attorneys and municipal judges.

D. RETREAT SCHEDULE FOR SUNDAY, JANUARY 12, 2014

Mayor Appelbaum announced that the Council Retreat would occur on January 12 and 13, 2014 at Rembrandt Yards.

Council Member Jones commented that the retreat would begin at 8:00 AM on Sunday.

Council Member Cowles thanked the subcommittee, City Manager Jane Brautigam and City Clerk Alisa Lewis for their work on the retreat for 2014.

9. PUBLIC COMMENT ON MATTERS

None.

10. FINAL DECISIONS ON MATTERS

None.

11. DEBRIEF

None.

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on January 7, 2013 at 8:00 PM.

Approved this ___ day of _____, 2014.

APPROVED BY:

ATTEST:

Alisa D. Lewis
City Clerk

Matthew Appelbaum
Mayor

This Page Intentionally Left Blank

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
January 21, 2014**

1. CALL TO ORDER AND ROLL CALL – 6:00 PM

Mayor Appelbaum called the regular January 21, 2014 City Council meeting to order at 6:00 PM in the Library Canyon Theater.

Those present were: Mayor Appelbaum, and Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver and Young.

Mayor Appelbaum announced that the Annual Boards and Commission recruitment was underway and encouraged members of the public to apply by February 13, 2014. Applications are available at www.bouldercolorado.gov .

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE – 6:05 PM

1. Sharon Baruch-Mordo - Reported on the results of the Aspen Study regarding the bear trash problem and reviewed the analysis that went into its results and recommendations.
2. Brenda Lee – Spoke on behalf of the Boulder Bear Coalition regarding the bear trash problem. She specifically addressed the location, storage and enforcement options. Ms. Lee’s recommendation was the use of containers that could be closed and locked at all times.
3. Philip Mahoney – Spoke about Western Disposal having a monopoly on trash hauling and the importance of the manual approach to trash hauling that the company offered.
4. Sophia Ottinger – Spoke in support of bear resistant containers.
5. Isabelle Fronzaglia – Spoke in support of bear resistant containers.
6. Aniela Meyers – Spoke in support of bear resistant containers.
7. Vicki Nichols Goldstein – Presented Council with a resolution honoring Boulder as an Inland Oceanic City.
8. Kris Middeldorf – Spoke on behalf of the Department of Wildlife regarding bear enforcement in the city of Boulder relative to the number of violations. He spoke to the need to overcome the interactions between bears and humans and the complexity of the situation.

9. Ashleigh Hitchcock – Spoke about the Scrap Sisters Co. solution for bear resistant containers and provided a demonstration.
10. Leslie Whiteside – Assisted Ms. Hitchcock with the Tidy Bear demonstration as a solution to the bear trash problem.
11. Ed McLewski Jr. – Spoke to the ineffectiveness of the City’s snow shoveling ordinance and asked Council to be proactive and publish the requirement that homeowners shovel their snow within a specific timeframe during snow events.
12. Lynn Segal – Spoke about collaboration regarding the bear trash problem and noted that the Hill was the most impacted area. She asked Council not to require all citizens to pay for a problem in a small section of the community.
13. Henry Adamsky – Spoke as a 30 year resident of Boulder living west of Broadway, he commented that he had never encountered a problem with bears and trash.
14. Nora Leccese – Spoke as a CU student opposed to the smoking ban on the municipal campus, she suggested it was a thinly veiled attempt to get rid of the homeless population that congregated in the area.

Council Member young encouraged all community members to be thoughtful of others and comply with the snow removal requirements.

3. **CONSENT AGENDA – 7:05 PM**

A. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING TITLE 2, “GOVERNMENT ADMINISTRATION,” CHAPTER 7, “CODE OF CONDUCT,” B.R. C. 1981 AND SETTING FORTH RELATED DETAILS

This item was amended by the golden rod handout from the City Attorney’s Office.

B. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE DESIGNATING THE BUILDING AND PROPERTY AT 1815 MAPLETON AVENUE, TO BE KNOWN AS THE BECK-RAY-SHELL HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY’S HISTORIC PRESERVATION ORDINANCE

OWNER/APPLICANT: BRAD SCHELL

C. SECOND READING AND CONSIDERATION OF A MOTION ADOPT ORDINANCE NO. 7956 MODIFYING CERTAIN LAND USE REGULATIONS OF TITLE 9, “LAND USE CODE,” B.R.C. 1981, TO APPROVE THE MOVING OF TWO SINGLE-FAMILY DWELLING UNIT STRUCTURES FROM 1220 AND 1243 GRANDVIEW AVENUE TO 905 MARINE STREET

APPLICANT/OWNER: CHRISTIAN GRIFFITH

D. PROPOSED AMENDMENTS TO THE COUNCIL'S WORKING AGREEMENTS

E. RATIFICATION OF COUNCIL COMMITTEE APPOINTMENTS

This item was amended to remove Andrew Shoemaker from the Downtown Business Improvement District Board and to include the Boulder Urban Drainage appointment with George Karakehian as the representative.

Council Member Plass moved, seconded by Council Member Jones, to approve Consent Agenda items 3A through 3E with 3A amended as presented on the goldenrod handout from the City Attorney's Office and 3E amended to remove Council Member Shoemaker from the DBID and adding the Urban Drainage appointment of Council Member Karakehian. The motion carried 9:0. Vote taken at 7:15 PM.

4. POTENTIAL CALL- UP CHECK IN

There were no call-up items on the agenda.

ORDER OF BUSINESS

5. PUBLIC HEARINGS - 7:15 PM

A. CONSIDERATION OF THE FOLLOWING ITEMS RELATED TO THE PROPERTIES GENERALLY LOCATED AT 5980, 6160, 6180, AND 6234 ARAPAHOE ROAD AND 1492 CHERRYVALE ROAD COMMONLY KNOWN AS THE BOULDER JEWISH COMMONS SITE: 7:17 P.M.

1. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7955:

- a. **ANNEXING A 1.8 ACRE AREA OF LAND GENERALLY LOCATED AT 1492 CHERRYVALE ROAD WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL RURAL -1 (RR-1); AND**
- b. **ANNEXING A 16.36 ACRE AREA OF LAND GENERALLY LOCATED AT 6234 ARAPAHOE ROAD WITH AN INITIAL ZONING CLASSIFICATION OF A RESIDENTIAL-MEDIUM 1 (RM-1); AND**
- c. **ANNEXING A 0.74 ACRE PORTION OF ARAPAHOE ROAD FROM A POINT AT THE NORTHWEST PROPERTY LINE OF 6234 ARAPAHOE ROAD EXTENDING EASTWARD TO A POINT AT THE NORTHEAST PROPERTY LINE OF 6234 ARAPAHOE ROAD WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL-MEDIUM 1 (RM-1); AND**

d. AUTHORIZING VARIATIONS AND MODIFICATIONS TO THE BOULDER REVISED CODE THAT ARE IN THE ANNEXATION AGREEMENT ASSOCIATED WITH THESE ANNEXATIONS

2. SITE AND USE REVIEW (CASE NO. LUR2012-00005) APPROVAL TO PERMIT THE PHASED DEVELOPMENT OF THE PROPERTIES LOCATED AT 5890, 6160, 6180 AND 6234 ARAPAHOE RD., AND 1492 CHERRYVALE ROAD AS THE BOULDER JEWISH COMMONS AND TO PERMIT THE FOLLOWING USES IN THE PROPOSED BOULDER JEWISH COMMUNITY CENTER: ADULT EDUCATION FACILITY, DAYCARE CENTER, AND INDOOR RECREATION AND ATHLETIC FACILITY

Council Members Young and Weaver recused themselves because they had served on Planning Board when the item was heard.

All speakers were sworn in by City Clerk Alisa Lewis

Exparte communications were disclosed by the following Council Members:

1. Mayor Appelbaum – Disclosed that he had conversations with developer Vince Porecca and a site visit, but nothing undisclosed was in the agenda packet.
2. Council Member Morzel – Stated she had conversations with developer Vince Porecca and site visits as far back as 1994 but nothing undisclosed was in the agenda packet.
3. Council Member Karakehian – Noted that he had conversations with developer Vince Porecca and a site visit but nothing undisclosed was in the agenda packet.
4. Council Member Plass – Had a site visit but nothing undisclosed was in the agenda packet.
5. Council Member Cowles – Indicated he was familiar with the project as it had been underway for 13 years but he had no information that was not covered in the agenda memo.
6. Council Members Jones and Shoemaker had both seen the site.

Development Review Manager for CP&S Charles Ferro and Senior Planner Elaine McLaughlin from Planning presented this item.

Applicant Lindsay Weaver from the OREG Foundation gave a presentation on this item as one of the applicants.

Applicant Scott Peppet from JCC also provided a presentation on this item as one of the applicants.

Applicant Rebecca Spears from RB&B Architects concluded the presentations on this item from the applicants.

The public hearing was opened at 7:48 PM.

1. Judith Renfroe – Spoke as the owner of a house that was under water due to the September, 2013 flood event. She expressed the overall support of the entire community and that she was grateful to see this project move forward. She also spoke to the flooding of her home, hoping to see assistance from the city with regarding to resolving that issue, but indicated that was a separate issue and completely unrelated to the annexation.

There being no further speakers, the public hearing was closed at 7:51 PM.

Council praised the applicants for their hard work and expressed enthusiasm for the project.

Council Member Shoemaker moved, seconded by Council Member Morzel, to adopt Ordinance No. 7955 to annex the following areas with the following initial zoning classifications per land use code subsection 9-5-2(c)(4)(B), B.R.C. 1981:

- a. A 1.8-acre area of land generally located at 1492 Cherryvale Road with an initial zoning classification of Residential Rural -1 (RR-1);
- b. A 16.36-acre area of land generally located at 6234 Arapahoe Road with an initial zoning classification of a Residential-Medium 1 (RM-1) and Public (P);
- c. A 0.74-acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe Road extending eastward to a point at the northeast property line of 6234 Arapahoe Road with an initial zoning classification of Residential-Medium 1 (RM-1); and
- d. To permit the phased development of the Jewish Community Center and the following uses on the site; and

Approve the Site and Use Review applications under LUR2013-00005 for the phased development of The Jewish Community Center project including an Adult Education Facility use, a Daycare Center use, and Indoor Recreation or Athletic Facility use, incorporating the staff memorandum and attached criteria checklists as findings of fact and subject to the conditions of approval for the site re4view and use reviews proposed in the staff memorandum. The motion carried 7:0 with Council members Waver and Young recused. Vote was taken at 7:15 p.m.

6. MATTERS FROM THE CITY MANAGER - 7:15 PM

A. DIRECTION ON OPTIONS TO SECURE TRASH AND CURBSIDE COMPOST FROM BEARS

Urban Wildlife Conservation Coordinator Val Matheson presented on this item.

Direction from Council was to accept the recommendation from staff regarding the location west of Broadway, option 3 regarding enclosures for trash rather than containers and enforcement option A allowing for ticket issuance without officer contact. Council requested that the fine be reduced for the first offense so long as the offender had obtained a bear resistant container.

B. DISCUSSION REGARDING UPCOMING SUPPLEMENTAL APPROPRIATIONS FOR THE NEW .15% TAX AND NON-MEDICAL MARIJUANA TAXES

Chief Financial Officer Bob Eiche presented on this item.

Council directed staff to bring back an ordinance appropriating funds related to the Transportation tax and non-medical marijuana tax to be included in the 2014 budget as one time funds.

C. RECONVENE GOVERNANCE GROUP ON MUNICIPALIZATION

City Manager Jane Brautigam presented on this item. She reviewed the work of the governance group and its history. She noted that staff was asking for direction from Council to reconvene the governance group to work on the board appointment process for the electric utility board, delegation of powers and the relationship the board would have with staff.

Council directed staff to reconvene the governance group related to municipalization.

7. MATTERS FROM THE CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 10:15 PM

A. UPDATE ON REGIONAL TRANSPORTATION ISSUES

Mayor Appelbaum presented on this item. He noted that the MPACT36 initiative would not be on the November, 2014 ballot. He commented that NAMS (Northwest Mobility Study) had shown that the potential usage of public transportation as it related to Boulder was very positive.

9. PUBLIC COMMENT ON MATTERS

None.

10. FINAL DECISIONS ON MATTERS

None.

11. DEBRIEF

None.

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on January 21, 2013 at 10:30 PM.

Approved this ____ day of _____, 2014.

APPROVED BY:

ATTEST:

Alisa D. Lewis
City Clerk

Matthew Appelbaum
Mayor

This Page Intentionally Left Blank

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
February 4, 2014**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the regular February 4, 2014 City Council meeting to order at 6:00 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver and Young.

2. OPEN COMMENT AND COUNCIL/STAFF RESPONSE – 6:05 PM

1. Cha Cha Spinrad – Spoke in opposition to the current occupancy limits in Boulder.
2. Lincoln Miller – Spoke as a member of the public that works in the field of sustainability and asked that Council continue work toward increased density and affordability in regard to the housing market. He spoke in opposition to the current occupancy limits in Boulder.

Council Member Young thanked those that came out to speak about the occupancy limits.

Council Member Jones noted that there would be a work plan discussion on February 11, 2014 that would include occupancy limits.

Council Member Morzel also thanked the public and asked them to attend the February 11, 2014 study session.

3. CONSENT AGENDA – 6:10 PM

- A. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION APPROVING AND AUTHORIZING AN APPLICATION FOR A GREAT OUTDOORS COLORADO LOCAL GOVERNMENT PLANNING GRANT**
- B. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING CHAPTER 7-6, “PARKING INFRACTIONS,” B. R.C. 1981, BY ADDING A NEW SECTION 7-6-30 PROHIBITING PARKING BY NON-ELECTRIC VEHICLES AT ELECTRIC VEHICLE CHARGING STATIONS, ADDING A PENALTY OF \$20 FOR VIOLATIONS, AND SETTING FORTH RELATED DETAILS**

Amended as proposed by City Attorney Tom Carr as “Alternative 2” on the pink errata sheet.

C. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE APPROVING SUPPLEMENTAL APPROPRIATIONS TO THE 2014 BUDGET

D. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE AMENDING SECTION 4-20-68, "FLOOD RELATED FEE WAIVER," B.R.C. 1981, TO EXTEND TEMPORARY AUTHORITY TO WAIVE CERTAIN FEES TO FACILITATE RECOVERY AND REPAIR WORK RESULTING FROM FLOOD IMPACTS

Council Member Cowles moved, seconded by Council Member Plass to approve Consent Agenda Items 3A through 3D, with item 3B amended as presented on the pink errata sheet "Alternative 2". The motion carried 9:0. Vote was taken at 6:25 PM.

4. POTENTIAL CALL- UP CHECK IN – 6:25 PM

None.

ORDER OF BUSINESS

5. PUBLIC HEARINGS - 6:25 PM

A. CONSIDERATION OF A MOTION TO ACCEPT THE BOULDER PARKS AND RECREATION MASTER PLAN AND APPROVE THE BOULDER VALLEY COMPREHENSIVE PLAN (BVCP) PARKS AND RECREATION MASTER PLAN SUMMARY

Interim Parks and Recreation Director Jeff Dillon and Steve Wolter from the Eppley Institute at Indiana University presented on this item.

Parks and Recreation Advisory Board Chair Mike Conroy was available to answer questions.

The public hearing was opened at 7:24 PM.

1. Ted Noyes – Spoke as the President of the Boulder Running Club expressing enthusiasm for a boat house on the south shore of Boulder Reservoir.
2. Isabel Reeves – Spoke as a member of the rowing club Colorado Junior Crew in favor of a boat house at Boulder Reservoir.
3. Hanna Lintukorpi – Spoke as a member of the Colorado Junior Crew requesting consideration of limitations on motor boats creating wake at Boulder Reservoir.
4. Brendon Carr – Spoke as a member of the Colorado Junior Crew also in favor of restricting wake times at Boulder Reservoir.

There being no further speakers, the public hearing was closed at 7:30 PM.

Mr. Dillon commented that staff was holding meetings regarding Boulder Reservoir and gathering information on how to minimize impacts on user groups at Boulder Reservoir while also supporting special events.

Council Member Jones moved, seconded by Council Member Young to accept the Boulder Parks and Recreation Master Plan and approve the Boulder Valley Comprehensive Plan (BVCP) Parks and Recreation Master Plan Summary.

Council Member Jones noted that she was pleased with the connections between the Parks and Recreation Master Plan and the Sustainability Framework that Council had adopted previously.

Council Member Young echoed Council Member Jones' comments and expressed appreciation for the work staff had done.

Council Member Morzel thanked staff and the Parks and Recreation Advisory Board.

Mayor Appelbaum expressed appreciation for the work staff had done and commented that there would be a continued effort to meet the community's needs and desires.

Vote was then taken on the motion to accept the Boulder Parks and Recreation Master Plan and approve the Boulder Valley Comprehensive Plan (BVCP) Parks and Recreation Master Plan Summary. The motion carried 9:0. Vote was taken at 7:36 PM.

6. MATTERS FROM THE CITY MANAGER - 7:36 PM

A. UPDATE ON CITY/XCEL WORKING GROUP

Executive Director of Energy Strategy and Electric Utility Development Heather Bailey presented on this item. She commented that the working group was continuing to meet and suggested that city staff should also attend to help answer questions and give information. She stated that Xcel Energy would be presenting information to the working group in April and a recommendation would be made to Council in June.

Council Member Weaver asked whether or not a new Memorandum of Understanding (MOU) had been signed.

Ms. Bailey responded that staff was recommending that a new MOU be signed. She also suggested that members that were no longer available to participate be replaced to make the group whole. She then commented that the group might benefit from a facilitator or moderator going forward.

Council Member Morzel expressed concern that the group was continuing to meet and there was disagreement as to whether or not the original MOU was still in place. She agreed that a moderator would help, that a new MOU should be signed and departed members replaced.

Ms. Bailey explained the history of the working group and how it had changed over time. She noted that it was the shift in the scope of work being done that created the need for a new MOU.

Council Member Jones agreed with the concerns being expressed.

Council Member Shoemaker suggested that the city had a responsibility to the members of the working group to protect their legal rights by requiring a signed agreement between the City and Xcel Energy.

Ms. Bailey responded that an extension of the original MOU would also work.

City Attorney Tom Carr noted that the document would ensure that anything said in the working group meetings by the city would not be admissible in court.

Council Member Weaver moved, seconded by Council Member Morzel, that Council direct that City staff only attend or support Xcel Boulder Working Group meetings after Feb 12, 2014 if the following conditions were met:

1. A memorandum of understanding is in place between Public Service Company of Colorado and the City of Boulder which explicitly protects citizen members of the working group from any risk of involvement in legal or regulatory actions between Xcel, the Public Service Company of Colorado and the City of Boulder. This memorandum of understanding should also protect any information disclosed by the City during the Working Group process from being used in any future legal or regulatory actions.
 2. Fill the three vacancies on the Working Group are filled with replacement members two out of three of whom are very knowledgeable about the legal and regulatory frameworks that will govern any products and services offered to Boulder by Xcel.
- The motion carried 9:0. Vote was taken at 8:17 PM.

Council Member Shoemaker expressed concern regarding the requirements for filling the vacant seats on the working group.

Council Member Weaver offered to amend his original motion changing item number two of his motion to the following: Two out of three of the vacancies on the working group be filled by replacement members with knowledge of legal and regulatory frameworks that would govern any products and services offered to Boulder by Xcel.

Council Member Cowles noted that Council was not directing staff to do financial modeling or exchange modeling data.

7. MATTERS FROM THE CITY ATTORNEY

None.

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 8:11 PM

A. UPDATE FROM THE COUNCIL EMPLOYEE EVALUATION COMMITTEE

Council Members Morzel and Plass informed Council that they had hired the outside consultant they had discussed in their previous update to Council.

9. PUBLIC COMMENT ON MATTERS – 8:16 PM

None.

10. FINAL DECISIONS ON MATTERS

Council Member Weaver moved, seconded by Council Member Morzel, that Council direct that City staff only attend or support Xcel Boulder Working Group meetings after Feb 12, 2014 if the following conditions were met:

1. A memorandum of understanding is in place between Public Service Company of Colorado and the City of Boulder which explicitly protects citizen members of the working group from any risk of involvement in legal or regulatory actions between Xcel, the Public Service Company of Colorado and the City of Boulder. This memorandum of understanding should also protect any information disclosed by the City during the Working Group process from being used in any future legal or regulatory actions.
 2. Two of the three vacancies on the Working Group are filled with replacement members two out of three of whom are very knowledgeable about the legal and regulatory frameworks that will govern any products and services offered to Boulder by Xcel.
- The motion carried 9:0. Vote was taken at 8:17 PM.

11. DEBRIEF – 8:17 PM

Mayor Appelbaum commented that he was happy to be back in Council Chambers.

Council Member Morzel stated that she was pleased with how smoothly the meeting was run and that it ended at an early hour.

Council Member Plass commented that he was pleased with the timing of Council questions and discussion.

12. ADJOURNMENT – 8:18 PM

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on February 4, 2014 at 8:18 PM.

Approved this ____ day of _____, 2013.

APPROVED BY:

ATTEST:

Alisa D. Lewis
City Clerk

Matthew Appelbaum
Mayor



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
STUDY SESSION SUMMARY FROM OCTOBER 9 AND 23, 2012**

MEETING DATE: March 5, 2014

AGENDA TITLE: Consideration of a motion to accept the February 11, 2014 Study Session Summary regarding social misbehavior on the municipal campus.

PRESENTERS:
Tom Carr, City Attorney

EXECUTIVE SUMMARY:

The purpose of this agenda item is to seek council approval of the following summary of the February 11, 2014 study session on social misbehavior. Council scheduled this study session to provide a forum for discussion of challenges presented by criminal behavior on the municipal campus.

STAFF RECOMMENDATION:

Staff recommends approval of the summary of the February 11, 2014 study session regarding the social misbehavior.

Suggested Motion Language:

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

Motion to accept the study session summary of the February 11, 2014 study session, included as **Attachment A**.

BACKGROUND: The background information for this topic can be found in the [Study Session Memorandum](#) dated February 11, 2014.

NEXT STEPS:

Based on input at the study sessions, staff will:

1. Draft proposed ordinances to:
 - a. Repeal sentencing reductions adopted in 2012;
 - b. Adopt a city version of the state law prohibiting unlawful conduct on public property;
 - c. Amend the current code provision regarding suspension from public facilities; and
 - d. Add additional restrictions on panhandling.
2. Develop a proposal for consideration by the Landmarks Board and the City Council for securing the band shell.
3. Continue with additional police patrols on the municipal campus.
4. Monitor the effectiveness of increased sentencing guidelines implemented in December 2013.

ATTACHMENT A – February 11, 2014 Study Session Summary

February 11, 2014 Study Session Summary on Social Misbehavior

PRESENT:

City Council: Mayor Matt Appelbaum, Mayor Pro Tem George Karakehian, Council Members Macon Cowles, Suzanne Jones, Lisa Morzel, Tim Plass, Andrew Shoemaker, Sam Weaver and Mary Young.

Staff members: City Manager Jane S. Brautigam, City Attorney Tom Carr, Municipal Court Judge Linda Cooke, Executive Director of Public Works Maureen Rait, Police Chief Mark Beckner, Human Services Director Karen Rahn and Acting Director of Parks and Recreation Jeff Dillon.

PURPOSE:

The purpose of this study session was to:

- To provide an opportunity for council to discuss criminal behavior on the municipal campus.
- Address significant questions regarding a group or groups of individuals who appear to have taken over the municipal campus.
- Address certain behaviors occurring on the campus that effectively prevent other community members from enjoying the campus.

OVERVIEW OF THE PRESENTATION AND DISCUSSION

City Attorney Tom Carr began the discussion with a problem statement as follows:

- Behavior by individuals congregating on the municipal campus has made the area inhospitable to others in the community.
- The behavior includes significant criminal activity. (646 citations in 12 months)
- The municipal campus is a valuable community resource that is not currently available to the majority of community members.

Council members agreed generally that the statement adequately addressed the problem. A council member noted that the problem was not limited to the municipal campus and stressed the importance of addressing similar issues city wide. Another council member noted that the library has major problems that also need to be addressed. Maureen Rait provided council with information regarding security at the library and recent steps to improve conditions.

Council next considered strategies that are already implemented or underway, which are as follows:

- Increased Police Patrols

- No Smoking
- Rules of Conduct
- Increased Sentencing Guidelines
- Exclusion Orders

Council approved the strategy of continuing increased police patrols. The city manager clarified, in response to a question that “increased” means an increase over normal patrols and not an increase from the additional patrols deployed in 2013. The city attorney explained the challenges faced by the police department when adding additional resources to an area. That is, that the department has the ability to redeploy patrols, but this means less coverage in other areas. The additional patrols in 2013 were funded with additional overtime funds. The ability to provide coverage through overtime also is not unlimited. Officers need time off and also have to provide overtime coverage to special events. Chief Beckner explained that it would require hiring 12 additional officers to provide dedicated coverage with two officer patrols.

Council inquired about the effectiveness of the increased sentencing guidelines. The city attorney explained that there was not much data at this time, but preliminary indications were that the court was imposing the recommended sentences in appropriate cases. The city attorney stressed the necessary independence of the judiciary and the ability of the court to decide on an appropriate sentence. Chief Beckner noted that anecdotally officers had reported that they were seeing a difference. A council member asked whether the sentencing guidelines could include mitigating factors such as participation in treatment or transitional housing programs. The city attorney offered to explore including such factors. The municipal judge explained that she did consider such factors before imposing sentences.

The city attorney explained that exclusion orders were intended to address situations in which an individual congregating in particular areas was more likely to get into trouble. A council member asked whether additional enforcement, sentencing enhancements and exclusion orders would just move the problem to other areas of the city. The city attorney admitted that any criminal justice intervention resulted in some level of displacement. The problem on the municipal campus is caused by congregation of groups who disregard the law. The ongoing and proposed interventions are intended to disrupt the congregation that enhances the criminal activity.

The discussion then turned to additional actions proposed by staff which are as follows:

- Additional Panhandling Restrictions
- Partial Closure (Bandshell)
- Repeal Sentencing Limitations

- Enact Unlawful Conduct on Public Property Ordinance

Council engaged in a robust discussion of the proposed actions. A majority of council appeared to support additional consideration of some enhancements to the code provisions addressing panhandling. Several council members objected to such an approach. These council members supported additional efforts to restrict criminal activities, but expressed concern about the need to included panhandling restrictions. One council member emphasized that any such restrictions would need to respect the right of individuals to stand on a corner with a sign.

Council members who supported additional restrictions expressed concern about the public safety risks presented by panhandlers stepping into streets to solicit money from drivers. Members also expressed additional concerns about solicitation of individuals in vulnerable or captive positions such as at automatic teller machines, parking kiosks and outdoor cafés. Council members asked that staff provide information about what effect panhandling has on the individuals engaged in this activity. That is, whether it provides some means of support or instead is merely a mechanism to further addictions and other destructive behavior. Council encouraged staff to engage with social service agencies to explore their views on additional panhandling restrictions.

The city attorney summarized the discussion by stating that there appeared to be sufficient support to present council with some options. The city attorney recommended that his office develop a proposed ordinance with several options for council to consider.

Council had several questions about the proposed fencing of the band shell. Council members expressed concern about the esthetics of a chain link fence in such a prominent area of the municipal campus. One council member emphasized the problems presented by the current unsecured structure. Council members expressed interest in hearing more detail about an enclosure that could protect the structure without diminishing its esthetic value. Council stressed the importance of seeking approval from the Landmarks Board.

Council was supportive of both repealing the sentencing limitations and a proposed ordinance mirroring the state law banning unlawful conduct on public property. In addition, one council member expressed support for consideration of banishment from the city as a sanction. There did not appear to sufficient support from other council members for staff to proceed with this approach.

This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE

Consideration of a motion to amend Resolution No. 936 and No. 936A

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichen, Chief Financial Officer
Peggy Bunzli, Budget Officer
Elena Lazarevska, Senior Financial Analyst

EXECUTIVE SUMMARY

The purpose of this item is to amend resolutions 936 and 936A. Resolutions 936 and 936A, which were passed in 2003 and 2006, authorized the city to repay notes issued by the Dushanbe Sister City Association from revenue generated by the Teahouse Lease. These notes were used to support the construction of the Dushanbe Cyber Café. The notes accrue an annual compounding interest of 6%. Current estimates project that the City will not have enough Teahouse lease revenue to repay these notes for several years. To avoid accumulation of additional interest, City Council approved funding in the 2014 budget of \$269,083 for repayment of these promissory notes. The resolution contained in this memo is technical in nature, and amends the original resolution to allow the city to use all available city revenues for repayment of these notes.

The proposed resolution is provided as **Attachment A** to this packet.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to amend Resolution No. 936 and No. 936A

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Repayment of these notes, which are held by Boulder community members, fosters a positive perception of the city and enhances community relations.

OTHER IMPACTS

- Fiscal: Funding has already been approved in the 2014 budget ordinance.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

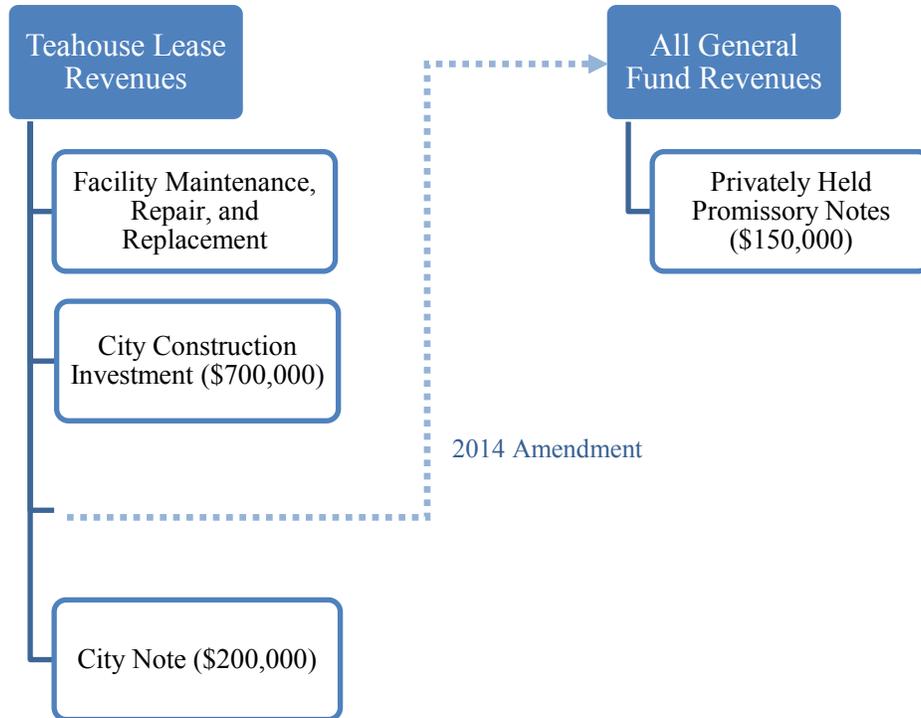
BACKGROUND

The Dushanbe Teahouse and Cyber Café financing was set up in multiple levels.

1. The city made a construction investment of \$700,000 from the General Fund for building of the Teahouse. This investment was made in 1998. The investment has been partially "reimbursed" from the lease revenue of the Teahouse.
2. The Boulder-Dushanbe Sister Cities organization, backed by the city, issued \$150,000 in promissory notes to seven individuals and one community organization. These notes were issued from 2004 through 2007.
3. The Boulder-Dushanbe Sister Cities organization, backed by the city, issued \$200,000 in promissory notes to the City of Boulder. In the third case, the city essentially issued promissory notes to itself. This particular issuance was in 2008. The plan was that the notes would be repaid from revenue generated by the Teahouse lease.

During the 2014 budget process, the City Council appropriated funding to pay off the \$150,000 privately-held notes all at once because of the high (six percent) interest rate. However, the council resolutions authorizing these notes included the requirement that only Teahouse lease revenues would be used as a source of repayment. For the city to pay off the privately held notes, it is necessary that council agree to remove the requirement that only Teahouse lease revenues be used to do so. The proposed amended resolution would remove this requirement. This amendment is necessary because Teahouse lease revenue is not sufficient to pay off the notes. The lease revenue must first be reserved for any maintenance and replacement charges of the building, and then, for reimbursement of the original construction funding of \$700,000. Because of increasing maintenance charges, the \$700,000 investment from the city has not yet been fully reimbursed, and is not expected to be reimbursed in the next several years.

The city appropriated funding for repayment of these notes in 2014 from the General Fund through the 2014 budget process, in order to avoid future interest accumulation and to ensure repayment to the private citizens and foundation that had helped bring this project to fruition. The source of the repayment of the notes in 2014 is all General Fund revenues, not limited to Teahouse lease revenue. The flowchart below represents the financing changes in 2014.



PUBLIC FEEDBACK

The Boulder-Dushanbe Sister Cities organization supports the repayment of these notes in 2014.

ATTACHMENTS

- A. Proposed Resolution

This Page Intentionally Left Blank

TEAHOUSE RESOLUTION No 936
(Second Amendment)

WHEREAS, The city of and people of Dushanbe Tajikistan presented to the city and people of Boulder Colorado the gift of a traditional Tajik style teahouse in 1990 as a way to honor our sister city ties;

WHEREAS, This artistically ornate teahouse also represents the single largest gift from the people of the former Soviet Union to the people of the United States;

WHEREAS, The City of Boulder donated the land for the Dushanbe Teahouse in a prominent downtown Boulder location and provided a construction loan to help erect the Teahouse in 1998;

WHEREAS, The Dushanbe Teahouse has become one of downtown Boulder's biggest attractions, bringing much needed tourism and sales tax revenues to the city;

WHEREAS, The Boulder-Dushanbe, Sister City group ~~has~~ proposed, ~~and~~ designed ~~and caused to be constructed~~ a Cyber Café as a reciprocal gift from the city and people of Boulder to the city and people of Dushanbe; ~~and~~

WHEREAS, The City of Dushanbe, Tajikistan ~~has~~ approved the Cyber Café concept and ~~has~~ donated a prominent Dushanbe city park site for its construction;

WHEREAS, Several local citizens loaned the Dushanbe Sister City Association \$150,000 to assist in the construction of the Cyber Café, with an understanding as set forth in the loan documents that the loan would repaid only from revenue generated from the Dushanbe Teahouse lease after the construction costs associated with the Teahouse had been repaid;

WHEREAS, The Cyber Café was delivered to Dushanbe, Tajikistan in or about August 2007;

WHEREAS, The original agreement anticipated that the Teahouse construction costs would be repaid in 2015;

WHEREAS, Increased maintenance costs for the Teahouse have limited the revenue available for repayment of the construction loan, such that complete repayment will not be possible from Teahouse revenue for several years;

WHEREAS, The promissory notes carry an interest rate of six percent which is significantly in excess of the current market interest rate; and

WHEREAS, The city council wishes to liquidate the obligation to repay these notes rather than accrue additional interest at six percent.

NOW THEREFORE BE IT RESOLVED The Boulder City Council authorizes, subject to appropriation, repayment of \$150,000 of promissory notes with accrued interest issued to assist in the construction of the Dushanbe Cyber Café.~~pledges, subject to appropriations, all revenues from the city's Dushanbe Teahouse lease toward the Cyber Café reciprocal gift, subject to the following conditions:~~

- ~~1) The City's original construction loan, including 6% compound interest must be completely paid off from the lease revenues before any proceeds are released for the benefit of the Cyber Café (currently estimated to occur in the year 2015);~~
- ~~2) The City's FAM maintenance and replacement fee for the existing Teahouse will continue to be paid out of the lease proceeds as a first priority;~~
- ~~3) The maximum financial obligation of this pledge is not to exceed the equivalent of a loan in 2004 of \$350,000 principal with 6% compound interest until the terms of this pledge are fully met (it being understood that the city itself is not providing such a loan); and~~
- ~~4) The Cyber Café is delivered to the people of Dushanbe, to such a degree and roughly equivalent to the manner and condition in which Boulder received its Teahouse from Dushanbe, this being accomplished no later than August 2007.~~

Approved this 5th day of March 2014

Matthew Appelbaum
Mayor

Attest:

Alisa D. Lewis
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE:

Second reading and consideration of a motion to adopt Ordinance No. 7964 vacating and authorizing the city manager to execute a Deed of Vacation and Quitclaim Deed for the property known as 3211 Pearl and a separate 1,820 square-foot portion of Pearl Street right-of-way generally located east of the BNSF Railway Company crossing, near the western terminus of Pearl Street along the frontage of 3211 Pearl Street, and consideration of a motion to authorize the city manager, pursuant to Section 2-2-8, "Conveyance of City Real Property Interests," to dispose of the vacated 1,820 square-foot portion of Pearl Street and setting forth related details.

Applicant: City of Boulder, Public Works – Transportation

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
Tracy Winfree, Director of Public Works for Transportation
Stephany Westhusin, Transportation Capital Projects Manager
Janet Michels, Assistant City Attorney
Alex May, Transportation Project Manager

***Please note:** Exhibits to the proposed Ordinance were inadvertently misnumbered in the first reading packet. The exhibits to the Ordinance have now been re-numbered to match the exhibits referenced in the Ordinance.*

EXECUTIVE SUMMARY

City staff and the applicant are requesting the vacation of City of Boulder interests in the property known as 3211 Pearl and a separate 1,820 square-foot portion of roadway right-of-way generally located as shown in **Attachment B**. Please see **Attachment C** for a

site plan depicting more detail for the subject area which is east of the BNSF Railway Company railroad, near the western terminus of Pearl Street along the frontage of 3211 Pearl Street. The proposed vacation is being requested in conjunction with related adjacent right-of-way and easement dedication in order to clarify and define uncertain information in public records related to the north right-of-way line of Pearl Street between the BNSF Railway Company's railroad right-of-way, and the east property line of 3211 Pearl Street. The proposed vacation and conveyance boundaries, and resulting north ROW line of Pearl Street are highlighted on **Attachment C**.

Processing a deed of vacation for the affected parcel from the city, and processing a related quit claim deed for that separate affected parcel from the 3211 Pearl property owner to the city will result in a clear definition of the Pearl Street ROW and the private property line for these affected properties. This transaction will resolve ambiguities in the public land records, resulting in a public service and a benefit to the private property owner as well. This new boundary line will also result in the city's existing 38 year-old waterline being located within the newly defined ROW for Pearl Street. See **Attachment D** for the deed for the new dedication of ROW from the 3211 Pearl property owner, and **Attachment E** for the dedication of an adjoining easement from that property owner. See **Attachments A, F and G** for the Vacation Ordinance, the proposed Deed of Vacation and the Quitclaim Deed for the designated ROW parcel that the city is vacating its interests in.

To vacate a public right-of-way easement, the City Council would have to conclude that the criteria of subsection 8-6-9(c), B.R.C. 1981 are met and approve an ordinance authorizing the city manager to convey the city's real property interest. Staff has reviewed the proposal and has concluded that the request would meet the criteria, as indicated below in the "Analysis" portion of this memorandum.

STAFF RECOMMENDATION

Staff finds that the criteria of section 8-6-9, "Vacation of Public Rights-of-Way and Public Access Easements," B.R.C. 1981 is met and recommends that the City Council take the following action:

Suggested Motion Language:

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

Motion to:

Motion to approve on second reading and adopt an ordinance vacating and authorizing the city manager to execute a Deed of Vacation and Quitclaim Deed for the property known as 3211 Pearl and a separate 1,820 square-foot portion of Pearl Street right-of-way east of the BNSF Railway Company railroad, near the western terminus of Pearl Street along the frontage of 3211 Pearl Street, and consideration of a motion to authorize the city manager, pursuant to Section 2-2-8, "Conveyance of City Real Property Interests," to dispose of the vacated 1,820 square-foot portion of Pearl Street and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The area of undisputed ROW, in which the city is giving up interests (1,820.0 square-feet), is roughly proportionate with undisputed fee ROW area being dedicated by the 3211 Pearl private property owner (1,440.0 square-feet), along with the access easement shown in Attachment E (9.0 square-feet). In addition, the city gives up possible other overlaying interests in the southerly portion of the 3211 Pearl property that are referenced in early County Road Books and other early property deeds, which helps to clear up title for this private parcel.
- Environmental – No impacts.
- Social – The related quit claim and easement deed from the 3211 Pearl property owner that will be jointly processed with the proposed vacation deed from the city will have positive social impacts by resulting in a clear definition for the north ROW line of Pearl Street, providing clarity to the public ROW and existing uses of it for current (roadway, waterline) and future public uses in the Boulder Junction area.

OTHER IMPACTS

- Fiscal – No significant impacts, other than survey consultant services related to survey and deed exhibit work.
- Staff time – The vacation application has been processed through the provisions of a standard vacation process and is within normal staff work plans.

FIRST READING QUESTIONS AND RESPONSES

There were no questions or comments from City Council at first reading.

BOARD AND COMMISSION FEEDBACK

Notification was sent to the Planning Board on Jan. 31, 2014 in advance of the Feb. 6, 2014 Planning Board meeting, in conformance with Section 79 of the Boulder City Charter. Planning Board did not have any comments on this item.

PUBLIC FEEDBACK

All notice requirements of section 9-4-3, “Public Notice Requirements,” B.R.C. 1981 have been met. Public notice of this proposed vacation was sent to property owners within 600 feet of the project on Jan. 31, 2014. Staff has received no comments or requests for additional information from neighboring property owners or the public. Notice and concurrence with this proposed vacation has been received from all affected private utility companies in the area.

BACKGROUND

This section of Pearl Street right-of-way originated as County Road 1 in 1865 (later renumbered to County Roads 52 and 53 in 1953) through dedication as a county road. The records of the time are uncertain as to whether this roadway right-of-way was

dedicated as an easement or dedicated in fee. The records are also inconclusive as to the dedicated width of this right-of-way (most indications are 60'). Adjustments to the Pearl Street ROW were made in 1964, east of the 3211 Pearl property, with vague references to the ROW adjoining 3211 Pearl Street at that time. The City of Boulder constructed water and sewer mains in this section of Pearl Street in approximately 1975. In 1979, the 3211 Pearl property and many other area properties were annexed into the City of Boulder, along with existing roadway right-of-ways. In approximately 1982, the City of Boulder relocated the Pearl Street crossing of the BNSF railroad tracks to the south onto newly constructed Pearl Parkway, eliminating the former Pearl Street railroad crossing, and essentially creating a dead-end street for Pearl Street, east of the BNSF railroad.

Staff researched the chain of title to the 3211 Pearl property adjoining the north ROW line of Pearl Street back to 1920, when it was part of a larger parent tract of land. Deed descriptions from 1920 through changes in ownership through 1968 identify the south property line of 3211 Pearl as the "centerline of Pearl Street Road." In the 1960's, a farm house and related out-buildings are visible in aerial photographs of the area, along with clear depictions of Pearl Street. Later deeds starting in 1976 omit references to the Pearl Street ROW overlaying a portion of the 3211 Pearl property. The current property owner acquired ownership interest in the 3211 Pearl property in 1976, and the current building was constructed on the site in 1979 following annexation of the property. Following the city's relocation of the BNSF railroad crossing of Pearl Street in approximately 1982, this section of Pearl Street east of the railroad has been a dead-end street, losing many physical features defining the ROW in this area.

In the interest of clearing up this uncertain north ROW line for Pearl Street and in conjunction with early stages of construction planning for replacement of the existing waterline along the affected section of Pearl Street, City of Boulder staff initiated discussions with the owner of 3211 Pearl Street and initiated survey and property research work. The proposed vacation by the city is being requested in conjunction with related adjacent right-of-way and easement dedication by the 3211 Pearl property owner in order to clarify and define uncertain information in public records related to the north right-of-way line of Pearl Street between the BNSF Railway Company's railroad right-of-way, and the east property line of 3211 Pearl Street. The resulting north ROW line of Pearl Street is highlighted on **Attachment C**, and includes area overlying the city's existing 38 year-old waterline in this area.

See **Attachment D and E** for the deeds for the various parcels affected by the related conveyance of ROW and easement by the 3211 Pearl property owner.

ANALYSIS

In order for a public right-of-way to be vacated, the City Council must find that the criteria under subsection 8-6-9(c), B.R.C. 1981 are met and adopt an ordinance granting the requested vacation. Staff has reviewed the proposed vacation and has concluded that the criteria can be met as discussed below:

- (1) The applicant must demonstrate that the public purpose for which an easement or right-of-way was originally acquired or dedicated is no longer valid or necessary for public use;***

The 1,820.0 square-foot area proposed to be vacated was clearly a part of right-of-way/easement granted to Boulder County and later annexed to the City of Boulder in 1979. The resulting north ROW line of Pearl Street is highlighted on **Attachment C**. The portion proposed to be vacated has been reduced by a portion to be retained for a future north-south local roadway connection included in the Transit Village Area Plan (TVAP) Transportation Connections Plan, along the east edge of the 3211 Pearl property. The city will vacate interests in any ROW/easement north of this new defined north ROW line of Pearl Street, retaining only a small utility easement to accommodate an existing guy pole owned by Public Service Company of Colorado, used to support electric distribution lines in the city right-of-way. There are no additional public uses or purpose for the portion of property to be vacated.

- (2) All agencies and departments having a conceivable interest in the easement or right-of-way must indicate that no need exists, either at present or conceivable in the future, to retain the property as an easement or right-of-way, either for its original purpose or for some other public purpose unless the vacation ordinance retains the needed utility or right-of-way easement;***

The proposed vacation of this ROW/Easement been evaluated by the Planning and Public Works Departments, and it has been collectively concluded that the public entities would have no conceivable future interest in the roadway right-of-way being vacated. Due to uncertainties in the definition of the prior ROW for Pearl Street, it is difficult to administer this vaguely defined ROW, creating confusion and a lack of clear understanding of where the definition between public ROW and private property exists. All existing utilities (other than waterline) except for the previously mentioned utility easement that accommodates the existing guy pole are located along the southerly portion of this section of Pearl Street, and would be unaffected by this action. Having this ROW accurately determined will result in a public service where administration and use of a clearly defined ROW will result.

Notice and concurrence with this proposed vacation has been received from all affected private utility companies in the area.

- (3) The applicant must demonstrate, consistent with the Boulder Valley Comprehensive Plan and the city's land use regulations, either:***

(A) That failure to vacate an existing right-of-way or easement on the property would cause a substantial hardship to the use of the property consistent with the Boulder Valley Comprehensive Plan and the city's land use regulations;
or

Not Applicable.

(B) That vacation of the easement or right-of-way would actually provide a greater public benefit than retaining the property in its present status.

The vacation of the requested right-of-way by the city and related adjacent right-of-way and easement dedication by the private property owner will provide a greater public benefit than retaining the property in its present uncertain status due to the resulting clarification of the boundary that defines the north ROW line of Pearl Street and the boundary of this private parcel. This will make administration of the right-of-way more defined and clear up existing potential title issues to the affected private parcel. By retaining portions of right-of-way for the future North-South connection along the east side of the affected parcel (as outlined in the TVAP Transportation Connections Plan) and the small easement for the existing guy pole, all future public needs are also provided for.

ATTACHMENTS

- Attachment A: Proposed Ordinance 7964 to Vacate Right-of-Way
- Attachment B: Vicinity Map
- Attachment C: Site Plan Exhibit showing ROW and City Interests to be Vacated by City, and New ROW and Easement Areas to be Conveyed by 3211 Pearl Property Owner
- Attachment D: Deed Description with Parcel Map Showing New ROW Area to be Conveyed by 3211 Pearl Property Owner
- Attachment E: Deed Description with Parcel Map Showing New Easement Area to be Dedicated by 3211 Pearl Property Owner
- Attachment F: Deed of Vacation for ROW Area with Exhibit and Legal Description
- Attachment G: Quitclaim Deed for ROW area

ORDINANCE NO. 7964

AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION AND QUITCLAIM DEED FOR ANY RIGHT-OF-WAY INTEREST LOCATED WITHIN THE BOUNDARIES OF 3211 PEARL AND A PORTION ADJACENT TO 3211 PEARL STREET, CITY OF BOULDER, COUNTY OF BOULDER, COLORADO, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER FINDS AND RECITES THAT:

A. The city and the owner of the property located at 3211 Pearl Street, Boulder, CO, have requested that the city vacate and quitclaim any right-of-way interest located within 3211 Pearl Street and a 1820 square-foot portion of Pearl Street right-of-way located adjacent to 3211 Pearl Street; and

B. The City Council is of the opinion that the requested vacation is in the public interest and that said right-of-way is not necessary for the public use.

C. The city intends for this ordinance to constitute approval for the city manager to convey the city's real property interest in the Property pursuant to Section 2-2-8, "Conveyance of City Real Property Interests," B.R.C. 1981.

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

Section 1. The City Council vacates and authorizes the city manager to execute a deed of vacation and quitclaim deed for any right-of-way interest located within the boundaries of 1) the property generally known as 3211 Pearl and 2) a 1820 square-foot portion of Pearl Street right-of-way that was originally was dedicated to the County of Boulder on the County Road Book # 1 and further defined by the deed recorded in the records of the Boulder County Clerk and Recorder at Book 1327 and Page 418 (hereafter collectively referred to as "Property") and more

particularly described on the attached **Exhibit A**, reserving an easement for utility purposes over the property described on the attached **Exhibit B**.

Section 2. This ordinance and the vacation and disposal of property authorized herein shall not become effective until the Deed of Vacation in the form generally shown on the attached **Exhibit C** has been recorded in the records of the Boulder County Clerk and Recorder.

Section 3. The vacation of right-of-way anticipated by 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 authorizes the city manager to execute a Quitclaim Deed in the form generally shown on the attached **Exhibit D** for the Property described on **Exhibit A** concurrent with or after the vacation described in Section 2 of this ordinance becomes effective.

Section 5. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 18th day of February, 2014.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 5th day of March, 2014.

Mayor

Attest:

City Clerk

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST (L9) WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS NORTH 00°10'54" WEST 86.51 FEET (L7) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP ON THE SOUTH LINE OF THE BOULDER VALLEY RAILROAD RIGHT OF WAY (BVRR-ROW); THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE SAID SOUTH LINE OF THE BVRR-ROW NORTH 74°52'40" EAST 113.24 FEET (L8) TO A FOUND #5 REBAR WITH A SCOTT COX & ASS. ALLOY CAP; THENCE CONTINUING ALONG THE SAID SOUTH LINE OF THE BVRR-ROW ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 02°06'41", A RADIUS OF 5,679.67 FEET, A LENGTH OF 209.30 FEET, AND BEING SUBTENDED BY A CHORD BEARING NORTH 75°58'46" EAST WITH A CHORD DISTANCE OF 209.29 FEET (C3) TO A FOUND #5 REBAR WITH A FLATIRONS SURVEYING ALLOY CAP ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE DEPARTING THE SAID SOUTH LINE OF THE BVRR-ROW AND ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 00°17'32" EAST 99.45 FEET (L9) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED
PARCEL OF LAND
CONTAINS 32,554 SQ.
FT. (0.747 ACRES),
MORE OR LESS.



NOTE:

THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

**BOULDER LAND
CONSULTANTS, INC.**



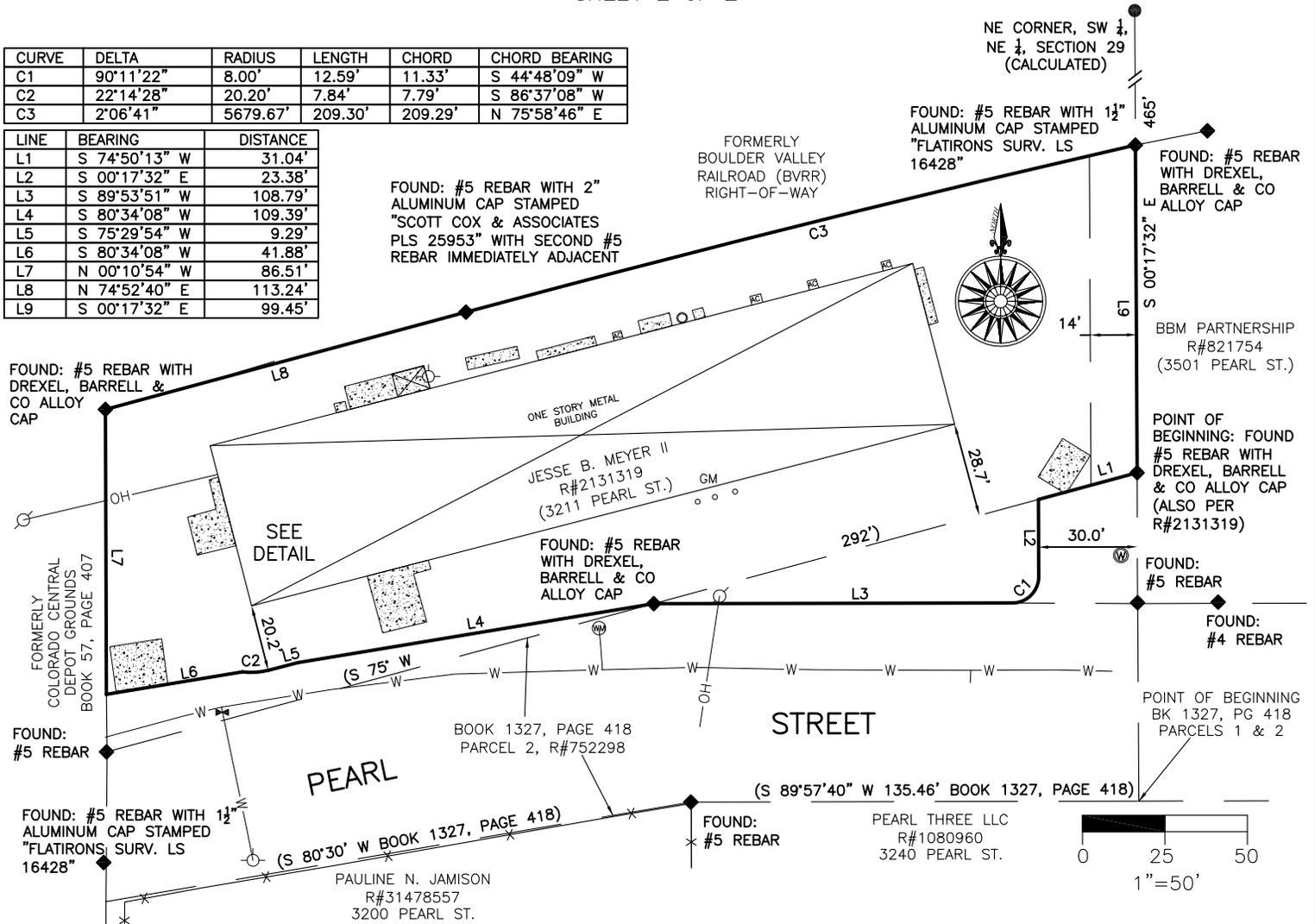
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W
C3	2°06'41"	5679.67'	209.30'	209.29'	N 75°58'46" E

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'
L6	S 80°34'08" W	41.88'
L7	N 00°10'54" W	86.51'
L8	N 74°52'40" E	113.24'
L9	S 00°17'32" E	99.45'



NOTE:
THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.boulderlandconsultants.com

EXHIBIT C

For Administrative Purposes Only
Address: 3211 Pearl Street

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in the manner prescribed by Section 43-2-302, C.R.S., any interest located within the boundaries of 1) the property generally known as 3211 Pearl and 2) a 1820 square foot portion of Pearl Street right-of-way that was originally was dedicated to the County of Boulder on the County Road Book # 1 and further defined by the deed recorded in the records of the Boulder County Clerk and Recorder at Book 1327 and Page 418 (hereafter collectively referred to as "Property") and said Property is more particularly described on the attached **Exhibit A**, reserving an easement for utility purposes over the property described on the attached **Exhibit B**.

The above vacation and release of said right of way at 3211 Pearl Street shall extend only to the portion and the type of right of way specifically vacated.

Executed this _____ day of _____, 2014, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado, pursuant to Ordinance No. _____, adopted by the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Date

EXHIBIT A TO DEED OF VACATION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST (L9) WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS NORTH 00°10'54" WEST 86.51 FEET (L7) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP ON THE SOUTH LINE OF THE BOULDER VALLEY RAILROAD RIGHT OF WAY (BVRR—ROW); THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE SAID SOUTH LINE OF THE BVRR—ROW NORTH 74°52'40" EAST 113.24 FEET (L8) TO A FOUND #5 REBAR WITH A SCOTT COX & ASS. ALLOY CAP; THENCE CONTINUING ALONG THE SAID SOUTH LINE OF THE BVRR—ROW ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 02°06'41", A RADIUS OF 5,679.67 FEET, A LENGTH OF 209.30 FEET, AND BEING SUBTENDED BY A CHORD BEARING NORTH 75°58'46" EAST WITH A CHORD DISTANCE OF 209.29 FEET (C3) TO A FOUND #5 REBAR WITH A FLATIRONS SURVEYING ALLOY CAP ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE DEPARTING THE SAID SOUTH LINE OF THE BVRR—ROW AND ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 00°17'32" EAST 99.45 FEET (L9) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED
PARCEL OF LAND
CONTAINS 32,554 SQ.
FT. (0.747 ACRES),
MORE OR LESS.



NOTE:

THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

**BOULDER LAND
CONSULTANTS, INC.**



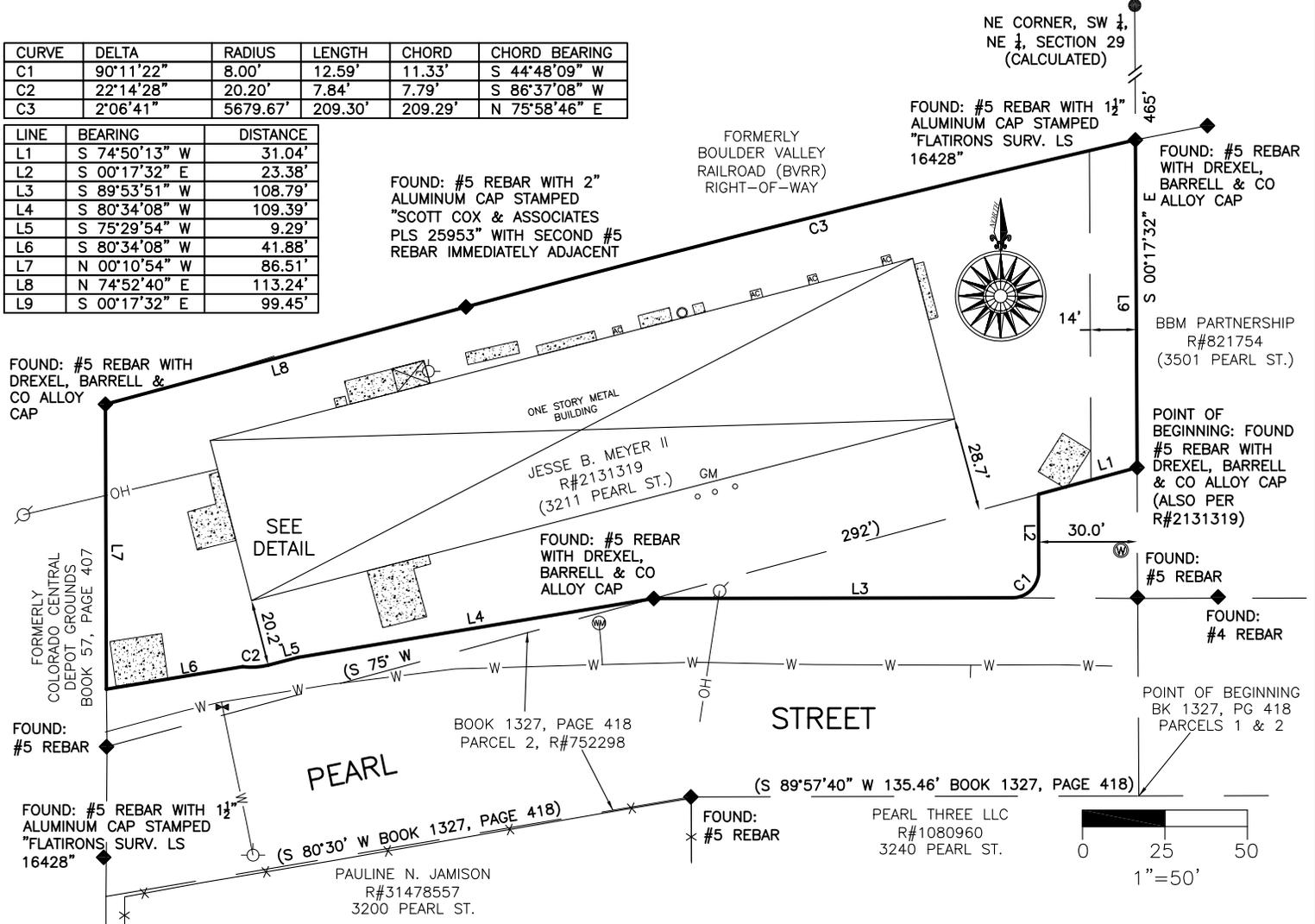
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com

EXHIBIT A TO DEED OF VACATION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W
C3	2°06'41"	5679.67'	209.30'	209.29'	N 75°58'46" E

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'
L6	S 80°34'08" W	41.88'
L7	N 00°10'54" W	86.51'
L8	N 74°52'40" E	113.24'
L9	S 00°17'32" E	99.45'



NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

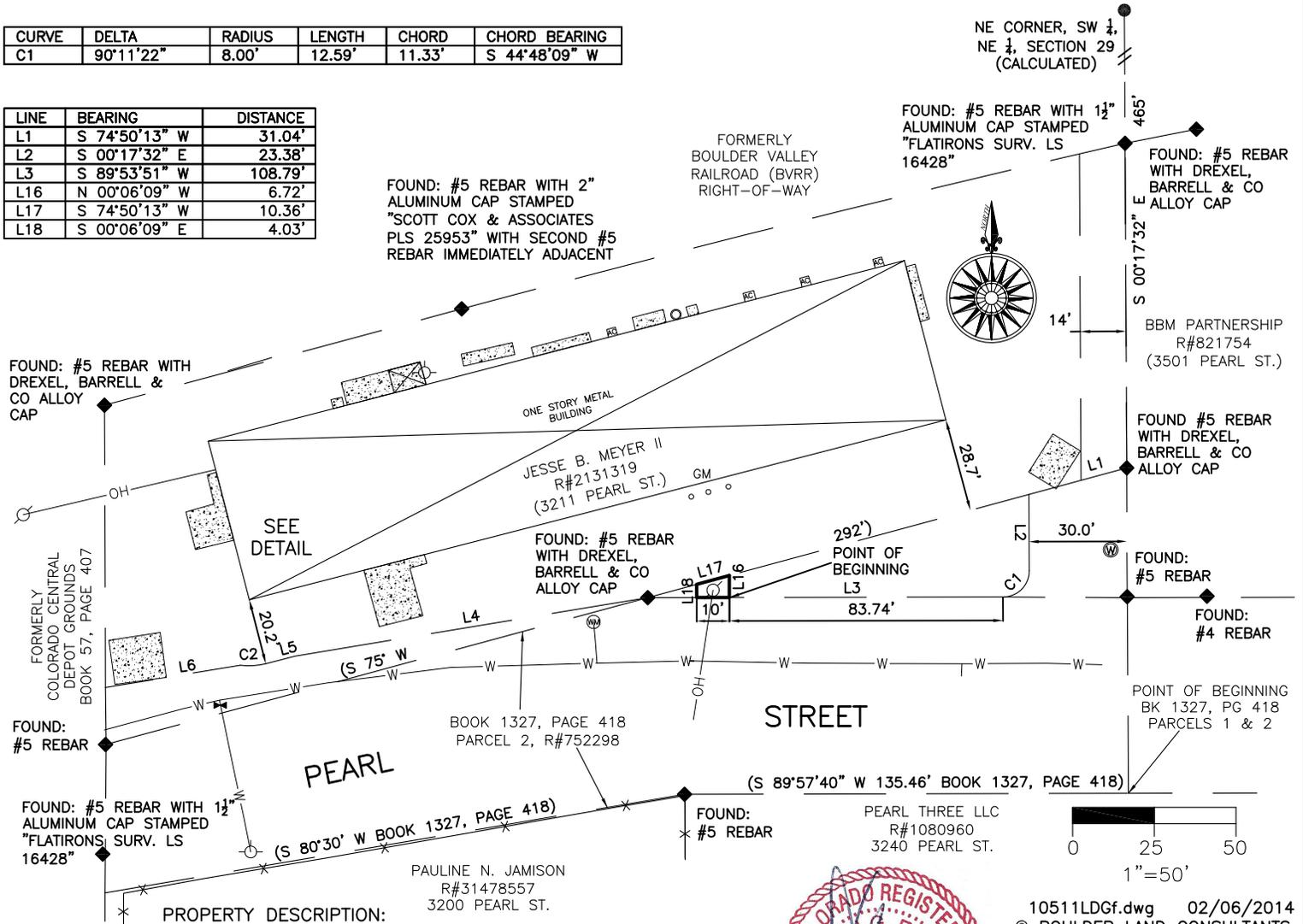
950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.BLC.com

EXHIBIT B TO DEED OF VACATION

A STRIP OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L16	N 00°06'09" W	6.72'
L17	S 74°50'13" W	10.36'
L18	S 00°06'09" E	4.03'



PROPERTY DESCRIPTION:

A STRIP OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 83.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°06'09" WEST 6.72 FEET (L16) TO THE SOUTH LINE OF THE PROPERTY DESCRIBED ON FILM 939, RECEPTION #193469, AS MONUMENTED BY FRANK DREXEL AND SHOWN ON HIS SURVEY DATED 4-26-1977; THENCE ALONG THE SAID DREXEL MONUMENTED LINE SOUTH 74°50'13" WEST 10.36 FEET (L17); THENCE DEPARTING THE SAID DREXEL MONUMENTED LINE SOUTH 00°06'09" EAST 4.03 FEET (L18); THENCE NORTH 89°53'51" EAST 10.00 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 54 SQ. FT., MORE OR LESS.



10511LDGf.dwg 02/06/2014
 © BOULDER LAND CONSULTANTS, INC. - ALL RIGHTS RESERVED

NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.BLC.com

EXHIBIT D

QUITCLAIM DEED

THIS DEED, made this ____ day of _____, 2014, between the CITY OF BOULDER, a Colorado home rule city, duly organized and existing under and by virtue of the laws of the State of Colorado, grantor, whose legal address is 1777 Broadway, Boulder, Colorado 80302 and JESSE B. MEYER II, whose legal address is 3211 Pearl Street, Boulder, Colorado 80301, grantee.

WITNESS, that the grantor, for and in consideration of the sum of LESS THAN FIVE HUNDRED DOLLARS, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto the grantee, its successors and assigns forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Boulder and State of Colorado, described as follows:

SEE EXHIBIT A ATTACHED

except for the City's easement for utility purposes over the property described on the attached Exhibit B.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

GRANTOR:

CITY OF BOULDER

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

[SEAL]

Approved as to form:

City Attorney's Office

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Jane S. Brautigam as City Manager of the City of Boulder, a Colorado home rule City.

Witness my hand and official seal.

My commission expires: _____

[SEAL]

Notary Public

EXHIBITS

- Exhibit A Legal Description for Property (3211 Pearl and adjacent 1820 sf portion of ROW)
- Exhibit B Legal Description for Utility Easement area (excepted from quitclaim)

EXHIBIT A TO QUIT CLAIM DEED

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST (L9) WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS NORTH 00°10'54" WEST 86.51 FEET (L7) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP ON THE SOUTH LINE OF THE BOULDER VALLEY RAILROAD RIGHT OF WAY (BVRR-ROW); THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE SAID SOUTH LINE OF THE BVRR-ROW NORTH 74°52'40" EAST 113.24 FEET (L8) TO A FOUND #5 REBAR WITH A SCOTT COX & ASS. ALLOY CAP; THENCE CONTINUING ALONG THE SAID SOUTH LINE OF THE BVRR-ROW ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 02°06'41", A RADIUS OF 5,679.67 FEET, A LENGTH OF 209.30 FEET, AND BEING SUBTENDED BY A CHORD BEARING NORTH 75°58'46" EAST WITH A CHORD DISTANCE OF 209.29 FEET (C3) TO A FOUND #5 REBAR WITH A FLATIRONS SURVEYING ALLOY CAP ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE DEPARTING THE SAID SOUTH LINE OF THE BVRR-ROW AND ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 00°17'32" EAST 99.45 FEET (L9) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED
PARCEL OF LAND
CONTAINS 32,554 SQ.
FT. (0.747 ACRES),
MORE OR LESS.



NOTE:

THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

**BOULDER LAND
CONSULTANTS, INC.**



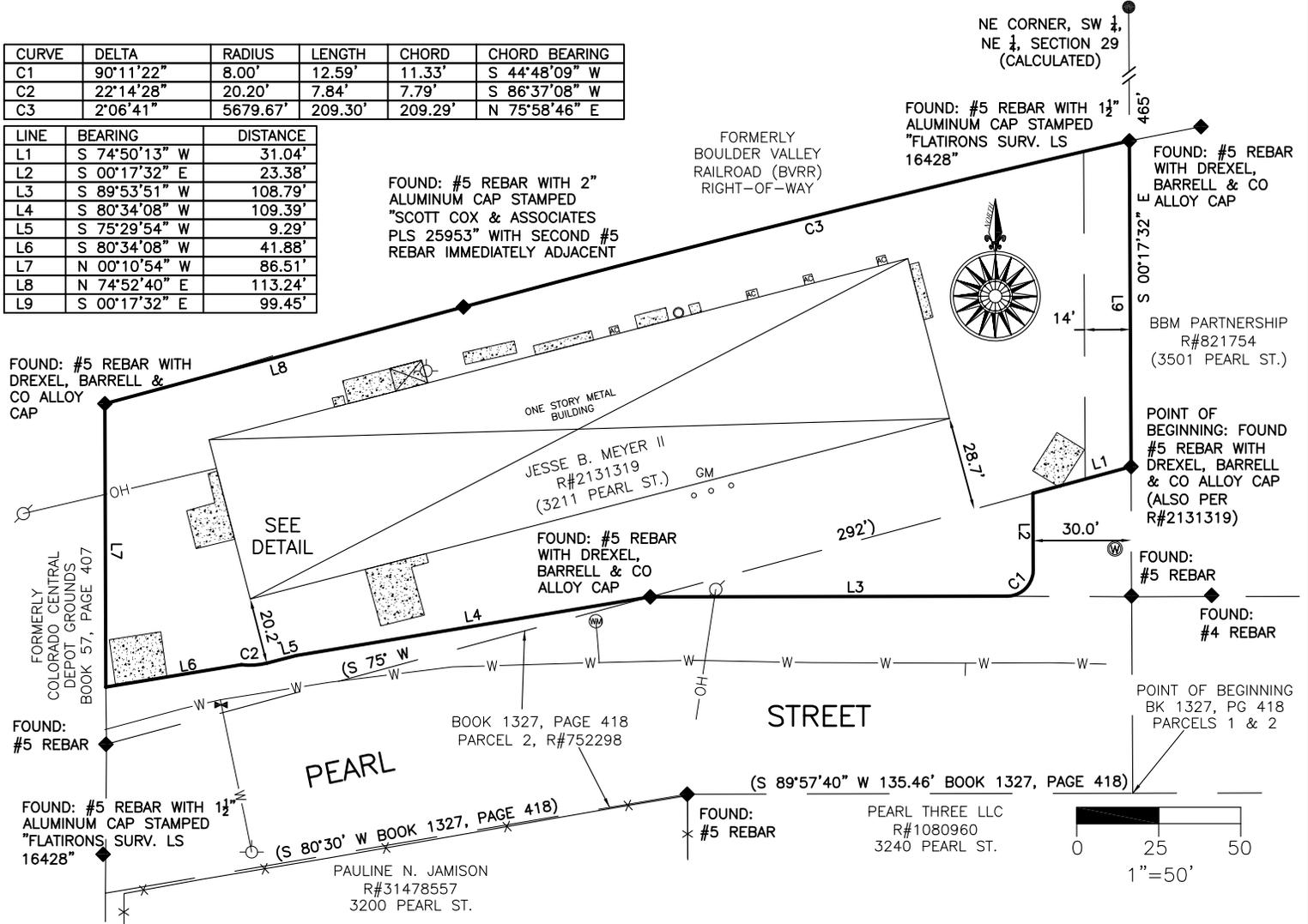
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com

EXHIBIT A TO QUIT CLAIM DEED

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W
C3	2°06'41"	5679.67'	209.30'	209.29'	N 75°58'46" E

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'
L6	S 80°34'08" W	41.88'
L7	N 00°10'54" W	86.51'
L8	N 74°52'40" E	113.24'
L9	S 00°17'32" E	99.45'



NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

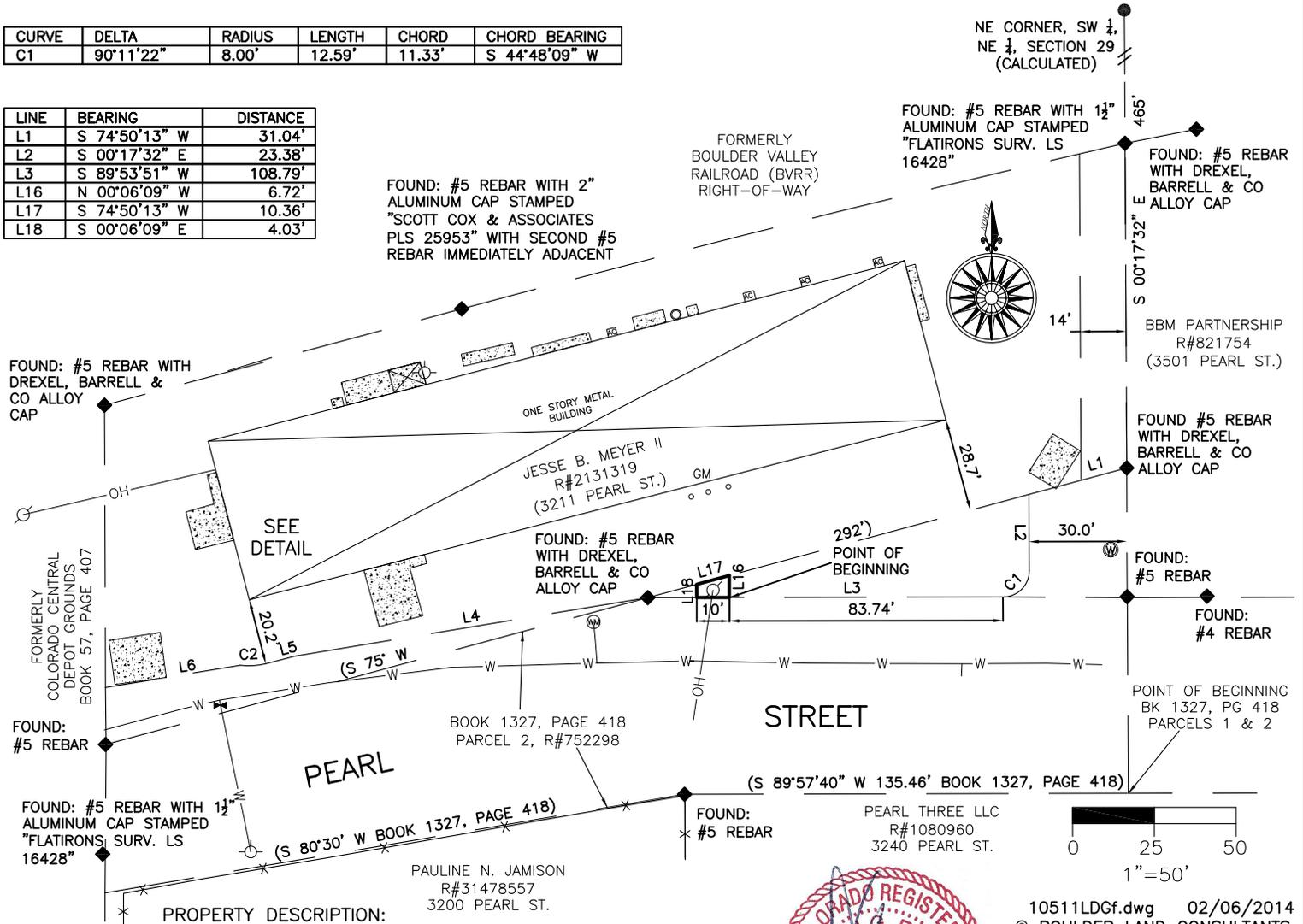
950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.boulderlandconsultants.com

EXHIBIT B TO QUIT CLAIM DEED

A STRIP OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L16	N 00°06'09" W	6.72'
L17	S 74°50'13" W	10.36'
L18	S 00°06'09" E	4.03'



PROPERTY DESCRIPTION:

A STRIP OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 83.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°06'09" WEST 6.72 FEET (L16) TO THE SOUTH LINE OF THE PROPERTY DESCRIBED ON FILM 939, RECEPTION #193469, AS MONUMENTED BY FRANK DREXEL AND SHOWN ON HIS SURVEY DATED 4-26-1977; THENCE ALONG THE SAID DREXEL MONUMENTED LINE SOUTH 74°50'13" WEST 10.36 FEET (L17); THENCE DEPARTING THE SAID DREXEL MONUMENTED LINE SOUTH 00°06'09" EAST 4.03 FEET (L18); THENCE NORTH 89°53'51" EAST 10.00 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 664 SQ. FT., MORE OR LESS.



10511LDGf.dwg 02/06/2014
 © BOULDER LAND CONSULTANTS, INC. - ALL RIGHTS RESERVED

NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.BLC.com

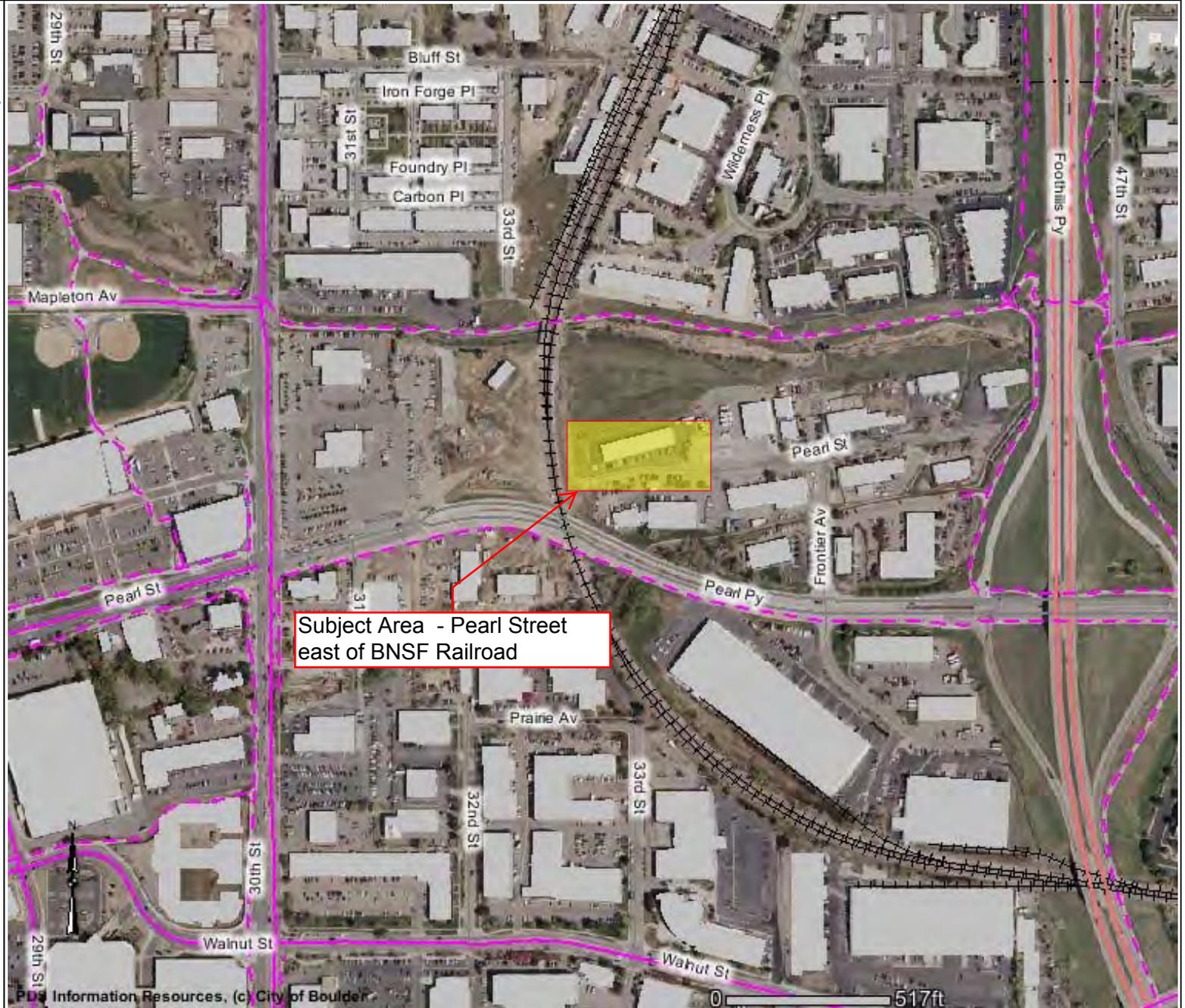
City of Boulder Vicinity Map

Map created with eMaps available at www.boulderplandevlop.net/maps
The legend for this map is available at [Legend](#)

These map products and all underlying data were developed for use by the city of Boulder for its internal purposes only, and were not designed or intended for general use by members of the public. The city makes no representation or warranty as to its accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement or location of any map features thereon. THE CITY OF BOULDER MAKES NO WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR A PARTICULAR PURPOSE, EXPRESSED OR IMPLIED, WITH RESPECT TO THESE MAP PRODUCTS OR THE UNDERLYING DATA. Any users of these map products, map applications, or data, accepts same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further covenants and agrees to hold the city harmless from and against all damage, loss, or liability arising from any use of this map product, in consideration of the city's having made this information available. Independent verification of all data contained herein should be obtained by any user of these map products, or the underlying data. The city disclaims, and shall not be held liable for, any and all damage, loss, or liability, whether direct, indirect, or consequential, which arises or may arise from these map products or the use thereof by any person or entity. eMap is maintained by the City of Boulder Planning and Development Services Information Resources Group. For information call (303)441-1880 or visit us on the web at <http://www.ci.boulder.co.us/pwplan/>.



Printed on 2.1.2013



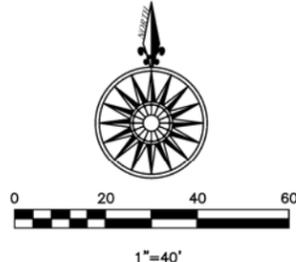
Plus Information Resources, (c) City of Boulder

517ft

This Page Intentionally Left Blank

ATTACHMENT C

(3211 PEARL ST, BOULDER, CO)

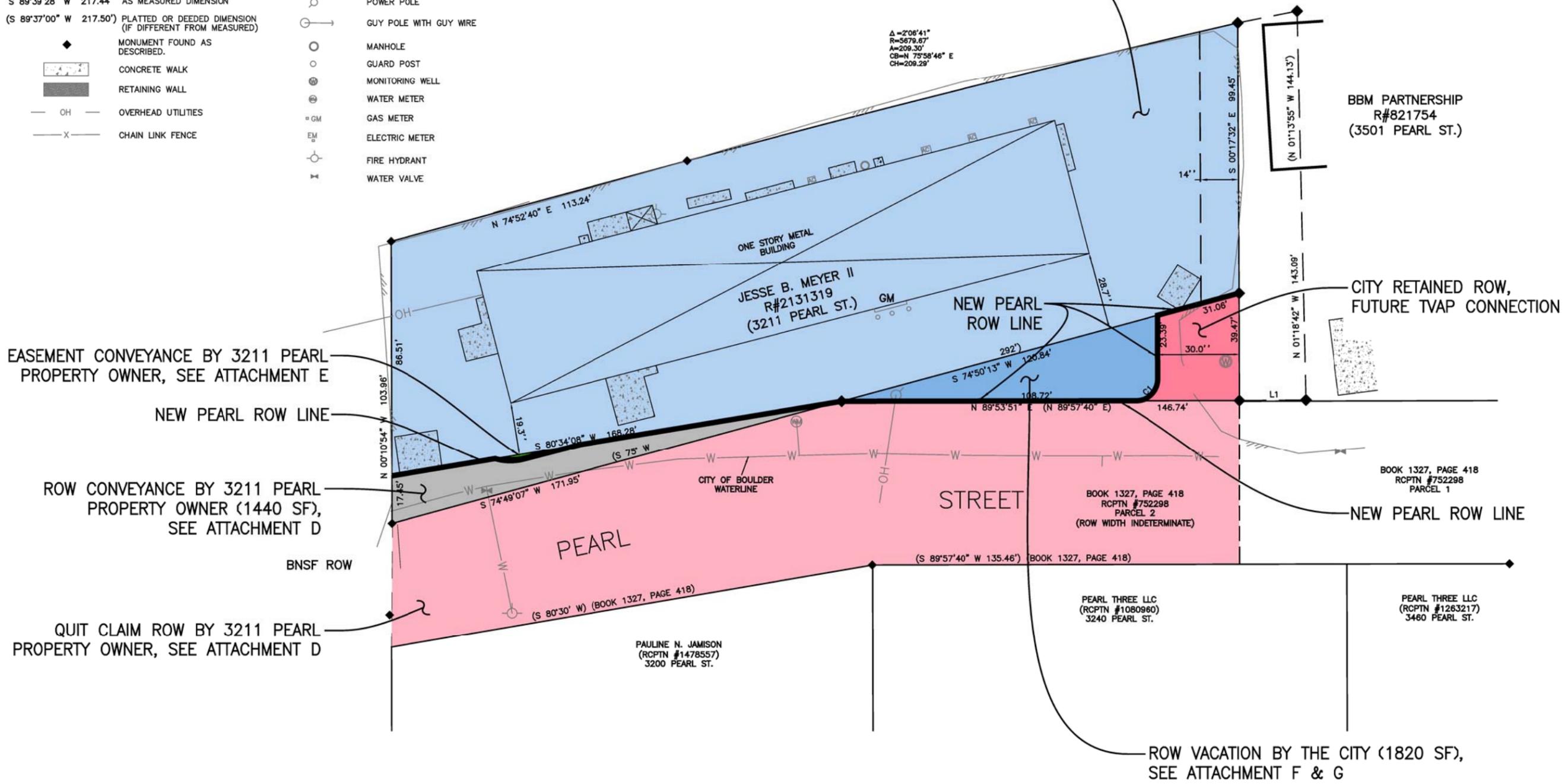


LEGEND

- S 89°39'28" W 217.44' AS MEASURED DIMENSION
- (S 89°37'00" W 217.50') PLATTED OR DEEDED DIMENSION (IF DIFFERENT FROM MEASURED)
- ◆ MONUMENT FOUND AS DESCRIBED.
- ▨ CONCRETE WALK
- ▩ RETAINING WALL
- OH — OVERHEAD UTILITIES
- X — CHAIN LINK FENCE
- ⊙ POWER POLE
- ⊙ GUY POLE WITH GUY WIRE
- MANHOLE
- GUARD POST
- ⊙ MONITORING WELL
- ⊙ WATER METER
- ⊙ GM GAS METER
- ⊙ ELECTRIC METER
- ⊙ FIRE HYDRANT
- ⊙ WATER VALVE

3211 PEARL PARCEL VACATION OF ANY CITY INTEREST IN THIS PARCEL, SEE ATTACHMENT F & G

Δ=2°06'41"
R=5679.67'
A=209.30'
CB=N 75°58'46" E
CH=209.29'



EASEMENT CONVEYANCE BY 3211 PEARL PROPERTY OWNER, SEE ATTACHMENT E

NEW PEARL ROW LINE

ROW CONVEYANCE BY 3211 PEARL PROPERTY OWNER (1440 SF), SEE ATTACHMENT D

BNSF ROW

QUIT CLAIM ROW BY 3211 PEARL PROPERTY OWNER, SEE ATTACHMENT D

BBM PARTNERSHIP
R#821754
(3501 PEARL ST.)

CITY RETAINED ROW,
FUTURE TVAP CONNECTION

BOOK 1327, PAGE 418
RCPTN #752298
PARCEL 1

NEW PEARL ROW LINE

BOOK 1327, PAGE 418
RCPTN #752298
PARCEL 2
(ROW WIDTH INDETERMINATE)

BOOK 1327, PAGE 418

PEARL THREE LLC
(RCPTN #1080960)
3240 PEARL ST.

PEARL THREE LLC
(RCPTN #1263217)
3460 PEARL ST.

PAULINE N. JAMISON
(RCPTN #1478557)
3200 PEARL ST.

ROW VACATION BY THE CITY (1820 SF),
SEE ATTACHMENT F & G

Attachment D - Deed Description/Parcel Map Showing New Pearl ROW Area

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A STRIP OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS SOUTH 00°10'54" EAST 17.45 FEET (L10) TO A FOUND #5 REBAR; THENCE CONTINUING ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS SOUTH 00°10'54" EAST 45.40 FEET (L11) TO THE NORTHWEST CORNER OF THE PAULINE N. JAMISON PROPERTY DESCRIBED IN RECEPTION #31478557; THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE NORTH LINE OF THE SAID JAMISON PROPERTY NORTH 80°20'25" EAST 179.76 FEET (L12) TO A FOUND #5 REBAR AT THE NORTHWEST CORNER OF THE PEARL THREE LLC PROPERTY DESCRIBED IN RECEPTION #1080960; THENCE DEPARTING THE SAID JAMISON PROPERTY AND ALONG THE NORTH LINE OF THE SAID PEARL THREE LLC PROPERTY NORTH 89°52'29" EAST 135.71 FEET (L13) TO A POINT ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, SAID POINT BEING THE TRUE POINT OF BEGINNING OF PARCELS 1 AND 2 AS DESCRIBED IN BOOK 1327, PAGE 418; THENCE DEPARTING THE SAID NORTH LINE OF THE PEARL THREE LLC PROPERTY AND ALONG THE SAID EAST LINE OF THE WEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 NORTH 00°17'32" WEST 59.96 FEET (L14) TO A FOUND #5 REBAR AT THE SOUTHWEST CORNER OF THE BBM PARTNERSHIP PROPERTY DESCRIBED IN RECEPTION #821754; THENCE CONTINUING ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 NORTH 00°17'32" WEST 39.74 FEET (L15) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 20311 SQ. FT. (0.466 ACRES), MORE OR LESS.



NOTE:
THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.

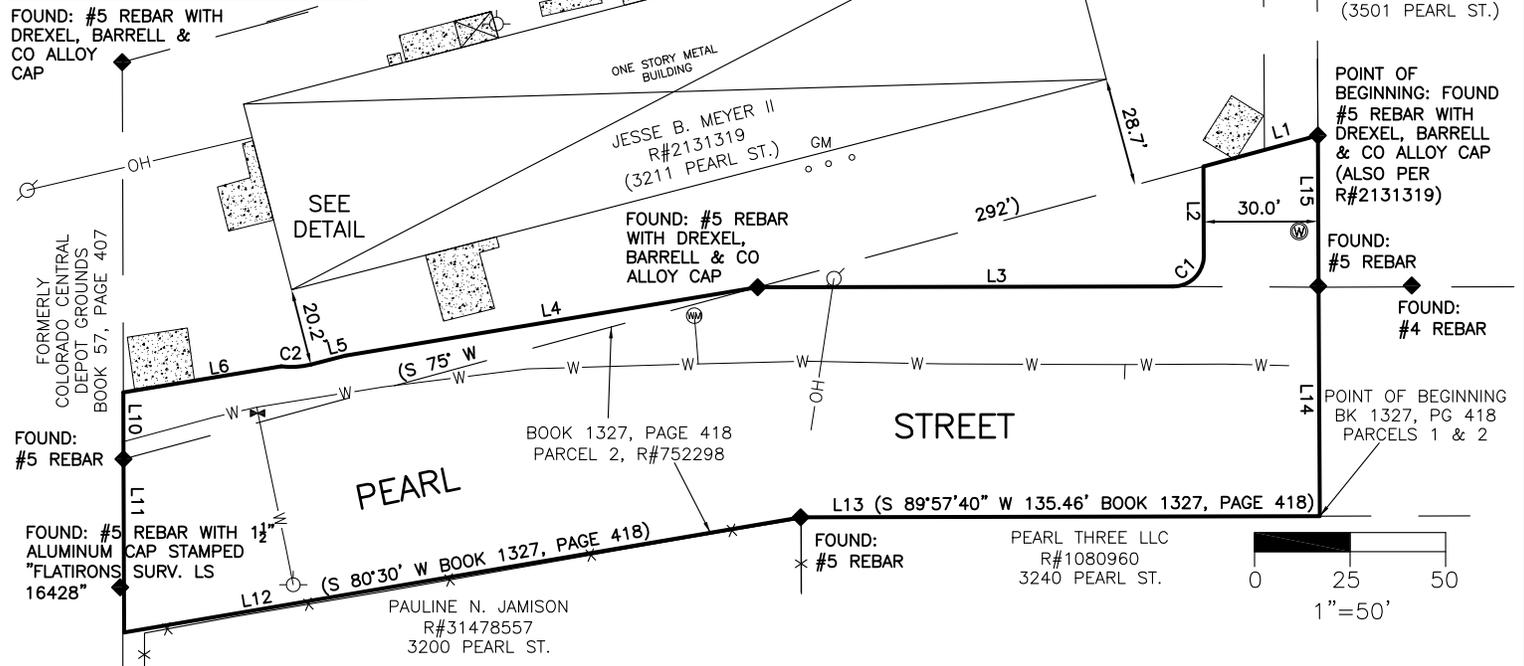
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com
Agenda Item # 27

Attachment D - Deed Description/Parcel Map Showing New Pearl ROW Area

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'
L6	S 80°34'08" W	41.88'
L10	S 00°10'54" E	17.45'
L11	S 00°10'54" E	45.40'
L12	N 80°20'25" E	179.76'
L13	N 89°52'29" E	135.71'
L14	N 00°17'32" W	59.96'
L15	N 00°17'32" W	39.74'



NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.boulderlandconsultants.com

Attachment E - Deed Description/Parcel Map Showing New Easement Conveyance

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A STRIP OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1);

THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2);

THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1);

THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP;

THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4) TO THE POINT OF BEGINNING;

THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5);

THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2);

THENCE NORTH 80°34'08" EAST 17.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 9 SQ. FT., MORE OR LESS.



NOTE:
THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.

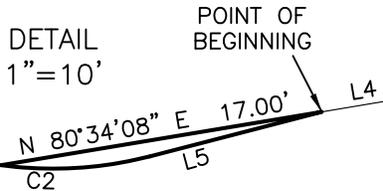
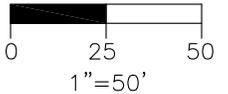
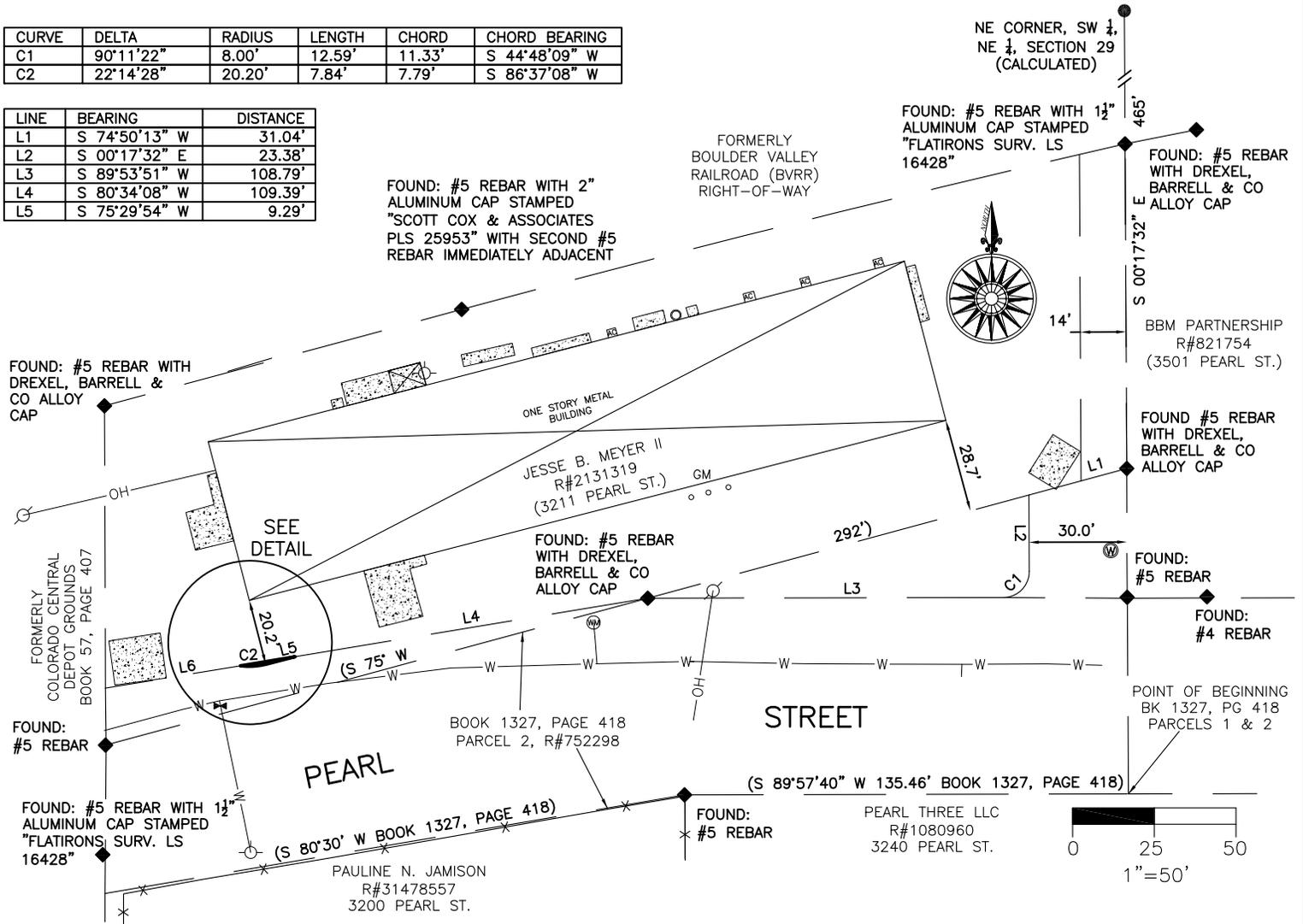
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com
Agenda Item # 26 Page 26

Attachment E - Deed Description/Parcel Map Showing New Easement Conveyance

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'



NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.



950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.BLC.com

NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

For Administrative Purposes Only
Address: 3211 Pearl Street

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in the manner prescribed by Section 43-2-302, C.R.S., any interest located within the boundaries of 1) the property generally known as 3211 Pearl and 2) a 1820 square foot portion of Pearl Street right-of-way that was originally was dedicated to the County of Boulder on the County Road Book # 1 and further defined by the deed recorded in the records of the Boulder County Clerk and Recorder at Book 1327 and Page 418 (hereafter collectively referred to as "Property") and said Property is more particularly described on the attached **Exhibit A**, reserving an easement for utility purposes over the property described on the attached **Exhibit B**.

The above vacation and release of said right of way at 3211 Pearl Street shall extend only to the portion and the type of right of way specifically vacated.

Executed this _____ day of _____, 2014, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado, pursuant to Ordinance No. _____, adopted by the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Date

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST (L9) WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS NORTH 00°10'54" WEST 86.51 FEET (L7) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP ON THE SOUTH LINE OF THE BOULDER VALLEY RAILROAD RIGHT OF WAY (BVRR-ROW); THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE SAID SOUTH LINE OF THE BVRR-ROW NORTH 74°52'40" EAST 113.24 FEET (L8) TO A FOUND #5 REBAR WITH A SCOTT COX & ASS. ALLOY CAP; THENCE CONTINUING ALONG THE SAID SOUTH LINE OF THE BVRR-ROW ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 02°06'41", A RADIUS OF 5,679.67 FEET, A LENGTH OF 209.30 FEET, AND BEING SUBTENDED BY A CHORD BEARING NORTH 75°58'46" EAST WITH A CHORD DISTANCE OF 209.29 FEET (C3) TO A FOUND #5 REBAR WITH A FLATIRONS SURVEYING ALLOY CAP ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE DEPARTING THE SAID SOUTH LINE OF THE BVRR-ROW AND ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 00°17'32" EAST 99.45 FEET (L9) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED
PARCEL OF LAND
CONTAINS 32,554 SQ.
FT. (0.747 ACRES),
MORE OR LESS.



NOTE:
THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com
Agenda Item # 02 Page 02

QUITCLAIM DEED

THIS DEED, made this ____ day of _____, 2014, between the CITY OF BOULDER, a Colorado home rule city, duly organized and existing under and by virtue of the laws of the State of Colorado, grantor, whose legal address is 1777 Broadway, Boulder, Colorado 80302 and JESSE B. MEYER II, whose legal address is 3211 Pearl Street, Boulder, Colorado 80301, grantee.

WITNESS, that the grantor, for and in consideration of the sum of LESS THAN FIVE HUNDRED DOLLARS, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto the grantee, its successors and assigns forever, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Boulder and State of Colorado, described as follows:

SEE EXHIBIT A ATTACHED

except for the City’s easement for utility purposes over the property described on the attached Exhibit B.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

GRANTOR:

CITY OF BOULDER

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

[SEAL]

Approved as to form:

City Attorney’s Office

EXHIBITS

- Exhibit A Legal Description for Property (3211 Pearl and adjacent 1820 sf portion of ROW)
- Exhibit B Legal Description for Utility Easement area (excepted from quitclaim)

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

PROPERTY DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE SOUTH ALONG THE EAST LINE OF THE SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 465 FEET TO THE POINT OF BEGINNING, BEING A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP, SAID EAST LINE HAVING A BEARING OF SOUTH 00°17'32" EAST (L9) WITH ALL BEARINGS HEREIN RELATIVE THERETO; THENCE DEPARTING THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 74°50'13" WEST 31.04 FEET (L1); THENCE SOUTH 00°17'32" EAST 23.38 FEET (L2); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°11'22", A RADIUS OF 8.00 FEET, A LENGTH OF 12.59 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 44°48'09" WEST WITH A CHORD DISTANCE OF 11.33 FEET (C1); THENCE SOUTH 89°53'51" WEST 108.79 FEET (L3) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP; THENCE SOUTH 80°34'08" WEST 109.39 FEET (L4); THENCE SOUTH 75°29'54" WEST 9.29 FEET (L5); THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 22°14'28", A RADIUS OF 20.20 FEET, A LENGTH OF 7.84 FEET, AND BEING SUBTENDED BY A CHORD BEARING SOUTH 86°37'08" WEST WITH A CHORD DISTANCE OF 7.79 FEET (C2); THENCE SOUTH 80°34'08" WEST 41.88 FEET (L6) TO THE EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AS DESCRIBED IN BOOK 57, PAGE 407; THENCE ALONG THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS NORTH 00°10'54" WEST 86.51 FEET (L7) TO A FOUND #5 REBAR WITH DREXEL, BARRELL & CO ALLOY CAP ON THE SOUTH LINE OF THE BOULDER VALLEY RAILROAD RIGHT OF WAY (BVRR-ROW); THENCE DEPARTING THE SAID EAST LINE OF THE COLORADO CENTRAL DEPOT GROUNDS AND ALONG THE SAID SOUTH LINE OF THE BVRR-ROW NORTH 74°52'40" EAST 113.24 FEET (L8) TO A FOUND #5 REBAR WITH A SCOTT COX & ASS. ALLOY CAP; THENCE CONTINUING ALONG THE SAID SOUTH LINE OF THE BVRR-ROW ALONG A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 02°06'41", A RADIUS OF 5,679.67 FEET, A LENGTH OF 209.30 FEET, AND BEING SUBTENDED BY A CHORD BEARING NORTH 75°58'46" EAST WITH A CHORD DISTANCE OF 209.29 FEET (C3) TO A FOUND #5 REBAR WITH A FLATIRONS SURVEYING ALLOY CAP ON THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29; THENCE DEPARTING THE SAID SOUTH LINE OF THE BVRR-ROW AND ALONG THE SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 SOUTH 00°17'32" EAST 99.45 FEET (L9) TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED
PARCEL OF LAND
CONTAINS 32,554 SQ.
FT. (0.747 ACRES),
MORE OR LESS.



NOTE:
THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.

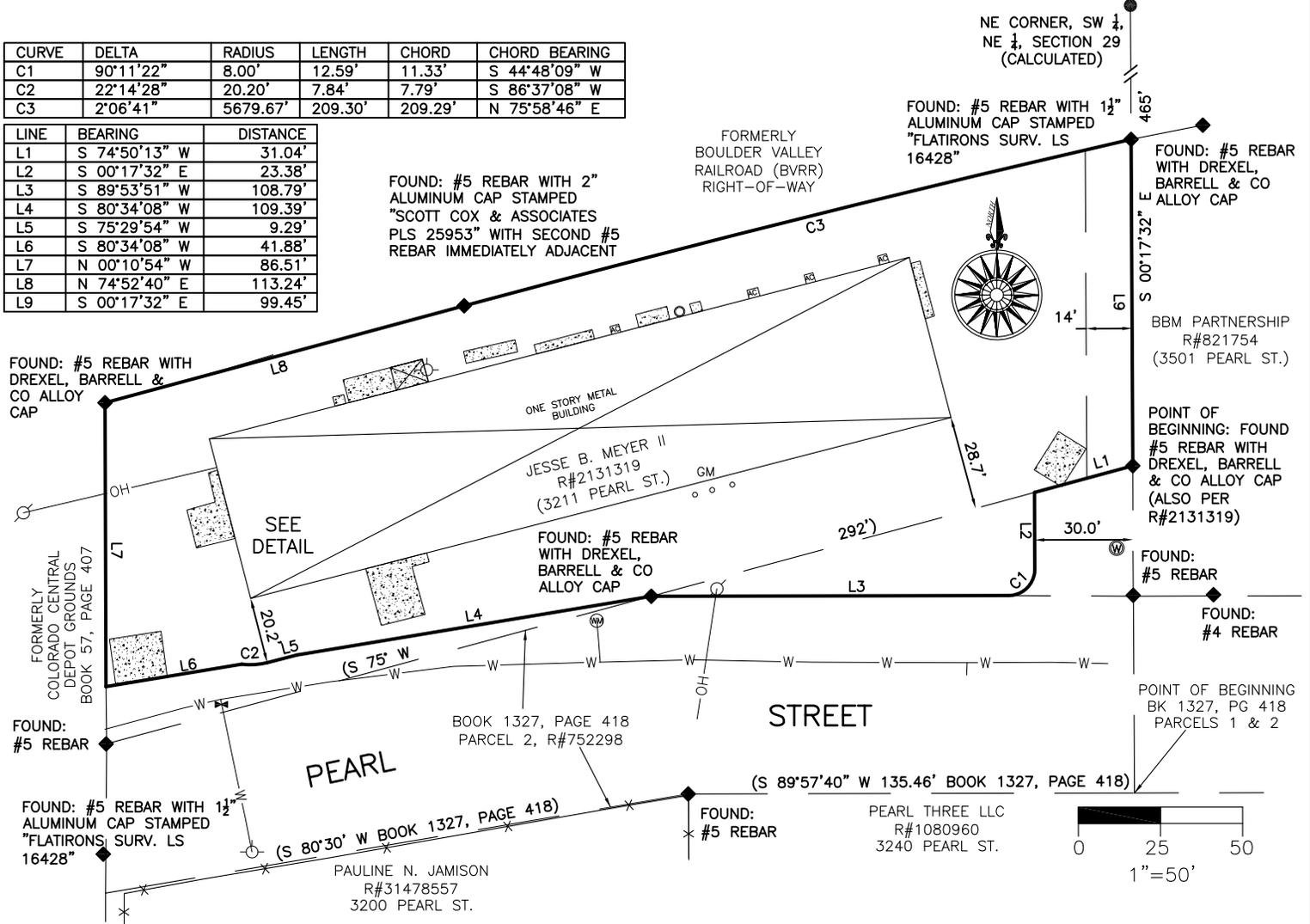
950 LARAMIE BLVD, UNIT D
BOULDER, CO 80304 (303) 443-3616
www.BLC.com
Agenda Item # 03 Page 08

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2

CURVE	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
C1	90°11'22"	8.00'	12.59'	11.33'	S 44°48'09" W
C2	22°14'28"	20.20'	7.84'	7.79'	S 86°37'08" W
C3	2°06'41"	5679.67'	209.30'	209.29'	N 75°58'46" E

LINE	BEARING	DISTANCE
L1	S 74°50'13" W	31.04'
L2	S 00°17'32" E	23.38'
L3	S 89°53'51" W	108.79'
L4	S 80°34'08" W	109.39'
L5	S 75°29'54" W	9.29'
L6	S 80°34'08" W	41.88'
L7	N 00°10'54" W	86.51'
L8	N 74°52'40" E	113.24'
L9	S 00°17'32" E	99.45'



NOTE:
 THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREON.

THIS MAP WAS PREPARED BY

BOULDER LAND CONSULTANTS, INC.

950 LARAMIE BLVD, UNIT D
 BOULDER, CO 80304 (303) 443-3616
 www.boulderlandconsultants.com



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, an ordinance amending Titles 4, 5, 6 and 8, B.R.C. 1981 to modify the general penalty provisions and amending Titles 5 and 7 by repealing Section 7-5-17 regarding pedestrian interference with vehicles and Section 7-5-25 regarding staying on medians and adding those provisions to new Sections 5-6-15 and 5-6-16, B.R.C. 1981, and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Mark Beckner, Police Chief
Janet Michels, Senior Assistant City Attorney – Lead Prosecutor

EXECUTIVE SUMMARY:

The purpose of this memo is for consideration of ordinances to implement direction given by council at the February 11, 2014 study session. Attached is a proposed ordinance which would:

1. Repeal certain sentencing limitations imposed by Ordinance No.7831, adopted by council on February 7, 2012; and
2. Allow for the imposition of criminal sanctions for interference with vehicles and remaining on a median.

The net effect of these changes would be that the Municipal Court would have more discretion in imposing sentences in appropriate cases.

STAFF RECOMMENDATION:

Suggested Motion Language:

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

Motion to introduce on first reading and order published by title only, an ordinance amending Titles 4, 5, 6 and 8, B.R.C. 1981 to modify the general penalty provisions and amending Titles 5 and 7 by repealing Section 7-5-17 regarding pedestrian interference with vehicles and Section 7-5-25 regarding staying on medians and adding those provisions to new Sections 5-6-15 and Section 5-6-15 and setting forth related details.

BACKGROUND:

Boulder has recently experienced an increase in criminal behavior on the municipal campus. On February 11, 2014, the City Council held a study session to consider options to address this anti-social behavior. Details of the study session can be found in the [study session memorandum](#) and the study session summary, which council will consider for approval at the same time as it considers first reading of these ordinances. Among the strategies considered was repealing certain sentencing limitations. This agenda item provides council with an opportunity to consider an ordinance implementing this strategy. In addition, the proposed ordinance would move two sections from the traffic code to the criminal code, at the recommendation of the municipal court.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Criminal behavior in public spaces can deter visitors from using those spaces. Reduction in the number of visitors can have a detrimental effect on associated economic activity.
- Environmental – While not criminal, the recent intense use of the municipal campus has resulted in a negative environmental impact on the campus. Large areas of grass have required reseeding in the past and will most likely require reseeding again in the spring. Quantities of trash and abandoned property left in the park also have a negative environmental effect.
- Social – Public parks are intended for all to enjoy. Intimidating and criminal behavior have effectively precluded large segments of the city's population from enjoying these amenities. Among those affected are homeless individuals who use the parks as a place to rest and should be permitted to do so without fear. In addition, the location of criminal activity in close proximity to Boulder High School places those students at risk.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time - Current activities are covered by existing department work plans.

BOARD AND COMMISSION FEEDBACK

None.

ANALYSIS

In a series of meetings preceeding the February 11, 2014 study session, staff explored strategies that could help to make the municipal campus more accessible to the entire community by reducing the level of criminal activity. Data showed that in a twelve month period from October 1, 2012 through September 30, 2013 there were 646 citations and arrests on the municipal campus: 326 were for Trespass, Failure to Appear, Failure to Comply or Contempt of Court. The challenge is that the police are faced with individuals who have little or no motivation to comply with the law. In 2012, council limited the punishment for first and second violations of many municipal violations. At the time, a legal clinic at the University of Colorado Law School, aided by a few private defense attorneys, were attempting to undermine the effectiveness of the city's anti-camping ordinance by setting every case for jury trial. The city attorney recommended reducing the charges on first and second offenses for two reasons. First, the sentences permitted in the code were far in excess of what the municipal court would normally impose for a first or second offense. Second, the hope was that by removing jail as a sanction, the municipal court would not require a jury trial on first and second offenses.

Limiting the sanctions that could be imposed had unexpected consequences. It limited the court's ability to impose more serious sanctions in appropriate cases. The court is occasionally faced with a defendant who has a significant criminal history, but is a first offender with respect to the particular offense charged. In such a case, a small fine is not likely to meet any of the goals of a criminal justice intervention. This is particularly true with respect to defendants who are indigent, for whom fines are routinely waived. In some cases, if other criminal history justifies, a court could impose a jail sentence or more likely a suspended jail sentence. Such a sentence would provide some incentive for more resistant individuals to comply with the law.

By eliminating the specific penalty for each offense, the proposed amendment would have the affected sections be subject to the general penalty provision in section 5-2-4(a) "General Penalties," B.R.C. 1981. This section provides, in part, as follows:

The penalty for violation of any provision of this code or any ordinance is a fine of not more than \$1,000.00 per violation, or incarceration for not more than ninety days in jail, or by both such fine and incarceration

The proposed ordinance repeals several of the penalty limitations adopted by council in 2012. It is important to note that the net effect of proposed change is to give additional discretion to the municipal court. It is likely that the vast majority of first offenders will receive only a fine. In fact, the amendments were patterned after the sentencing practices of the municipal court. The proposed amendment, however, allows for a more significant sentence in a case in which the judge believes that such a sentence is appropriate.

After council approved the sentencing reductions in 2012, council approved several additional criminal ordinances. These included a bans on smoking on the Pearl Street Mall, public consumption of marijuana and possession of marijuana by individuals under 21. Staff recommends that these offenses be punishable under the general penalty provision.

After the February 11 study session, the municipal court judges raised an additional concern. The court currently will issue arrest warrants for defendants who fail to appear or fail to comply with conditions imposed for offenses that would not otherwise result in jail. Defendants can be arrested and held in jail for the failure to comply or failure to appear or comply. Judges Cooke and Cahn expressed concern about this practice. The judges proposed that the council consider moving two violations from the traffic code to the criminal code. The judges identified these offenses as the traffic offenses most likely to result in a failure to appear or failure to comply. The judges would then no longer issue warrants for other offenses for which jail is not a sanction. The two offenses indentified by the court are section 7-5-17(b), which precludes pedestrian interference with a motor vehicle and section 7-5-25, which prohibits remaining on a median. The proposed ordinance would move these two sections from the traffic code to the criminal code.

Attachments: Proposed Ordinance – Attachment A

ORDINANCE NO. 7965

AN ORDINANCE AMENDING TITLES 4, 5, 6, 7 AND 8, B.R.C. 1981, TO MODIFY THE GENERAL PENALTY PROVISIONS, BY RELOCATING SECTION 7-5-15(b) REGARDING PEDESTRIAN INTERFERENCE WITH VEHICLES ON THE ROADWAY TO A NEW SECTIONS 5-6-15 AND RELOCATING SECTION 7-5-25 REGARDING STAYING ON MEDIANS TO A NEW GENERAL OFFENSE 5-6-16 IN THE BOULDER REVISED CODE, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-1-11 B.R.C. 1981, is amended to read:

4-1-11 Revocation Not Exclusive Penalty.

Nothing in this title shall be deemed to prohibit the city manager from imposing other penalties authorized by this code or other ordinance of the city, including filing a complaint in the municipal court for a violation of this code or other ordinance of the city. ~~If a complaint is filed in the municipal court for a violation of this title, the maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 2. Section 5-3-11, B.R.C. 1981, is amended to read:

5-3-11 Nuisance Party Prohibited.

(a) No owner, occupant, tenant, or other person having possessory control, individually or jointly with others, of any premises shall sponsor, conduct, host, or permit a social gathering or party on the premises which is or becomes a public nuisance where such nuisance is either the intentional result of, or reasonably anticipated by, the person or persons having such possessory control. Reasonable anticipation shall be adjudicated using a reasonable person standard.

...

(d) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating in that party or social gathering and disperse immediately upon the order of a police officer, and all persons not domiciled at the site of such party or social gathering shall leave the premises immediately. No person shall fail or refuse to obey and abide by such an order.

~~(e) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 3. Section 5-4-7, B.R.C. 1981, is amended to read:

4 **5-4-7 Grazing on Public Property.**

5 No person shall knowingly cause or permit any domesticated animal that such person owns,
6 possesses, or controls, including, without limitation, cows, goats, llamas, burros, mules, horses,
7 pigs, or sheep, to graze, pasture, or run at large or to be driven or herded within any property
8 belonging to the city or under the possession and control of the city, except pursuant to a written
9 permit from the city manager. ~~The maximum penalty for a first or second conviction within two~~
10 ~~years, based on date of violation of this section, is a fine of \$500.00. For a third and each~~
11 ~~subsequent conviction within two years, based upon the date of the first violation, the general~~
12 ~~penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

9 Section 4. Section 5-4-8, B.R.C. 1981, is amended to read:

10 **5-4-8 Rolling or Throwing Rocks on Public Property.**

11 No person shall roll, throw, or otherwise move any rocks or boulders on any public property. But
12 this section does not apply to city employees acting within the scope of their employment. ~~The~~
13 ~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
14 ~~this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,~~
15 ~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
16 ~~"General Penalties," B.R.C. 1981, shall apply.~~

14 Section 5. Section 5-4-9, B.R.C. 1981, is amended to read:

15 **5-4-9 Unauthorized Research Projects.**

16 No person shall conduct any research project that includes marking, tagging, sampling, trapping,
17 or removing any soil, rock, fossil, tree, shrub, plant, flower, or wildlife or that includes the
18 construction of a physical grid in or on any property belonging to the city or under the possession
19 and control of the city, except pursuant to a written permit from the city manager. ~~The maximum~~
20 ~~penalty for a first or second conviction within two years, based on date of violation of this~~
21 ~~section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based~~
22 ~~upon the date of the first violation, the general penalty provisions of section 5-2-4, "General~~
23 ~~Penalties," B.R.C. 1981, shall apply.~~

21 Section 6. Section 5-4-12, B.R.C. 1981, is amended to read:

22 **5-4-12 Depositing Trash on Property in Violation of Sign.**

23 (a) No person shall deposit or cause to be deposited, any trash, refuse, garbage, or rubble in any
24 receptacle designated or designed for the deposit of such materials without the express or implied
25 consent of the owner or a person in possession and control of the property on which the
receptacle is located.

1 (c) Nothing in this section shall be construed to exempt a person posting a sign from complying
2 with the sign code, section 9-9-21, "Signs," B.R.C. 1981.

3 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
4 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
5 two years, based upon the date of the first violation, the general penalty provisions of section 5-
6 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 7. Section 5-4-13, B.R.C. 1981, is amended to read:

8 **5-4-13 Littering.**

9 (a) No person shall deposit, leave, dump or cause to be deposited, left, or dumped any trash,
10 refuse, garbage, or rubble on any public or private property other than within those containers
11 specifically designated for the deposit of such materials.

12 ...
13 (g) This section does not apply to deposit of hazardous wastes in violation of section 18-13-112,
14 C.R.S.

15 ~~(h) The maximum penalty for a first or second conviction within two years, based on date of
16 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
17 two years, based upon the date of the first violation, the general penalty provisions of section 5-
18 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 Section 8. Section 5-4-15, B.R.C. 1981, is amended to read:

20 **5-4-15 Posting Signs on Property of Another Prohibited.**

21 (a) No person shall post a sign in the public right-of-way or on any other public property except
22 on a kiosk or public bulletin board meant solely for posting signs. No beneficiary of any such
23 sign shall fail to prevent the violation of this section. This prohibition does not extend to persons
24 employed or authorized by the public property's owner and acting within the scope of their
25 employment or authority.

...
(c) For the purposes of this section:

"Beneficiary of a sign" means a person who is the intended recipient of the benefit brought about
by the posting of a sign in the downtown DT zone and in that portion of the P zone adjacent
thereto, or in the University Hill BC-2 zone adjacent to Broadway and College, and includes,
without limitation, any business whose premises are specified in such sign.

"Kiosk" means a freestanding structure located within a pedestrian circulation area used for
posting of notices or advertisement of goods.

"Post" means to affix in any manner, including, without limitation, nailing, tacking, taping, tying,
gluing, pasting, painting, staking, marking, or writing.

"Sign" has the meaning given in section 9-16-1, "General Definitions," B.R.C. 1981.

1 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of~~
 2 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 3 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 4 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

5 Section 9. Section 5-5-4, B.R.C. 1981, is amended to read:

6 **5-5-4 Refusal to Permit Inspections.**

7 (a) No person, knowing that a public servant is legally authorized to inspect property, shall:

8 (1) Refuse to produce or make available the property for inspection at a reasonable hour;
 9 or

10 (2) Refuse to permit the inspection at a reasonable hour if the property is available for
 11 inspection.

12 (b) For purposes of this section, "property" means any real or personal property, including,
 13 without limitation, books, records, and documents that are owned, possessed, or otherwise
 14 subject to the control of the defendant. A "legally authorized inspection" means any lawful
 15 search, sampling, testing, or other examination of property, in connection with the regulation of a
 16 specific business or occupation, that is authorized by an ordinance, statute, or lawful regulatory
 17 provision regulating such business or occupation or by a search warrant.

18 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 19 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 20 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 21 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

22 Section 10. Section 5-6-3, B.R.C. 1981, is amended to read:

23 **5-6-3 Unlawful Use of Vehicles as Residence.**

24 No person shall occupy a vehicle upon any city street or streets or other public property if any of
 25 the purposes for such occupation is to use the vehicle as a permanent or temporary residence.
 Sleeping overnight upon any city street once in any seven-day period does not constitute use of
 the vehicle as a temporary residence. ~~The maximum penalty for a first or second conviction~~
~~within two years, based on date of violation of this section, is a fine of \$500.00. For a third and~~
~~each subsequent conviction within two years, based upon the date of the first violation, the~~
~~general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 11. Section 5-6-4, B.R.C. 1981, is amended to read:

5-6-4 Hotel and Motel Registration.

(a) No person who manages or keeps a hotel, motel, boarding house, rooming house, or lodging
 house in the city shall fail:

(1) To keep a book in which shall be registered shortly after arrival the name and
 residence address of each transient guest and, if the guest is traveling in a motor vehicle,
 the license number and owner of such motor vehicle;

1 (2) To number the rooms available for transient guests;

2 (3) To record the number of the room occupied by any such guest in such register; and

3 (4) To maintain such register for three years and open it for inspection at all times to all
4 federal, state, and local peace officers.

5 (b) No person shall register in other than such person's true name or by the name by which such
6 person is generally known.

7 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
8 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
9 two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

9 Section 12. Section 5-6-5, B.R.C. 1981, is amended to read:

10 **5-6-5 Juvenile Curfew.**

11 (a) No person under sixteen years of age shall be or remain upon any public street, sidewalk,
12 alley or any public place or right-of-way between 11:00 p.m. and 5:00 a.m., except as provided
13 in subsection (b) of this section. ~~The maximum penalty for a first or second conviction within
14 two years, based on date of violation of this section, is a fine of \$500.00. For a third and each
15 subsequent conviction within two years, based upon the date of the first violation, the general
16 penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 (b) In the following exceptional cases, a minor may be or remain in a public place beyond the
18 hours set forth in subsection (a) of this section:

19 ...

20 Section 13. Section 5-6-8, B.R.C. 1981, is amended to read:

21 **5-6-8 Skateboards on Mall.**

22 No person on the mall shall ride upon the mall any skateboard, skates, coaster, or other similar
23 device. ~~The maximum penalty for a first or second conviction within two years, based on date of
24 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
25 two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

26 Section 14. Section 5-6-9, B.R.C. 1981, is amended to read:

27 **5-6-9 Projectiles on Mall.**

28 (a) No person shall cast, throw, or propel any projectile on the mall. This prohibition includes,
29 without limitation, throwing balls, boomerangs, bottles, darts, frisbees and other like devices,
30 model airplanes, rocks, snowballs, and sticks. ~~The maximum penalty for a first or second
31 conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a~~

1 ~~third and each subsequent conviction within two years, based upon the date of the first violation,~~
 2 ~~the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 (b) This section does not apply to a juggler if the juggler does not cast, throw, or propel a knife,
 4 including, without limitation, a knife with a blade three and one-half inches in length or less, or
 5 burning projectile or if the juggler is acting within the terms of a special entertainment permit
 6 issued under the provisions of chapter 4-11, "Mall Permits and Leases," B.R.C. 1981.

7 Section 15. Section 5-6-10, B.R.C. 1981, is amended to read:

8 **5-6-10 Camping or Lodging on Property Without Consent.**

9 (a) No person shall camp within any park, parkway, recreation area, open space or other city
 10 property.

11 ...
 12 (e) Testimony by an agent of the persons specified in subsection (b) of this section that such
 13 agent is the person who grants permission to camp or lodge upon such property, or that in the
 14 course of such agent's duties such agent would be aware of permission and that no such
 15 permission was given, is prima facie evidence of that fact.

16 ~~(f) The maximum penalty for a first or second conviction within two years, based on date of
 17 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 18 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 19 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

20 Section 16. Section 5-6-13, B.R.C. 1981, is amended to read:

21 **5-6-13 Public Nudity Prohibited.**

22 (a) No person who is ten years of age or older shall intentionally expose any portion of his or her
 23 anus, vulva, penis or scrotum while that person is located:

24 (1) In a public right of way, in a park or recreation center, in a public building, in a public
 25 square or while located in any other public space or mall; or

(2) On private property if the person is in a place that can be viewed from the ground
 level by another who is located on public property and who does not take extraordinary
 steps such as climbing a ladder or peering over a screening fence in order to achieve a
 point of vantage.

(b) This prohibition does not extend to:

(1) People who are undergoing bona fide emergency medical examinations or treatment;
 or

(2) People located in dressing rooms, shower rooms, bathrooms or in other enclosed areas
 specifically designated for changing clothes or in which nudity is explicitly permitted.

~~(c) The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 17. Section 5-10-2, B.R.C. 1981, is amended to read:

4 **5-10-2. Consumption of Marijuana in Public Prohibited.**

5 (a) No person shall consume any marijuana in public.

6 ...

7 (c) No person shall drive or sit in the driver's seat of any motor vehicle, other than one
8 licensed to carry passengers for hire, in which a violation of Subsection (a) of this section is
9 occurring.

10 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
11 violation of this section, is a fine of \$500. For a third and each subsequent conviction within
12 two years, based upon the date of the first violation, the general penalty provisions of Section
13 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

14 Section 18. Section 5-10-4, B.R.C. 1981, is amended to read:

15 **5-10-4. Possession and Sale by Minors Unlawful.**

16 (a) No underage person shall consume, possess, or have under such person's control or
17 request that any other person purchase for such underage person or sell, serve, give away, or
18 offer for sale any marijuana or any product containing marijuana.

19 ...

20 (f) It shall be an affirmative defense to a charged violation of this section that the underage
21 person (1) on the date of the alleged offense lawfully possessed a current registry
22 identification card issued by the state of Colorado to the underage person, and (2) possessed
23 no more marijuana than the amount permitted by Article XVIII, Section 14 of the Colorado
24 Constitution. Before evidence of this affirmative defense is presented to a jury, the underage
25 person shall first provide written notice of this defense to the court and prosecution and a
photocopy of the underage person's registry identification card, at least 10 days prior to trial.
An underage person who raises this defense waives doctor-patient privilege and
confidentiality concerning the underage person's patient registry information.

~~(g) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of Section
5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1
2 Section 19. Section 7-5-17(b), B.R.C. 1981, is amended to read:

3
4 **7-5-17 Pedestrian Crossing at Other Than Crosswalk.**

5 (a) No pedestrian shall cross a roadway other than by a route at right angles to the curb or by the
6 shortest route to the opposite curb.

7 ~~(b) Every pedestrian crossing or otherwise within a roadway shall yield the right of way to and
8 avoid any interference with all vehicles upon or approaching the roadway.~~

9 ~~(b)~~ (e) Where a traffic control signal is in operation at an intersection, no pedestrian shall cross a
10 roadway within fifty feet of the crosswalk at the intersection except in the crosswalk in
11 conformance with [section 7-5-15](#), "Pedestrian Obedience to Traffic Signal Required," B.R.C.
12 1981.

13 ~~(c)~~ (d) The provisions of this section do not apply to pedestrians crossing in crosswalks or in
14 accordance with subsection [7-5-15\(d\)](#), B.R.C. 1981.

15 Section 20. Chapter 5-6, B.R.C. 1981, is amended by the addition of a **new section 5-6-**
16 **15** to read:

17 **5-6-15 Pedestrian Interference in Roadway Prohibited.**

18 Every pedestrian crossing or otherwise within a roadway shall yield the right of way to and avoid
19 any interference with all vehicles upon or approaching the roadway. This section does not apply
20 to pedestrians crossing in crosswalks or in accordance with subsection 7-5-15(d), B.R.C. 1981.

21 Section 21. Section 7-5-25, B.R.C. 1981, is repealed in its entirety and re-enacted in
22 section 5-6-16, B.R.C. 1981:

23 **7-5-25 Staying on Medians Prohibited.**

24 (a) ~~No person shall stand or be upon a median of any street for longer than is reasonably~~
25 ~~necessary to cross the street.~~

(b) ~~For the purposes of this section, "median" means:~~

(1) ~~The area of a street, generally in the middle, which separates traffic traveling in one~~
~~direction from traffic traveling in another direction, or which, at intersections, separates~~
~~traffic turning left from traffic proceeding straight. Such an area is physically defined by~~
~~curbing, landscaping, or other physical obstacles to the area's use by motor vehicles, or by~~

1 traffic control markings which prohibit use of a portion of the pavement of a street by motor
 2 vehicles other than to drive generally perpendicularly across the markings, or to wait there
 3 awaiting the opportunity to cross or merge with the opposing lanes of traffic (also known as
 4 painted medians, which are wider than a double yellow line); or

5 (2) The area of a street at an intersection between the streets and a right turn only lane,
 6 roughly triangular in shape, and separated from the motor vehicular traffic lanes by curbing,
 7 landscaping, or other physical obstacles to the area's use by motor vehicles (also known as a
 8 right turn island).

9 ~~(c) This section does not apply to medians which are thirty or more feet wide, to the medians on
 10 Mapleton Avenue between Fourth Street and Ninth Street, or to persons maintaining or working
 11 on the median for the government which owns the underlying right of way or for a public utility.~~

12 Section 22. Chapter 5-6, B.R.C. 1981, is amended by the addition of a **new section 5-6-**
 13 **16** to read:

14 **5-6-16, Staying on Medians Prohibited.**

15 (a) No person shall stand or be upon a median of any street for longer than is reasonably
 16 necessary to cross the street.

17 (b) For the purposes of this section, "median" means:

18 (1) The area of a street, generally in the middle, which separates traffic traveling in one
 19 direction from traffic traveling in another direction, or which, at intersections, separates
 20 traffic turning left from traffic proceeding straight. Such an area is physically defined by
 21 curbing, landscaping, or other physical obstacles to the area's use by motor vehicles, or by
 22 traffic control markings which prohibit use of a portion of the pavement of a street by motor
 23 vehicles other than to drive generally perpendicularly across the markings, or to wait there
 24 awaiting the opportunity to cross or merge with the opposing lanes of traffic (also known as
 25 painted medians, which are wider than a double yellow line); or

(2) The area of a street at an intersection between the streets and a right turn only lane,
roughly triangular in shape, and separated from the motor vehicular traffic lanes by curbing,
landscaping, or other physical obstacles to the area's use by motor vehicles (also known as a
right turn island).

(c) This section does not apply to medians which are thirty or more feet wide, to the medians on
Mapleton Avenue between Fourth Street and Ninth Street, or to persons maintaining or working
on the median for the government which owns the underlying right of way or for a public utility.

Section 23. Section 5-7-2, B.R.C. 1981, is amended to read:

5-7-2 Possession and Consumption of Alcoholic Beverages in Public Prohibited.

1 (a) No person within the city limits shall possess an opened container of or consume any malt,
2 vinous, or spirituous liquor or fermented malt beverage in public, except upon premises licensed
3 for consumption of the liquor or beverage involved.

3 ...
4 (g) No person shall drive or sit in the driver's seat of any motor vehicle, other than one carrying
5 passengers for hire, in which a violation of subsection (a) of this section is occurring.

5 ~~(h) The maximum penalty for a first or second conviction within two years, based on date of~~
6 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
7 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
8 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 24. Section 5-7-4, B.R.C. 1981, is amended to read:

8 **5-7-4 Possession and Sale by Minors Unlawful.**

9 (a) No person under the age of twenty-one years (underage person) shall consume, possess or
10 have under such person's control or request that any other person purchase for such minor person
11 or sell, serve, give away or offer for sale any ethyl alcohol. "Ethyl alcohol," under this section,
12 means any substance which is or contains ethyl alcohol.

11 ...
12 (h) In any judicial proceeding in any court of this state concerning a charge under this section,
13 the court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine
14 for the presence of alcohol and of the design and operation of devices certified by the department
15 of public health and environment for testing a person's blood, breath, saliva or urine for the
16 presence of alcohol. This subsection shall not prevent the necessity of establishing during a trial
17 that the testing devices were working properly and that such testing devices were properly
18 operated. Nothing in this subsection shall preclude a defendant from offering evidence
19 concerning the accuracy of testing devices.

17 ~~(i) The maximum penalty for a first or second conviction within two years, based on date of~~
18 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
19 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
20 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 Section 25. Section 5-7-8, B.R.C. 1981, is amended to read:

20 **5-7-8 Taking Fermented Malt Beverage From Premises Licensed for On-Premises**
21 **Consumption Only Prohibited.**

21 No person shall transport or remove from premises licensed for on-premises consumption only
22 of fermented malt beverages any fermented malt beverage. This prohibition applies to premises
23 licensed pursuant to paragraph 4-2-3(b)(9), B.R.C. 1981, or pursuant to a fermented malt
24 beverage special event permit issued under section 12-48-101 et seq., C.R.S. This prohibition
25 does not apply to employees or agents of the licensee acting in accordance with lawful directions
of the licensee. ~~The maximum penalty for a first or second conviction within two years, based~~
~~on date of violation of this section, is a fine of \$500.00. For a third and each subsequent~~

1 ~~conviction within two years, based upon the date of the first violation, the general penalty~~
 2 ~~provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 26. Section 5-7-9, B.R.C. 1981, is amended to read:

4 **5-7-9 Alcoholic Beverage on Mall on Halloween Prohibited.**

5 (a) No person shall possess any malt, vinous, or spirituous liquor or fermented malt beverage in
 6 or upon any public highway, street, alley, walk, parking lot, the Downtown Boulder Mall or any
 7 other public property or place, or in or upon those portions of any private property upon which
 8 the public has an express or implied license to enter or remain, within the area bounded by the
 9 north curblineline of Spruce Street, the east curblineline of 15th Street, the south curblineline of Walnut
 10 Street, and the west curblineline of 10th Street between 6:00 p.m. October 31 and 6:00 a.m.
 11 November 1 of each year.

12 ...

13 (d) The defenses at subsections 5-7-2(e) and (f), B.R.C. 1981, are applicable to this section.

14 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 15 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 16 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 17 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

18 Section 27. Section 5-9-3, B.R.C. 1981, is amended to read:

19 **5-9-3 Exceeding Decibel Sound Levels Prohibited.**

20 (a) No person shall:

21 (1) Operate any type of vehicle, machine, or device;

22 (2) Carry on any activity; or

23 (3) Promote or facilitate the carrying on of any activity, which makes sound in excess of
 24 the level specified in this section.

25 ...

(e) This section shall not be construed to conflict with the right of any person to maintain an
 action in equity to abate a noise nuisance under the laws of the state.

~~(f) The maximum penalty for a first or second conviction within two years, based on date of~~
~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 28. Section 5-9-4, B.R.C. 1981, is amended to read:

5-9-4 Exceeding Decibel Sound Levels From a Motor Vehicle Prohibited.

(a) Sound from a motor vehicle located within the public right-of-way shall not exceed eighty
 decibels on the "A" weighting scale (dBA), except that sound from a vehicle with a

1 manufacturer's gross weight rating of ten thousand pounds and above may exceed eighty dBA
2 but shall not exceed eighty-eight dBA. Such sound shall be measured at a distance of at least
20 feet from a vehicle located within the public right-of-way.

3 (b) Such sound measurements shall be made on a sound level meter that meets the requirements
4 of subsection 5-9-3(c), B.R.C. 1981.

5 (c) It shall be an affirmative defense to a charge of violating this section that:

6 (1) The sound was made by an authorized emergency vehicle when responding to an
7 emergency or as otherwise authorized by law or acting in time of emergency or by an
8 emergency warning device operated by a government;

9 (2) The sound was made by the sounding of the horn of any vehicle as a danger warning
10 signal or by the sounding of any warning device as required by law;

11 (3) The sound was made within the terms and conditions of a sound level variance
12 granted by the city manager;

13 (4) The sound was made by an alarm system installed in a motor vehicle, if the car alarm
14 shuts off automatically after no longer than five minutes; or

15 (5) The sound was made by snow removal equipment equipped with a standard muffling
16 system in good repair while removing snow.

17 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
18 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
19 two years, based upon the date of the first violation, the general penalty provisions of section 5-
20 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

21 Section 29. Section 5-9-5, B.R.C. 1981, is amended to read:

22 **5-9-5 Disrupting Quiet Enjoyment of Home.**

23 (a) No person shall engage in, or be responsible for, a course of conduct which is so loud that it
24 materially interferes with or disrupts another individual in the conduct of activities at such
25 individual's home.

(b) The following standards and definitions shall be used in the application of this section:

...

~~(c) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 30. Section 5-9-6, B.R.C. 1981, is amended to read:

2 **5-9-6 Unreasonable Noise Prohibited Between the Hours of 11:00 P.M. Through 7:00 A.M.**

3 Between the hours of 11:00 p.m. through 7:00 a.m., no person shall:

4 (a) Amplified Sound: Electronically amplify any sound, or make any noise by means of any
5 electronic amplifier, which is loud enough to be audible to a person of normal hearing:

6 (1) One hundred or more feet beyond the property line of the property upon which the
7 loudspeakers are located where they are located in a residential district; or

8 (2) One hundred fifty or more feet beyond the property line of the property upon which
9 the loudspeakers are located where they are located in a commercial or industrial district.

10 (3) Each resident or person in control of an activity or event in or on the premises of a
11 dwelling unit who is present within that dwelling unit or upon the premises of that
12 dwelling unit when sound in violation of this section is amplified or generated upon the
13 premises shall be responsible for the generation of that sound or noise.

14 (4) Each owner, manager, or person in control of an activity or event in or on the
15 premises of a commercial or industrial property upon which sound in violation of this
16 subsection is generated shall be responsible for the generation of that sound or noise.

17 (5) It shall be an affirmative defense to a charge of violating this subsection that:

18 (A) The sound was made by an authorized emergency vehicle when responding to
19 an emergency call or acting in time of emergency or by an emergency warning
20 device operated by a government;

21 (B) The sound was made by the sounding of the horn of any vehicle as a danger
22 warning signal or by the sounding of any warning device as required by law;

23 (C) The sound was made within the terms of a parade or temporary street closure
24 permit issued by the city manager;

25 (D) The sound was made on property belonging to or leased or managed by a
26 federal, state, or county governmental body other than the city and made by an
27 activity of the governmental body or by others pursuant to a contract, lease, or
28 permit granted by such governmental body;

29 (E) The sound was made by a police alarm device, if the police alarm shuts off
30 automatically after no longer than ten minutes, by a fire alarm, or by an alarm
31 system installed in a motor vehicle, if the car alarm shuts off automatically after
32 no longer than five minutes;

33 (F) For a charge of violation based on paragraph (a)(3) or (a)(4) of this section,
34 the defendant did all that a reasonable person could have done under the

1 circumstances of the creation of the noise to prevent the offense, and, if requested
2 to do so, cooperated with law enforcement officers to identify accurately the
offender or offenders; or

3 (G) For a charge of violation based on paragraph (a)(4) of this section, the sound
4 was made by a trespasser.

5 ...

6 (c) Trash Pickup: No person shall make any trash pickup with a truck which has a compactor or
the capacity to raise and dump dumpsters in any residential or commercial district, and no
7 employer shall fail to prevent its employee from violating this subsection while the employee is
driving a trash truck owned by or under the control of the employer. For the purposes of this
8 subsection, testimony that the name of a business which holds itself out as being in the business
of trash hauling was written on the trash truck shall be prima facie evidence that the trash truck
was owned by or was under the control of the employer so identified.

9 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of~~
10 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
11 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
12 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 31. Section 5-9-7, B.R.C. 1981, is amended to read:

14 **5-9-7 Unreasonable Noise Prohibited Between the Hours of 9:00 P.M. Through 7:00 A.M. -
Lawn Mowers, Leaf Blowers, and Construction.**

15 Between the hours of 9:00 p.m. through 7:00 a.m., no person shall:

16 (a) Lawn Mowers and Leaf Blowers: Operate any lawn mower, leaf blower, or other power lawn
or gardening tool on any private property within, or within one hundred feet of the boundary of,
any residential district.

17 (b) Construction in a Residential Zone: In a residential zone, use power tools which are audible
18 off the property upon which they are being used as part of construction work for which a
building permit has been issued or is required for the work.

19 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of~~
20 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
21 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
22 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

23 Section 32. Section 5-9-8, B.R.C. 1981, is amended to read:

24 **5-9-8 Unreasonable Noise Prohibited at Any Time - Motor Vehicle Amplified Sound.**

25 (a) No person shall operate any electronic amplifier in or attached to any motor vehicle so that
the sound is audible at a distance of twenty-five feet or more from the motor vehicle, or which
emits vibrations which can be felt by persons outside of that vehicle. This prohibition does not

1 apply to sound made on private property with the permission of the property owner and not
2 audible or palpable beyond the property line.

3 (b) It shall be an affirmative defense to a charge of violating this section that:

4 (1) The sound was made by an authorized emergency vehicle when responding to an
5 emergency call or acting in time of emergency or by an emergency warning device
6 operated by a government;

7 (2) The sound was made by the sounding of the horn of any vehicle as a danger warning
8 signal or by the sounding of any warning device as required by law;

9 (3) The sound was made within the terms of a parade or temporary street closure permit
10 issued by the city manager; or

11 (4) The sound was made by an alarm system installed in a motor vehicle, if the car alarm
12 shuts off automatically after no longer than five minutes.

13 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
14 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
15 two years, based upon the date of the first violation, the general penalty provisions of section 5-
16 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 Section 33. Section 5-9-9, B.R.C. 1981, is amended to read:

18 **5-9-9 Certain Musical Instruments Prohibited on the Mall Between 12:00 Midnight and
19 7:00 A.M.**

20 No person shall play any percussive or amplified musical instrument on the mall between the
21 hours of 12:00 midnight and 7:00 a.m. ~~The maximum penalty for a first or second conviction
22 within two years, based on date of violation of this section, is a fine of \$500.00. For a third and
23 each subsequent conviction within two years, based upon the date of the first violation, the
24 general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

25 Section 34. Section 6-1-3, B.R.C. 1981, is amended to read:

6-1-3 Limitation on Keeping of Domesticated Animals.

(a) No person shall own or keep a domesticated cat over four months of age unless such cat is
currently inoculated against rabies.

...

(c) No person shall own or keep any horse, goat, sheep, cow, llama, burro, or other equine or
bovine animal unless such person has a total lot area on the lot of one-half acre per animal plus
its young under six months of age.

~~(d) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 35. Section 6-1-4, B.R.C. 1981, is amended to read:

2 **6-1-4 Limitation on Possession of Exotic Animals.**

3 (a) No person shall own or keep any animal for which a state license is required unless such
4 person possesses the appropriate license from the Colorado Division of Wildlife.

5 ...

6 (f) It is a specific defense to a charge of violating subsection (b) of this section that the person
7 holds a state wildlife rehabilitation license for the animal and is acting in accordance with the
8 license.

9 ~~(g) The maximum penalty for a first or second conviction within two years, based on date of
10 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
11 two years, based upon the date of the first violation, the general penalty provisions of section 5-
12 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 36. Section 6-1-12, B.R.C. 1981, is amended to read:

14 **6-1-12 Damaging Prairie Dog Burrows Prohibited.**

15 (a) Except as authorized by other provisions of this chapter, no person shall damage any prairie
16 dog burrow.

17 ...

18 (c) If the manager has reason to believe that work pursuant to any permit or other approval will
19 damage any prairie dog burrow not subject to the defenses set forth in this chapter, the manager
20 shall deny the permit or approval or condition its exercise on lawful relocation of the animals.
21 Appeal from such a denial or conditional approval shall be in accordance with the provisions for
22 denials of such permits or approvals.

23 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
24 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
25 two years, based upon the date of the first violation, the general penalty provisions of section 5-
26 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

27 Section 37. Section 6-1-14, B.R.C. 1981, is amended to read:

28 **6-1-14 Dyeing Fowl and Rabbits Prohibited; Selling Dogs, Cats, and Fowl Limited.**

29 (a) No person shall dye or color live fowl, rabbits, or any other animals or have in possession,
30 display, sell, or give away such dyed or colored animals.

31 ...

32 (c) No person shall sell, offer for sale, or give away any fowl under six weeks old. It is a specific
33 defense to a charge of violating this subsection that the fowl are sold or given away in lots of ten
34 or more for commercial, agricultural, or scientific purposes.

35 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~

1 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
2 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

3 Section 38. Section 6-1-19, B.R.C. 1981, is amended to read:

4 **6-1-19 Barking, Howling, or Other Unreasonable Animal Noise Prohibited.**

5 (a) No person owning or keeping any animal shall fail to prevent such animal from disturbing the
6 peace of any other person by loud and persistent or loud and habitual barking, howling, yelping,
braying, whinnying, crowing, calling, or making any other loud and persistent or loud and
habitual noise, whether the animal is on or off the guardian's or keeper's premises.

7 ...

8 (d) The provisions of subsections (b) and (c) of this section do not apply when the animal is a
cat and it is proven beyond a reasonable doubt that the cat was off the premises of its guardian or
keeper at the time of the disturbance.

9
10 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
11 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
12 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
13 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

14 Section 39. Section 6-1-21, B.R.C. 1981, is amended to read:

15 **6-1-21 Animals as Nuisance Prohibited.**

16 (a) No person shall own or keep any animal that constitutes a nuisance by violating any of
17 sections 6-1-5, "Animal Fighting Prohibited," 6-1-6, "Subjecting Animals to Unnecessary
18 Suffering," and 6-1-7, "Improper Care of Animals Prohibited," B.R.C. 1981, being a safety or
health hazard, damaging the property of another, or creating offensive odors, any of which
materially interferes with or disrupts another individual in the conduct of lawful activities at
such individual's home. ~~The maximum penalty for a first or second conviction within two years,~~
~~based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent~~
~~conviction within two years, based upon the date of the first violation, the general penalty~~
~~provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 (b) No person shall be charged with violating this section unless a written warning was given to
20 the person by an agent or employee of the city within twelve months preceding the first date
alleged as a date of violation in the complaint. Such warning is sufficient if it recites subsection
21 (a) of this section and states that a complaint has been received that an animal of which the
defendant is the guardian or keeper is disturbing the peace of another individual. A warning is
22 given under this subsection if it is personally given to a person owning or keeping an animal or if
it is mailed first class to such person. The city manager shall keep records of all warnings given,
23 and such records are prima facie evidence that such warnings were given.

24 ...

25 Section 40. Section 6-1-22, B.R.C. 1981, is amended to read:

6-1-22 Nuisance Cat Prohibited.

1 No person owning or keeping any domestic house cat shall fail to prevent the cat from damaging
 2 the property of another. ~~The maximum penalty for a first or second conviction within two years,
 based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent
 3 conviction within two years, based upon the date of the first violation, the general penalty
 provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

4 Section 41. Section 6-2-3, B.R.C. 1981, is amended to read:

5 **6-2-3 Growth or Accumulation of Weeds Prohibited.**

6 No owner, lessee, agent, occupant, or person in possession or control of any occupied or
 7 unoccupied lot or tract of land or any part thereof in the city shall permit or maintain on any such
 lot or tract of land or along the sidewalk, street, or alley adjacent thereto any growth of weeds to
 8 a height greater than twelve inches. ~~The maximum penalty for a first or second conviction
 within two years, based on date of violation of this section, is a fine of \$500.00. For a third and
 each subsequent conviction within two years, based upon the date of the first violation, the
 9 general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

10 Section 42. Section 6-2-4, B.R.C. 1981, is amended to read:

11 **6-2-4 Growth and Accumulation of Brush Prohibited.**

12 No owner, lessee, agent, occupant, or person in possession or control of any occupied or
 unoccupied lot or tract of land or any part thereof in the city shall permit or maintain on any such
 13 lot or tract of land or along the sidewalk, street, or alley adjacent thereto any growth of brush.
~~The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 14 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

15 Section 43. Section 6-3-3, B.R.C. 1981, is amended to read:

16 **6-3-3 Accumulation of Trash, Recyclables and Compostables Prohibited.**

17 (a) No owner of any vacant land or property; occupant, owner or manager of any single family
 dwelling or similar property; owner, manager or operator of any multiple family dwelling,
 18 private club or similar property; or owner, operator, manager or employee of any commercial or
 industrial establishment or similar property shall fail to:

19 (1) Prevent the accumulation of trash, recyclables and compostables that are visible to the
 20 public on such property and on the public right of way adjacent to the property;

21 (2) Remove trash, recyclables and compostables located on such property and on the
 public right of way adjacent to the property;

22 (3) Remove trash frequently enough so that it does not cause putrid odors on the property.

23 (4) Remove or repair broken or damaged windows located on such property. However, it
 24 shall be an affirmative defense to a violation of this provision that a person is a tenant
 who, under the terms of the tenancy, is not responsible for the maintenance of that
 25 property and who failed to address a particular maintenance issue for that reason;

1 (5) Remove accumulated newspapers or other periodical publications from such property
 2 when such accumulated newspapers or publications are visible to the public and remain
 3 so for a period of more than twenty-four hours. It shall be an affirmative defense to any
 4 alleged violation of this provision that no more than three such newspapers or periodicals
 5 were accumulated for each residential unit or each business entity located on the property
 and that no newspaper or periodical more than three days old is located on the property;

6 (6) Sufficiently bundle or contain recyclable materials so that those materials are not
 scattered onto the public right of way or onto other properties.

7 ...
 8 (c) No property owner or contractor in charge of any construction site or responsible for any
 construction activity shall fail to:

9 (1) Prevent trash from being scattered onto the public right of way or onto other
 properties; and

10 (2) Ensure that all trash generated by construction and related activities or located on the
 11 site of construction projects is picked up at the end of each workday and placed in
 12 containers sufficient to prevent such trash from being scattered onto the public right of
 way or onto other properties.

13 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of~~
 14 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 15 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 2-4, "General Penalties," B.R.C. 1981, shall apply.

16 Section 44. Section 6-3-4, B.R.C. 1981, is amended to read:

17 **6-3-4 Containers Required.**

18 No owner or occupant of any single family dwelling; owner or manager of any multiple family
 19 dwelling or private club; or owner, operator or manager of any business; or any similar property
 shall fail to provide at all times one or more trash containers on such property. Such containers
 shall be of a size sufficient to accommodate the regular accumulation of trash from the property.
 20 ~~The maximum penalty for a first or second conviction within two years, based on date of~~
 21 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 2-4, "General Penalties," B.R.C. 1981, shall apply.

22 Section 45. Section 6-3-5, B.R.C. 1981, is amended to read:

23 **6-3-5 Storage, Disposal and Screening of Trash, Recyclables, Compostables and Specified**
 24 **Other Materials.**

(a) No person shall:

25 (1) Store trash, recyclables and compostables except in containers in a manner so that
 they are not overflowing, their contents are not scattered by animals, wind or other

1 elements and so that the containers remain closed except when being filled or when
2 opened in order to allow for collection. However, large and unusual items may be stored
for collection in the manner set forth in subparagraph (6) below.

3 (2) Store trash, recyclables and compostables except in containers that are in a location so
4 as to have the minimum possible impact on nearby properties.

5 (3) Store or locate trash in plastic bags in alleys.

6 (4) Store trash, recyclables and compostables in a manner that allows putrid odors to
emanate from the property.

7 (5) Store liquids, animal or vegetable oils, gasoline or other petroleum products other
8 than water, unless such liquids are stored in a manner that prevents leakage and are not
conspicuously visible from a public street.

9 (6) Store brush, fence posts, crates, vehicle tires, vehicle bodies or parts, bed mattresses
10 or springs, water heaters or other household appliances, damaged or stored or discarded
11 furniture and other household goods or items, materials recovered from demolition and
12 other stored or discarded objects three feet or more in length, width or breadth, unless
such materials are stored in a manner reasonably calculated to prepare them for collection
13 or to conserve them for use on the premises with the minimum possible impact on nearby
properties.

14 (7) Store piles of soil or rocks unless such materials are stored in a manner reasonably
15 calculated to conserve such materials for use on the premises and with the minimum
possible impact on nearby properties and in a manner that is not conspicuously visible
16 from a public street.

17 (8) Place a trash, recycling or composting container on the sidewalk or in the city right of
18 way unless it is placed so as not to impair or obstruct pedestrian, bicycle or vehicular
19 traffic. However, this provision shall not apply to trash, recycling or composting
containers placed in a public alley with the authorization of the city manager in order to
accommodate efficient collection of trash, recyclables or compostables.

20 (9) Place a trash, recycling or composting container in a front yard setback or in the
21 public right of way, excepting public alleys, any earlier than 5:00 a.m. on the day on
which such materials are scheduled to be collected. All such containers shall be removed
22 from those locations by 9:00 p.m. of the same day.

23 (10) Place any refrigerator, freezer or other unused appliance in or upon nonsecured
24 portions of a property, including, without limitation, a location awaiting trash or
recycling pickup, unless all doors of such appliances are secured or removed so that
25 children cannot be trapped within.

1 (11) Store trash, recyclables or compostables in such a manner as to constitute or create a
 2 fire, health or other safety hazard or harborage for wildlife or pests, including, without
 limitation, rodents, insects or other animals.

3 (12) In a RM or RH zone, store any materials intended to be discarded, recycled or
 4 composted in a place visible to the public, other than materials contained within trash,
 recycling or composting containers.

5 (13) In a RM or RH zone, fail to screen from view from the street, all trash, compostable
 6 and recyclable containers, stored on the property that such person owns or occupies,
 7 except on collection day. However, it shall not be a violation of this provision if
 containers for these materials are located in an alley and are visible to the public from a
 street at the point at which that street intersects with the alley.

8 (b) Nothing in this section shall be deemed to prohibit any person from keeping building
 9 materials on any premises before or during the period of active construction pursuant to a city
 10 building permit under chapter 10-5, "Building Code," B.R.C. 1981, nor to prohibit any person
 11 from storing any materials used in the operation of a business located in a zone allowing such
 12 use. Nor shall this section prohibit any person from maintaining building or landscaping
 materials on any premises during the period of active use of those materials for a building or
 landscaping project that does not require a building permit so long as such materials are secured
 or contained during periods when they are not in use.

13 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 14 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 15 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

16 Section 46. Section 6-3-6, B.R.C. 1981, is amended to read:

17 **6-3-6 Compost Piles Permitted If Not Nuisance.**

18 (a) Any person may maintain compost piles. Such compost piles shall be in a segregated area and
 19 shall contain alternate layers of plant materials maintained to facilitate decomposition and
 produce organic material to be used as a soil conditioner.

20 (b) No person who maintains a compost pile shall fail to prevent it from becoming a nuisance
 21 due to putrid odors or attraction of wildlife or pests, including, without limitation, rodents,
 insects or other animals.

22 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 23 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 2-4, "General Penalties," B.R.C. 1981, shall apply.

1 Section 47. Section 6-3-9, B.R.C. 1981, is amended to read:

2 **6-3-9 Special Trash Service Requirements on Certain Residential Rental Properties at**
 3 **Certain Times.**

4 (a) The city manager may, by regulation, designate a period of time up to sixteen consecutive
 5 days in the second quarter of the calendar year, and up to thirty-five consecutive days in the third
 6 quarter of the calendar year, as the periods during which this section is in effect in the special
 7 trash service zone.

8 ...
 9 (e) It shall be an affirmative defense to a charge of violation of this section that trash hauling
 10 service meeting the requirements of this section was not commercially available. This defense
 11 shall not apply if the asserted unavailability was due to refusal by a commercial hauler to provide
 12 such services based on legitimate business reasons concerning the property owner, including,
 13 without limitation, being in arrears on payments or refusing to sign a commercially reasonable
 14 contract.

15 ~~(f) The maximum penalty for a first or second conviction within two years, based on date of
 16 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 17 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 18 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

19 Section 48. Section 6-4-3, B.R.C. 1981, is amended to read:

20 **6-4-3 Smoking Prohibited Within Buildings and Enclosed Areas.**

21 (a) No person shall smoke within any building or enclosed area except in one of the following
 22 locations:

23 (1) In any dwelling. This exception does not extend to a lobby, common elevator,
 24 common hallway or any other common area of a building containing attached dwelling
 25 units;

(2) In a hotel/motel room or bed and breakfast guest room rented to one or more guests if
 the total percentage of such smoking rooms in such hotel/motel or bed and breakfast does
 not exceed twenty-five percent. This exception does not extend to a lobby, common
 elevator, common hallway or any other common area of a hotel/motel or bed and
 breakfast;

(3) In a tobacco store;

(4) In a cigar-tobacco bar which existed as of December 31, 2005, provided that it does
 not expand its size or change its location from the size and location in which it existed as
 of December 31, 2005;

(5) In a building or on property which is occupied by the state of Colorado, the United
 States government, Boulder County or the Boulder Valley School District which was not
 designated as a smoke free area by the manager of such area. The city council urges such

1 governmental entities to designate smoke free areas in order to promote full access by the
2 public and protect the health of employees;

3 (6) In private homes, private residences and private automobiles; not to include any such
4 home, residence or vehicle being used for child care or day care or a private vehicle being
5 used for the public transportation of children or as part of health care or day care
6 transportation; or

7 (7) In a limousine under private hire.

8 ...

9 (c) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control
10 of any place, including, without limitation, any motor vehicle, outdoor area, or dwelling, from
11 prohibiting smoking completely in such place, and no person shall fail to abide by such a private
12 prohibition.

13 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of
14 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
15 two years, based upon the date of the first violation, the general penalty provisions of section 5-
16 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 Section 49. Section 6-4-4, B.R.C. 1981, is amended to read:

18 **6-4-4 Smoking Prohibited in Public Conveyances.**

19 No person shall smoke in any public conveyance. ~~The maximum penalty for a first or second
20 conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a
21 third and each subsequent conviction within two years, based upon the date of the first violation,
22 the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

23 Section 50. Section 6-4-5, B.R.C. 1981, is amended to read:

24 **6-4-5 Smoking Areas in Cigar-Tobacco Bars.**

25 (a) The owner, lessee, principal manager or person in control of a cigar-tobacco bar may
designate one smoking area of no more than fifty percent of the square footage of the floor area
of the establishment which is open to the public so long as it meets all of the following criteria:

(1) It is independently ventilated from the non-smoking areas;

(2) It is physically separated from the non-smoking areas;

(3) A designated smoking area under this section may not include any waiting area,
lobby, hallway, elevator, restroom, or area adjacent to a self-service food line or cash
register, and such areas shall also be excluded from the calculation of the square footage
of floor area under this subsection;

(4) Any service or amenity which the establishment chooses to provide to patrons, other
than smoking, shall at all times be at least as available in the non-smoking majority

1 portion of the establishment as in the designated smoking area. This requirement
2 includes, without limitation, live entertainment and games; and

3 (5) The city manager may make reasonable rules interpreting the terms "independently
4 ventilated" and "physically separated" and specifying ventilating and construction
5 measures which will accomplish these goals.

6 ...

7 (d) *Physically separated* means that there are physical barriers such as walls and doors extending
8 from floor to ceiling that prohibit smoke from entering a nonsmoking area.

9 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of
10 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
11 two years, based upon the date of the first violation, the general penalty provisions of section 5-
12 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 51. Section 6-4-5.5, B.R.C. 1981, is amended to read:

14 **6-4-5.5 Smoking Prohibited on the Mall.**

15 (a) No person shall smoke on the Mall.

16 ~~(b) The maximum penalty for a first or second conviction within two years, based on the date of
17 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
18 two years, based upon the date of the first violation, the general penalty provisions of section 5-
19 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

20 Section 52. Section 6-4-6, B.R.C. 1981, is amended to read:

21 **6-4-6 Signs Required to be Posted.**

22 ~~(a) To advise persons of the existence of "No Smoking" or "Smoking Permitted" areas, no
23 owner, lessee, principal manager or person in control of a building, enclosed area or an
24 establishment within a building shall fail to post signs with letters no less than one inch high or
25 symbols no less than three inches high as follows:~~

(a+) Where smoking is prohibited in the entire establishment, a sign using the words "No
Smoking" or the international no-smoking symbol shall be posted conspicuously either
on all public entrances or in a position clearly visible on entry into the building, enclosed
area or establishment.

(b2) Where certain areas are designated as smoking areas pursuant to this chapter, a sign
using the words "No Smoking Except in Designated Areas" shall be posted
conspicuously either on all public entrances or in a position clearly visible on entry into
the building or establishment.

1 (c~~3~~) In tobacco stores, a sign shall be posted conspicuously either on all public entrances
2 or in a position clearly visible on entry into the building or establishment using the words
3 "Smoking Permitted: children under eighteen years of age must be accompanied by a
4 parent or guardian."

5 (d~~4~~) A sign using the words "No Smoking within fifteen feet of the entryway" shall be
6 posted conspicuously on all entryways of buildings, enclosed areas or establishments.

7 (e~~5~~) The requirements of this section do not apply to an exempt dwelling.

8 ~~(b) The maximum penalty for a first or second conviction within two years, based on date of
9 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
10 two years, based upon the date of the first violation, the general penalty provisions of section 5-
11 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

12 Section 53. Section 6-4-7, B.R.C. 1981, is amended to read:

13 **6-4-7 Additional Responsibilities of Proprietors.**

14 (a) No owner, lessee, principal manager, or person in control of a building or establishment shall
15 fail to:

- 16 (1) Ask smokers to refrain from smoking in any smoke free area;
- 17 (2) In a cigar-tobacco bar, affirmatively direct smokers to designated smoking areas; and
- 18 (3) Use any other means which may be appropriate to further the intent of this chapter.

19 (b) No owner, principal manager, proprietor or any other person in control of a business shall fail
20 to ensure compliance by subordinates, employees and agents with both the restrictions on sale
21 and display of tobacco products contained in section 6-4-8, "Restrictions on Sale and Display of
22 Tobacco Products," B.R.C. 1981, and the restrictions on smoking within fifteen feet of any
23 entryway contained in section 6-4-9, "Entryway," B.R.C. 1981.

24 ~~(c) The maximum penalty for a first or second conviction within two years, based on date of
25 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
two years, based upon the date of the first violation, the general penalty provisions of section 5-
2-4, "General Penalties," B.R.C. 1981, shall apply.~~

26 Section 54. Section 6-4-9, B.R.C. 1981, is amended to read:

27 **6-4-9. Entryway.**

28 (a) No person shall smoke within any entryway of a building, enclosed area or common entrance
29 to a multifamily dwelling, except a single family dwelling.

30 (b) No owner, principal manager, proprietor or any other person in control of a business shall fail
31 to ensure compliance of this section by subordinates, employees and agents.

1 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 2 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 3 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 4 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

4 Section 55. Section 6-6-4, B.R.C. 1981, is amended to read:

5 **6-6-4 Planting in Public Areas.**

6 (a) No person shall plant in or remove from any city property any plant or tree without first
 7 obtaining written permission from the city manager to do so.

7 ...
 8 (d) A property owner may plant trees along the streets of the City, fronting on such person's
 9 property, if the person plants the trees of the species, in the places, and in the manner set forth in
 10 the City of Boulder Design and Construction Standards or as designated by the city manager,
 11 between the gutter line and the property line.

10 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 11 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 12 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 13 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

13 Section 56. Section 8-2-14, B.R.C. 1981, is amended to read:

14 **8-2-14 Vaults and Cellars to be Covered.**

15 (a) No person shall dig or cause to be dug a vault in any street, alley, or sidewalk in the City,
 16 except under the terms of a permit or lease issued under chapter 8-6, "Public Right-of-Way and
 17 Easement Encroachments, Revocable Permits, Leases, and Vacations," B.R.C. 1981.

17 (b) No person shall keep or leave open or cause to be left or kept open any cellar door, grating, or
 18 other covering of any vault or cellar in or along any street, sidewalk, or alley in the City or fail to
 19 maintain any such door, grating, or other covering.

19 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
 20 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 21 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
 22 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

21 Section 57. Section 8-2-15, B.R.C. 1981, is amended to read:

22 **8-2-15 Location of Pipes and Conduits.**

23 No person shall excavate for or lay any water, gas, or sewer pipe, except service connections to
 24 abutting properties, or any wire, cable, or conduits in or upon any street, alley, or public highway
 25 of the City, except upon a line or in a place located and designated by the city manager. ~~The~~
~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
~~this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,~~

1 ~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
 2 ~~"General Penalties," B.R.C. 1981, shall apply.~~

3 Section 58. Section 8-2-16, B.R.C. 1981, is amended to read:

4 **8-2-16 Attaching Devices to Public Property Prohibited.**

5 No person shall attach any object to any city property or locate any object on city property in
 6 such a manner as to damage the city property, obstruct public right-of-way, or interfere with the
 7 function of the city property. ~~The maximum penalty for a first or second conviction within two~~
~~years, based on date of violation of this section, is a fine of \$500.00. For a third and each~~
~~subsequent conviction within two years, based upon the date of the first violation, the general~~
~~penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

8 Section 59. Section 8-2-17, B.R.C. 1981, is amended to read:

9 **8-2-17 When Sidewalks are to be Constructed or Reconstructed.**

10 (a) Sidewalks shall be constructed in any area of the City where:

- 11 (1) Sidewalks are necessary to provide adequate and safe routes for school children to
 and from their dwellings and to and from educational facilities;
- 12 (2) Pedestrian traffic is not adequately accommodated by existing sidewalks;
- 13 (3) No sidewalks are in existence; or
- 14 (4) The health, welfare, and safety of the public require that adequate sidewalks be
 15 provided for the public convenience.

16 ...

17 (c) If any existing sidewalk consists of sandstone and the abutting property owner requests that it
 18 be retained, the city manager shall retain such sandstone sidewalk if the stones or slabs are at
 19 least two inches thick; are set in a base of concrete not less than four inches or compacted
 subgrade not less than six inches thick; have all sections grouted to the base to provide a uniform
 surface grade throughout all portions of the sidewalk; have no longitudinal joints; and are at least
 four feet by two feet in size. Only a concrete base is allowed over a curb cut or at driveways.

20 ~~(d) The maximum penalty for a first or second conviction within two years, based on date of~~
~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
 21 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

22 Section 60. Section 8-2-25, B.R.C. 1981, is amended to read:

23 **8-2-25 Adjacent Owners' Duty to Maintain Street Trees.**

24 A property owner shall maintain trees required pursuant to sections 6-6-7, "Mitigation of Trees
 or Plants Removed or Destroyed," B.R.C. 1981; 9-2-14(h)(2)(C), "Site Review," B.R.C. 1981;
 25 and 9-9-12, "Landscape and Screening Standards," B.R.C. 1981, on or adjacent to the owner's

1 property in the public right of way, by providing sufficient irrigation to sustain the life of the tree
 2 and landscaping or a mulched sod-free base around all trees with a diameter of six inches and
 3 under measured fifty-four inches above the ground. ~~The maximum penalty for a first or second
 4 conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a
 5 third and each subsequent conviction within two years, based upon the date of the first violation,
 6 the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 61. Section 8-3-6, B.R.C. 1981, is amended to read:

8 **8-3-6 Vehicle Regulation.**

9 (a) No person, other than persons authorized by the city manager, shall:

10 (1) Fail or refuse to comply with any lawful order or direction of any park patrol officer
 11 authorized and instructed to direct traffic in any park, parkway, recreation area, or open
 12 space and on the public roads and parkways therein;

13 (2) Fail to comply with any traffic control device in a park, parkway, recreation area, or
 14 open space regulating the operation of motor vehicles;

15 (3) Drive a motor vehicle within any park, parkway, recreation area, or open space, in
 16 excess of the posted speed limit. If no speed limit is posted, then no person shall drive a
 17 motor vehicle in a park, recreation area, or open space in excess of twenty miles per hour;

18 (4) Drive a motor vehicle within or upon any part of a park, parkway, recreation area, or
 19 open space, except on designated roadways, parking areas, or areas that the city manager
 20 designates as temporary parking areas;

21 (5) Remove or relocate any barricade, barrier, or other device erected to control motor
 22 vehicle traffic in a park, parkway, recreation area, or open space; or

23 (6) Drive a non-motorized vehicle upon any area in mountain parks or open space
 24 property except a trail or roadway designated and posted for that use by the city manager
 25 or a paved or graveled roadway open to motorized vehicles.

(b) The city manager may post "tow away" no-parking zones within any park, parkway,
 recreation area, or open space to clear off-street parking areas after designated hours of operation
 and to clear designated fire roads and other emergency access routes. Vehicles parked in
 violation of such traffic control devices may be towed and impounded pursuant to the provisions
 of chapter 7-7, "Towing and Impoundment," B.R.C. 1981.

~~(c) The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

1 Section 62. Section 8-3-9, B.R.C. 1981, is amended to read:

2 **8-3-9 Glass Bottles Prohibited.**

3 No person shall carry or possess any glass bottle or other glass container, except one containing
 4 prescription medication, in any city park, parkway, recreation area, or open space. ~~The
 5 maximum penalty for a first or second conviction within two years, based on date of violation of
 6 this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,
 7 based upon the date of the first violation, the general penalty provisions of section 5-2-4,
 8 "General Penalties," B.R.C. 1981, shall apply.~~

9 Section 63. Section 8-3-11, B.R.C. 1981, is amended to read:

10 **8-3-11 Sledding in Open Space and Mountain Parks Prohibited.**

11 No person shall sled, toboggan, or slide in any recreation area or open space or mountain park,
 12 except on roadways, designated trails, or other areas designated and posted for that use by the
 13 city manager. ~~The maximum penalty for a first or second conviction within two years, based on
 14 date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction
 15 within two years, based upon the date of the first violation, the general penalty provisions of
 16 section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

17 Section 64. Section 8-3-17, B.R.C. 1981, is amended to read:

18 **8-3-17 Swimming and Boating in Certain Waters Prohibited.**

19 (a) No person shall swim in any pond, lake, stream, reservoir, or other body of water owned or
 20 controlled by the city. It is a specific defense to a charge of violating this subsection that a person
 21 was wading or using a raft or other flotation device on Boulder Creek or other stream. It is a
 22 specific defense to a charge of violating this subsection that the person was swimming in the
 23 Boulder Reservoir or in any body of water owned by the city at which a lifeguard is on duty at
 24 the site and where the Boulder County Health Department has approved the water for swimming.

25 (b) No person shall operate any boat powered by an outboard or inboard motor or a sailboat
 exceeding fourteen feet in length or a hand-powered boat exceeding seventeen feet in length on
 any lake, pond, stream, reservoir, or other body of water owned or controlled by the city, except
 the Boulder Reservoir.

~~(c) The maximum penalty for a first or second conviction within two years, based on date of
 violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within
 two years, based upon the date of the first violation, the general penalty provisions of section 5-
 2-4, "General Penalties," B.R.C. 1981, shall apply.~~

Section 65. Section 8-3-20, B.R.C. 1981, is amended to read:

8-3-20 Fixed Hardware Prohibited.

 No person engaged in rock climbing in a park, recreation area, or open space shall place or attach
 any object on such land unless the object is inherently capable of removal for reuse by
 reasonable effort, unless done pursuant to a written permit from the city manager. ~~The~~

1 ~~maximum penalty for a first or second conviction within two years, based on date of violation of~~
 2 ~~this section, is a fine of \$500.00. For a third and each subsequent conviction within two years,~~
 3 ~~based upon the date of the first violation, the general penalty provisions of section 5-2-4,~~
 4 ~~"General Penalties," B.R.C. 1981, shall apply.~~

5 Section 66. Section 8-3-21, B.R.C. 1981, is amended to read:

6 **8-3-21 Tents and Nets Prohibited.**

7 No person shall erect any tent, net, or structure in a park or recreation area located outside the
 8 corporate limits of the City, or on any open space land, unless done pursuant to a written permit
 9 or contract from the city manager. The prohibitions of this section do not apply to developed and
 10 landscaped city parks located outside the city limits, if they are designated by the manager as
 11 such city parks. ~~The maximum penalty for a first or second conviction within two years, based~~
 12 ~~on date of violation of this section, is a fine of \$500.00. For a third and each subsequent~~
 13 ~~conviction within two years, based upon the date of the first violation, the general penalty~~
 14 ~~provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.~~

15 Section 67. Section 8-3-22, B.R.C. 1981, is amended to read:

16 **8-3-22 Reservation and Use of Park and Recreation Facilities.**

17 (a) The city manager may establish and from time to time change a schedule of available times
 18 and fees for reservation and use of facilities for no more than five consecutive days for social or
 19 athletic use as appropriate to the facility.

20 (1) The manager may also require a reasonable damage deposit for such use. After the
 21 reservation is over and during working hours, the person required to post a deposit under
 22 this section shall contact the city manager to inspect the area used. If no damage has been
 23 done and the area has been properly cleaned, the manager shall return the deposit. If the
 24 person has failed to meet this obligation, the manager shall retain a sum from the deposit
 25 sufficient to cover the damage or restore the premises to a neat condition.

(2) If the deposit does not completely indemnify the City for damage or cleaning costs
 necessary to restore the area, the person shall not fail to pay forthwith to the City a sum to
 cover these extra costs.

(b) No person who offers a program of instruction and charges a fee for such a program, either
 directly or by way of a membership fee, shall use a city facility as part of such program without
 first obtaining a permit and paying any associated fee.

(1) Permits may be obtained after a person makes an application on a form acceptable to
 the city manager.

(2) The city manager shall deny such a permit if the proposed use is not reasonably
 compatible with the area intended for use; would conflict unreasonably with a previously
 scheduled use of the area or with normal public use of the area; or would be in violation

1 of any law or regulation. The city manager may also deny a permit for the area requested
2 but instead issue a permit for a more appropriate area if such an alternative is available.

3 ~~(e) The maximum penalty for a first or second conviction within two years, based on date of~~
4 ~~violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within~~
5 ~~two years, based upon the date of the first violation, the general penalty provisions of section 5-~~
6 ~~2-4, "General Penalties," B.R.C. 1981, shall apply.~~

7 Section 68. This ordinance is necessary to protect the public health, safety, and welfare
8 of the residents of the city, and covers matters of local concern.

9 Section 69. The city council deems it appropriate that this ordinance be published by title
10 only and orders that copies of this ordinance be made available in the office of the city clerk for
11 public inspection and acquisition.

12 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
13 TITLE ONLY this 4th day of March 2014.

14
15 _____
16 Mayor

17 Attest:

18 _____
19 City Clerk on behalf of the
20 Director of Finance and Record
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this _____ day of _____ 20____.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, an ordinance amending Chapter 5, “General Offenses,” B.R.C. 1981, by adding a new section 5-5-20 adding a provision prohibiting unlawful conduct on public property, and amending Chapter 2 “General Provisions,” by amending section 5-2-4, B.R.C. 1981 to allow for criminal penalties under the new section 5-5-20 and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Mark Beckner, Police Chief
Janet Michels, Senior Assistant City Attorney – Lead Prosecutor

EXECUTIVE SUMMARY:

The purpose of this memo is first reading and consideration of an ordinance to implement direction given by council at the February 11, 2014 Study Session. Attached is a proposed ordinance which would incorporate the state law prohibiting unlawful conduct on public property.

STAFF RECOMMENDATION:

Suggested Motion Language:

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

Motion to introduce on first reading and order published by title only, an ordinance amending Chapter 5, “General Offenses,” B.R.C. 1981, by adding a new section 5-5-20 adding a provision prohibiting unlawful conduct on public property, and amending Chapter 2 “General Provisions,” by amending section 5-2-4, B.R.C. 1981 to allow for

criminal penalties under the new section 5-5-20 and setting forth related details.

BACKGROUND:

Boulder has recently experienced an increase in criminal behavior on the municipal campus. On February 11, 2014, the city council held a study session to consider options to address this anti-social behavior. Among the strategies considered were adding a city code provision prohibiting unlawful conduct on public property to mirror an existing provision in state law.

Currently, when the Boulder Police Department encounters criminal activity that violates the state law, officers will write the citation into county court. The city’s goal is to track and provide appropriate sanctions to defendants based on their behavior. Having some violations in municipal court and others in the county court makes this more difficult. In addition, the unavailability of a municipal violation can create more work for officers who may have to appear in two different courts for the same criminal transaction. For example, an individual defendant can be found intoxicated on the municipal campus and be transported to the alcohol recovery center. The defendant could be issued a city citation for violating the open container law or minor in possession. If the defendant becomes abusive to the staff at the ARC, police will then remove the individual and cite the defendant for unlawful conduct on public property under the state law. The alcohol citation will go to the municipal court while the unlawful conduct citation will go to county court.

The following table provides data for citations for unlawful conduct on public property during the last two years:

Issuing Agency	2012	2013
Boulder Police Department	72	71
CU Police Department ¹	9	3
Totals	79	74

The proposed change is to incorporate the state law provision into the municipal code. This is not a substantive change. The police already can cite defendants under the existing state law. By creating a municipal violation, the council will promote efficiency and allow the municipal court to more effectively address repeat violations.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Criminal behavior in public spaces can deter visitor from using those spaces. Reduction in the number of visitors can have a detrimental effect on associated economic activity.

¹ CUPD can and does issue citations for violations of the municipal code into the municipal court.

- Environmental – None identified.
- Social – The proposed change will promote criminal justice efficiency and allow for the municipal court to impose more effective sentences.

OTHER IMPACTS

- Fiscal – None identified.
- Staff time - Current activities are covered by existing department work plans.

BOARD AND COMMISSION FEEDBACK

None.

ANALYSIS

State law prohibits unlawful conduct on public property as follows:

C.R.S. § 18-9-117. Unlawful conduct on public property

(1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (1), limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

(a) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;

(b) Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;

(c) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance or which may interfere with, impair, or disrupt a funeral or funeral procession;

(d) Necessary sanitation, health, and safety measures, consistent with section 25-13-113, C.R.S.;

(e) Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time, and manner in which such activities may be permitted;

(f) Use of all vehicles as to place, time, and manner of use;

(g) Control and limitation of fires, including but not limited to the prohibition, restriction, or ban on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and the designation of places where fires are permitted, restricted, prohibited, or banned.

(2) No conviction may be obtained under this section unless notice of such limitations or prohibitions is prominently posted at all public entrances to such building or property or unless such notice is actually first given the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this section.

(3) (a) Except as otherwise provided in paragraphs (b) and (c) of this subsection (3), any person who violates subsection (1) of this section is guilty of a class 3 misdemeanor.

(b) Any person who violates any order, rule, or regulation adopted pursuant to paragraph (g) of subsection (1) of this section is guilty of a class 2 misdemeanor and shall be assessed a fine of not less than two hundred fifty dollars and not greater than one thousand dollars. The fine imposed by this paragraph (b) shall be mandatory and not subject to suspension. Nothing in this paragraph (b) shall be construed to limit the court's discretion in exercising other available sentencing alternatives in addition to the mandatory fine.

(c) Any person who violates any order, rule, or regulation adopted pursuant to paragraph (c) of subsection (1) of this section concerning funerals or funeral processions is guilty of a class 2 misdemeanor.

The proposed ordinance incorporates the bulk of the state law. Staff recommends not incorporating sections (3)(b) and (c) because the city has only one level of misdemeanor, which carries a lesser penalty than a class 3 misdemeanor under state law. Staff also altered the notice requirement slightly. Under state law section notice is required to be “posted at all public entrances to such building or property or unless such notice is actually first given the person by the officer or agency. . .” It would be difficult to identify “all public entrances” to the municipal campus or central park. Staff recommends altering this requirement to allow for posting of notices on the property.

Attachments: Proposed Ordinance – Attachment A

This Page Intentionally Left Blank

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 5, "GENERAL OFFENSES," CHAPTER 5, "OFFENSES AGAINST GOVERNMENT OPERATIONS," B.R.C. 1981, BY ADDING A NEW SECTION 5-5-20 PROHIBITING UNLAWFUL CONDUCT ON PUBLIC PROPERTY AND AMENDING CHAPTER 2 "GENERAL PROVISIONS," BY AMENDING SECTION 5-2-4, B.R.C. 1981 TO ALLOW FOR CRIMINAL PENALTIES UNDER THE NEW SECTION 5-5-20 AND SETTING FORTH RELATED DETAILS.

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

Section 1. Title 5, Chapter 5 of the Boulder Revised Code, 1981 is amended by adding a new section 5-5-20 as follows:

5-5-20 Unlawful Conduct on Public Property.

(1) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on the same in violation of any order, rule, or regulation concerning any matter prescribed in this subsection (1), limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management, or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules, or regulations as are reasonably necessary for the administration, protection, and maintenance of such public buildings and property, specifically, orders, rules, and regulations upon the following matters:

(a) Preservation of property, vegetation, wildlife, signs, markers, statues, buildings and grounds, and other structures, and any object of scientific, historical, or scenic interest;

(b) Restriction or limitation of the use of such public buildings or property as to time, manner, or permitted activities;

(c) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance or which may interfere with, impair, or disrupt a funeral or funeral procession;

(d) Necessary sanitation, health, and safety measures.

(e) Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time, and manner in which such activities may be permitted;

1 (f) Use of all vehicles as to place, time, and manner of use;

2 (g) Control and limitation of fires, including but not limited to the prohibition, restriction, or ban
3 on fires or other regulation of fires to avert the start of or lessen the likelihood of wildfire, and
4 the designation of places where fires are permitted, restricted, prohibited, or banned.

5 (2) No conviction may be obtained under this section unless notice of such limitations or
6 prohibitions is prominently posted at all public entrances to such building or on such property or
7 unless such notice is actually first given the person by the officer or agency, including any agent
8 thereof, or by any law enforcement officer having jurisdiction or authority to enforce this section.

9 (3) Any violation of this section shall be considered a violation punishable pursuant to section 5-
10 2-4(a) "General Penalties," B.R.C. 1981.

11 Section 2. Title 5, Chapter 2, Section 4(c) of the Boulder Revised Code, 1981 is
12 amended as follows:

13 (c) The penalty for violation of any rule or regulations promulgated under authority delegated by
14 the charter, this code, or any ordinance of the city is a fine of not more than \$1,000.00 per
15 violation, except as provided in paragraph (a)(4) of this section and in section 5-5-20, B.R.C.,
16 1981.

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

19 Section 4. The City Council deems it appropriate that this ordinance be published by title
20 only and orders that copies of this ordinance be made available in the office of the city clerk for
21 public inspection and acquisition.
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this __ day of March, 2014.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this ____ of _____, 2014.

Mayor

Attest:

City Clerk

This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE:

Introduction, first reading and consideration of a motion to order published by title only, an ordinance amending Sections 4-20-60, "Voice and Sight Control Evidence Tag Fees," 6-1-16, "Dogs Running at Large Prohibited," 6-13-2, "Voice and Sight Control Evidence Tag Required," 6-13-4, Voice and Sight Control Evidence Tag Requirements," and 6-13-5, "Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations," and adding a new section 6-13-4.5, "Terms of Voice and Sight Control Evidence Tag," B.R.C.1981, and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Michael D. Patton, Director, Open Space and Mountain Parks
Stephen B. Armstead, Environmental Planner
Janet T. Michels, Sr. Assistant City Attorney

EXECUTIVE SUMMARY

This memorandum presents the recommended Boulder Revised Code 1981 (B.R.C.) changes resulting from an 18-month evaluation of the Voice and Sight Tag (Tag) Program. Program enhancements integrate City Council, Open Space Board of Trustees (OSBT), community and staff recommended changes to the Tag Program. This memo covers the enhancements that require City Council adoption of ordinance changes to the B.R.C (see Attachment A). The components which require amendments to the B.R.C. involve:

1. Program Application Prerequisites;
 - a. Attendance at an information class or session; and
 - b. Verification of City of Boulder dog license or rabies vaccination
2. Fees and Annual Program Renewal Requirement;
3. Fines;

4. Violations Affecting Suspension of Privileges; and
5. Reinstatement

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce on first reading and order published by title only, an ordinance amending Sections 4-20-60, "Voice and Sight Control Evidence Tag Fees," 6-1-16, "Dogs Running at Large Prohibited," 6-13-2, "Voice and Sight Control Evidence Tag Required," 6-13-4, "Voice and Sight Control Evidence Tag Requirements," and 6-13-5, "Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations," and adding a new section 6-13-4.5, "Terms of Voice and Sight Control Evidence Tag," B.R.C.1981, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Overall economic impacts on the business community are unknown. Businesses and organizations providing dog training services may benefit from dog guardians seeking training services to increase skills beneficial to voice and sight control.
- Environmental: The Tag Program was identified in the Visitor Master Plan (VMP) as a way to reduce adverse effects to Open Space and Mountain Parks' (OSMP) ecological and agricultural resources by increasing the level of compliance with voice and sight requirements.
- Social: Enhancements to the Tag Program are intended to both support enduring changes that will sustain a high-quality visitor experience retaining valued voice and sight control opportunities and reduce behaviors that contribute to visitor conflict.

OTHER IMPACTS

- Fiscal: Budgetary impacts to the city will depend upon enrollment in the program, which is designed to be "cost-neutral" based upon enrollments of approximately 16,000 individuals and their dogs.
- Staff time: Additional and significant staff resources would be required by the proposed program enhancements. Those additional FTEs are included in the "cost-neutral" projections and fee structure.

BOARD AND COMMISSION FEEDBACK

The OSBT heard staff's proposed enhancements to the Tag Program at a public hearing on April 10, 2013 and fee changes on May 8, 2013. All proposed enhancements passed unanimously except for two changes. A change passed by split vote (two dissenting votes) regarding suspension after a single conviction of section 6-1-20, "Aggressive Animals Prohibited;" section 8-3-5, "Wildlife Protection," or a violation of the city manager's rules involving wildlife

protection authorized by section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981. A split vote (one dissenting vote) was also involved with the board recommendation on consideration of suspension of voice and sight privileges following two convictions in a period of two years for the following: section 6-1-16, "Dogs Running at Large Prohibited," section 6-1-18, "Removal of Animal Excrement Required," subsection 6-13- 2(b), "Voice and Sight Control Evidence Tag Required," and violations of the city manager's rules not involving wildlife protection authorized by section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981. Minutes from the meetings can be found at:

<https://documents.bouldercolorado.gov/weblink8/Browse.aspx?startid=41596&row=1&dbid=0>

PUBLIC FEEDBACK

OSMP has received over 300 responses from the public about the Tag Program and has held two open houses (May 24, and 30, 2012), as well as five public hearings for community members to provide input on the evaluation and program enhancements. A compendium of these comments can be found at: <https://www-static.bouldercolorado.gov/docs/compendium-v-s-tag-program-evaluation-comments-1-201306110943.pdf>.

Attachment B contains a "timeline" of significant OSBT, council and community considerations of this matter.

BACKGROUND

The Tag Program was included in the VMP in 2005 as a trial program. The purpose of the Tag Program was to increase dog guardians' awareness of the requirements of voice and sight control and proper dog management. A monitoring component was included to inform program assessments and adaptive management. Staff evaluation of the Tag Program was based on monitoring results and subsequent discussion with OSBT and council, as well as feedback from the public and stakeholder groups. That evaluation and feedback led to the development of several program enhancement options that will require changes to relevant sections of the B.R.C.

In addition to coordinating with Parks and Recreation, Finance, Municipal Courts and the Police departments, OSMP and the OSBT have undergone an extensive process to review potential program enhancements and provide opportunities for community input. The process has included two community open houses, four OSBT study sessions, a study session with City Council and three public hearings where the OSBT took action on recommendations to City Council.

ANALYSIS

The enhancements to the program proposed by staff and resulting from City Council feedback at the public hearing on May 21, 2013 include the following Tag Program changes:

1. *Information Session:* Require Tag Program participants to attend an information session ensuring greater awareness of the program requirements, goals and objectives.
2. *Proof of Rabies Vaccination:* Require current rabies vaccination for a dog's participation in the Tag Program and City of Boulder residents to provide a valid Boulder dog license as proof of vaccination and compliance with the city's license requirement.

3. Education and Outreach Strategies: Implement education and outreach strategies to encourage compliance with the program requirements and share information about how guardians can successfully manage dogs under voice and sight control.
4. Modifications to Fines and Violations Causing Privilege Suspension:
 - a. Increase fines for failure to have a voice and sight tag on an off-leash dog and for voice and sight and off-leash dog violations.
 - b. Specify dog-related violations that contribute to the loss of Tag Program privileges including violations that cause suspension of privileges after one or two convictions.
 - c. Clarify the process for reinstatement after privileges have been suspended.
5. Participant Registration and Renewal Fees: Revise program fees including different fees for those residing outside of the City of Boulder and Boulder County and the addition of an annual renewal fee to cover program costs.

Numbers 1, 2, 4, and 5 above require council action in the form of ordinance amendments. On May 21, 2013 council requested that staff provide those specific B.R.C. changes in a form from which council could make a final decision. Therefore, staff requests council approval of the following B.R.C. amendments summarized below and provided in detail in Attachment A.

B.R.C. Section	Recommendation
4-20-60 Voice and Sight Control Evidence Tag Fees.	<ul style="list-style-type: none"> • Establishes that program application fees will be set by city manager rule pursuant to section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981.
6-13-2 Voice and Sight Control Evidence Tag Required.	<ul style="list-style-type: none"> • Increases maximum penalties to \$100 (1st conviction), \$200 (2nd conviction), and minimum \$300 (3rd conviction) within a two-year timeframe. • Allows for affirmative defense for first violation when lawful participant in the Tag Program inadvertently fails to display tag on their dog(s).
6-13-4 Voice and Sight Control Evidence Tag Requirements.	<ul style="list-style-type: none"> • Requires valid City of Boulder dog license for city residents, or proof of vaccinations for non-residents. • Requires attendance at an informational session for all guardians prior to applying for participation in the Tag Program and within the past five years for renewing participation.
6-13-4.5 Terms of Voice and Sight Control Evidence Tag.	<ul style="list-style-type: none"> • Establishes an annual renewal requirement and a Dec. 31, 2014 enrollment deadline for current tag program. Participants to comply with enhanced program requirements.
6-13-5 Suspension and Reinstatement of Voice and Sight Control	<ul style="list-style-type: none"> • Establishes immediate suspension of privileges after one conviction of any of the following violations: <ul style="list-style-type: none"> ○ Aggressive Animal Prohibited

<p>Evidence Tags Upon Violations.</p>	<ul style="list-style-type: none"> ○ Failure to Protect Wildlife (or Livestock) ● Establishes suspension after 2nd conviction within two years for any of the following violations: <ul style="list-style-type: none"> ○ Section 8-3- 3 “City Manager May Issue Rules,” pertaining to dog management and specifically enacted for protection of wildlife and a dog off leash in a leash-required or dog-prohibited area. ○ Section 6-1-16, "Dogs Running at Large Prohibited," pertaining to dogs running at large on OSMP or on other city lands where voice and sight control is allowed. Excludes violations for not having possession of a leash. ● Revises reinstatement by removing requirement to repay application fee, continue requiring the reinstatement fee and successful completion of an evaluation test and adds the requirement to repeat attendance of the information session. ● Establishes that a guardian who has two suspensions in three years or who has three suspensions will be ineligible for reinstatement for a period of time to be determined through an administrative hearing. ● Establishes a minimum one-year suspension for continued violations of section 6-1-16, “Dogs Running at Large Prohibited,” when privileges have already been suspended.
<p>6-1-16 Dogs Running at Large Prohibited.</p>	<ul style="list-style-type: none"> ● Establishes, within a two-year time frame, maximum penalties of \$100 (1st conviction), \$200 (2nd conviction), and minimum of \$300 (3rd conviction). ● Establishes minimum \$300 penalty for having dog off leash while under suspension. ● Includes violations of the city manager’s rules that affect program privilege suspension so that staff can feasibly assess prior violations.

NEXT STEPS

Staff expects to return to council for a second reading of the ordinance in April (tentatively scheduled for April 1). The ordinance includes a date of Jan. 1, 2015 for the new program requirements to go into effect. This date will allow for the completion of pre-change compliance monitoring and to ensure that components for implementing program enhancements are in place prior to implementation.

ATTACHMENTS

- A. Proposed Ordinance
- B. Voice and Sight Tag Program Enhancement Timeline

This Page Intentionally Left Blank

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 4-20-60, "VOICE AND SIGHT CONTROL EVIDENCE TAG FEES," 6-1-16, "DOGS RUNNING AT LARGE PROHIBITED," 6-13-2, "VOICE AND SIGHT CONTROL EVIDENCE TAG REQUIRED," 6-13-4, VOICE AND SIGHT CONTROL EVIDENCE TAG REQUIREMENTS," AND 6-13-5, "SUSPENSION AND REINSTATEMENT OF VOICE AND SIGHT CONTROL EVIDENCE TAGS UPON VIOLATIONS," AND ADDING A NEW SECTION 6-13-4.5, "TERMS OF VOICE AND SIGHT CONTROL EVIDENCE TAG," B.R.C. 1981, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-60, B.R.C. 1981, is amended to read:

4-20-60. Voice and Sight Control Evidence Tag Fees.

~~(a)~~An applicant for a Voice and Sight Control Evidence Tag shall pay the fee established by the city manager rule pursuant to section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981. ~~who is a resident of the City of Boulder shall pay an application fee of \$15.00, and a nonresident shall pay an application fee of \$18.75. Additional Voice and Sight Control Evidence Tags may be provided to persons who reside in the same household as the applicant upon payment of a duplicate tag fee of \$5.00.~~

~~(db)~~ The supplemental fee pursuant to Section 6-13-5, "Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations," B.R.C. 1981, shall be \$50.00, ~~regardless of residency.~~

Section 2. Section 6-13-2, B.R.C. 1981, is amended to read:

6-13-2 Voice and Sight Control Evidence Tag Required.

(a) In addition to and in conjunction with the requirements of Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, any dog guardian who desires to accompany a dog without a

leash held by a person shall apply for and obtain a Voice and Sight Control Evidence Tag pursuant to the procedures and requirements established by this chapter.

- (b) Any dog guardian who accompanies a dog without a leash held by a person shall cause such dog to wear and visibly display a current, lawfully obtained and displayed Voice and Sight Control Evidence Tag at all times when the dog is present on ~~open space and mountain parks~~ City of Boulder lands where voice and sight control is permitted under Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981.
- (c) The city manager may promulgate guidelines, forms, or informational materials that are necessary or desirable to assist with implementation of this chapter or its legislative intent.
- (d) The maximum penalty for a first conviction is a fine of ~~\$50.00~~100.00. For a second conviction within two years, based upon the date of the first violation, the maximum penalty shall be a fine of ~~\$100.00~~200.00. For a third and each subsequent conviction, within two years based upon the date of the first violation, the ~~maximum~~-minimum penalty shall be a fine of not less than ~~\$200.00~~300.00.
- (e) It is an affirmative defense to a charge of violating this Section that the dog and guardian were currently registered participants in the Voice and Sight Control program and this charge was the guardian's first violation for not displaying a Voice and Sight Control Evidence Tag.

Section 3. Section 6-13-4, B.R.C. 1981, is amended to read:

6-13-4 Voice and Sight Control Evidence Tag Requirements.

- (a) Before a Voice and Sight Control Evidence Tag shall be issued, the applicant shall ~~certify, under penalty of perjury, the following facts:~~
 - (1) Provide a valid City of Boulder dog license, or if the applicant is not a City of Boulder resident, provide proof of current rabies vaccination as provided in Section 6-1-3, "Rabies Vaccinations," B.R.C. 1981, for each dog being registered;
 - (2) ~~The applicant has watched (or listened to if visually impaired) a video~~Provide proof of attendance, within the preceding five years, of a presentation on voice and sight control of a dog, prepared by the city and provided to the applicant by the city or its designated agents; and
 - (3) ~~Agree~~The applicant agrees to control any dog accompanying the applicant without a leash held by a person on certain ~~open space and mountain parks~~ City of Boulder ~~lands where voice and sight control is permitted under Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, in the manner described in the video presentation on voice and sight control of a dog and consistent with the requirements of the Boulder Revised Code.~~

Section 4. Section 6-13-4, B.R.C. 1981, is amended by the addition of a **new section 6-13-4.5** to read:

6-13-4.5 Terms of Voice and Sight Control Evidence Tag.

The Voice and Sight Control Evidence tag issued under Section 6-13-4 shall be valid for a term of one calendar year and expire on December 31. Renewal of Voice and Sight Control Evidence Tags is subject to the fees established under Section 4-20-60, "Voice and Sight Control Evidence Tag Fees" B.R.C. 1981. The applicant shall apply for renewal of the Voice and Sight Control Evidence Tag no later than February 1 of the year immediately succeeding the year in which the license expired. Voice and Sight Control Evidence Tags issued prior to December 31, 2014 shall expire on December 31, 2014.

Section 5. Section 6-13-5, B.R.C. 1981, is amended to read:

6-13-5 ~~Revocation-Suspension~~ and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations.

- (a) Upon a ~~third~~ conviction for any violation of ~~section 6-1-16, "Dogs Running at Large Prohibited~~ Section 6-1-20, "Aggressive Animal Prohibited," B.R.C. 1981, or Section 8-3-5, "Failure to Protect Wildlife (or Livestock)," B.R.C. 1981, ~~occurring on land owned by the city and constituting park land or open space land within two years of the date of the first violation,~~ the right of the dog and guardian to display any Voice and Sight Control Evidence Tag shall be suspended automatically, ~~but may be reinstated through the following procedures:~~
- (b) Upon a second conviction within two years of the date of the first conviction for any of the following violations, the right to display any Voice and Sight Control Evidence Tag by the dog or guardian shall be suspended automatically:
- (1) Section 8-3-3, "City Manager's Rules," B.R.C. 1981, where a rule specifically enacted for the protection of wildlife prohibits dogs and the dog is off leash;
 - (2) Section 8-3-3, "City Manager's Rules," B.R.C. 1981, where a rule specifically enacted for the protection of wildlife designates a leash-required area and the dog is off leash; or
 - (3) Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, occurring on open space land or on other city properties where Voice and Sight Control privileges are authorized by that section. A violation of Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, based solely on the accompanying guardian or keeper not having a leash in such person's possession, shall not be grounds for suspension of Voice and Sight Control privileges.

(c) Any guardian who is convicted of violating Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, during a period of time when privileges have been suspended shall be ineligible for reinstatement for a minimum of one year.

(d) The right to display a Voice and Sight Control Evidence Tag may be reinstated through the following procedures:

- (1) Payment of a supplemental fee established ~~in Subsection 4-20-60(b), by City Manager Rule pursuant to Section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981, in addition to the fees established by section 6-13-3, "Voice and Sight Control Evidence Tag Application," B.R.C. 1981, and prescribed by subsection 4-20-60(a), B.R.C. 1981, for an initial application (and in addition to any fines imposed under section 6-1-16, "Dogs Running at Large Prohibited," or subsection 6-13-2(d), B.R.C. 1981);~~
- (2) Providing written proof of attendance at a City of Boulder sanctioned ~~and monitored showing of the video~~ presentation on voice and sight control of a dog;
- (3) Providing written proof of attendance at and successful completion of a voice and sight control ~~evaluation certification course~~ approved by the City of Boulder; and
- (4) Certification by the applicant for reinstatement that he or she agrees to control any dog accompanying the guardian without a leash held by a person on certain City of Boulder lands where voice and sight control is permitted under Section 6-1-16, "Dogs Running at Large Prohibited," B.R.C. 1981, in the manner described in the ~~video~~ presentation on voice and sight control of a dog.

(de) Any guardian who has his or her Voice and Sight Tag suspended twice in three years or who has three suspensions shall be ineligible for reinstatement for a period of time to be determined at a hearing held under the provisions of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

Section 6. Section 6-1-16, B.R.C. 1981, is amended to read:

6-1-16 Dogs Running at Large Prohibited.

- (a) No person owning or keeping any dog shall fail to keep the dog on the premises of the guardian or keeper unless the dog is:
 - (1) On a leash held by a person; or
 - (2) Within a vehicle or similarly physically confined and without access to passers-by.
- (b) No person owning or keeping any dog shall fail to keep the dog on a leash held by a person within any area where a rule enacted by the city manager for the protection of wildlife prohibits dogs off leash.
- (c) No person owning or keeping any dog shall fail to keep that dog from entering any area where a rule enacted by the city manager for the protection of wildlife or natural resources prohibits dogs.

(~~b~~d) The maximum penalty for a first conviction of this section is a fine of \$100. For a ~~or~~ second conviction within two years, based on date of violation, the maximum penalty shall be ~~is~~ a fine of \$~~2500.00~~. For a third and each subsequent conviction within two years based upon the date of the first violation, the minimum penalty shall be a fine of not less than \$300.00. The minimum fine for a conviction under this ordinance for a guardian who has their Voice and Sight Tag suspended under Section 6-13-5, "Suspension and Reinstatement of Voice and Sight Control Evidence Tags Upon Violations, B.R.C. 1981 shall be \$300.00. ~~the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply. The maximum penalty for a first conviction occurring on land owned by the city and constituting park land or open space land is a fine of \$50.00. For a second conviction within two years, based upon the date of violation, the maximum penalty shall be a fine of \$100.00. For a third and each subsequent conviction, the maximum penalty shall be a fine of not less than \$200.00.~~

(~~e~~e) It is an affirmative defense to a charge of violation of this section that the dog was:

...

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

Section 8. This ordinance shall be effective January 1, 2015. This effective date will allow for the completion of baseline monitoring of pre-change compliance and ensure that components for implementing the ordinance are in place prior to implementation.

Section 9. 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 4th day of March, 2014.

Attest: _____
Mayor

City Clerk

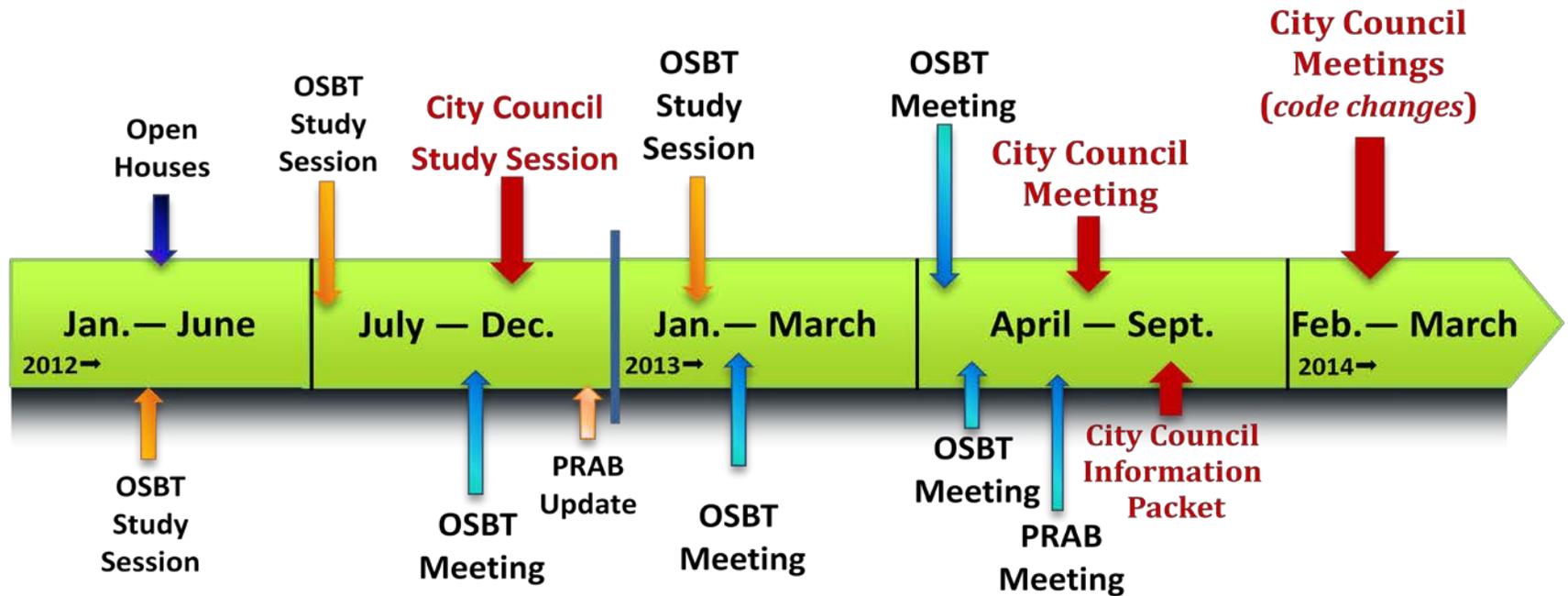
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

Attest: _____
Mayor

City Clerk

Voice and Sight Tag Program Timeline

2012 — 2014



This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Consideration of a motion to approve the City Manager's signature, Jane Brautigam, on an Intergovernmental Agreement to create a multi-agency Governmental Authority on the Colorado Information Sharing Consortium (CISC).

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mark R. Beckner, Chief of Police

EXECUTIVE SUMMARY

The purpose of this Intergovernmental Agreement is to establish a formal governmental authority to operate and ensure the long-term sustainability of Colorado's statewide law enforcement data sharing system (Coplink). This proposal is simultaneously being brought forward to other elected bodies by the 90-plus sheriffs and police chiefs across Colorado whose agencies use this crucial data system to fight crime. The rationale of creating a governmental authority under Colorado Revised Statutes is to allow the CISC to legally enter into contracts to purchase updated products for a statewide entity, to pursue grant opportunities to fund new and improved technologies and systems and to provide governmental immunity.

Prior to the implementation of Coplink, in order for an agency to find out what was held in another department's records system required a direct phone call which could be time-consuming and difficult. Today, an investigating officer can access multiple agencies data directly and make various queries in many different and creative ways to generate quick leads and solve crime. The success of Coplink in matching suspects to crimes is renown throughout Colorado law enforcement.

The role of the CISC is to promote participation among all the major police and sheriffs' departments to improve information sharing within the state, to review additional software products for possible purchase and implementation and to promote relationships with other Coplink users throughout the country to improve information sharing across

state lines. Additionally, the CISC is tasked with the day-to-day operational requirement of an organization with over 90 agencies participating.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to authorize the city manager to approve an agreement to create a multi-agency Governmental Authority on the Colorado Information Sharing Consortium (CISC).

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This agreement may minimize economic, environmental and social impacts by providing a more efficient means to solve crime.

OTHER IMPACTS

- Fiscal – 2014 Maintenance and Internet fees = \$13,147.98
- Staff time is part of the normal work plan.

BOARD AND COMMISSION FEEDBACK

None

PUBLIC FEEDBACK

None

BACKGROUND

The Colorado Information Sharing Consortium (CISC) was created in 2007 to further the sharing of information between law enforcement agencies within the state of Colorado through the use of “Coplink.” Coplink is a software product that connects disparate police records management and other data systems, despite being on different computer operating systems and allows detectives and police officers to conduct ad hoc inquiries to search for evidence, explore tips, generate leads and solve crime. Through funding from counties, cities, E-911 boards and federal grant sources, the CISC has built one of the most robust and comprehensive statewide data sharing systems used hundreds of times a day by 90-plus agencies.

The original CISC was formed via a Memorandum of Understanding (MOU) between the participating agencies. Because it is based as an MOU, the current CISC has no legal status or authority.

ANALYSIS

Staff is recommending council approve the city manager’s signature, Jane Brautigam, on the Intergovernmental Agreement to create a multi-agency governmental authority on the Colorado Information Sharing Consortium (CISC).

MATRIX OF OPTIONS

No Party shall be required by this Agreement to pay any membership, annual, or other fees or charges imposed by the Board. The sole remedy for the failure of a Party to pay any fees or charges shall be, at the Board's discretion, (a) exclusion from the CISC, (b) denial of information sharing with other Parties through the CISC, (c) loss of any or all of the privileges and rights of a Party, (d) termination of the non-paying Party's participation in this Agreement, or (e) any combination of the foregoing as determined by the Board.

Agencies can terminate their participation by notifying the board in writing

ATTACHMENT

A. Intergovernmental Agreement of the Colorado Information Sharing Consortium (CISC)

This Page Intentionally Left Blank

**INTERGOVERNMENTAL AGREEMENT
OF THE
COLORADO INFORMATION SHARING CONSORTIUM**

TABLE OF CONTENTS

RECITALS

DEFINITIONS

01. Definitions..... 2

CREATION OF THE COLORADO INFORMATION SHARING CONSORTIUM

02. Creation of the CISC..... 2

03. Principal Place of Business..... 2

04. CISC Purpose..... 2

DATA SHARING AGREEMENT

05. Share Data..... 3

06. Use of Data 3

07. Personnel Authorized to Access Data..... 3

08. Data Security..... 3

09. Data Custody and Control..... 3

10. Data Accuracy..... 3

11. Intelligence Information..... 3

POWERS OF THE COLORADO INFORMATION SHARING CONSORTIUM

12. Powers of the CISC..... 4

13. Restrictions on Powers of the CISC..... 4

BOARD OF DIRECTORS

14. Board of Directors..... 5

15. Number of Directors, Term, and Term Limits..... 5

16. Eligibility, Appointment, Removal, and Vacancies..... 5

17. Compensation 5

18. Action of the Board at a Meeting..... 5

19. Committees 6

20. Alternates and Absentee Voting 6

21. Representative’s Right to Attend Meetings 6

MANAGEMENT OF THE CISC

22. Consortium Manager 6

23. Additional Assistance from Assigned Employees..... 7

FINANCIAL

24. Deposits and Expenditures..... 8

25. Fiscal Agent 8

26. Fiscal Year 8

27. No Multiple Year Fiscal Obligations..... 8

RIGHTS OF PARTIES

28. No Duty to Pay Membership, Annual, or Other Fees..... 8

29. Voluntary Assumption of Debts 8

30. Financial Responsibility..... 8

31.	<u>Examination of Records</u>	8
32.	<u>New Parties</u>	9
33.	<u>Right to Terminate Participation</u>	9

GENERAL PROVISIONS

34.	<u>Amendments</u>	9
35.	<u>Construction and Interpretation</u>	9
36.	<u>Duplicate Counterparts</u>	9
37.	<u>Entire Agreement</u>	9
38.	<u>Governing Law</u>	9
39.	<u>Indemnification</u>	9
40.	<u>Mediation</u>	9
41.	<u>No Third-Party Beneficiaries</u>	10
42.	<u>Severability</u>	10
43.	<u>Term</u>	10
44.	<u>Termination</u>	10

**INTERGOVERNMENTAL AGREEMENT
OF THE
COLORADO INFORMATION SHARING CONSORTIUM**

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is effective as of the [_____] day of [_____], 2014 (the “Effective Date,” as further defined below) by and between the Adams County Sheriff’s Office, the Arapahoe County Sheriff’s Office, the City of Aurora, the Colorado Department of Public Safety of the State of Colorado, the City of Colorado Springs, the City of Commerce City, the City and County of Denver, the Douglas County Sheriff’s Office, the City of Grand Junction, the Board of County Commissioners of the County of Jefferson, and the Board of County Commissioners of the County of Mesa, all of which (except for the State of Colorado) are political subdivisions of the State of Colorado (individually a “Party” and collectively the “Parties”).

RECITALS

WHEREAS, the Parties are each authorized to lawfully provide, establish, maintain, and operate law enforcement services;

WHEREAS, Part 2 of Article 1, Title 29 of the Colorado Revised Statutes (the “C.R.S.”) encourages and authorizes intergovernmental agreements for the joint and cooperative provision of public services;

WHEREAS, C.R.S. § 29-1-203 authorizes governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each and to establish a separate legal entity to do so;

WHEREAS, the Parties, along with other Colorado law enforcement entities, have previously entered into a nonbinding and voluntary memorandum of understanding (the “MOU”) to jointly develop the statewide Colorado Information Sharing Consortium (the “CISC”) with the purpose and intent of sharing law enforcement information, primarily through a software product known as COPLINK;

WHEREAS, the Parties, along with the other signatories of the MOU, have determined that it is in the public’s best interest to formalize the CISC into a legal entity in order to permit the CISC to enter into contracts and utilize economies of scale for the purchase of future services, products, and maintenance and to enter into information sharing agreements with jurisdictions outside the State of Colorado;

WHEREAS, the Parties have agreed to organize and operate a separate legal entity pursuant to C.R.S. § 29-1-203(4), which shall be known as the Colorado Information Sharing Consortium; and

WHEREAS, the Parties intend for the other signatories of the MOU to join as Parties to this Agreement and to continue participating in the CISC.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

DEFINITIONS

1. Definitions. In addition to the above defined terms, the following terms shall have the meaning ascribed to them.
 - a. “Assigned Employee” shall mean a Party’s employee assigned to work full- or part-time on behalf of the CISC.
 - b. “Board” shall mean the Board of Directors of the CISC.
 - c. “Consortium Manager” shall mean a person who is assigned to manage the day-to-day operations of the CISC.
 - d. “Data” shall mean facts, detailed information, police report narratives, supplemental report narratives, other text-related information as determined and released by each Party’s internal information sharing policy, and other materials provided by a Party to the CISC. “Data” shall not mean Intelligence Information (defined below).
 - e. “Director” shall mean a director on the Board of the CISC.
 - f. “Effective Date” shall be the date written in the preamble, which shall be the date on which the sixth Party signed this Agreement.
 - g. “Intelligence Information” shall mean evaluated data relevant to the identification of criminal activity engaged in by an individual or organization reasonably suspected of involvement in criminal activity that meets criminal intelligence system submission criteria as set forth in Part 23 of Title 28 of the Code of Federal Regulations. Intelligence Information is a criminal justice record pursuant to C.R.S. § 24-72-302(4).
 - h. “Representative” shall mean the chief law enforcement officer of each Party or the person designated by the chief law enforcement officer of each Party.

CREATION OF THE COLORADO INFORMATION SHARING CONSORTIUM

2. Creation of the CISC. Pursuant to C.R.S. § 29-1-203(4), the Parties hereby create a separate legal entity known as the Colorado Information Sharing Consortium, or CISC, which shall have the powers, authorities, duties, privileges, immunities, rights, and responsibilities as set forth herein.
3. Principal Place of Business. The principal place of business of the CISC shall be 15001 East Alameda Parkway, Aurora, CO 80012, unless and until otherwise established from time to time by the Board.
4. CISC Purpose. The purpose of the CISC is to facilitate the sharing of Data and Intelligence Information between the Parties and non-Party governmental entities and agencies authorized by the Board.

DATA SHARING AGREEMENT

5. Share Data. Each Party shall share Data with the Parties and with non-Party governmental entities or agencies authorized by the Board.
6. Use of Data. Shared Data shall only be used for the welfare and protection of the general public.
7. Personnel Authorized to Access Data. Only the Parties' employees and employees of non-Party governmental entities or agencies authorized by the Board shall be allowed to access the Data. All persons with access to the Data must first pass an adequate background screen. The Board shall determine what constitutes an adequate background screen for the purpose of access to Data.
8. Data Security. The Parties and any non-Party governmental entities or agencies authorized by the Board shall maintain, enforce, and follow security requirements for the Data as specified by the Board, including requirements on network configuration and network access.
9. Data Custody and Control. Each Party shall retain custody and control and shall remain the official custodian of any Data shared by that Party. The CISC shall not have custody and control and shall not be the official custodian of any Data. The CISC shall not release any Data pursuant to a request under Part 2 or Part 3 of Article 72, Title 24, C.R.S. or pursuant to a subpoena unless specifically ordered to do so by a court of competent jurisdiction.
10. Data Accuracy. The Parties understand that the Data shared by the Parties may not be accurate. The Board may set standards and requirements for Parties to correct inaccurate Data.
11. Intelligence Information.
 - a. No Obligation to Share. No Party shall be required to share Intelligence Information and may deny a request to share Intelligence Information for any reason.
 - b. Standard for Sharing. When Intelligence Information is disseminated through the CISC, it shall be disseminated consistent with Part 23 of Title 28 of the Code of Federal Regulations.
 - c. Policies and Procedures. The Board may set policies and procedures regarding Intelligence Information use, receipt, maintenance, security, and dissemination not inconsistent with Part 23 of Title 28 of the Code of Federal Regulations.
 - d. Intelligence Information Custody and Control. All Intelligence Information shall remain the sole proprietary information of the Party contributing that Intelligence Information. Each Party shall retain custody and control and shall remain the official custodian of any Intelligence Information shared by that Party. The CISC shall not have custody and control and shall not be the official custodian of any Intelligence Information. The CISC shall not release any Intelligence Information pursuant to a request under Part 2 or Part 3 of Article 72, Title 24, C.R.S. or pursuant to a subpoena unless specifically ordered to do so by a court of competent jurisdiction.

POWERS OF THE COLORADO INFORMATION SHARING CONSORTIUM

12. Powers of the CISC. In order to enable the CISC to carry out its functions and provide the services described herein, the CISC shall have the power:

- a.** Acquire Property. To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any legal or equitable interest in real or personal property;
- b.** Add Parties. To approve other governmental entities authorized to lawfully provide, establish, maintain, or operate law enforcement services to join the CISC on the conditions determined by the Board;
- c.** Adopt Rules and Regulations. To adopt rules and regulations regarding the exercise of its powers and the carrying out of its purposes;
- d.** Apply for Grants. To apply for and receive grants in its own name;
- e.** Conduct Business. To conduct its business and affairs for the benefit of the Parties and their residents;
- f.** Contract. To enter into, make, and perform contracts of every kind;
- g.** Engage Agents. To engage, employ, or appoint agents, including but not limited to accountants, architects, attorneys, consultants, employees, engineers, and managers and to pay the direct and indirect reasonable costs of such agents for services rendered to the CISC;
- h.** Fees and Charges. To assess, fix, maintain, and revise fees and charges for functions, services, or facilities provided by the CISC or to cover the cost of operating and managing the CISC; however, pursuant to paragraph 28, neither the CISC nor any Party shall have the power to compel a Party to pay any fees, rates, or charges;
- i.** Incur Debt. To incur debts and obligations, deliver bonds or notes for monies borrowed or other obligations of the CISC, and to secure the payment of such bonds or obligations, except that no party shall be liable for any debts or obligations of the CISC;
- j.** Legal Process. To litigate, arbitrate, or mediate in its own name;
- k.** Receive Contributions. To receive contributions of gifts, grants, or services; and
- l.** Terminate a Party's Participation in this Agreement. To terminate or limit a Party's participation in this Agreement.

13. Restrictions on Powers of the CISC. The CISC shall not have the power:

- a.** Eminent Domain. To take property by eminent domain;
- b.** Obligate Payment. To obligate a Party to pay any money to the CISC or to another Party, except that the CISC may enter into contracts with Parties for the payment of money; or

- c. Tax. To impose taxes.

BOARD OF DIRECTORS

14. Board of Directors. The governing body of the CISC shall be the Board, in which all administrative and legislative power of the CISC is vested. The purpose of the Board is to set policy for the CISC and decide important issues of the CISC.

15. Number of Directors, Term, and Term Limits. There shall be eleven (11) Directors on the Board. Six (6) Directors shall have terms that expire on March 31 of every even numbered year. Five (5) Directors shall have terms that expire on March 31 of every odd numbered year. There shall be no limit to the number of terms an individual may serve as a Director.

16. Eligibility, Appointment, Removal, and Vacancies. Each Director must be an employee of any Party. If a Director is no longer employed by a Party, the Director shall no longer be a Director. A Director may resign at any time and for any reason by giving two weeks prior written notice to the Board. A vacant Director position shall be filled by majority vote of the Representatives as soon as practicable.

- a. Initial Appointment. The Representatives of each of the first six (6) Parties that agree to and sign this Agreement shall each appoint one Director, whose terms shall expire on March 31, 2016. The Representatives of each of the next five (5) Parties that agree to and sign this Agreement shall each appoint one Director, whose terms shall expire on March 31, 2015.

- b. Subsequent Appointment. After the initial Directors' terms expire, all subsequent Directors shall be appointed by a majority vote of the Representatives.

17. Compensation. A Director shall not receive compensation for the Director's service to the CISC. The Board may provide for reimbursement to a Director, Representative, or other person for actual and reasonable expenses incurred while performing duties for the CISC. At no time shall a Director or a Representative be considered an employee of the CISC.

18. Action by the Board at a Meeting. Meetings of the Board may be held at any place that a majority of the Directors on the Board may determine. Directors may attend the meeting in person or by conference telephone or similar communications equipment, and such participation at a meeting shall constitute attendance. The following rules shall apply.

- a. Quorum. The attendance of at least a majority of the Directors of the Board shall constitute a quorum for the transaction of business.

- b. Voting. The vote of a majority of the Directors on the Board that are present at any meeting at which there is a quorum shall be an act of the Board, unless a supermajority is specified herein or by rules adopted by the Board.

- c. Minutes. Minutes of each meeting and a record of each decision shall be kept by the Board.

19. Committees. The Board may designate one or more committees that shall serve at the pleasure of the Board. Any committees shall have the powers and responsibilities granted by the Board to that committee.

20. Alternates and Absentee Voting. A Director may appoint an alternate who will have the same voting rights as the Director when participating in Board meetings in the absence of the Director. Alternates must be employed by a Party. Absentee voting, where a Director votes without attending a meeting (whether in person or by other communications equipment) or without appointing an alternate, is not allowed.

21. Representative's Right to Attend Meetings. Each Representative, or an alternate, shall have the right to attend, whether in person or by conference telephone or similar communications equipment, any meeting of the Board and to voice opinions on any matter concerning the CISC.

MANAGEMENT OF THE CISC

22. Consortium Manager.

a. Appointment. Upon request from the Board, the Representatives shall jointly nominate one or more persons to be the Consortium Manager and submit those persons' names to the Board. Based on those nominations, the Board shall select one or more persons to be the Consortium Manager. The appointment of a Consortium Manager shall be contingent upon the approval of the Representative of the Party employing that Consortium Manager.

b. Consortium Manager. The Consortium Manager shall manage the day-to-day operations of the CISC and undertake and execute the Board's instructions and directions. The Consortium Manager shall have the administrative authority necessary to perform the tasks and responsibilities assigned pursuant to this Agreement. The Board may grant to the Consortium Manager any additional administrative authority as the Board deems necessary. The Consortium Manager shall attend all meetings of the Board and follow the Board's instructions and directions.

c. Eligibility and Employment. The person(s) serving as the Consortium Manager must be an employee of a Party at all times during that person's tenure as the Consortium Manager. The Consortium Manager shall not be considered an employee of the CISC. The Board may hire an employee of the CISC under terms written and negotiated by the Board to perform the duties of the Consortium Manager under the supervision and direction of the Board.

d. Term. The Consortium Manager's term is expected to last for two (2) years, but the actual length (whether longer or shorter) shall be determined by agreement between the Board and the Representative of the Party employing the Consortium Manager. Whether the Consortium Manager works full- or part-time on CISC matters shall be determined by agreement between the Board and the Representative of the Party employing the Consortium Manager. The Board may remove the Consortium Manager at any time and for any reason. The Representative of the Party employing the Consortium Manager may recall the Consortium Manager at any time and for any reason by giving

sixty (60) days prior written notice to the Board, unless the Representative and the Board agree to other notification requirements.

e. Compensation. The Party employing the Consortium Manager shall bear the full cost of the Consortium Manager. The CISC shall not be obligated to reimburse the Party employing the Consortium Manager for the cost of the Consortium Manager. However, the Board may assess an annual fee on the Parties to reimburse the Party employing the Consortium Manager (or the CISC, if the CISC hires an employee to perform the duties of the Consortium Manager) for all or part of the costs associated with employing the Consortium Manager. As is stated in paragraph 28 of this Agreement, and consistent with that paragraph, no Party is obligated to pay any annual fees but may be denied access to the CISC or face other non-monetary penalties.

23. Additional Assistance from Assigned Employees.

a. Appointment. The Board may seek an Assigned Employee from the Parties. Upon request from the Board, any Representative may volunteer one or more Assigned Employees to work full- or part-time on behalf of the CISC. The Board may accept or decline the person volunteered to become an Assigned Employee.

b. Assigned Employees. Each Assigned Employee shall work under the supervision and direction of the Consortium Manager. Each Assigned Employee shall have the administrative authority necessary to undertake and execute the tasks and responsibilities assigned by the Consortium Manager and the Board. The Board may grant to any Assigned Employee any additional administrative authority as the Board deems necessary. An Assigned Employee shall attend meetings of the Board if and when the Board or the Consortium Manager requests that Assigned Employee's presence.

c. Eligibility and Employment. Any person serving as an Assigned Employee must be an employee of a Party at all times during that person's tenure as an Assigned Employee. The Assigned Employee shall not be considered an employee of the CISC. The Board may hire one or more full- or part-time employees of the CISC under terms written and negotiated by the Board to work under the supervision and direction of the Consortium Manager and the Board.

d. Term. The Assigned Employee's term shall be determined by agreement between the Board and the Representative of the Party employing the Assigned Employee. Whether the Assigned Employee works full- or part-time on CISC matters shall be determined by agreement between the Board and the Representative of the Party employing the Assigned Employee. The Board may remove the Assigned Employee at any time and for any reason. The Representative of the Party employing the Assigned Employee may recall the Assigned Employee at any time and for any reason by giving thirty (30) days prior written notice to the Board, unless the Representative and the Board agree to other notification requirements.

e. Compensation. The Party employing an Assigned Employee shall bear the full cost of that Assigned Employee. The CISC shall not be obligated to reimburse the Party employing the Assigned Employee for the cost of the Assigned Employee. However, the

Board may assess an annual fee on the Parties to reimburse the Party employing the Assigned Employee (or the CISC, if the CISC employs an employee to perform the duties of the Assigned Employee) for all or part of the costs associated with employing the Assigned Employee. As is stated in paragraph 28 of this Agreement, and consistent with that paragraph, no Party is obligated to pay any annual fees but may be denied access to the CISC or face other non-monetary penalties.

FINANCIAL

24. Deposits and Expenditures. All funds of the CISC shall be deposited to the credit of the CISC in an interest bearing account. No payments or withdrawals of such funds in an amount over five hundred dollars (\$500) shall be allowed without prior approval of the Board and the written authorization of two (2) Directors. Payments or withdrawals of such funds in amounts up to and including five hundred dollars (\$500) may be authorized by the Consortium Manager.

25. Fiscal Agent. The Board may request that a Party or other entity be the fiscal agent for the CISC.

26. Fiscal Year. The fiscal year of the CISC shall be January 1 through December 31 of each year.

27. No Multiple Year Fiscal Obligations. The Parties do not intend to create a multiple year fiscal obligation for any Party by virtue of this Agreement. The Parties acknowledge that any future monetary obligations of any Party are subject to sufficient appropriations by each Party and such appropriations are not guaranteed to be made.

RIGHTS OF PARTIES

28. No Duty to Pay Membership, Annual, or Other Fees. No Party shall be required by this Agreement to pay any membership, annual, or other fees or charges imposed by the Board. The sole remedy for the failure of a Party to pay any fees or charges shall be, at the Board's discretion, (a) exclusion from the CISC, (b) denial of Data and Intelligence Information sharing with other Parties through the CISC, (c) loss of any or all of the privileges and rights of a Party, (d) termination of the non-paying Party's participation in this Agreement, or (e) any combination of the foregoing as determined by the Board.

29. Voluntary Assumption of Debts. A Party may voluntarily elect to be liable, in whole or in part, for any or all of the debts, liabilities, or obligations of the CISC at the sole discretion of that Party.

30. Financial Responsibility. The CISC shall not be required to pay any Party's costs associated with acquiring or maintaining any hardware or licensed software necessary for that Party to participate in the CISC. The Board may agree to pay for expenses incurred by a Party that, in furtherance of the CISC's purposes, (a) maintains goods for use by other Parties or (b) provides services to other Parties.

31. Examination of Records. Any authorized agent of a Party, including an authorized auditor or his or her representative, has the right to access and the right to examine any pertinent fiscal

books, documents, papers, and records of the CISC involving fiscal transactions for three (3) years after the date of the fiscal transaction.

32. New Parties. All Parties to this Agreement must be governmental entities or governmental agencies that are authorized to lawfully provide, establish, maintain, and operate law enforcement services. Prior to becoming a Party, any entity that wishes to join this Agreement must first (a) be granted approval by an act of the Board and (b) agree to and sign this Agreement. The Board may impose a membership fee as a condition of joining the CISC as a Party; however, any entity that signed the MOU prior to the enactment of this Agreement and that paid a membership fee to participate in the CISC shall not be required to pay an additional membership fee in order to become a Party. All entities that signed the MOU prior to the enactment of this Agreement are vested with approval to join the CISC by signing this Agreement without further Board approval.

33. Right to Terminate Participation. A Party may terminate its participation in this Agreement by giving written notice to the Board at least sixty (60) days prior to the date of termination, unless the Board and a specific Party have agreed on a different notice period.

GENERAL PROVISIONS

34. Amendments. This Agreement shall not be amended unless seventy-five percent (75%) of the Representatives approve such amendment in writing. The sole remedy for any Party that disagrees with any amendments is to terminate its participation in this Agreement.

35. Construction and Interpretation. The table of contents and the section and other headings and subheadings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties, and shall not in any way affect the meaning or interpretation of this Agreement.

36. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original. The signature of any Party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

37. Entire Agreement. This Agreement embodies the entire understanding and agreement among the Parties concerning the CISC and supersedes any and all prior negotiations, understandings, or agreements, including the MOU.

38. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Colorado.

39. Indemnification. Without waiving the protections, limitations, and requirements of the Colorado Governmental Immunity Act in Article 10, Title 24, C.R.S., each Director, Representative, Consortium Manager, Assigned Employee, officer, agent, and volunteer shall be provided with a legal defense and indemnification as offered by that person's employer.

40. Mediation. In the event of a dispute between the Parties regarding the interpretation of this Agreement or regarding any issue arising under this Agreement, the Parties hereby agree to the following mediation procedure. First, the disagreeing Parties will submit the issue to the Representatives, who will mediate the disagreement and try to devise an acceptable solution. If

that process fails, the disagreeing Parties will submit the issue to the highest elected officials of each Party (e.g., the Mayor of a city or the County Commissioners of a county) who will mediate the disagreement and try to devise an acceptable solution. The highest elected official of each Party may approve a designee to mediate on behalf of that Party. The Parties agree to mediate in good faith. If any disagreeing Party requests a mediator, the disagreeing Parties shall jointly select a mediator and share the cost of the mediator equally. Decisions by the Board are not subject to mediation.

41. No Third-Party Beneficiaries. Nothing in this Agreement shall be deemed to create any third-party benefits or beneficiaries or create a right or cause of action for the enforcement of this Agreement's terms in any entity or person not a Party to this Agreement including any agents, employees, officers, or volunteers of any Party or any entity with whom the CISC contracts.

42. Severability. In the event that any of the terms, covenants, or conditions of this Agreement or their application shall be held invalid as to any Party, entity, or person by a court of competent jurisdiction, (a) the remainder of this Agreement shall not be affected thereby, (b) such determination shall not affect or impair the validity or enforceability of any other provision, and (c) the remaining provisions shall be interpreted and applied so far as possible to reflect the original intent and purpose of this Agreement.

43. Term. The term of this Agreement shall be unlimited and shall extend until terminated as provided herein.

44. Termination. This Agreement may be terminated upon agreement in writing of seventy-five percent (75%) of the Representatives. Upon termination of the CISC, any monetary funds held by the CISC shall be distributed, after paying the debts and obligations of the CISC, to the Parties proportionate with the number of sworn law enforcement officers employed by each Party. Additionally, upon termination of the CISC, any non-monetary assets shall become the property of the Party in possession of those assets.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

The City of Boulder

By: _____

Name: Jane Brautigam

Title: City Manager

Date: _____

Attest: _____

Name: _____



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 7959, amending Chapter 7-6, "Parking Infractions," B.R.C. 1981, by adding a new section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending section 7-6-2 by adding a penalty of \$20 and setting forth related details.

PRESENTERS:

Tom Carr, City Attorney

Jonathan Koehn, Regional Sustainability Coordinator

Kurt Matthews, Manager, Parking Services, Downtown University Hill Management Division
Parking Services

EXECUTIVE SUMMARY:

On February 4, 2014, council considered and passed on first reading with amendment, an ordinance prohibiting non-electric vehicles from parking in parking spots designated for access to electric vehicle charging facilities. Council amended the ordinance to remove the requirement that the electric vehicle actually be charging while parked in the space. Council made this change based on community feedback that many charging stations have two spaces. This allows for one electric vehicle to wait, while another is charging. The ordinance, as originally proposed by staff, would have prohibited electric vehicles from using spaces designated for charging to wait while another vehicle charged. Council amended the proposed ordinance to eliminate the requirement that the vehicle actually be charging. This amendment created some ambiguity. The requirement that the vehicle actually be charging restricted the spaces to vehicles that actually could be charged. Eliminating this requirement creates a small question that other electric vehicles, such as hybrid-electric vehicles, which have no charging capacity, could use the spaces. In the event that council is concerned about this ambiguity, staff has drafted an amendment that would limit the spaces to plug-in electric vehicles. There is also a definition of such vehicles.

Council also discussed the appropriate level of fine for violating the new requirement. Council decided not to amend the ordinance, leaving the fine at the recommended amount of \$20.

More details about plug-in hybrid-electric vehicles at can be found in the [first reading memorandum](#). The first reading memorandum reported that there are approximately nine charging stations in Boulder. Several of the stations have multiple charging facilities. The actually number of chargers is between fifteen and twenty.

STAFF RECOMMENDATION:

Suggested Motion Language:

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

Motion to adopt Ordinance No. 7959 amending Chapter 7-6, “Parking Infractions,” B.R.C. 1981, by adding a new section 7-6-30 prohibiting parking by non-electric vehicles at electric vehicle charging stations, amending section 7-6-2 by adding a penalty of \$20 and setting forth related details.

BACKGROUND:

At the 2014 City Council Retreat, council members directed staff to propose an ordinance prohibiting internal combustion vehicles from parking at electric vehicle parking stations. Council was responding to community concerns raised by electric vehicle owners who have been unable to use such facilities because non-electric vehicles use the spaces to park. This presents challenges for users of some electric vehicles who can become stranded if they are unable to access a charging facility.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic:
Currently, there is one dealership in the city selling plug-in electric vehicles. It is likely that additional car dealerships will sell such vehicles in the near future.
- Environmental:
With more electric vehicle charging stations being installed throughout the region, electric vehicle drivers can extend their battery life and driving range while reducing their overall transportation costs and their impact on the environment. Supporting plug-in electric vehicles is consistent with the city’s climate action goals.
- Social:
Access to charging infrastructure is critical for commuters with electric vehicles.

OTHER IMPACTS

- Fiscal:
The city receives a fee of \$1 per hour of charging time for charging stations on its property. This fee offsets the cost of the electricity used.

- Staff Time:
Implementing this ordinance can be accomplished within existing work plans.

Attachments:

Proposed Ordinance – Attachment A
Charging Station Map – Attachment B
Draft Amendment – Attachment C

This Page Intentionally Left Blank

ORDINANCE NO. 7959

AN ORDINANCE AMENDING CHAPTER 7-6, "PARKING INFRACTIONS," B.R.C. 1981, BY ADDING A NEW SECTION 7-6-30 PROHIBITING PARKING BY NON-ELECTRIC VEHICLES AT ELECTRIC VEHICLE CHARGING STATIONS, AMENDING SECTION 7-6-2, BY ADDING A PENALTY OF \$20 FOR VIOLATIONS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 7-6, "Parking Infractions," B.R.C. 1981 is amended by the addition of a **new section** to read:

7-6-30 Parking in Space Designated for Charging an Electric Vehicle.

- (a) No vehicle shall be parked in a space designated for charging any electric vehicle by any sign or pavement marking using terms "electric vehicle charging," or otherwise reasonably indicating designation for electric vehicle charging unless the vehicle is an electric vehicle.
- (b) This section applies to all spaces designated for electric vehicle charging on public property and on private property. The designation of such spaces by a private property owner or lessee has the same effect as designation by public authority and operates as a waiver of any objection to enforcement by peace officers.
- (c) When a traffic control sign is in place giving notice thereof, no vehicle shall remain in a space designated for electric vehicles for longer than the time designated thereon.

Section 2. Section 7-6-2, B.R.C. 1981 is amended to read:

7-6-2 Parking Penalties.

Violations of any of the provisions of this chapter are traffic infractions. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for such a traffic infraction shall be fined or penalized according to the following schedule:

- (a) Section 7-6-22, "Parking in Handicapped Space Prohibited," B.R.C. 1981: \$112.00.
- (b) Paragraph 7-6-13(a)(10) (concerning parking in a fire lane), paragraph 7-6-13(b)(2) (concerning parking within five feet of a fire hydrant), paragraph 7-6-13(b)(8) (concerning parking in a work zone or closed street), paragraph 7-6-23(a)(5) (concerning parking with expired license plates), B.R.C. 1981: \$50.00.

- 1 (c) All violations in section 7-6-21, "Parking in Loading Zone Prohibited," subsection
- 2 7-6-27(d) (concerning parks and open space parking permits), and all violations in
- 3 section 7-6-13, "Stopping or Parking Prohibited in Specified Places," B.R.C. 1981,
- 4 except the paragraphs listed in subsection (b) of this section: \$25.00.
- 5 (d) Sections 7-6-14, "Unauthorized Parking Prohibited," ~~and~~ 7-6-15, "Overtime
- 6 Parking, Signs," and 7-6-30, "Parking in Space Designated for Charging an
- 7 Electric Vehicle," B.R.C. 1981: \$20.00.
- 8 (e) Sections 7-6-16, "Overtime Parking, Meters," 7-6-17, "Time Limit, Meter
- 9 Parking," and 7-6-20, "Parking for More Than Seventy-Two Hours Prohibited,"
- 10 B.R.C. 1981: \$15.00.
- 11 (f) All other sections for which no amount is specifically provided: \$15.00.
- 12 (g) Where specific penalties are otherwise provided, those penalties apply.

13 Section 3. This ordinance is necessary to protect the public health, safety, and

14 welfare of the residents of the city, and covers matters of local concern.

15 Section 4. The City Council deems it appropriate that this ordinance be published

16 by title only and orders that copies of this ordinance be made available in the office of the

17 city clerk for public inspection and acquisition.

18 INTRODUCED, READ ON FIRST READING, AMENDED AND ORDERED PUBLISHED

19 BY TITLE ONLY on the 4th day of February, 2014.

20 _____

21 Mayor

22 Attest:

23 _____

24 City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

2 PUBLISHED BY TITLE ONLY this 4th day of March, 2014.

5 _____
Mayor

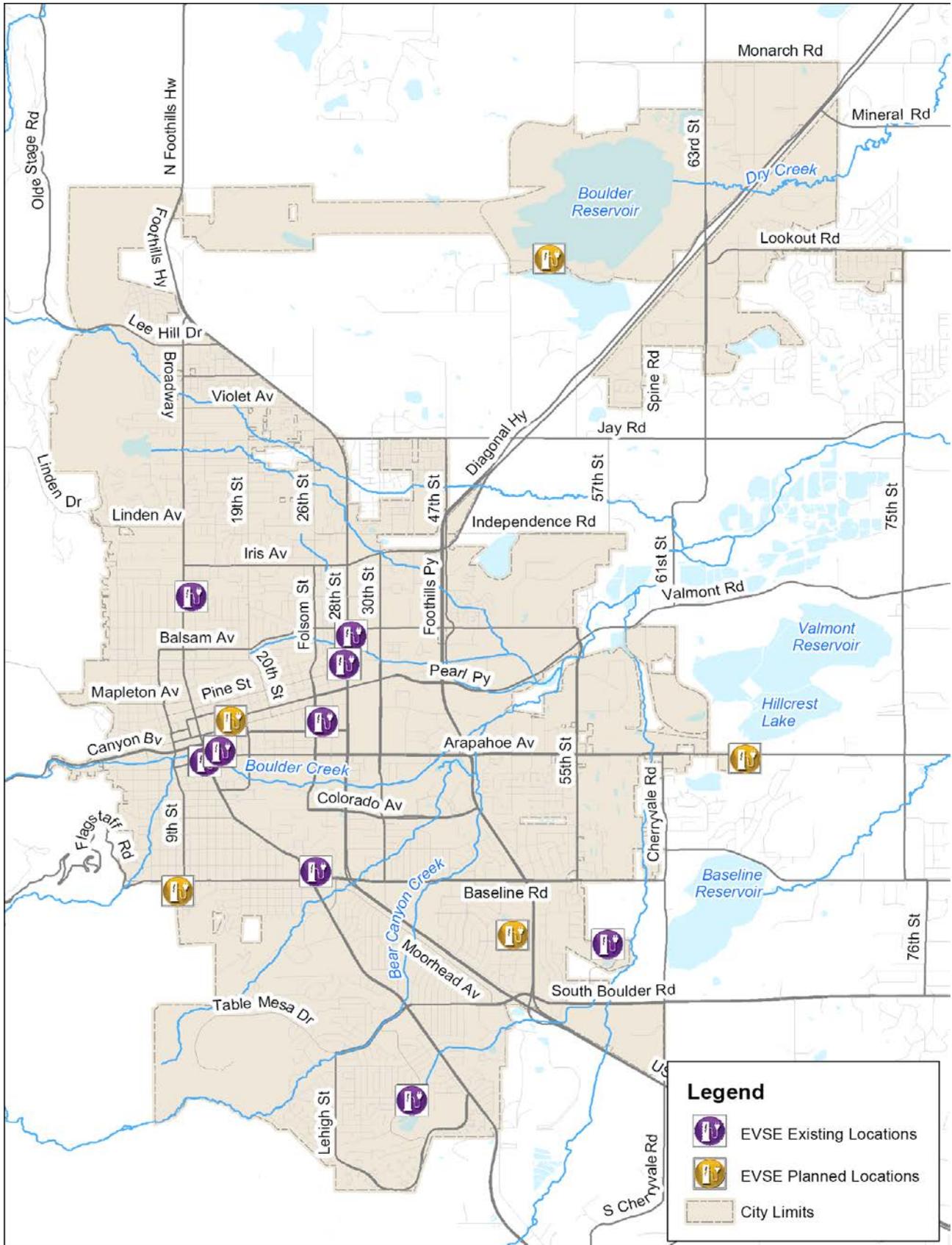
6 Attest:

7 _____
8 City Clerk

3
4
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This Page Intentionally Left Blank

City of Boulder Public Electric Vehicle Charging sites as of 1-27-2014



This Page Intentionally Left Blank

Motion to amend Ordinance 7959, section 1, adding a new section 7-6-30 to the Boulder Revised Code by amending section 7-9-30(a) to read

(a) No vehicle shall be parked in a space designated for charging any electric vehicle by any sign or pavement marking using terms "electric vehicle charging," or otherwise reasonably indicating designation for electric vehicle charging unless the vehicle is a plug-in electric vehicle.

Motion to amend Ordinance 7959, section by adding a new subsection 7-6-30(f) as follows:

(f) As used in this section "plug-in electric vehicle" shall mean any motor vehicle that draws electricity from a battery that is capable of being charged from an external source. It shall be presumptive evidence that a vehicle is a plug-in electric vehicle if the vehicle displays a plug-in electric vehicle decal issued by the State of Colorado.

This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Consideration of a motion to adopt on second reading Ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981, by adding a new section 6-3-12 requiring bear resistant containers in a designated area of the city; amending section 6-3-2, by adding new definitions; adding administrative penalties for violations and setting forth related details.

PRESENTERS:

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Mark Beckner, Police Chief
Susan Richstone, Deputy Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
Valerie Matheson, Urban Wildlife Conservation Coordinator
Kara Mertz, Environmental Action Project Manager

EXECUTIVE SUMMARY:

The purpose of this memo is second reading and consideration of an ordinance that would: 1) require trash be secured in bear resistant containers; 2) apply initially only to certain neighborhoods west of Broadway (see Bear Zone One map at www.boulderwildlifeplan.net); 3) increase the minimum penalty to \$250 for violations of B.R.C. 6-3-12 Bear Resistant Containers Required and 4) allow for notification of violations by posting a notice at the offending property, by telephone, email, or by mail to the property owner. The proposed ordinance (*Attachment A*) reflects council’s direction on options to secure trash and curbside compost from bears provided at its Jan. 21 meeting, and incorporates feedback provided during the first reading council discussion on Feb. 18 2014. This ordinance responds to community concerns for four bears that had come to depend on trash in urban areas for food and were euthanized in Boulder last year.

STAFF RECOMMENDATION:

Suggested Motion Language:

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

Motion to adopt on second reading ordinance No. 7962 amending Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981, by adding a new section 6-3-12 requiring bear resistant containers in a designated area of the city; amending section 6-3-2, by adding new definitions; adding administrative penalties for violations and setting forth related details.

BACKGROUND:

In October 2011, council considered whether to require bear resistant containers in Boulder as part of the Black Bear and Mountain Lion component of the Urban Wildlife Management Plan. As part of the plan, bears and trash are being addressed through an adaptive management approach. Adaptive management in this context involves working with the community, monitoring, and proposing refinements and next steps based on results. The approach includes a three-year monitoring and evaluation cycle and involves the following steps:

Step 1: Monitor the issue and build community education and awareness (2 years)

Step 2: Evaluate results and success (3rd year)

Step 3: Make changes to approach based on evaluation results. (3rd year)

In 2012 & 2013, as part of the adaptive management approach to build community education and awareness staff undertook three action items in partnership with Colorado Parks and Wildlife. These actions were:

- A **community survey** designed to uncover current attitudes, behaviors, and obstacles in living with black bears in western Boulder (2012);
- Bear activity **monitoring** including systematic recording of bear/trash conflicts in select neighborhoods west of Broadway (2012 & 2013); and
- The **Bear Education & Enforcement Pilot** program (2012 & 2013).

Based on the adaptive management approach, staff was planning to return to council during the second quarter of 2014 for direction on strategies to secure trash and compost from bears. However, in 2013, four bears were killed by Colorado Parks and Wildlife officers to protect public safety, and council and the community expressed the need to expedite a solution prior to the 2014 bear season (see Oct. 15, 2013, City Council agenda item titled: Status Report on Urban Wildlife Issues:

<https://documents.bouldercolorado.gov/weblink8/0/doc/123877/Electronic.aspx>).

On Jan. 21, 2014 staff presented options to council and were directed to develop an ordinance to require trash and compost containers to be secure from bears at all times in most of the city west of Broadway. First reading of the ordinance was on Feb. 18, 2014.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - Proper storage of trash and preventing it from being strewn by animals supports the aesthetic character and economic vitality of Boulder.
- Environmental - Unsecured trash is harmful to native wildlife. Trash that is easily accessible invites bears to forage in town as opposed to adjacent natural areas. Trash consumption by bears results in cellophane, foil, and other non-digestible materials to be ingested by bears with food waste. Ingesting these materials is harmful to bears. In addition, bears in town that are repeatedly a nuisance, or pose a direct threat to public safety, are destroyed.
- Social - Though there have been no attacks on humans by black bears in the City of Boulder, the presence of these large predators in the urban area poses a safety threat to the community. Bear activity has been reported near areas where children congregate and along streets and alleys where children walk to school. In addition, bears that access trash often drag and spread household waste on streets, lawns and alleys, compromising basic neighborhood sanitation and aesthetics. Euthanizing bears compromises the civic value of living in harmony with the natural surroundings.

OTHER IMPACTS

- Fiscal - Staff's plan includes hiring additional code enforcement officers and developing a fund to assist low income residents with acquiring or leasing trash containers to offset their costs. The fiscal impact of the additional staffing, and the fund to assist low-income residents will be addressed in a budget supplemental ordinance.
- Staff time - Current activities are covered by existing department work plans. Additional enforcement or introduction of bear proof trash containers will require additional staff time.

BOARD AND COMMISSION FEEDBACK

None.

ANALYSIS

Responses to Council Questions

After the first reading memo was distributed for the Feb. 18, 2014 council meeting, there were several questions posed. The following is intended to respond to those questions:

1. Section 6-3-12 (c) outlines a provision for notification of damaged containers or enclosures that become accessible to wildlife. Would it be possible to create a similar provision for dealing with overflowing or unlatched containers or enclosures?

Staff does not recommend such an amendment. Such an amendment would be redundant of a duty already imposed by Section 6-3-5(a)(1), B.R.C.,1981, which provides as follows:

(a) No person shall:

(1) Store trash, recyclables and compostables except in containers in a manner so that they are not overflowing, their contents are not scattered by animals, wind or other elements and so that the containers remain closed except when being filled or when opened in order to allow for collection.

2. The west side of 3rd Street is unincorporated, will the city have the ability to write citations to violations at these residences? Are there other areas in the proposed boundary that are also unincorporated? If the city cannot write citations, is it possible to write a provision to be able to do so?

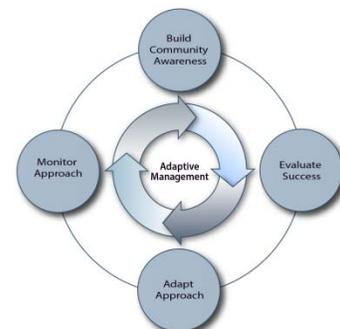
There are additional areas west of the city that are unincorporated (i.e. Knollwood neighborhood west of central Boulder); however, the city does not have authority to enforce police power ordinances outside of the city borders.

3. We heard from someone tonight who lives at 3rd and Arapahoe who spoke about overflowing garbage cans at Eben G. Fine Park on the weekends. Would it make sense to include a requirement within the ordinance requiring the city to be timely in its pick up of trash in this area? What about signage to discourage overflowing cans?

This is more of an administrative matter. Staff will work with the Parks and Recreation department on trash collection at parks in the area. City departments are not immune from the law. Staff would not recommend inserting anything in an ordinance requiring the city to pick up trash. The law already applies to the City.

4. We heard from one member of the public asking if the ordinance could include a program evaluation plan. The Department of Wildlife Officer referred to that as Adaptive Management. Other than extending the area as bears change their habits, what will the Adaptive Management plan consist of?

The adaptive management approach to improving the way trash is secured from bears has involved two years of working with the community, monitoring, and proposing next steps based on results. The proposed ordinance is a product of the adaptive management approach cycle, and is intended to be a continuation of the adaptive approach to addressing the issue of bears in trash.



The city is committed to monitoring the effectiveness of the proposed ordinance, and changes in enforcement, violations, and bear behavior. The city will develop a program evaluation plan by fall 2014 and will work with appropriate partner agencies and departments as well as willing private/non-profit organizations to evaluate the program. After evaluation, if necessary, the approach may need to be refined.

5. *Should costs of bear resistant containers be spread throughout the city, or localized to the designated area where they are required? There is a statement in ordinance that allows trash haulers to charge for bear-resistant containers. If haulers were not able to charge for use of bear-resistant containers, would haulers presumably have to increase costs across the city? Are there any examples of times when the city has spread individuals' costs across the community in this way?*

Staff has requested information from the three residential trash haulers: Republic Services, One-Way, Inc., and Western Disposal Services on the customer and company impacts of not charging individual customers for bear-resistant containers where required. During phone conversations with staff of all three companies there were concerns of expressed about fairness (having to charge customers additionally east of Broadway without providing additional service); high expense to customers; and challenges in predicting per customer costs and impacts as most customers are not under contract, and could change providers. Additionally, for customers engaged in a multiple year contract, rate changes are restricted. It is important to note that the public process conducted in advance of first reading of this ordinance focused on soliciting feedback from residents and businesses west of Broadway (85 percent of the 302 online survey respondents that provided feedback on options to secure trash from bears live or work within Bear Zone One west of Broadway). Residents and businesses in the rest of the community that may be impacted by distributing costs city-wide were not targeted for feedback; and while staff has not had adequate opportunity to fully assess its impacts, areas east of Broadway are likely to include a higher percentage of lower income residents than west of Broadway in Zone One. With respect to other examples of the city spreading costs across the entire community, in 2001 when the city first enacted the requirements that residential trash haulers also provide curbside recycling service, haulers were prohibited from charging an additional fee for this additional service. One notable difference is that at that time, approximately 70 percent of residents used the curbside recycling program and all residents had the opportunity to participate in the service. With this requested change, only an estimated 7,546 residential trash customers are being serviced in Bear Zone One, representing a smaller portion of the city that uses the service (Zone One contains approximately 38 percent of the residential trash customers citywide). At this time, staff has not had an opportunity to fully understand and analyze the impacts to residents and businesses east of Broadway and is not recommending this change to the proposed ordinance; however, draft proposed language is attached as draft amendment B (***Attachment B***).

6. *Individual enclosures are said to fall below communal enclosures but more effective than bear resistant containers and the January 21memo refers to building restrictions as the limiting factor. How was this conclusion arrived at? Are the building restrictions code-related or space-related?*

Homeowners may choose to store their waste in containers or enclosures that exceed the minimum requirements of bear-resistant containers and further reduce conflicts between waste and bears. Examples of these more effective securing systems include “bear proof” metal containers or enclosures, trash enclosures, or sheds that are made of mixed materials and create a stronger barrier between bears and waste than bear-resistant plastic containers alone. Most of these more effective securing systems may not require a city permit to install, but for those who choose one of these systems there may still be regulations from Title 9 of the Boulder Revised Code (B.R.C.) 1981 that apply.

Given the current codes and definitions found in Title 9, especially those that apply to residential zoning districts, trash enclosures that are proposed for the shelter, or enclosure of property of any kind, and that are designed to be fixed in place would be required to satisfy all applicable regulations and standards such as: minimum setbacks, building separation, maximum building coverage, site triangles, etc. Additionally, in most residential zones, depending on the specific design of such a trash enclosure, it may also contribute “floor area” toward the maximum allowed floor area ratio (FAR) if the floor to ceiling height within the trash enclosure is greater than six feet in height.

Proposed Ordinance

The proposed ordinance is intended to implement council’s policy direction. The major features of the proposed ordinance are as follows:

A. Area

The proposed ordinance would apply initially in an area bounded by the city’s southern¹ and western borders, Broadway and a line through Wonderland Lake Park as if Sumac Avenue extended across Broadway to the city border (see Bear Zone One map at www.boulderwildlifeplan.net). The ordinance authorizes the city manager to adopt a rule extending the applicable area when necessary.

B. Requirement to Secure Trash.

The proposed ordinance requires that all trash in the area be secured at all times. Trash can be secured by being stored in a bear resistant container or enclosure. In addition, trash may be secured by storage in a garage or shed. If trash is stored securely in a garage or shed, it need not be stored in a bear resistant container. In such cases, the trash may be transported in a non-bear resistant container for pickup, but must at all times be attended by a person within fifteen feet of the container. This provision is intended to fulfill council’s direction to allow for trash services that will collect trash directly from a garage or other storage area. The language would also allow for a resident to move the trash from a garage to the curb and wait with the trash for pickup.

¹ At the January 24, 2014 update, staff suggested that the southern boundary be Greenbriar Boulevard. Greenbriar Boulevard ends at Lehigh Street. To avoid confusion, staff recommends that the southern boundary extend to the city’s southern border.

C. Definition of Bear Resistant Container, Dumpster or Enclosure.

The proposed ordinance delegates to the city manager the authority to define “bear resistant.” Some cities, such as Aspen, have included such language in an ordinance. Aspen’s definition of “Wildlife Resistant Container” is as follows:

Wildlife-resistant refuse container means a fully enclosed container that can be constructed of pliable materials, but must be reinforced to deter access by wildlife. The container must employ a sturdy lid that has a latching mechanism preventing access to its contents by wildlife. Wildlife Resistant Containers must meet the standards of testing by the Living With Wildlife Foundation and a “passing” rating by the Interagency Grizzly Bear Committee (IGBC) as bear resistant for 60 minutes or otherwise be approved by a City-designated official.

Aspen Municipal Code § 12.08.010(2). Technology and organizations change. While the city’s definition may be similar to that adopted by Aspen, it is better practice to include such definitions in rules that can be adjusted to address such changes. Proposed language to clarify the nature of the city manager’s rule is attached as draft amendment A (*Attachment B*).

D. Administrative Remedy.

Staff recommends that the proposed ordinance include an administrative remedy in addition to existing criminal penalties. This is the model employed for both rental licenses and snow removal. The principal reason for this recommendation is to facilitate service by posting rather than personal service. A criminal summons must be served pursuant to state court rules, which require either personal service or service upon a person at the residence of the offending party. An administrative remedy does not have similar requirements.

E. Minimum Fine.

The proposed ordinance includes a minimum fine of \$250. This is similar to a provision in the code section on snow removal. This removes any discretion from the hearing officer to reduce the fine in extenuating circumstances. This could result in some level of dissatisfaction among community members, as there would be no possibility of fine reduction for the facts involved in individual circumstances.

Proposed Rules

A draft of a proposed rule defining bear resistant containers, enclosures and dumpsters is attached. If council adopts the proposed ordinance, the city manager would publish the proposed rule after the ordinance becomes effective. The city code requires a fifteen day comment period after which the city manager can adopt, amend or republish the rule.

Question for Council

Should the city honor private trash removal contracts established prior to the ordinance, or impose a duty on the customer to renegotiate their contract for prompt compliance of the ordinance?

Waste haulers that provide service in the city negotiate multiple year contracts for costs and services. These contracts are primarily established for multi-unit complexes and commercial accounts, and are for between one and three year time periods. Ordinance implementation is scheduled to begin in June of 2014 in alleys west of Broadway; however, some of the properties are currently under contract for their trash and compost service. If the city does not require contracts to be re-negotiated, there would be pockets of unsecured trash (for potentially 2-3 years) after the ordinance is implemented. If the city requires contracts to be re-negotiated to comply with the current regulation it will require haulers and customer notification.

NEXT STEPS

Staff is developing a program of city assistance for members of the community who cannot afford the increased cost of bear-resistant containers; and an ordinance implementation timeline which will begin with alleys west of Broadway (see Zone Three map at www.boulderwildlifeplan.net) in the spring of 2014.

Attachments:

- A:** Proposed Ordinance
- B:** Draft Amendments A & B
- C:** Draft Rule

ORDINANCE NO. 7962

AN ORDINANCE AMENDING CHAPTER 6-3, "TRASH, RECYCLABLES AND COMPOSTABLES," B.R.C. 1981, BY ADDING A NEW SECTION 6-3-12 REQUIRING BEAR RESISTANT CONTAINERS IN A DESIGNATED AREA OF THE CITY; AMENDING SECTION 6-3-2, BY ADDING NEW DEFINITIONS; ADDING ADMINISTRATIVE PENALTIES FOR VIOLATIONS, AMENDING SECTION 6-12-5, "CONTAINERS FOR RECYCLING OR COMPOSTING COLLECTION," AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 6-3-2, B.R.C. 1981, is amended to read:

6-3-2 Definitions.

The definitions in chapter 1-2, "Definitions," B.R.C. 1981, shall apply to this chapter, including, without limitation, the definitions of "Compostables," "Hauler," "Recyclable materials," "Trash," "Trash container," "Visible to the public" and "Wildlife-resistant container."

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

"Refuse Attractant" shall mean any trash or other substance which could reasonably be expected to attract wildlife or does attract wildlife, including, but not limited to, soiled diapers, sanitary pads, food products, pet food, feed, kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings or grease. Attractants do not include recyclable materials properly enclosed in a recycling container, or materials that do not meet the definition of trash in section 1-2-1, "Definitions," B.R.C. 1981 and is fruit associated with a fruit tree or bush, produce associated with a garden, or a bird feeder.

"Bear Resistant Container" shall mean a container that is resistant to being opened by a bear of a type certified by the city manager in a rule adopted pursuant to section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981

"Bear Resistant Dumpster" shall mean a dumpster that is resistant to being opened by a bear of a type certified by the city manager in a rule adopted pursuant to section 6-3-11 "City Manager Authorized to Issue Rules," B.R.C. 1981

1 “Bear Resistant Enclosure” shall mean a fully enclosed structure that is resistant to being
2 opened by a bear of a type certified by the city manager in a rule adopted pursuant
3 to section 6-3-11 “City Manager Authorized to Issue Rules,” B.R.C. 1981

3 "Person" shall have the meaning set forth in chapter 1-2, "Definitions," B.R.C., and
4 shall also include, without limitation, owner of any property or vacant land; occupant,
5 owner, operator or manager of any single unit dwelling, multi unit dwelling, mobile home,
6 mobile home park, private club or other similar property; or owner, operator, manager or
7 employee of any business or business property.

6 Section 2. Chapter 6-3, “Trash, Recyclables and Compostables,” B.R.C. 1981 is
7 amended by the addition of a **new section** 6-3-12 to read:

8 **6-3-12 Bear Resistant Containers Required.**

- 9 (a) No private owner, agent appointed pursuant to section 10-3-14, "Local Agent
10 Required," B.R.C. 1981, or manager of any property, lessee leasing the entire
11 premises, or adult occupant of a single-family dwelling, a duplex, a triplex, or a
12 fourplex shall fail to keep all refuse attractants in bear resistant enclosures, in bear
13 resistant containers, bear resistant dumpsters or securely stored within a house,
14 garage shed or other structure at least as secure as a bear resistant enclosure at all
15 times, except when being transported from a house, garage or bear resistant
16 enclosure for pickup. Refuse attractants transported for pickup shall be attended,
17 by a person remaining within 15 feet of the container at all times.
- 14 (b) This section shall apply to the area bounded by Broadway Street, the City’s
15 southern boundary, the city’s western boundary and a line extended from Sumac
16 Avenue due west through Wonderland Lake Park. Provided that the city manager
17 may extend the area by rule adopted pursuant to section 6-3-11 “City Manager
18 Authorized to Issue Rules,” B.R.C. 1981.
- 17 (c) If a container or enclosure is damaged, allowing access by wildlife, repairs must be
18 made within 72 hours after written notification by any city official, or such other
19 time designated in the notice by the city official.
- 19 (d) If the city manager finds that a violation of any provision of this section, the
20 manager, after notice and an opportunity for hearing under the procedures
21 prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a
22 civil penalty according to the following schedule:
- 22 (A) For the first violation of the provision, \$250.00;
 - 23 (B) For the second violation of the same provision, \$500.00; and
 - 24 (C) For the third violation of the same provision, \$1,000.00;
- 25 (d) The city manager's authority under this section is in addition to any other authority
the manager has to enforce this chapter, including but not limited to section 5-2-4,

1 General Penalties, and election of one remedy by the manager shall not preclude
2 resorting to any other remedy as well.

- 3 (e) The city manager may, in addition to taking other collection remedies, certify due
4 and unpaid charges to the Boulder County Treasurer for collection as provided by
5 section 2-2-12, "City Manager May Certify Taxes, Charges and Assessments to
6 County Treasurer for Collection," B.R.C. 1981.
- 7 (f) Notice under this subsection is sufficient if hand delivered, emailed, mailed or
8 telephoned to such person, or by posting on the premises.

9 Section 3. Section 6-12-5, B.R.C. 1981, is amended to read:

10 **6-12-5 Containers for Recycling or Composting Collection.**

- 11 (a) Haulers providing trash collection service to multifamily customers through
12 centralized collection areas shall provide containers for recyclable materials at no
13 additional charge. Containers shall be of a sufficient size to accommodate the
14 regular accumulation of recyclables from that customer, but at a minimum, such
15 containers shall be of a volume equal to one-half of the volume of the trash
16 collection service. If the city manager requires the collection of compostables,
17 haulers shall provide containers for that service of a sufficient size to
18 accommodate the regular accumulation of compostables from that customer.
- 19 (b) Haulers providing trash collection service to residential customers are not required
20 to provide recyclables or compostables containers. However, if the hauler requires
21 a specific type of container, then the hauler shall deliver such container at no cost
22 to the residential customer. This provision does not apply to any container
23 required by the city pursuant to section 6-3-12 "Bear Resistant Containers," B.R.C.
24 1981.

25 Section 4. This ordinance is necessary to protect the public health, safety, and
welfare of the residents of the city, and covers matters of local concern.

Section 5. The City Council deems it appropriate that this ordinance be published
by title only and orders that copies of this ordinance be made available in the office of the
city clerk for public inspection and acquisition.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED

BY TITLE ONLY this 18th day of February, 2014.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE ONLY this 18th day of March, 2014.

Mayor

Attest:

City Clerk

Draft Amendment A

Motion to amend Section 1 of proposed ordinance Section 6-3-2, Boulder Revised Code, by amending the definitions of Bear Resistant Container, Bear Resistant Dumpster and Bear Resistant Enclosure as follows:

“Bear Resistant Container” shall mean a container that meets the requirements for such a container established ~~is resistant to being opened by a bear of a type certified~~ by the city manager in a rule adopted pursuant to section 6-3-11 “City Manager Authorized to Issue Rules,” B.R.C. 1981

“Bear Resistant Dumpster” shall mean a dumpster that meets the requirements for such a dumpster established ~~is resistant to being opened by a bear of a type certified~~ by the city manager in a rule adopted pursuant to section 6-3-11 “City Manager Authorized to Issue Rules,” B.R.C. 1981

“Bear Resistant Enclosure” shall mean a fully enclosed structure that meets the requirements for such an enclosure established ~~is resistant to being opened by a bear of a type certified~~ by the city manager in a rule adopted pursuant to section 6-3-11 “City Manager Authorized to Issue Rules,” B.R.C. 1981

Draft Amendment B

Amend Section 2 of proposed ordinance 7962 by striking the proposed amendment to Section 6-12-5(b), Boulder Revised Code and adding the following amendment to Section 6-12-4

(g) Haulers shall offer Bear Resistant Containers to customers in any area of the city in which such containers are required by ordinance or city manager rule. No hauler shall charge an additional fee to the customers who require such containers, provided however, haulers may include the cost of such containers in the rates the hauler charges for all customers in the city, including those in areas required to have such containers.

This Page Intentionally Left Blank

STANDARD (NON-EMERGENCY) RULE/REGULATION

SUMMARY OF REGULATION:

As required in section 6-3-2 “Definitions,” B.R.C., 1981, the city manager adopts to following definitions:

Bear Resistant Container: A fully enclosed plastic container, of sturdy construction, with a sturdy plastic lid which must have a latching mechanism which prevents access to the contents by wildlife. Wildlife-Resistant Refuse Containers must be certified as such by the Living with Wildlife Foundation, Interagency Grizzly Bear Committee (Fish and Wildlife Service, Forest Service, Park Service and Bureau of Land Management). A container not so certified, may be considered a Bear Resistant Container if it is certified as such by a designated city official.

Bear Resistant Dumpster: An enclosed structure consisting constructed of metal consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife.

Bear Resistant Enclosure: An enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife. The enclosure shall not be larger than necessary to enclose the trash receptacles, shall not be attached to an historic structure, shall not be located in a public right-of-way and if in an alley shall be located adjacent to the alley where an alley borders the property.

This rule/regulation is established to:

Pursuant to the authority found in Charter Article V “Administrative Service”, Section 6-3-11 “City Manager May Issue Rules” and Section 8-3-3, “City Manager May Issue Rules,” B.R.C. 1981; this rule is intended for the preservation of public safety, public health and wildlife.

Authority: Charter Article V “Administrative Service”, Section 6-3-11 “City Manager May Issue Rules”, and Section 6-3-11 “City Manager May Issue Rules”, B.R.C. 1981.

Rules approved as to form and legality by the City Attorney’s office on _____, by _____, City Attorney.
(Date)

Proposed rules approved prior to publication by the City Manager or his/her delegate on _____ by _____, Director of _____ Department, as the City Manager’s delegate.
(Date) (Manager/Delegate)

Three copies of the approved rules filed with the city clerk and will become effective immediately on _____ (Date).

Date of publication of notice of fifteen day (15) comment period in the Daily Camera _____ (Date).

Approved by the City Manager or his/her delegate with/without change after considering public comment on _____ (Date).

City Manager/Delegate

Approved rules re-filed with the City Clerk and continued in effect on _____ (Date).

NOTICE TO THE PUBLIC

The City Manager of the City of Boulder proposes to adopt a rule/regulation to

Adopt the following definitions to implement a requirement that certain residents in certain sections of the city secure their trash:

Bear Resistant Container: A fully enclosed plastic container, of sturdy construction, with a sturdy plastic lid which must have a latching mechanism which prevents access to the contents by wildlife. Wildlife-Resistant Refuse Containers must be certified as such by the Living with Wildlife Foundation, Interagency Grizzly Bear Committee (Fish and Wildlife Service, Forest Service, Park Service and Bureau of Land Management). A container not so certified, may be considered a Bear Resistant Container if it is certified as such by a designated city official.

Bear Resistant Dumpster: An enclosed structure consisting constructed of metal consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife.

Bear Resistant Enclosure: An enclosed structure consisting of four (4) sides and a secure door or cover, which shall have a latching device of sufficient design and strength to prevent access by wildlife. The enclosure shall not be larger than necessary to enclose the trash receptacles, shall not be attached to an historic structure, shall not be located in a public right-of-way and if in an alley shall be located adjacent to the alley where an alley borders the property.

Copies are available for public review at Central Records at the Municipal Building, 1777 Broadway 2nd floor.

Written comment should be directed to Ann Large, City Manager's Office, 303-441-3090, City of Boulder, P.O. Box 791, Boulder, CO 80306.

For more information visit www.bouldercolorado.gov.

Adoption will be considered after the 15-day comment period.

This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE Consideration of a Motion to Revise the City of Boulder’s 2014 State and Federal Legislative Agenda

PRESENTERS

Jane S. Brautigam, City Manager
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

As described further below, there are bills of potential interest to council that were not anticipated or addressed in the city’s 2014 State and Federal Legislative Agenda (the “Legislative Agenda”), specifically: [HB14-1119](#) (providing a tax credit for donating food to charitable organizations); [HB14-1124](#) (allowing for in-state tuition for American Indian Tribe members with ties to Colorado, and; [SB14-125](#) (allowing for ride-sharing services to be offered). In order to receive direction on the city’s positions on these and other issues, council is being asked to revise the Legislative Agenda. A proposed revision is included as **Attachment A**, with changes since council’s last approval reflected through strike-through and double-underline formatting.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve revisions to the City of Boulder’s 2014 State and Federal Legislative Agenda as reflected in **Attachment A**.

BACKGROUND

With a requirement to adjourn no later than May 7, 2014, the Second Regular Session of the 69th Colorado General Assembly session is nearing its halfway mark. A few bills of importance to the city are moving forward and appear likely to pass, including the following:

- [HB14-1002](#) - Appropriating up to \$12M in FYs 13-14 and 14-15, and making grants available to local governments for public water systems;
- [HB14-1017](#) – Expanding the availability of affordable housing funding sources;
- [HB14-1093](#) – Establishing the creative district community loan fund;
- [HB14-1229](#) – Providing local governments with access to criminal background information prior to issuing licenses for retail marijuana operations;
- [SB14-005](#) – The Wage Protection Act
- [SB14-019](#) – Aligning state tax filing procedures with federal procedures, thereby allowing some same-sex couples to file joint state income tax returns;
- [SB14-029](#) – Requiring development of a plan for a paint stewardship program that provides for collection of unused paint statewide through a system of retailer and independent collection sites;
- [SB14-103](#) – Requiring manufacturers to sell only those fixtures meeting WaterSense standards, a standard that is similar to the EnergyStar standard for appliances.

Unfortunately, some bills that the city supported have already been killed, or not even introduced, including:

- [SB05-152](#) Reform – Removing restrictions on local government ability to enter into the broadband business;
- [HB14-1132](#) – Allowing local governments the option to restrict or expand the hours of service for liquor licensed establishments;
- [HB14-1226](#) – Establishing local government authority to regulate plastics.

Bills still expected to be introduced that the city is supporting include one to provide state funding for the Safe Routes to School program and another to increase the transparency, equity and multimodalism in decisions to enter into public private partnerships to construct managed lanes.

A complete summary of all bills of interest to the city, including those that the city is actively opposing, is available by clicking [here](#).

ANALYSIS

City council adopted the goal of limiting additions to the legislative agenda to instances when the additions comport with the six criteria listed below:

1. Uniformity with current city council goals;
2. Expected relevance in the upcoming or present state and federal legislative sessions;
3. Uniqueness of issue or impact to the City of Boulder;

4. Viability, or likelihood of achieving goal;
5. Opportunity for providing funding for City of Boulder, and;
6. Metrics of success in order to allow the position to be deleted from future agendas if achieved.

To accommodate both the need for flexibility and for limitations, staff is indicating below whether proposed changes to the agenda originated from staff or from another source (i.e. one or more members of council, a city board or commission, or a state legislator). Only if they originate from city staff will they be required to have met all six criteria. For all other proposals, council may choose to use one more of these criteria in its consideration of whether or not the addition is appropriate.

The following is a list of the substantive changes proposed to the Legislative Agenda:

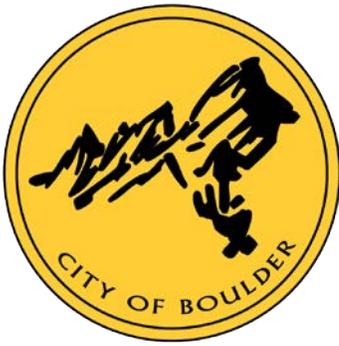
Proposed Revisions to the Legislative Agenda		
Category	Proposal	Source
Energy & Climate/Waste Reduction	Revise existing position on waste reduction to indicate support for bills, like HB14-1119 , which further the city's zero waste goal by creating an income tax credit for taxpayers who make food contributions to a hunger-relief charitable organization	Council Members Young and Jones
Human Rights/Immigration	Revise existing position on immigration reform to indicate support for bills like HB14-1124 which would allow instate tuition for American Indian Tribe members with ties to Colorado	Human Relations Commission
Human Rights/Same Sex Couples	Revise existing position on rights of people regardless of sexual orientation to indicate specific support for bills like SB14-019 , which align state tax filing procedures with federal procedures, thereby allowing some same-sex couples to file joint state income tax returns	Human Relations Commission
Transportation	Revision to existing position on transportation to indicate support for bills, like SB14-125 , which would establish rules for ride-sharing services such as uberX and Lyft.	City staff

These proposals have all been incorporated into the proposed revisions to the Legislative Agenda available as **Attachment A**.

ATTACHMENTS

Attachment A – Proposed Revisions to the City of Boulder’s 2014 State and Federal Legislative Agenda

Attachment B – Summary of discussion and materials considered by Human Relations Commission in relation to HB14-1124 and SB14-019



2014

State and Federal Legislative Agenda



Approved on
December 3, 2013

CONTACTS

City Council			
NAME/ADDRESS	CURRENT TERM		CONTACT INFORMATION
Matthew Appelbaum, Mayor 200 Pawnee Drive Boulder, CO 80303	Began 11/19/2013	Expires 11/21/2017	303-499-8970 appelbaumm@bouldercolorado.gov
Macon Cowles 1726 Mapleton Ave Boulder, CO 80304	Began 11/19/2013	Expires 11/17/2015	303-638-6884 cowlesm.bouldercouncil@gmail.com
Suzanne Jones 1133 6 th Street Boulder, CO 80302	Began 11/15/2011	Expires 11/17/2015	720-633-7388 joness@bouldercolorado.gov
George Karakehian, Mayor Pro Tem 534 Mapleton Avenue Boulder, CO 80304	Began 11/15/2011	Expires 11/17/2015	303-218-8612 karakehiang@bouldercolorado.gov
Lisa Morzel 2155 Poplar Avenue Boulder, CO 80304	Began 11/15/2011	Expires 11/17/2015	303-815-6723 lisamorzel@gmail.com
Tim Plasse 655 Maxwell Avenue Boulder, CO 80304	Began 11/15/2011	Expires 11/17/2015	720-299-4518 plasst@bouldercolorado.gov
Andrew Shoemaker 1064 10th St. Boulder, CO 80302	Began 11/19/2013	Expires 11/21/17	303-332-8646 shoemakera@bouldercolorado.gov
Sam Weaver P.O. Box 791 Boulder, CO 80306	Began 11/19/2013	Expires 11/21/17	303-416-6130 weavers@bouldercolorado.gov
Mary Young 1420 Alpine Ave Boulder, CO 80304	Began 11/19/2013	Expires 11/21/17	303-501-2439 youngm@bouldercolorado.gov

City Manager

Jane S. Brautigam
303-441-3090
brautigamj@bouldercolorado.gov

City Attorney

Tom Carr
303-441-3020
carrt@bouldercolorado.gov

Policy Advisor

Carl Castillo
303-441-3009
castilloc@bouldrecolorado.go

Mailing Address

P.O. Box 791, Boulder,
CO 80306

Physical Address

1777 Broadway, Boulder,
CO 80302

Legislative Website

bouldercolorado.gov/policy-
advisor/state-federal-
legislative-matters

TABLE OF CONTENTS

QUICK FACTS ABOUT BOULDER.....	5
PURPOSE OF THE LEGISLATIVE AGENDA	8
STATE LEGISLATIVE PRIORITIES AT A GLANCE	10
FEDERAL LEGISLATIVE PRIORITIES AT A GLANCE	11
DEMOCRACY AND GOVERNANCE	12
• Support for an amendment to the U.S. Constitution abolishing corporate personhood	12
• Support General Assembly action to submit to the Colorado electorate a referred measure to reform the current process for citizen-initiated constitutional and statutory amendments by altering the signature collection requirements and requiring a supermajority voter approval for constitutional amendments, except for those measures that look to amend previous voter-approved constitutional amendments; and requiring for a time a supermajority approval by the General Assembly to change citizen-initiated statutory amendments	12
ECONOMIC VITALITY.....	13
• Protect core provisions of the Colorado Urban Renewal law, which provide effective redevelopment tools for municipalities such as tax increment financing and eminent domain	13
• Support federal legislation providing for continued funding and support for the federally funded labs located in Boulder	13
• Support for legislation facilitating the ability of municipalities to enter into revenue sharing agreements.....	14
• Support revisions to the federal budget sequestration as it has and will continue to drastically impact funding for vital programs and services provided by the federal labs, the University of Colorado Boulder, the Boulder Valley School District, Boulder County and the City of Boulder	15
ENERGY AND CLIMATE.....	15
• Support legislation to address climate change by improving energy efficiency, increasing use of renewable energy, reducing greenhouse gas emissions and dependence on fossil fuels, and developing climate change adaptation strategies	15
• Support reform of Property Assessed Clean Energy (PACE) Finance statutes to allow for resumption of Boulder County’s ClimateSmart Loan Program (CSLP).....	17
• Support legislation promoting waste reduction and diversion efforts.....	18



**CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA**

- Support improvements to the Colorado Oil and Gas Conservation Commission’s oversight of oil and gas drilling and preservation of local control to adopt regulations, moratoriums or other limits as necessary 18

HOUSING 20

- Oppose federal efforts to reduce appropriations for HUD Public Housing and Section 8 programs which provide rental assistance to low-income households..... 20
- Oppose federal reductions to Community Development Block Grant program and HOME Investment Partnerships..... 21
- Support for state housing trust fund..... 21
- Support legislation that helps address the power imbalance between owners of mobile homes and owners of mobile home parks 21
- Oppose further cuts to state funded health and human service programs, especially those that are preventive in nature 21

HUMAN SERVICES/HUMAN RIGHTS 22

- Support comprehensive federal immigration reform 22
- Support legislation furthering the rights of all people regardless of their actual or perceived sexual orientation or gender variance status..... 23
- Support anti-wage theft legislation..... 24

INTERNAL ADMINISTRATIVE MATTERS 24

- Protect workers’ compensation system 24
- Protect governmental immunity..... 25
- Oppose state legislation that could unnecessarily result in increased contributions or force a reduction in benefits for members of the Public Employees Retirement Association (PERA)..... 25

LOCAL CONTROL..... 26

- Oppose legislation threatening local control and home rule authority 26

NATURAL RESOURCES, WILDLIFE AND PARKS 27

- Support legislation protecting the ability of local governments and the land trust community to acquire and protect parks and open space 27
- Support state legislation furthering implementation of the city’s Urban Wildlife Management Plan 27
- Support Legislation Necessary to allow for state support to address the city’s emerald ash borer infestation 28



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- Support legislation providing for more balance in the composition of Colorado’s “Pesticide Advisory Committee” and for restoration of local government authority to regulate certain pesticide uses.....29

PUBLIC HEALTH AND SAFETY..... 30

- Support legislation necessary to seek state and federal assistance for flood disaster recovery needs and expenses30
Support Amendment 64-implementing legislation that ensures the safe use of recreational marijuana by allowing local government access to background checks and the seed-to-sale tracking information for commercial operators.....30
Support removal of barriers that prevent legitimate marijuana businesses to access banking services31
Support legislation that promotes the health and safety concerns associated with alcohol abuse in the greater community.....31
Support federal legislation that would close the federal gun show loophole32
Oppose legislation that would expand the application of the “make my day” law beyond personal residences32
Oppose legislation that limits the state’s ability to regulate concealed weapons or local government’s ability to restrict possession of weapons in public facilities32
Oppose mandates for local government enforcement of federal immigration laws33
Oppose legislation that would infringe on employment and personnel decisions made by municipal police and fire departments33
Oppose legislation that imposes onerous information gathering and reporting requirements on public safety, especially when those requirements come with substantial costs that are not supported by adequate funding33
Support legislation that increases the financial threshold of property damage that triggers a police investigation of non-injury traffic accidents.....33
Oppose legislation limiting municipal authority to operate red light or photo radar cameras to enforce traffic safety34

ROCKY FLATS 35

- Support legislation providing funding to the Department of Energy for the Office of Legacy Management and U.S. Fish and Wildlife Service in order to manage Rocky Flats as a national wildlife refuge with the appropriate systems in place for long term stewardship
35

TAX POLICY 35

- Support the Market Fairness Act and other action to preserve and expand the authority of local governments to collect taxes35



**CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA**

TELECOMMUNICATIONS 36

- Support legislation reestablishing the right of municipalities to provide telecommunication services such as large and complex city-wide fiber and premise networks 36

TRANSPORTATION 36

- Support legislation that increases transportation funding and prioritizes its expenditure on projects that maintain existing infrastructure, are multimodal in design and that otherwise promote smart growth 36
- Support legislation facilitating the provision of ride-sharing services 38
- Support efforts to realign the Colorado Transportation Commission to include population, not just geography, to ensure fair representation of the metropolitan area 38
- Support legislation that promotes “Complete Streets,” accommodating all modes of travel 38
- Oppose legislation limiting the city’s ability to regulate vehicle use on sidewalks, multi-use pathways, and bike lanes, or that requires the city to alter its current code in order to maintain current policy on allowed uses of those facilities 38
- Oppose legislation that would transfer the maintenance responsibilities for regional highways from the Colorado Department of Transportation to local governments 39

UNIVERSITY OF COLORADO 39

- Support a renewed commitment by the state and federal governments to fund the University of Colorado and its capital programs 39

WATER 40

- Support legislation that promotes the efficient utilization and conservation of water . 40
- Oppose state legislation that significantly threatens the city’s water rights 41



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

QUICK FACTS ABOUT BOULDER

Demographic Characteristics: (2013 data unless otherwise stated)

Land Area: 25.8 Square Miles

Housing Units: 43,791

Median Value of Owner-Occupied Housing

Units: \$477,200

Median Rent: \$1,189

Population: 99,716

Employment: 99,400

Median Family Income: \$102,930

Median Household Income: \$56,274

Median Age: 27.7

Education: 37% Advanced degree, 35% BA/BS;
18% some college

Unemployment Rate (July 2013): 5.4%

Sales and Use Tax Rate: 3.41%

Use of Alternative Transportation (2011 estimates): 36%

Open Space/Mountain Parks: 45,000 acres

City of Boulder Employees: 1,264

Key Industry Clusters: Aerospace; biotech; clean tech/renewable energy and energy research; IT-data storage, digital media and software development; nanotechnology; natural and organic products; outdoor products and recreation; photonics and tourism.

Major Employers: University of Colorado, IBM Corp, Boulder Community Hospital, Covidien, City of Boulder, Ball Aerospace, Lockheed Martin, Boulder County, UCAR/NCAR, Micro Motion/Emerson, Amgen, Cisco, GE, Google, Hain Celestial Group, Naropa Institute, NOAA, NIST, Whole Foods, Microsoft, Wall Street on Demand, and McGuckin Hardware.

2013 Best of Boulder:

- **The Top 75 College Cities and Towns in America (#1 among "The Top 20 Small Metros")** - *American Institute for Economic Research (AIER)*, Nov. 21, 2013
- **Top 100 Best Places to Live (#2)** - *Livability.com*, Oct. 16, 2013.
- **No. 1 City in Country for Technology Startups** - *FOX31 Denver KDVR-TV*, Sept. 10, 2013.
- **Best Urban Green Spaces in North America** - *USA Today*, Aug. 18, 2013.
- **The 25 Best U.S. Cities for Tech Startups (#1)** - *Entrepreneur*, Aug. 14, 2013.
- **Most Popular City for Tech Startups** - *The Wall Street Journal*, Aug. 14, 2013.
- **The Most Start-up 'Dense' Area in the U.S.** - *Inc.*, Aug. 14, 2013.
- **2013 eCity Award: Colorado's Digital Capital** - *Google*, Aug. 13, 2013.
- **Top 10 College Towns 2013 (#1)** - *Livability*, Aug. 2, 2013.
- **Top Urban Bike Paths Across the USA (Boulder Creek Path: #2)** - *USA Today*, July 23, 2013.
- **The Top 3 Cities for Startups: Austin, Seattle and Boulder** - *GeekWire*, July 17, 2013.
- **Best Places for Work-Life Balance** - *NerdWallet*, July 14, 2013.
- **10 Best U.S. Cities for Young Adults (#3)** - *MSN Money*, May 22, 2013.
- **10 Fittest and 10 Fattest Cities in America (#1 Fittest)** - *MSN Healthy Living*, May 17, 2013.
- **The Best Midsize Cities For Jobs 2013 (#1)** - *Forbes*, May 6, 2013
- **The 2013 Best Cities for Job Growth (#1 Medium-sized City and #7 Overall)** - *New Geography*, May 6, 2013.



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

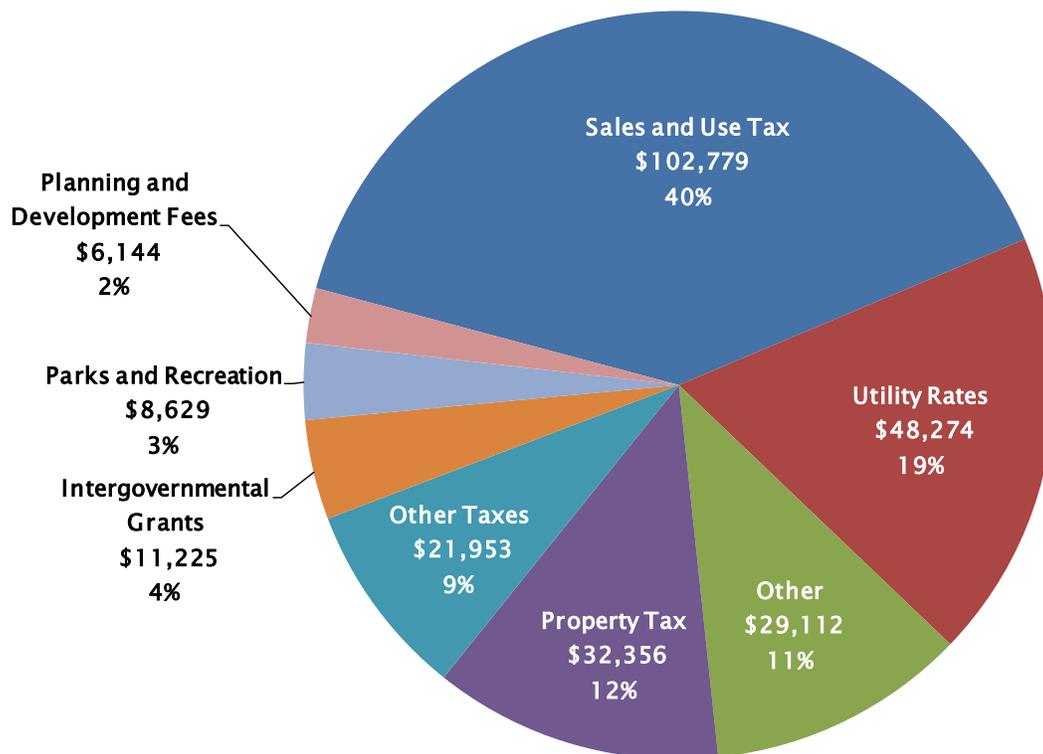
- **2012 Least-obese Metro Areas (#1)** - *Gallup*, April 11, 2013.
- **Dynamic Locales For Walkable Living** - *Where to Retire*, April 10, 2013.
- **Tree City USA (for the 29th consecutive year)** - *National Arbor Day Foundation*, April 9, 2013.
- **Top 10 Metros for Female Executives (#1)** - *Avalanche Consulting*, Feb. 18, 2013.

The 20 Most Innovative Cities in the U.S. (#5) - *Business Insider*, Feb. 1, 2013.

Revenue – Where the Money Comes From...

The 2014 Approved Budget is based on projected citywide revenues of \$260 million. The three largest revenue sources for the city are sales/use taxes, property taxes and utility rate charges. These three funding sources represent 71 percent of the total sources of city funds and are described in more detail below.

Citywide Revenues (Sources) for 2014
(in \$1,000s)
TOTAL = \$260,471





CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

Sales and use taxes comprise 40 percent of the city's total revenues. Sales or use tax is a transaction tax levied upon all sales, purchases, and leases of tangible personal property and taxable services sold or leased by persons engaged in business in the city and is collected by the vendor or lessor and remitted to the city.



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

PURPOSE OF THE LEGISLATIVE AGENDA

The purpose of the city's 2014 State and Federal Legislative Agenda (the "Legislative Agenda") is to formalize city positions on legislation expected to be considered by the Colorado General Assembly and the U.S. Congress. The city offers the Legislative Agenda as a guideline to legislators for reference when considering legislation impacting the City of Boulder. Strategic, targeted, and/or abbreviated versions of the information contained in this agenda will also be created throughout the year for use in further legislative communications.

The Legislative Agenda was developed in advance of the convening of the 2013 Colorado General Assembly. Consequently, it does not address state legislation by bill number. Instead, it describes the underlying interest the city has on specific issues. With the coordination of the city's Policy Advisor, it will be used by individual council members and city staff to inform city positions taken on specific bills once the legislative session begins. At that point, council may also consider amendments to the Legislative Agenda and address specific bills that have been proposed.

Council may revisit the city's legislative strategy at any point. It may do so as a body, or through its Council Legislative Committee. Council created this committee for the purpose of convening on an ad hoc basis with the Policy Advisor and other city staff as appropriate when one or more of the following circumstances exist:

1. There is an immediate need for council members to participate with staff in developing a communication strategy to advance or defeat a bill which is clearly addressed by the city's legislative agenda or other established council policy, or;
2. There is a question about whether a bill, which was clearly not anticipated or addressed by council in the approved legislative agenda or by other established council policy, but which could be of significant concern to the city, should be brought to the full council for consideration of a position.

In recent years, Council's Legislative Committee has also been used during non-legislative periods to provide suggestions on revisions to the legislative agenda and to plan agendas for meetings with legislators.

As has been done in years past, council is again adopting a goal that modifications to this legislative agenda require consistency, when applicable, with the six criteria described below:

1. Uniformity with current city council goals;
2. Expected relevance in the upcoming or present state and federal legislative sessions;
3. Uniqueness of issue or impact to the City of Boulder;
4. Viability, or likelihood of achieving goal;
5. Opportunity for providing funding for City of Boulder; and,



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

6. High probability of metrics of success in order to allow the position to be deleted from future agendas if achieved.

The city welcomes the opportunity to discuss the city's Legislative Agenda. Please direct any questions to City Council members or to the city's Policy Advisor at 303-441-3009.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

STATE LEGISLATIVE PRIORITIES AT A GLANCE

1. Support legislation enhancing the ability of local governments to develop and implement effective energy strategies that reduce environmental impacts, provide stable rates and promote economic vitality and, conversely, oppose legislation that would diminish that ability, including the ability of cities to form a municipal utility. Page 15 of the agenda describes a variety of specific legislative concepts that the city would support.
2. Support legislation reestablishing the right of municipalities to provide telecommunication services such as large and complex city-wide fiber and premise networks. This position is explained in greater detail on page 36 of the agenda.
3. Support Amendment 64-implementing legislation that ensures the safe use of recreational marijuana by allowing local government access to background checks and the seed-to-sale tracking information for commercial operators. This position is explained in greater detail on page 30 of the agenda.
4. Support legislation that increases transportation funding and prioritizes its expenditure on projects that maintain existing infrastructure, are multimodal in design and that otherwise promote smart growth. As described on page 36, this may include legislation to continue funding the Safe Routes to School Program and to require public private partnerships for state-funded managed lanes to meet certain criteria including prioritizing the number of people moved by the project over the amount of vehicles moved or revenue generated. Legislative support may also be required for a possible state ballot measure.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

FEDERAL LEGISLATIVE PRIORITIES AT A GLANCE

1. Seek federal support for Boulder's federally funded labs and the University of Colorado Boulder. As described further on pages 13 and 39, these institutions are foundational to the economic and cultural well being of the city. One important way to assist them in 2014, as described further on page 15, is to support revisions to the federal budget sequestration.
2. Support legislation necessary to seek state and federal assistance for flood disaster recovery needs and expenses described further on page 30.
3. Continue to brief federal officials on the city's municipalization efforts and seek support as necessary, while positioning Boulder as a national pilot for the new energy utility, as explained further on page 15 of the agenda.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

DEMOCRACY AND GOVERNANCE

- **SUPPORT FOR AN AMENDMENT TO THE U.S. CONSTITUTION ABOLISHING CORPORATE PERSONHOOD**

On November 1, 2011, the residents of Boulder voted, by a 73 percent majority, to approve Ballot Question No. 2H which called for “reclaiming democracy from the corrupting effects of corporate influence by amending the United States Constitution to establish that: 1) Only human beings, not corporations, are entitled to constitutional rights; and 2) Money is not speech, and therefore regulating political contributions and spending is not equivalent to limiting political speech.”

The City of Boulder will support state and federal legislation similar to SJR12-1034, or action by other intergovernmental partners, that furthers efforts to amend the U.S. Constitution with language that captures the sentiment, if not the exact language, expressed by Ballot Question No. 2H. This includes support for the joint resolution that was introduced in the U.S. Senate on December 8, 2011 by Senator Bernie Sanders to amend the Constitution to exclude corporations from First Amendment rights to spend money on Political Campaigns (a.k.a. the Saving American Democracy Amendment).

- **SUPPORT GENERAL ASSEMBLY ACTION TO SUBMIT TO THE COLORADO ELECTORATE A REFERRED MEASURE TO REFORM THE CURRENT PROCESS FOR CITIZEN-INITIATED CONSTITUTIONAL AND STATUTORY AMENDMENTS BY ALTERING THE SIGNATURE COLLECTION REQUIREMENTS AND; REQUIRING A SUPERMAJORITY VOTER APPROVAL FOR CONSTITUTIONAL AMENDMENTS, EXCEPT FOR THOSE MEASURES THAT LOOK TO AMEND PREVIOUS VOTER-APPROVED CONSTITUTIONAL AMENDMENTS; AND REQUIRING FOR A TIME A SUPERMAJORITY APPROVAL BY THE GENERAL ASSEMBLY TO CHANGE CITIZEN-INITIATED STATUTORY AMENDMENTS**

Over the past 25 years, as a result of its low threshold requirements, Colorado has experienced a surge in citizen-initiated ballot measures. In the last 18 years alone, the constitution has been amended 35 times, adding detailed and sometimes conflicting provisions with far-reaching consequences. The city supports state legislation similar to HCR12-1003 that would reform the citizen initiative process to make it more difficult to amend the state constitution while providing assurance to Colorado citizens that statutory amendments will be respected by state elected officials.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

ECONOMIC VITALITY

- **PROTECT CORE PROVISIONS OF THE COLORADO URBAN RENEWAL LAW, WHICH PROVIDE EFFECTIVE REDEVELOPMENT TOOLS FOR MUNICIPALITIES SUCH AS TAX INCREMENT FINANCING AND EMINENT DOMAIN**

Unlike many communities that contain vast areas of undeveloped land planned for future commercial and residential use, Boulder's future economic sustainability will depend on effective and ongoing re-use of existing developed property. The majority of future redevelopment in Boulder will be completed by private entities and through private investment. However, in rare circumstances, and based on the requirements of the urban renewal law, projects that demonstrate a compelling community need may only be achievable through a public/private urban renewal partnership. Municipalities should retain the capacity to facilitate revitalization of their urbanized areas. The city, however, recognizes that there have been instances of abuse of this tool that threaten to jeopardize its continued availability. Accordingly, the city will support legislation designed to address such abuses, including changes to assure that the tax increment base is set at a fair level or requirements that the impacts of projects in the urban renewal area are adequately communicated to the other taxing districts.

- **SUPPORT FEDERAL LEGISLATION PROVIDING FOR CONTINUED FUNDING AND SUPPORT FOR THE FEDERALLY FUNDED LABS LOCATED IN BOULDER**

The city's economic vitality policy strongly supports the federally funded laboratories that are located in the city, specifically:

- Cooperative Institute for Research in Environmental Sciences (CIRES)
- Joint Institute for Laboratory Astrophysics (JILA)
- Laboratory for Atmospheric and Space Physics (LASP)
- National Center for Atmospheric Research (NCAR)
- National Ecological Observatory Network (NEON)
- National Institute of Standards and Technology (NIST)
- National Oceanic and Atmospheric Administration (NOAA)
 - Earth System Research Laboratory (ESRL)
 - National Geophysical Data Center (DGDC)
 - National Weather Service (NWS)
 - National Environmental Satellite, Data and Information Service (NESDIS)
 - Space Weather Prediction Center (SWPC)
- National Telecommunications and Information Administration (NTIA)
- University Corporation for Atmospheric Research (UCAR)



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- UNAVCO
- United States Geological Survey (USGS)

The labs, the research they conduct, and the researchers and staff they employ are vitally important to the City of Boulder, Boulder County, the Denver metropolitan region, the state, and the nation as a whole. The research funding they receive is redistributed throughout Colorado and beyond in the form of discretionary employee income, purchases of goods and services from suppliers, and contractual agreements with universities and private industry. Technologies they've created have led to technology transfer and spin-off companies.

In the Boulder metro area alone, federal research labs employed over 3,539 people in 2012. The NOAA, NIST and NTIA labs accounted for over one-third of this employment. These are high-skilled, highly educated employees whose average annual compensation in 2012 was \$107,900. In August 2013, CU's Leeds School of Business released a study entitled, "CO-LABS Economic Impact Study: Economic and Fiscal Impacts of Federally Funded Research Facilities". According to the report, the net economic benefit to Boulder County of the federal labs, combined with other federally funded research laboratories in Colorado, totaled \$743.2 million in FY 2012.

Boulder highly values the scientific contributions the labs and their employees have made to the entire nation, as well as the economic impact they have on our community. These institutions work closely with scientific researchers from the University of Colorado in Boulder and Colorado State University in nearby Ft. Collins. This synergy of scientific knowledge is found nowhere else in the United States.

Just as the labs generate direct benefits (employment, local spending) and associated indirect activity through an economic multiplier effect, the opposite holds true for funding reductions. According to CU's Leeds School of Business, for every job lost at these federal laboratories, an additional 1.17 jobs will be lost in Colorado. For every \$1 million in funding cuts to the labs, an additional \$1.13 million in economic impact will be lost. Perhaps even more troubling, our national capacity for research and innovation will be damaged by lay-offs of scientists and researchers, jeopardizing new advanced technologies, future businesses formed to commercialize developing technologies, and our global competitiveness.

- **SUPPORT FOR LEGISLATION FACILITATING THE ABILITY OF MUNICIPALITIES TO ENTER INTO REVENUE SHARING AGREEMENTS**

The city believes that there are a number of shortcomings associated with the current reliance municipalities have on sales tax generation. These include revenue-driven development detached from community land use goals, the use of incentives to capture development at the expense of municipal budgets, and sales tax revenue volatility resulting from counterproductive competition of regional retail outlets. In order to address these and



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

other limitations, the City of Boulder, in conjunction with the Boulder County Consortium of Cities, is exploring the possibility of a revenue sharing agreement with one or more of its municipal neighbors. The significant challenge of such an undertaking would be diminished if the state were to provide mechanisms to encourage such agreements. One possibility would be for the state to establish a task force to evaluate the possibility of exploring revenue sharing as it may relate to the creation of a service tax or the removal of barriers to collecting Internet sales tax.

- **SUPPORT REVISIONS TO THE FEDERAL BUDGET SEQUESTRATION AS IT HAS AND WILL CONTINUE TO DRASTICALLY IMPACT FUNDING FOR VITAL PROGRAMS AND SERVICES PROVIDED BY THE FEDERAL LABS, THE UNIVERSITY OF COLORADO BOULDER, THE BOULDER VALLEY SCHOOL DISTRICT, BOULDER COUNTY AND THE CITY OF BOULDER**

Automatic cuts, enacted as a part of the debt ceiling and “Super Committee” debates of last year, are expected to trim \$1.2 trillion from federal spending over the next decade. The city recognizes the importance of reducing the national debt through a combination of revenue increases and targeted budget reductions. However, the city is very concerned about the direct and indirect health, safety, education, human service and economic impacts to the Boulder community of across-the-board cuts to the federal budget. Instead, the city would support an approach that generates the Budget Control Act-mandated savings through administrative efficiencies and strategic cuts to obsolete or duplicative programs.

ENERGY AND CLIMATE

- **SUPPORT LEGISLATION TO ADDRESS CLIMATE CHANGE BY IMPROVING ENERGY EFFICIENCY, INCREASING USE OF RENEWABLE ENERGY, REDUCING GREENHOUSE GAS EMISSIONS AND DEPENDENCE ON FOSSIL FUELS, AND DEVELOPING CLIMATE CHANGE ADAPTATION STRATEGIES**

In May 2002, the Boulder City Council passed Resolution 906, also known as the Kyoto Resolution, setting the goal of reducing community greenhouse gas emissions to seven percent below 1990 levels by 2012. In June 2006, Council adopted a climate action plan to serve as a roadmap to achieve Boulder’s necessary emission reductions. The overarching vision of the plan is to develop a sustainable energy future for Boulder. In August 2013, council adopted a longer-term climate commitment to achieve an 80% reduction in emissions by 2050. The city supports a variety of approaches to reach this goal, including legislation that would support creating a new rate category, similar to Windsorce, that customers of publicly owned utilities could voluntarily sign up for with such funding going to support



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

distributed energy generation systems (e.g., community solar gardens and rooftop solar) within the locality where such funds were raised; change the Public Utilities Commission regulations to encourage investments in conservation by replacing the current focus on minimization of energy rates to one focusing on minimization of the consumer's total energy bill; unbundle rates to clearly differentiate fixed and variable energy costs; facilitate the use of investor-owned transmission lines at fair and reasonable prices to convey renewable energy from multiple sources (a.k.a. retail wheeling); allow distribution of city-generated or city-owned renewable energy sources at fair and reasonable prices; allow for aggregation of residential or commercial electric customers in municipal purchase of renewable energy on behalf of these groups of customers (a.k.a. community choice aggregation); make any necessary changes to the community solar gardens law (HB10-1342) to allow for its successful implementation, especially with regard to facilitating formation of smaller (500 kW and under) solar gardens; require time-of-day electricity price signals that would, among other things, promote charging of vehicles at night; move the state toward feed-in tariffs so that electric utilities would be obligated to buy electricity from renewable energy sources at rates that are economically viable for the creation of such sources; fund local government energy efficiency and renewable energy programs; extend the federal production tax credit for wind energy which is due to expire at the end of 2013; establish high performance residential and commercial building codes; allow mobile home owners to receive the same rebates and incentives for installation of solar panels as are available to other homeowners; promote best practices related to energy data, such as adoption of Green Button by regulated utilities; facilitate the development of a third-party energy data center and/or demand-side management program implementer; enable regulated utilities to provide aggregated whole-building data to building owners and property managers for use in building benchmarking and energy efficiency improvements; standardize regulated utility filings to increase transparency at the PUC; require utilities to file grid modernization plans; enhance governments' access to information from regulated utilities through regular reporting on designated undergrounding funds and the ability to obtain communitywide energy information relevant to climate action programs; make it easier for local governments to purchase street lighting; require statewide lighting, appliance and other equipment efficiency standards and/or incentives, as appropriate, for efficient technologies; preclude utilities from imposing excessive charges to their customers for net metering of distributed renewable energy generation, customer-sited combined heat and power systems, or on-site energy recapture systems; establish a small state level carbon tax with proceeds being used to fund renewable energy projects as well as transmission and distribution system improvements that enable additional deployment of renewables and energy efficiency measures, and; support Federal policies that establish a price on carbon emissions domestically as well as internationally. Conversely, the city will oppose any legislation that impedes the above objectives or that limits a city's ability to form a municipal utility.

The city also supports legislation similar to HB12-1234 that would clarify that, for purposes of the rules governing intervention in administrative hearings before the Colorado Public Utilities Commission (PUC), customers of a business regulated by the PUC qualify as persons who "will be interested in or affected by" the PUC's order.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

The city understands that the early impacts of climate change have already appeared and scientists believe that further impacts are inevitable, no matter what happens to future global greenhouse gas emissions. In addition, the city recognizes that decisions we make today about land use, infrastructure, health, water management, agriculture, biodiversity and housing will have lasting consequences. It is therefore important to begin planning now for the impacts of climate change in the future. Consequently, the city supports legislation that expands the development of climate change adaptation strategies such as those that initiate, foster, and enhance existing efforts to improve economic and social well-being, public safety and security, public health, environmental justice, species and habitat protection, and ecological function.

Specific to vehicle usage, the city supports legislation that would reduce growth in vehicle miles traveled; authorize collection of vehicle registration fees based on vehicle fuel efficiency levels if implementation can address social equity concerns; establish vehicle efficiency standards as called for in the Colorado Climate Action Plan; increase state biofuel infrastructure and develop a statewide biofuels policy; require more data during vehicle registration relating to fuel efficiency; change current regulations so that net metering of vehicle-to-grid charge and discharge cycling can be accommodated; and, encourage the proliferation of public charging stations for plug-in-electric vehicles by requiring new parking lots and parking structures to provide a minimum number of public charging stations.

- **SUPPORT REFORM OF PROPERTY ASSESSED CLEAN ENERGY (PACE) FINANCE STATUTES TO ALLOW FOR RESUMPTION OF BOULDER COUNTY'S CLIMATESMART LOAN PROGRAM (CSLP)**

The city has been an active supporter of Boulder County's PACE finance program, the CSLP. Many city residents have taken advantage of the CSLP to secure low-interest loans to make energy efficiency and renewable energy upgrades to their homes. Actions taken in 2010 by Fannie Mae, Freddie Mac, and the Federal Housing Finance Agency have forced local governments across the country, including Boulder County, to suspend their PACE financing programs. The city supports reversal or resolution of these federal actions, either through legislation or regulation, to allow PACE programs to again move forward. If such federal action is taken, the city would also urge the Colorado General Assembly to quickly take any action necessary to conform Colorado's PACE enabling statutes to the new federal requirements.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **SUPPORT LEGISLATION PROMOTING WASTE REDUCTION AND DIVERSION EFFORTS**

In Colorado, there are currently no statewide minimum waste diversion goals. In addition, there exist artificially inexpensive landfill tip fees and no minimum recycled content standards. This makes the most environmentally responsible management practices like [source reduction and recycling](#) and composting often cost prohibitive. The city supports statewide legislation that would encourage product stewardship and take-back programs (a.k.a. “extended producer responsibility”); ban specific materials; advance waste to energy technologies; require post-consumer minimum content standards for product manufacture; ~~and~~ implement statewide or regional landfill tip fee surcharges to be used for waste reduction; [create tax credits for nonprofit organizations to encourage source reduction, recycling and composting](#), and ~~or~~ a statewide waste diversion goal structured to include incentives and assistance programs to spur waste diversion state-wide, and encourage additional resource recovery. The city also has specific concerns about the environmental hazards posed by electronic waste in landfills. Therefore, the city supports legislation that requires extended producer responsibility that is regulated to be environmentally and socially acceptable. Finally, the city would support repeal of the prohibition contained in state law (C.R.S. Section 25-17-104) on local government bans on “use or sale of specific types of plastic materials or products” or restrictions on “containers . . . for any consumer products.”

- **SUPPORT IMPROVEMENTS TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION’S OVERSIGHT OF OIL AND GAS DRILLING AND PRESERVATION OF LOCAL CONTROL TO ADOPT REGULATIONS, MORATORIUMS OR OTHER LIMITS AS NECESSARY**

Oil and gas drilling is an industrial activity that is increasing in Colorado and within the northern Front Range, and which poses significant risks and potential adverse impacts, including damage to air and water quality, scenic values, property values, public infrastructure, and public health and that can significantly affect local quality of life and economic prosperity. There is growing public concern about the proximity of oil and gas development to communities and other sensitive resources and about industry techniques, such as hydraulic fracturing (or “fracking”), which are being used to access oil and gas resources. Fracking is a process whereby fluids are injected at high pressure into underground rock formations to blast them open and enable new or increased exploitation of fossil fuel resources. Chemicals typically used in the fracking process include diesel fuel, benzene, industrial solvents, and other carcinogens and endocrine disruptors. According to the Colorado Oil and Gas Conservation Commission (COGCC), nearly all of the more than 51,000 oil and gas wells operating in Colorado are fracked. New requirements to substantiate trade secrets and disclose all chemicals and concentrations included in fracking fluids, save



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

for those included in trade secrets, were positive steps forward. In addition, there is increasing evidence and growing concern that oil and gas operations emit toxic air pollutants, volatile organic compounds that cause ground-level ozone, and potentially large amounts of methane, one of the most powerful greenhouse gasses. Further, according to the COGCC, since 2010, there have been more than 1,500 spills in Colorado – an average of 500 each year – and more than 20% of these have contaminated water supplies. Accordingly, the city believes that fracking should not be an exempted activity under the Clean Water Act or Safe Drinking Water Act or from other federal environmental laws.

In July of 1993 the City of Boulder adopted its own regulations to govern oil and gas operations or production on Open Space lands. Those regulations require an application to the city manager, and hearings conducted by the Open Space Board of Trustees and City Council. Since the adoption of the regulations in 1993, no one has applied to conduct new drilling operations on Open Space lands. These regulations, however, do not address the issue of fracking or other emerging concerns about oil and gas impacts, nor do they address any potential drilling that might be proposed within city limits on non-open space lands.

Boulder County and many of the communities surrounding Boulder are facing increased oil and gas drilling activity and are in various stages of adopting moratoria or crafting new rules to address potential risks and adverse impacts from fracking and other drilling activities. The State of Colorado argues that state authority preempts local rules and is currently suing Longmont for adopting its own rules. In addition, the oil and gas industry is suing Longmont challenging a ban on fracking within city limits that was adopted by Longmont citizens by a 60% vote. Furthermore, several multi-year studies are underway—including one by CU—to analyze air, water and public health impacts of fracking, the results of which won't be out for several years. In response, the Boulder City Council adopted a year-long moratorium in June 2013 on processing any new permits for oil and gas exploration or development within the city limits or on our city open space. The council subsequently placed an initiative on the November ballot to extend this moratorium until June 2018, while waiting for the results of these pending studies and lawsuits; voters passed this ballot initiative (2H) by over 78%.

The City of Boulder believes that local governments have both the right and responsibility to take action to protect the public health and well being of our residents as well as the environment. The city supports the state setting minimum standards and best management practices for the oil and gas industry (such as those suggested by the International Energy Agency on this subject, entitled “Golden Rules for a Golden Age of Gas”), but also believes that local jurisdictions must be allowed to adopt strong rules as needed to address local concerns and conditions. To that end, the city supports legislation that clarifies and strengthens the authority of local governments to use their existing land use authorities to manage and tailor oil and gas activities within their borders to ensure public health, safety and welfare, and to protect the environment. The city also opposes legislation that would preempt local authority to establish bans, temporary moratoriums, or to establish and enforce regulations over such fracking operations.



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

In addition, the city also supports legislation that would address specific oil and gas drilling impacts, including legislation to:

- Better protect homes and communities by increasing the minimum distance between wells and occupied buildings from the current 350' setback to 1000', 1,500' for schools, giving local governments an effective role in controlling the pace and footprint of development in their jurisdictions, and; lifting the current prohibition on local governments passing along the cost of inspections to industry.
- Adopt statewide protections for water including: requiring setbacks from all streams and lakes; requiring baseline and periodic water monitoring at all drilling sites; raising casing and cementing standards to ensure wellbore integrity; and requiring operators to formulate a water management plan and recycle wastewater before acquiring new supplies.
- Better protect air quality at and near oil and gas operations and decrease greenhouse gas emissions by requiring strict controls on fugitive emissions from oil and gas facilities, including adopting the latest technology in leak detection and repair.
- Increase fines for negligent, repeated or significant spills.
- Address the dual mandate and composition of the COGCC to make its primary role the regulation of the oil and gas industry to protect the public health, safety and the environment.
- Support further study of air, water and public health impacts oil and gas operations and ways to mitigate or avoid impacts.

HOUSING

- **OPPOSE FEDERAL EFFORTS TO REDUCE APPROPRIATIONS FOR HUD PUBLIC HOUSING AND SECTION 8 PROGRAMS WHICH PROVIDE RENTAL ASSISTANCE TO LOW-INCOME HOUSEHOLDS**

In the continuum of housing options for Boulder citizens, public housing and Section 8 vouchers provide a unique source of safe and affordable homes for approximately 1,000 families. Public housing and voucher assistance serve the most low income families in Boulder, 95 percent of whom have incomes below \$14,000 annually and pay an average of less than \$300 per month in rent. There are very few, if any, market options for these families who depend entirely on the availability of federal assistance in order to live with dignity and assurance of shelter.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **OPPOSE FEDERAL REDUCTIONS TO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND HOME INVESTMENT PARTNERSHIPS**

Boulder has participated in the CDBG program since 1975, and funds have been used in the past for a variety of projects ranging from assistance to nonprofit agencies that provide services to the city's low and moderate income residents, to construction of the Pearl Street Mall, and renovation of the Chautauqua Auditorium. Boulder has also participated in the HOME program since 1992 and program funds have supported the production and preservation of affordable housing. For the past six years Boulder has been the lead agency for a regional HOME Consortium including all of Boulder and Broomfield Counties. Half of the HOME funds received by Boulder are used in Boulder and half in the other Consortium communities. In 2013, the city received \$754,180 in CDBG funding and \$891,331 in HOME funding from the U.S. Department of Housing and Urban Development. The CDBG and HOME programs allow the city to strengthen public infrastructure, increase supply of affordable housing, and improve the quality of life for the city's low and moderate income residents.

- **SUPPORT FOR STATE HOUSING TRUST FUND**

The city is supportive of legislative efforts that would lead to creation and financing of a state affordable housing trust fund.

- **SUPPORT LEGISLATION THAT HELPS ADDRESS THE POWER IMBALANCE BETWEEN OWNERS OF MOBILE HOMES AND OWNERS OF MOBILE HOME PARKS**

It is the policy of the city to encourage affordable housing ownership, including manufactured housing. Current market conditions place owners of manufactured housing at a disadvantage compared to other potential investors in the purchase of manufactured home communities. These dynamics often lead to the exclusion of the potential buyers who have the most at stake and the greatest need for an opportunity to purchase the park.

- **OPPOSE FURTHER CUTS TO STATE FUNDED HEALTH AND HUMAN SERVICE PROGRAMS, ESPECIALLY THOSE THAT ARE PREVENTIVE IN NATURE**

The state recently made drastic cuts to services that help provide a safety net to thousands of city residents. This includes services to very low income residents, children and families, mentally ill, disabled and people without health insurance. The city urges the General



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

Assembly to avoid making further cuts to those essential services that serve the city's most vulnerable, especially intervention and prevention services that keep people out of crisis.

HUMAN SERVICES/HUMAN RIGHTS

- **SUPPORT COMPREHENSIVE FEDERAL IMMIGRATION REFORM**

The City of Boulder has been, and remains, committed to the protection of civil and human rights for all people. It believes in the dignity of all Boulder residents, regardless of immigration status, and recognizes the importance of their many contributions to the social, religious, cultural and economic life of the city.

The failures of the U.S. immigration system have had profound impacts within the Boulder community. These include very young students losing motivation to excel in their learning because of knowledge that they lack affordable higher educational opportunities and the existence of an underclass, climate of fear, informal economy and work force inequities.

Accordingly, the city welcomes and encourages cooperation at all levels of government to work together to support swift and responsible legislative action to produce equitable, humane, effective and comprehensive federal immigration reform that provides for:

1. Enforceable immigration laws;
2. A rational and humane approach to the undocumented population;
3. A simplified visa system which allows for family unification of those who have been separated by the legal immigration backlog process and which provides for legal status for the existing immigrant workforce;
4. A rate and system of controlled immigration that matches the needs of our economy;
5. Social integration for our existing immigrant workforce and their families;
6. Recognizing employers as key allies in implementing immigration policy and enhancing enforcement of labor laws to remove the market advantage that leads to exploiting immigration status to pay lower wages, avoid taxes and violate labor laws;
7. A system which ultimately aids in border control, and;
8. Bilateral partnerships with other countries to promote economic development that will reduce the flow of immigrants.

The city also supports federal legislation, such as the often introduced Development, Relief, and Education for Alien Minors Act (The "DREAM Act"), that would qualify students for immigration relief if they have resided in the United States for several consecutive years, arrived in the U.S. as young children and demonstrated good moral character; put such students on a pathway to citizenship if they graduate from high school or obtain a GED and complete at least 2 years towards a 4-year degree or serve in the U.S. military for at least two years, and; eliminate a federal provision that discourages states from providing in-state tuition to their undocumented immigrant student residents, thus restoring full authority to



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

the states to determine state college and university fees. [Similarly, the city supports legislation, like HB14-1124, which would allow instate tuition for American Indian Tribe members with ties to Colorado.](#)

Finally, the city supports the Uniting American Families Act of 2013 (S.296), federal legislation to ensure that all Americans, regardless of sexual orientation, receive equal treatment under immigration laws. This bill specifically allows partners and children of U.S. citizens and lawful permanent residents to obtain lawful permanent resident status the same way heterosexual spouses can. It would allow for family-based immigration for gay and lesbian Americans and the reunification of families, which strengthens our communities.

- **SUPPORT LEGISLATION FURTHERING THE RIGHTS OF ALL PEOPLE REGARDLESS OF THEIR ACTUAL OR PERCEIVED SEXUAL ORIENTATION OR GENDER VARIANCE STATUS**

On May 18, 2004, Boulder's City Council adopted Resolution No. 947. This resolution affirms the city's commitment to the protection of civil rights for all people as outlined in the city's human rights ordinance. Furthermore, the resolution recognized the many contributions that the city's gay, lesbian, bisexual and transgender residents have provided that have enhanced the lives of all in the community. Finally, the resolution declared support for repealing or legislatively challenging the Colorado state law prohibiting the issuance of same sex marriage licenses.

Consistent with the city's long history of support for the equal rights of all people regardless of their actual or perceived sexual orientation or gender variance status, the city will continue to support the right for same-sex couples to enjoy and be bound by the same legal rights and responsibilities as married, opposite-sex couples, including the right to be issued a marriage license [and to file joint income tax returns.](#)

The city supports the Employment Non-Discrimination Act (ENDA) of 2013 (S. 815), a federal bill to prohibit employment discrimination on the basis of sexual orientation or gender identity. With no clear federal law prohibiting workplace discrimination on the basis of sexual orientation or gender identity, many lesbian, gay, bisexual, and transgender workers live with uncertainty and fear about whether they'll be able to keep a job and care for their families. Without a comprehensive federal law like ENDA, these workers lack antidiscrimination protections in a majority of states. The city also supports the Tax Parity for Health Plan Beneficiaries Act (S. 738 and H.R. 2523), bills that are pending in both the House and Senate of the 113th Congress. Under the existing federal tax code, health benefits for same-sex domestic partners (unlike those of heterosexual spouses of employees) are taxed as income to the employee. The Tax Parity for Health Plan Beneficiaries Act would provide tax equity for same-sex couples. It has received support from 77 of the nation's largest companies, including Microsoft, Boeing and Alaska Airlines. Under the umbrella



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

organization named the Business Coalition for Benefits Tax Equity, they have stated that the current tax inequity puts them at a competitive disadvantage.

- **SUPPORT ANTI-WAGE THEFT LEGISLATION**

Wage theft is a common problem across Colorado in which an employee is denied the wages that they earned through their labor. It takes various forms and state statutes do not provide adequate remedies or protections for these workers. Victims of wage theft are often lower-income and each incident of wage theft puts the individual and family at risk of losing their housing or not having access to food and other necessities of daily life. The failure to pay wages owed is broadly destructive because it victimizes not only economically vulnerable members of the workforce but also the network of service providers and governmental institutions that strive to address the needs of Boulder's population.

The city's "Failure to Pay Wages" ordinance (B.R.C., 1981, Section 5-3-13) enables workers alleging an employer's failure to pay to seek recovery of their wages through the city's Office of Human Rights. That office has handled over 100 cases and recovered more than \$50,000 in pay for work performed within Boulder. Examples of jobs most likely to encounter such wage disputes include construction, landscaping, day labor, personal services, and child care. However, the ordinance does not protect workers outside the City of Boulder, including Boulder residents who work outside the city limits.

State laws are very limited in the support they provide workers trying to recover unpaid wages. For this reason, the city supports legislation at the state level (e.g., the Income Protection Act by Singer-Ulibarri) to counter wage-theft by increasing administrative remedies that provide more access to justice for workers trying to secure wages that they earned.

INTERNAL ADMINISTRATIVE MATTERS

- **PROTECT WORKERS' COMPENSATION SYSTEM**

The city's self-insurance program is a cost efficient method to provide workers' compensation. The workers' compensation system serves a dual purpose, providing benefits promptly to injured employees in a cost-effective manner and minimizing costly litigation. Consequently, the city will support legislation that improves the administrative efficiency of the State of Colorado's Division of Workers' Compensation.

State intervention or taxation can negatively impact the city. Consequently, the city will oppose legislation that increases insurance premium costs to employers, adds administrative burdens or taxes to self-insurance programs, promotes litigation, or removes existing off-sets to workers' compensation benefits.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

The city also opposes efforts to expand “presumptive disease” claims associated with workers’ compensation insurance. Presumptive disease claims are a change in the philosophy guiding workers’ compensation insurance. They presume an existing or previous employee obtained the disease from work associated with that person’s employer unless the employer can prove otherwise. The 2007 legislative session enacted legislation that requires that, under the Workers’ Compensation Act of Colorado, if a firefighter contracts cancer of the brain, skin, digestive system, hematological system or genitourinary system, the condition be deemed to have occurred within the scope of employment unless the employer can prove that the covered cancer did not occur within the scope of employment. This is a particularly difficult proposition for employers as many diseases have a genetic component and cannot be definitively detected in baseline (time of hiring or imposition of new law) testing. The result of this legislation was a 15 percent increase in premiums associated with fire employees. The city opposes any effort to further shift the burden of proof for workers’ compensation claims.

- **PROTECT GOVERNMENTAL IMMUNITY**

The complexity and diversity of city operations and services required to meet the needs of the residents of Boulder may expose the city and its officers and employees to liability for damage and injury. City officers and employees must be confident that they have the city’s support in the lawful and proper performance of their assigned duties and responsibilities.

Consequently, the city will support legislation that provides immunity to municipalities and their officers and employees in the lawful and proper performance of their duties and responsibilities and that discourages baseless and frivolous claims against the same. Conversely, the city will oppose legislation that expands or increases municipal liability or further limits municipal immunity beyond current law.

- **OPPOSE STATE LEGISLATION THAT COULD UNNECESSARILY RESULT IN INCREASED CONTRIBUTIONS OR FORCE A REDUCTION IN BENEFITS FOR MEMBERS OF THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA)**

Two significant pieces of legislation were enacted in recent years aimed at putting PERA back on track to being fully funded. The first, SB06-235, passed in 2006, made several changes, including: (1) temporary increases in the amount that employers from each division must contribute to PERA, with increases staying in effect until accounts in those divisions are found to be 100% funded; (2) the addition of an eight percent cap per year on the Highest Average Salary (HAS) for new hires; (3) a change of the Rule of 80 to a Rule of 85 with a minimum retirement age of 55 for new hires; (4) a prescribed amortization period reduced from 40 years to 30 years; (5) a requirement for independent actuarial studies to be



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

conducted before future benefit increases could occur; and, (6) a new requirement to purchase service at full actuarial cost.

Then in 2010, SB10-001 was enacted to require, among other things: (1) additional increases in the temporary employer contributions beyond previous requirements, with exemptions for the local government division where further increases were deemed unnecessary; (2) reductions in the cost of living adjustments (COLA); (3) application of the 3-year HAS with a base year and an eight percent spike cap applicable to current members not eligible to retire on January 1, 2011; (4) extension of the Rule of 85 to existing members with less than five years of service credit as of January 1, 2011, creation of a Rule of 88 for new hires and a Rule of 90 for hires after 2017, and; (5) a new requirement for contributions from retirees who return to work.

Despite this legislation, a result of comprehensive and collaborative efforts by PERA, legislators and representatives of employer groups, and despite a 2012 independent auditor finding that PERA's assumed 8% rate of return is "within a reasonable range of possible scenarios," a variety of legislation has since been and is expected to continue to be introduced in the Colorado General Assembly to further change the PERA system. The city recognizes that further reforms may indeed be required and consequently supports legislation deemed necessary to stabilize PERA's funds, but only when informed by a comprehensive evaluation of the impacts of those changes so as to protect against unnecessary increases to employer or employee contributions or reductions in employee benefits. One reform the city would support without further analysis is changes to the composition of the 16-member PERA Board of Trustees to provide more balanced representation from non-PERA covered members. However, as one of the largest of the 24 member governments in PERA's Local Government Division, Boulder will oppose piecemeal state legislation that has unknown financial impacts.

LOCAL CONTROL

- **OPPOSE LEGISLATION THREATENING LOCAL CONTROL AND HOME RULE AUTHORITY**

Several bills are introduced each session that threaten to erode local powers. As a general matter, the city believes that local problems need local solutions and that the current authority and powers of municipal governments in areas such as land use, zoning, personnel matters and sales tax, should not be further eroded. Legislation threatening local control, that does not otherwise further interests specified in this legislative agenda or otherwise recognized by City Council, will be opposed by the city.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

NATURAL RESOURCES, WILDLIFE AND PARKS

- **SUPPORT LEGISLATION PROTECTING THE ABILITY OF LOCAL GOVERNMENTS AND THE LAND TRUST COMMUNITY TO ACQUIRE AND PROTECT PARKS AND OPEN SPACE**

Colorado Lottery proceeds have been one of the few sources of state funding for conservation of natural resources, wildlife and parks, providing \$2.3 billion statewide over the past 28 years. Profits from the sale of lottery products are allocated according to the following formula: up to 50 percent to the Great Outdoors Colorado (GOCO) Trust Fund, 40 percent to the Conservation Trust Fund (CTF), and 10 percent to the Colorado Division of Parks and Outdoor Recreation. GOCO provides competitive grants to projects that preserve, protect and enhance Colorado's wildlife, parks, rivers, trails and open space. The fund is capped (approximately \$54 million in 2011) and any spillover is directed to the BEST rural school capital construction assistance fund. The CTF funds are used by local communities across the state for outdoor projects including trail construction, ball fields, playgrounds, and adding new parks or enhancing existing parks.

CTF and GOCO funds have for years been a critical part of the city's capital budget. Important acquisitions have been added to Boulder's inventory of parks and open space that have helped shape our community, preserve ecological systems and create opportunities for active and passive recreation for people of all ages. Among the projects accomplished with GOCO funding include Valmont Bike Park, winner of the 2011 Colorado Parks and Recreation Association award for recreation facility design and future host of the 2014 USA Cyclo-Cross National Championships.

The city supports preservation of the current lottery distribution formula and will oppose legislation that would change that allocation or create new lottery scratch tickets for other purposes that would decrease demand for the existing lottery tickets.

- **SUPPORT STATE LEGISLATION FURTHERING IMPLEMENTATION OF THE CITY'S URBAN WILDLIFE MANAGEMENT PLAN**

The Urban Wildlife Management Plan (UWMP) was developed to provide guidance on how Boulder's urban areas will provide diverse, self-sustaining, native wildlife populations in a manner compatible with basic human needs, social and economic values and long-term ecological sustainability. The plan also seeks to reduce conflicts between humans and wildlife in the urban core. Management of the city's lands outside of the urban core such as Open Space and Mountain Parks lands and utilities lands (Silver Lake Watershed, Boulder Reservoir) are covered by the plans of the appropriate managing department.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

Because of the network of nearby natural lands, its geographic setting at the intersection of the mountains and plains, Boulder's urban areas are visited or inhabited by a wide range of wildlife species. Some species keep a low profile, present little or no conflict and go unnoticed by most urban residents. Other species are highly valued by the community, but most of these present little or no conflict with urban services or land uses. There are, however species that are valued by the community that do come into conflict with people. These include prairie dogs, black bear, mountain lions, Canada geese and mule deer. The city is often attempting to simultaneously conserve these species on open space lands, while managing conflict in the urban area.

There are often opportunities on a species-specific level to support legislation at a state or federal level to complement our conservation and conflict management efforts. Examples include support of funding for mosquito management to address state or federal public health issues/mandates; modifications of laws to allow prairie dog relocation to other counties without commissioner approval; and, modifications to in-stream flow legislation that would allow the city to retain the value of its water rights while simultaneously conserving native and sport fisheries.

- **SUPPORT LEGISLATION NECESSARY TO ALLOW FOR STATE SUPPORT TO ADDRESS THE CITY'S EMERALD ASH BORER INFESTATION**

In late September of 2013, the emerald ash borer (EAB), an invasive pest of ash trees, was identified within the city limits of Boulder. The EAB is a hard to detect, and even more difficult to exterminate, insect that kills even healthy ash trees within 2-4 years of first symptoms. Although the EAB flies, infestation normally results from movement of infested ash trees and wood (e.g., firewood, chips, packing and industrial materials).

To determine the full extent of infestation, a survey is being conducted by staff from city forestry, Colorado Department of Agriculture (CDA), Colorado State University Extension, and forestry staff from other Front Range cities. The results of the survey are expected by the end of January and will guide the future city of Boulder EAB Response Plan to manage the infestation within the city and potentially slow the spread to nearby communities.

The EAB poses a significant threat to the ash trees within the city. There are approximately 38,000 city park and public street rights-of-way trees under the jurisdiction of the Boulder Parks and Recreation Urban Forestry Division: approximately 6,000 are ash trees (15 percent of the public tree population). That number rises to 98,000 when you include private ash trees within the city and 1.45 million when you take into account all the ash trees in the Denver metro area. Consequently, local governments may require significant support from the state to contain the threat, enforce a quarantine, remove dead trees and to educate the public.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

The city will support necessary state legislation, including requests for supplemental funding for the CDA or the creation of an account to support emergency response to pests when no specific agricultural or horticultural industry is primarily impacted, to allow the state to partner with the city in addressing the challenges presented by the EAB.

- **SUPPORT LEGISLATION PROVIDING FOR MORE BALANCE IN THE COMPOSITION OF COLORADO’S “PESTICIDE ADVISORY COMMITTEE” AND FOR RESTORATION OF LOCAL GOVERNMENT AUTHORITY TO REGULATE CERTAIN PESTICIDE USES**

The Colorado Pesticide Applicators’ Act applies to pesticide applicators with the focus primarily on testing and licensing of commercial pesticide applicators. It also incorporates EPA rules and federal pesticide law. Until 2006, when industry-backed legislation was enacted, the Act allowed local governments in Colorado wide discretion to enact pesticide regulations. Since 2006, however, local control to regulate almost all aspects of pesticide use has been preempted by state law. The 2006 legislation expanded state preemption for all pesticide users. The only exception is for the posting of notification of pesticide applications for non-commercial pesticide applicators.

Revisions to the Act can now be expected in 2015, following a sunset review initiated this fall and expected to be concluded with a report and recommendations by the end of 2014. Given the city’s vested concerns in regaining some of its former authority to protect human health and the environment from the potential adverse effects of pesticides, city representatives expect to be involved at several steps in the sunset review. During this time, it will advocate for legislation that provides a more balanced perspective on pesticide use that takes into account recent studies concerning the human health and environmental impacts of pesticides that were not known at the time the Act was initially enacted. Specifically, it will support expansion of the state’s Pesticide Advisory Committee to include members with technical expertise in human health risk (particularly to children), non-target species impacts including pollinators, water quality impacts, local governments, and others to ensure the public’s best interests; state protections for children and pollinators; and, restoration of the ability in specific situations for local governments to regain some authority to restrict pesticide use when immediate risk to human health or the environment cannot be addressed by the federal or state governments to adequately safeguard the public interest in a timely manner.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

PUBLIC HEALTH AND SAFETY

- **SUPPORT LEGISLATION NECESSARY TO SEEK STATE AND FEDERAL ASSISTANCE FOR FLOOD DISASTER RECOVERY NEEDS AND EXPENSES**

This past September, the city received historic rainfalls, with nearly a year's worth of precipitation falling in less than a week. As a result of the floods and mudslides, it sustained a significant amount of damage. Preliminary recovery estimates to city assets exceed \$43 million. This assessment is likely to increase as staff and contractors gain access to additional damaged areas and begin restoration. There was also a yet un-quantified amount of significant damage to residential properties, businesses, irrigation ditches and agricultural crops and livestock operations.

The city continues to work with state and federal agencies to connect impacted residents to individual disaster assistance and is working to restore city facilities and streets. It is anticipated that in years to come there will be a role for state and federal legislation to facilitate these efforts.

- **SUPPORT AMENDMENT 64-IMPLEMENTING LEGISLATION THAT ENSURES THE SAFE USE OF RECREATIONAL MARIJUANA BY ALLOWING LOCAL GOVERNMENT ACCESS TO BACKGROUND CHECKS AND THE SEED-TO-SALE TRACKING INFORMATION FOR COMMERCIAL OPERATORS**

The city will support state implementing legislation that furthers the following principles:

1. Provides mechanisms to ensure marijuana is appropriately labeled and regulated so that only adults intentionally choosing to use marijuana are exposed to it, that such users receive a safe product with complete information about the impacts of what they are choosing to ingest, and that these substances are kept away from children.
2. Maintains a dual licensing system to allow both the state and local governments to issue and enforce licensing of commercial marijuana facilities.
3. Allows local governments to recover the full costs of any commercial licenses they choose to allow.
4. Specifically enumerates as a matter of state interest and responsibility the creation of overall safety requirements related to recreational marijuana while reserving to local governments specific abilities, but not requirements, to adopt additional requirements and monitor and enforce those rules.
5. Does not expand the declaration of statewide concern beyond the scope of what is included in Amendment 64.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

6. Allows local governments to have access to Colorado Bureau of Investigation records for background checks and the seed-to-sale tracking system implemented by the state for marijuana businesses within the city.
 7. Addresses the public safety concerns of operating a cash-only business by providing commercial operators with options to traditional banking services.
- **SUPPORT REMOVAL OF BARRIERS THAT PREVENT LEGITIMATE MARIJUANA BUSINESSES TO ACCESS BANKING SERVICES**

Legitimate marijuana businesses in Boulder are forced to operate on a cash-only basis because the substance's federal status currently bars banks from doing business with them. This inequity creates a vulnerability to several of the enforcement priorities outlined in the Deputy Attorney General's letter dated August 29, 2013. More importantly it creates a serious local public safety problem. Statutory solutions are at the federal level and there are efforts underway to try and address this, most recently by Rep. Ed Perlmutter. The city will support these efforts to remove legal and administrative barriers that prevent these businesses from accessing banking services.

- **SUPPORT LEGISLATION THAT PROMOTES THE HEALTH AND SAFETY CONCERNS ASSOCIATED WITH ALCOHOL ABUSE IN THE GREATER COMMUNITY**

Boulder's City Council adopted Resolution 960 on October 19, 2004, concerning alcohol abuse within the community. This resolution affirmed the city's commitment to finding solutions to address the critical issues of health, safety and well being stemming from alcohol abuse within the city.

Since this time, Council has expressly stated its support for appropriate legislation that would:

1. Require the sale of kegs containing alcohol to have a tag attached that would permit tracing of the purchaser, and;
2. Require mandatory server training.
3. Repeal the provision contained in C.R.S. Section 27-81-117 preventing municipalities from adopting public drunkenness ordinances; and
4. Permit municipalities to regulate licensees' hours of alcohol service.

The city will support appropriate legislation that furthers these goals. Conversely, the city will oppose any legislation that undermines these goals, including efforts similar to SB12-118 which would eliminate the 25 percent food requirement for Hotel and Restaurant liquor licenses.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **SUPPORT FEDERAL LEGISLATION THAT WOULD CLOSE THE FEDERAL GUN SHOW LOOPHOLE**

While criminal background checks are currently required for purchases of guns at gun shows in Colorado, there are states that do not have such laws. In order to ensure that guns are not placed in the hands of criminals, a federal law eliminating the gun show loophole is necessary.

- **OPPOSE LEGISLATION THAT WOULD EXPAND THE APPLICATION OF THE “MAKE MY DAY” LAW BEYOND PERSONAL RESIDENCES**

- **OPPOSE LEGISLATION THAT LIMITS THE STATE’S ABILITY TO REGULATE CONCEALED WEAPONS OR LOCAL GOVERNMENT’S ABILITY TO RESTRICT POSSESSION OF WEAPONS IN PUBLIC FACILITIES**

H.R.822, the National Right-to-Carry Reciprocity Act of 2011, is pending in Congress. This legislation would require Colorado to honor concealed carry permits granted by other states, even when those permit holders could not meet the standards required by Colorado law. This would strip Colorado of the power to create its own public safety laws and hand that power over to the federal government – and the states with the weakest protections. H.R.822 would also empower gun traffickers and threaten the safety of our police officers. To protect vulnerable people, states have set standards for carrying handguns that include criteria beyond an applicant’s ability to pass a federal background check. For example, many states issue permits to people with alcohol abuse problems, no firearms safety training, or who are under the age of 21. Colorado does not. Colorado also grants limited discretion to law enforcement to approve or deny a permit. Colorado’s standards also keep guns out of the hands of dangerous criminals. H.R.822, however, would permit citizens of states with less strict laws to freely carry concealed weapons in our state. Because of these problems, the city urges its federal delegation to stand up for law enforcement and support Colorado’s right to make its own decisions about how to protect public safety.

Boulder also has concerns with regard to the open carrying of guns. While cities are prevented from restricting permitted holders of concealed weapons, Boulder wants to make sure it maintains the ability to prevent the open carrying of guns in its public facilities. The open carrying of weapons is alarming to many people and can create logistical issues for the police department.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **OPPOSE MANDATES FOR LOCAL GOVERNMENT ENFORCEMENT OF FEDERAL IMMIGRATION LAWS**

The city supports preserving the option for its police officers to enforce federal laws, including federal immigration laws. However, it will vigorously oppose any state or federal legislation that mandates that its police enforce federal immigration laws, especially if they are unfunded mandates or are likely to result in enforcement officers engaging in racial profiling or discrimination based on race, ethnicity or national origin.

- **OPPOSE LEGISLATION THAT WOULD INFRINGE ON EMPLOYMENT AND PERSONNEL DECISIONS MADE BY MUNICIPAL POLICE AND FIRE DEPARTMENTS**

Employees of the city's fire and police departments are part of collective bargaining units. As part of those units, they have the right to negotiate the terms of their employment. The city opposes any state or federal law that would mandate municipalities to collectively bargain with public safety employee labor unions over wages, benefits, or working conditions, under one-size-fits-all rules.

- **OPPOSE LEGISLATION THAT IMPOSES ONEROUS INFORMATION GATHERING AND REPORTING REQUIREMENTS ON PUBLIC SAFETY, ESPECIALLY WHEN THOSE REQUIREMENTS COME WITH SUBSTANTIAL COSTS THAT ARE NOT SUPPORTED BY ADEQUATE FUNDING**

An example of a reporting requirement that has been imposed on local law enforcement agencies in the past is the state law requiring the arrest of undocumented immigrants to be reported to Immigration and Customs Enforcement.

- **SUPPORT LEGISLATION THAT INCREASES THE FINANCIAL THRESHOLD OF PROPERTY DAMAGE THAT TRIGGERS A POLICE INVESTIGATION OF NON-INJURY TRAFFIC ACCIDENTS**

It takes very little damage to a vehicle to reach the current threshold of \$1,000. While the city's police department currently responds to most accidents, increasing the damage threshold will provide greater flexibility and more local control over the use of police resources.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **OPPOSE LEGISLATION LIMITING MUNICIPAL AUTHORITY TO OPERATE RED LIGHT OR PHOTO RADAR CAMERAS TO ENFORCE TRAFFIC SAFETY**

Boulder is one of nine cities in Colorado that use photo enforcement to enhance the safety of its streets. The red light locations in Boulder were carefully selected due to a historic rate of higher accidents over other locations. Use of photo enforcement at these red light locations has yielded significant safety benefits and reduced red light running accidents by 50 percent. Moreover, fewer and fewer red light tickets are issued at these locations each year due to increased compliance. Removal of these cameras could result in accident rates and non-compliance returning to pre-enforcement levels.

Quantifying photo speed enforcement success is somewhat more difficult. It is implemented per strict state statute requirements that limit where it can be placed. It enables the city to enforce speed limits in neighborhood locations that do not have a high enough volume of traffic to justify deployment of officers. It is particularly effective in school zones. One conclusion that can be made is that photo speed enforcement has enhanced the safety of neighborhood streets and school zones by reducing speeding.

In 2012, fines associated with violations of the city's photo enforcement program and red light violations generated \$1,331,196 in revenue at a cost to the city of \$1,390,321.

The true cost associated with motorists running red lights and speeding through neighborhoods is not captured in the financial information provided above. It is best quantified in the cost to our community associated with the personal injury and property damage from motorists speeding and running red lights. Recent studies have shown that the average red light camera location in the U.S. results in \$38,000 a year in reduced societal costs, not to mention the number of lives and grief saved from fewer right-angle crashes. For Boulder, with our eight (8) red light running cameras, this results in \$304,000 in societal cost saved annually.

For these reasons, the city will oppose any legislation similar to SB12-050 that would prohibit or otherwise further restrict the rights of local governments to use red light cameras or photo radar enforcement.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

ROCKY FLATS

- **SUPPORT LEGISLATION PROVIDING FUNDING TO THE DEPARTMENT OF ENERGY FOR THE OFFICE OF LEGACY MANAGEMENT AND U.S. FISH AND WILDLIFE SERVICE IN ORDER TO MANAGE ROCKY FLATS AS A NATIONAL WILDLIFE REFUGE WITH THE APPROPRIATE SYSTEMS IN PLACE FOR LONG TERM STEWARDSHIP**

In February of 2006, the Rocky Flats Stewardship Council (RFSC) was formed to focus on the post-closure management of Rocky Flats, the former nuclear weapons plant southwest of Boulder. As a member of RFSC, the city is very supportive of the 2001 federal legislation (Rocky Flats National Wildlife Refuge Act of 2001) that designates Rocky Flats as a future national wildlife refuge site as well as the requirement that long-term liability, ownership and management of the site remain with the federal government. The city supports legislation authorizing, funding, or otherwise providing assistance for the Rocky Flats Legacy Stakeholders Organization, or alternative organization, to work on coordinating regional open space and conservation efforts as they relate to Rocky Flats

TAX POLICY

- **SUPPORT THE MARKET FAIRNESS ACT AND OTHER ACTION TO PRESERVE AND EXPAND THE AUTHORITY OF LOCAL GOVERNMENTS TO COLLECT TAXES**

According to research undertaken by Forrester Research for Internet Retailer, national online retail spending climbed to nearly \$200 billion in 2011, up from \$30 billion in 2000, and will grow approximately 10 percent per year to reach \$280 billion and comprise more than seven percent of overall national retail spending by 2015. At the state level, the National Conference of State Legislatures estimates that Colorado will lose \$352 million in 2012 from uncollected sales taxes. The growth in internet retail activity presents a clear challenge to the operating budgets of Colorado's local governments, many of which rely on sales taxes to fund critical municipal services, as well as the state budget. Consequently, the city supports legislation, such as the Marketplace Fairness Act, that provides authority for states and Colorado local governments to collect sales taxes on purchases made over the internet, regardless of whether the vendor has a physical nexus with the state. Appropriate limitations on this authority might include exemptions for small businesses, centralized collection of taxes on non-nexus sales and adoption of a common tax base for non-nexus sales. However, the city will not support changes which would allow the state to collect and remit tax revenues on non-nexus sales based on anything other than each municipality's individual sales tax rate (e.g., the city opposes use of a blended tax rate) or which would dictate the tax



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

base or assume authority to collect revenues on local nexus sales which the city already has the authority to tax and collect.

TELECOMMUNICATIONS

- **SUPPORT LEGISLATION REESTABLISHING THE RIGHT OF MUNICIPALITIES TO PROVIDE TELECOMMUNICATION SERVICES SUCH AS LARGE AND COMPLEX CITY-WIDE FIBER AND PREMISE NETWORKS**

The provision of telecommunication access to ensure effective and appropriate access to educational and city resources is seen as a must in today's society. Utilizing current infrastructure and public-private partnerships can create necessary competition to retain low-cost, high-speed access to our residents, regardless of economic status. Senate Bill 05-152 preempted home rule municipalities from providing telecommunication services (with certain limited exceptions) without a vote of the people, even if infrastructure had already been built. Boulder believes that this legislation is overly restrictive in its private sector "non-compete" provisions. Given the very "low and slow" market evolution in providing low-cost and easily accessible internet and other telecommunication services, the city is completely hamstrung in seeking ways of legitimately investing public dollars in infrastructure and services to resolve the digital divide and general access issues in our communities.

TRANSPORTATION

- **SUPPORT LEGISLATION THAT INCREASES TRANSPORTATION FUNDING AND PRIORITIZES ITS EXPENDITURE ON PROJECTS THAT MAINTAIN EXISTING INFRASTRUCTURE, ARE MULTIMODAL IN DESIGN AND THAT OTHERWISE PROMOTE SMART GROWTH**

The city and the entire Denver metropolitan area are in need of new funding to maintain existing infrastructure and transit services, for multi-modal transportation improvements related to roadway, bicycle, pedestrian, carpool/vanpool and for travel demand management activities that would increase the efficiency of the existing system. In addition, despite the commencement of construction on Phase 1 and scheduled construction of Phase 2 asphalt improvements on Highway US 36, there remains a critical need for federal and state funds to ensure the project includes a robust system of bus rapid transit and supports the travel demand management components of the project.

The city supports turning to funding sources that are tied to transportation use, including vehicle registration, car rentals, gasoline consumption, or vehicle miles traveled, provided



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

that a significant portion of the funding generated is directed toward specific, identified projects, including US Highway 36, or to programs that fund alternative modes of transportation. This city also supports the recent trend of turning to managed lanes as practical solution for improving mobility by providing viable travel options in congested corridors. In fact, the city believes that any significant new lane capacity built with state funds be required to be managed. Managed lanes should result in regulation of demand to ensure choices for the traveler beyond the single occupancy vehicle by providing for the option of travel by bus and free or discounted access to high occupancy vehicles (“HOVs”), as well as allowing pricing to help manage the corridor. Public-private partnerships (PPPs) are often essential to identifying funding to construct managed lanes. The challenge, however, is that the partnerships can sometimes focus too much on revenue generation and insufficiently on transportation performance. Moreover, decisions can be made by the state that do not receive sufficient vetting and/or oversight from the affected local governments. In order to ensure that only appropriate toll projects are built, the city would support legislation to require all PPPs for managed lanes to undergo a transparent approval process and to demonstrate maximization in the transportation of people (not just vehicles); reinvestment of at least a portion of toll operating revenues into the corridor for continued improvements; and prioritization of travel choices with a portion of toll revenues supporting transit and/or travel demand management, in order to maximize the value of the transportation investment and to ensure that lower-income residents benefit from the public investment in a toll road. The city also support legislation mandating a determination by the appropriate Metropolitan Planning Organizations (MPOs) that all toll projects, including those which do not use state or federal funding, be analyzed for consistency with the development policies of the MPO’s plan, and that the MPOs assess implications of such projects on the region’s fiscal health, air and water quality, energy, climate change and long-term sustainability. Finally, the city would support legislation similar to HB12-1171 that would prohibit the use of so called “non compete” clauses which are sometimes included in PPPs to preclude maintenance of, or improvements to, existing roads (e.g., Highway 93) in order to increase travel demand on new tolled lanes.

The city believes that new or existing funding should be used for regional priorities as determined by the area MPO, or, where no MPO exists, by the local Transportation Planning Region (TPR) where the improvements are supported by the affected local governments. In furtherance of Colorado’s Climate Action Plan goal to reduce emissions of greenhouse gases by 20 percent by 2020, state legislation should require MPOs and TPRs to model projects for their expected contribution to greenhouse gases and vehicle miles traveled and to prioritize those projects that reduce both.

With regard to federal transportation funding, MAP-21, the latest federal transportation authorization bill, made continued funding for the federal government’s Safe Routes to School (SRTS) program beyond the 2013-14 fiscal year very unlikely. The SRTS program has proven itself a successful and popular program in Colorado. It has provided CDOT with approximately \$2.5 million/year allowing capital and programmatic funding to flow to more than 500 schools across Colorado to improve safe access to schools, ranging from small towns



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

like Ridgeway and Brush, to our largest cities like Denver and Colorado Springs. As a result, the number of children walking and biking to school has increased by as much as 31 percent. SRTS helps make kids safer, improves congestion near schools, and gives students opportunities to become more comfortable with travel options at an early age. The city would support legislation that would direct a small portion of FASTER safety funds to continue this existing program, helping ensure safe transportation for our most vulnerable population; our children.

- **[SUPPORT LEGISLATION FACILITATING THE PROVISION OF RIDE-SHARING SERVICES](#)**

- **SUPPORT EFFORTS TO REALIGN THE COLORADO TRANSPORTATION COMMISSION TO INCLUDE POPULATION, NOT JUST GEOGRAPHY, TO ENSURE FAIR REPRESENTATION OF THE METROPOLITAN AREA**

- **SUPPORT LEGISLATION THAT PROMOTES “COMPLETE STREETS,” ACCOMMODATING ALL MODES OF TRAVEL**

The city supports legislation that furthers the concept of “Complete Streets” where modes are interconnected and a complete set of options are made available to improve efficiency and mobility for all. The city also supports legislation that promotes sustainable transportation solutions recognizing energy sources, impacts of vehicle miles traveled, connections to land use, urban design, and increased accessibility for all.

- **OPPOSE LEGISLATION LIMITING THE CITY’S ABILITY TO REGULATE VEHICLE USE ON SIDEWALKS, MULTI-USE PATHWAYS, AND BIKE LANES, OR THAT REQUIRES THE CITY TO ALTER ITS CURRENT CODE IN ORDER TO MAINTAIN CURRENT POLICY ON ALLOWED USES OF THOSE FACILITIES**

The city’s current ordinances prohibit the use of Segways or motorized “toy vehicles” such as scooters, electric skateboards or mini bikes on sidewalks, multi-use paths or bike lanes. City-initiated changes to such policies would best be informed by a public process where input from the various sidewalk, multi-use path, and trail users could be solicited and evaluated. The city opposes changes to state law that would require the city to change its policy or force an unnecessary and potentially controversial re-evaluation of its policy.



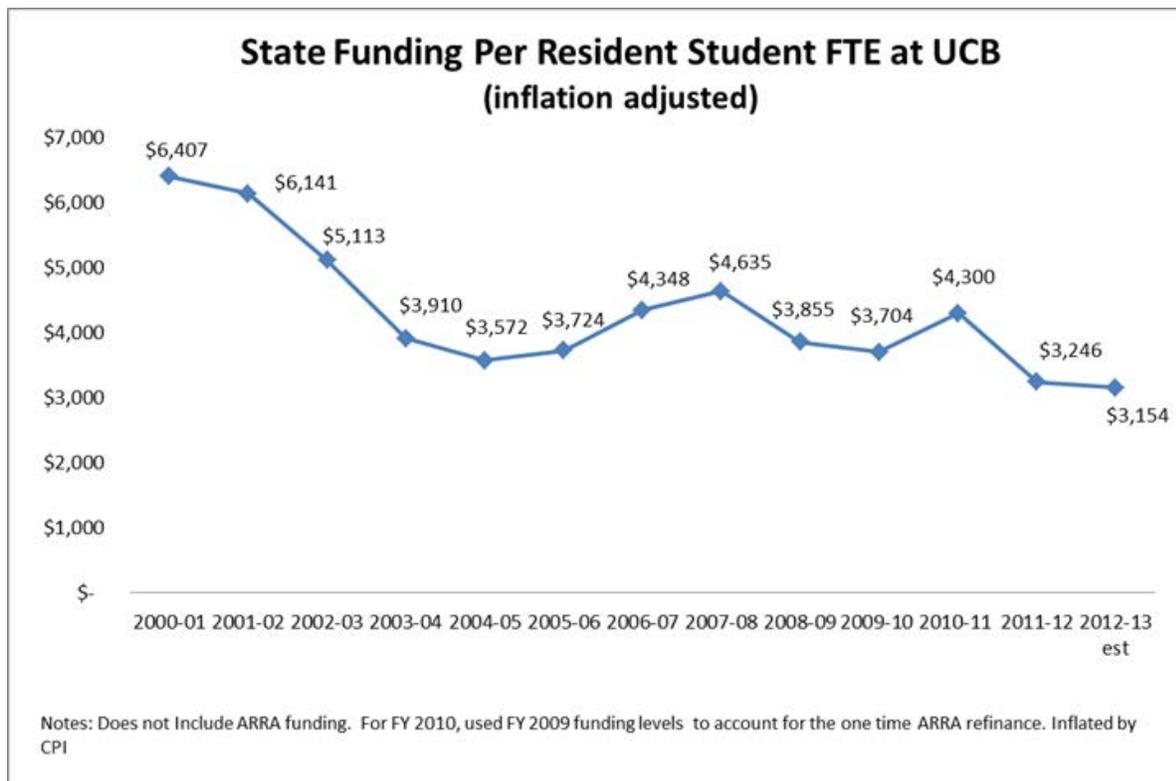
CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **OPPOSE LEGISLATION THAT WOULD TRANSFER THE MAINTENANCE RESPONSIBILITIES FOR REGIONAL HIGHWAYS FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO LOCAL GOVERNMENTS**

In past years, the Colorado General Assembly has been asked to consider legislation that would lead to the unilateral transfer to local governments of state highways. Boulder has several state highways that would be subject to such “devolution,” including U.S. 36 and Highways 93, 7 and 119. The city believes that these types of regional highways, which service multiple communities and counties, need to remain the responsibility of the state government.

UNIVERSITY OF COLORADO

- **SUPPORT A RENEWED COMMITMENT BY THE STATE AND FEDERAL GOVERNMENTS TO FUND THE UNIVERSITY OF COLORADO AND ITS CAPITAL PROGRAMS**



The City of Boulder has been the proud home to the flagship campus of the University of Colorado (CU) since 1876. CU’s Boulder campus (CU-Boulder) brings to the city the Colorado



CITY OF BOULDER 2014 STATE AND FEDERAL LEGISLATIVE AGENDA

Shakespeare Festival, the Conference on World Affairs, the CU Concerts and Artist Series, access to libraries, athletic events, noncredit courses, and numerous other social and cultural offerings, all of which significantly contribute to the city's vibrancy. Furthermore, it directly employed 14,803 people in fiscal year (FY) 2011, 8,105 which were non-students (including temporary workers) earning average salaries of \$57,216, accounting for 5.2 percent of total employment in Boulder County. Through research, teaching, operations, construction, student spending, and visitation, CU is an economic driver in Boulder County, contributing more than \$1.5 billion in economic activity locally driven off \$809 million in direct expenditures in the county in FY2011. This funding is by and large non-local, thus leveraging outside investment for the local economy. The presence of CU's research facilities and the highly skilled labor force that CU produces, have attracted major federal facilities, satellite institutions, and major private firms to the city. Yet, as reflected in the above graph, state funding for CU-Boulder has seen a dramatic decline over the last decade, a decline that is anticipated to continue over at least the next two years. In light of the extraordinary importance of CU to the city, the city will support state and federal legislation that provides a renewed attention to funding CU, its capital programs (currently facing a maintenance backlog of approximately \$320 million), and particularly legislation that helps preserve the flagship status of the CU-Boulder campus.

WATER

- **SUPPORT LEGISLATION THAT PROMOTES THE EFFICIENT UTILIZATION AND CONSERVATION OF WATER**

Boulder is on the forefront of support for water conservation and efficient utilization of water. Boulder uses a water budget rate structure to reward the efficient use of water and penalize wasteful practices. Boulder has adopted water conservation goals for build-out that will help meet the city's adopted reliability criteria for water supplies without significant new water acquisitions when fully using water sources already owned by the city. Water conservation can be an important public outreach and educational tool and can help to maximize reservoir storage levels and water use reductions needed during drought periods. Although the first priority for conserved water is drought protection and the extent to which the city can direct conserved water to any particular use is limited, when reservoirs are full, some conserved water can be provided for non-permanent uses such as annual agricultural leasing or instream flow enhancement. Accordingly, Boulder will support legislation that promotes water conservation, instream flow enhancement and the efficient utilization of water when such legislation is structured to also be protective of the city's water rights. By way of example, the city would support legislation that would phase in a requirement that new indoor water fixtures (including toilets, urinals, showers and faucets) sold in Colorado meet reduced flush volume requirements consistent with the US Environmental Protection Agencies WaterSense guidelines, provided that the legislation would not mandate retrofitting nor require local governments to assure compliance.



CITY OF BOULDER
2014 STATE AND FEDERAL LEGISLATIVE AGENDA

- **OPPOSE STATE LEGISLATION THAT SIGNIFICANTLY THREATENS THE CITY'S WATER RIGHTS**

In prior years, Boulder has lost thousands of acre-feet of the city's water because of the lack of proper well augmentation on the South Platte River. Loss of this reservoir water increases Boulder's risk of severe water shortage during drought years. In non-drought years, the city supports Boulder Creek basin farmers through annual leases of any water in excess of the city's short-term and long-term needs for approximately \$30 per acre foot. Offsetting un-augmented well use in the South Platte basin would represent a \$120,000 loss to the city in a year that 4,000 acre-feet of water is given up and would also decrease water for Boulder Creek farmers by reducing the city's leasable supplies. If other water users with junior water rights were to operate without proper augmentation and cause Boulder to need to permanently replace the water rights for 4,000 acre-feet of municipal water to protect the city against drought and any negative effects of climate change that might occur, it would cost \$48,000,000 or more.

Recent Colorado Supreme Court decisions have found that the State Engineer was not properly administering some water rights, such as for agricultural irrigation wells that were operating under junior water rights without providing senior water rights owners with sufficient augmentation water. New state legislation passed in the years from 2003 to 2009 clarifies that many well owners must file in water court for well augmentation plans and address the amount of augmentation water to be provided. To protect the yield of its existing water rights, Boulder has coordinated with other water users owning senior surface water rights, including many farmers, to participate in water court cases and monitor legislative actions regarding water rights. Many of the underlying disputes have now been addressed. Nevertheless, some issues remain that may result in the General Assembly again becoming the arena for water bills that attempt to incrementally adjust, or in many cases by-pass, the state constitution's Prior Appropriation Doctrine.

Bills that may be introduced might include attempts to limit the amount of augmentation water that junior diverters are required to return to the river to less than their impact on more senior water rights or to replace the jurisdiction of water courts with state engineer authority such that decisions on the adequacy of augmentation plans would be less transparent and subject to political influence. The city is committed to the legal principle of maximum utilization of both surface water and groundwater and believes this can best be achieved through water court-approved augmentation plans rather than the political process. To the extent that future bills significantly threaten the city's water rights, such as by shifting responsibility for well augmentation from well users to senior water rights owners, or increasing reliability for junior water rights by decreasing reliability for senior water rights, they will be vigorously opposed.

This Page Intentionally Left Blank

Summary of Human Relations Commissions Discussion of HB14-1124 and SB14-019

A. Legislative Bill: In-State Tuition to American Indians

1. **House Bill 14-1124** – Representative Joseph Salazar (House District 31) presented on a bill he introduced this year that would allow American Indian students with historic ties to Colorado to attend a Colorado university, with the exception of Ft. Louis College, at an in-state tuition rate. The American Indian students would need to be enrolled in federally accepted tribes with historic tribes in Colorado. The Native American Rights Fund, ASIS, Rocky Mountain Indian Chamber of Commerce, various tribes, and Metro State University support the bill. **Commissioner J. Dings** stated that a positive local impact could be that the law would help attract a more diverse student body to CU-Boulder. **J. Dings** asked about other potential local impacts. J. Salazar responded that the legislature is currently creating a fiscal note for the bill. Currently, about 500 American Indian students attend Colorado public higher education institutions. The increase in American Indian students attending higher education institutions would help local economies, as many students would work in Colorado, start businesses, and become Colorado residents. Colorado State University has reached out to 1,500 out-of-state American Indian students who would be eligible to attend Colorado universities if the bill passes. **Commissioner P. Osnes** asked how many other states have similar laws. J. Salazar responded that 7 states, to a varying degree, offer in-state tuition to students to American Indian students with historical ties to those states, including Iowa, Minnesota, Massachusetts, California, South Dakota, and others. Iowa has 13 historical tribes and we have 48, so Colorado is more expansive than other states Salazar had seen. **Commissioner S. White** asked whether the bill provides funding for universities to develop support programming. Salazar responded that, no, not for additional services once enrolled, but he's working on a separate bill that would provide those services. **J. Dings moved** that council consider adding HB 1124 to 2014 legislative agenda. **E. Pollauf seconded** the motion. **Motion carries 5-0.**

B. Legislative Bill: Status of Taxpayers Who May File Joint Returns

1. **Senate Bill 14-019** – Carmen Atilano explained that SB 14-019 clarifies the state income tax filing by same-sex couples legally married in other states and can jointly file at the federal level. Representative Steadman introduced the bill which would allow those couples to file jointly in the state of Colorado. **S. White motioned** to make a statement that the HRC sees value in drawing special attention to SB 14-019 which is concerning same-sex married taxpayers who may file joint returns if legally married in other states since it is consistent with City Council's 2014 leg agenda. **A. Zuckerman seconded and amended** the statement to say that the bill would make progress towards addressing marriage equality in Colorado. **Motion carries 5-0.**



University of Colorado
Boulder

Chancellor's Advisory Committee on Race and Ethnicity
Boulder, Colorado 80309

January 30, 2014

Robert Boswell and Alphonse Keasley
Office of Diversity, Equity and Community Engagement – ODECE
18 UCB
Boulder, CO 80309

RE: Support for House Bill 14-1124

Dear Dr. Boswell and Dr. Keasley,

The Chancellor's Committee on Race and Ethnicity (CCORE) would like to express our support for House Bill 14-1124 Concerning In-State Tuition Classification for American Indians from Tribes with Historical ties to Colorado. This bill, sponsored by State Representative Joe Salazar, has received bi-partisan support.

The request to endorse this bill was presented to CCORE by a well-respected Lakota community member who serves on CCORE, Theresa Halsey. Ms. Halsey has been in direct communication with State Representative Joe Salazar who is requesting community support for this bill. This important bill will grant college students, who are members of a federally recognized American Indian tribe with historical ties to Colorado, in-state status for tuition purposes. With 27% of American Indian households living below the federal poverty line,ⁱ college is an unaffordable dream for more than 95% of American Indians.ⁱⁱ Less than 42% of American Indian students attend college and American Indian students are much less likely than their peers to attend college out of state.ⁱⁱⁱ Furthermore, as many tribes and their members have been forced to relocate across state lines away from their historical home places, enacting this bill will provide vital resources to many American Indian students nationwide.^{iv}

Moreover, this committee feels strongly that the University of Colorado Boulder will benefit immensely by providing greater access to American Indian students. Of the 29,278^v total students enrolled in the University in Fall 2012, only 119 undergraduates and 51 graduates were of American Indian heritage.^{vi} Furthermore, of the degrees granted in 2012, only 35 undergraduate degrees and 9 total Master's and Doctoral degrees were awarded to American Indian students in 2012.^{vii} Finally, it is alarming that the undergraduate enrollment is currently lower than at anytime since at least 2003 and the graduate enrollment has been stagnant, at best, in recent years.^{viii}

Taking into consideration these figures as well as the commitment to developing successful students, CCORE echoes Chancellor DiStefano's statements that "diversity is the measure of a rich educational experience, giving students the opportunity to share different perspectives, opinions, backgrounds, and cultures in and out of the classroom" and "we are placing a high priority on increasing the enrollment and graduation rates of our diverse students."^{ix} By supporting this bill, the University will put significant weight behind these words.

Providing in-state status to American Indians from Tribes with historical ties to Colorado is a critical step toward improving ethnic/racial diversity at the University of Colorado Boulder and it will allow

American Indian students access via in-state tuition that they rightly deserve given their historical lineage and residency within Colorado. Please consider supporting this bill.

Respectfully,

Chancellor's Committee on Race and Ethnicity

Cc: Robert Boswell, Vice Chancellor, Office of Diversity, Equity and Excellence
Alphonse Keasley, Assistant Vice Chancellor, Office of Diversity, Equity and Excellence

ⁱ House Bill 14/1124,

http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont/BDBC0A82E761771987257C300005C9ED?Open&file=1124_01.pdf

ⁱⁱ College Fund: Source: <http://www.collegefund.org/content/faqs>

ⁱⁱⁱ Ibid.

^{iv} Ibid.

^v Planning Budget and Analysis CU Boulder Enrollment Snapshot Index:

<http://www.colorado.edu/pba/records/snap/21372127/snappage0.htm>

^{vi} University of Colorado 2012-13 Diversity Report [https://www.cusys.edu/academicaffairs/documents/2012-](https://www.cusys.edu/academicaffairs/documents/2012-13_Diversity_Report.pdf)

[13_Diversity_Report.pdf](https://www.cusys.edu/academicaffairs/documents/2012-13_Diversity_Report.pdf)

^{vii} Ibid.

^{viii} Ibid.

^{ix} State of the Campus address, transcribed text <http://chancellor.colorado.edu/content/state-campus-fall-2013>

Summary of HRC Discussion of HB14-1124 and SB14-019

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0019.01 Brita Darling x2241

HOUSE BILL 14-1124

HOUSE SPONSORSHIP

Salazar, Lebsock, Fields, Becker, Buckner, Court, Duran, Ferrandino, Fischer, Foote, Garcia, Gardner, Ginal, Hamner, Hullinghorst, Kagan, Labuda, Lee, McCann, Melton, Moreno, Pabon, Peniston, Rankin, Rosenthal, Singer, Szabo, Vigil, Williams, Wright

SENATE SPONSORSHIP

Tochtrop,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING IN-STATE TUITION CLASSIFICATION FOR AMERICAN**
 102 **INDIANS FROM TRIBES WITH HISTORICAL TIES TO COLORADO.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires a state-supported institution of higher education to classify as an in-state student for tuition purposes a student who is a member of a federally recognized American Indian tribe with historical ties to Colorado, as designated by the Colorado commission on Indian Affairs. A student classified as an in-state student pursuant to this tuition

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

classification may be counted as a resident for any purpose and is eligible for state financial aid and the college opportunity fund stipend. The bill exempts Fort Lewis College from its provisions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-7-112 as
3 follows:

4 **23-7-112. Tuition classification for members of American**
5 **Indian tribes with historical ties to Colorado - legislative declaration.**

6 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (a) OFTEN DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL,
8 MANY AMERICAN INDIAN TRIBES AND MEMBERS OF AMERICAN INDIAN
9 TRIBES HAVE BEEN FORCED TO RELOCATE ACROSS STATE LINES, FAR FROM
10 THEIR HISTORICAL HOME PLACES. AS A CONSEQUENCE, AMERICAN INDIAN
11 HIGH SCHOOL STUDENTS OFTEN ONLY RECEIVE IN-STATE TUITION
12 ELIGIBILITY IN THEIR STATE OF CURRENT RESIDENCE, RATHER THAN THE
13 STATE THAT THEIR TRIBES TRADITIONALLY CALLED THEIR ANCESTRAL
14 HOME.

15 (b) IN 2011, LESS THAN FORTY-TWO PERCENT OF AMERICAN
16 INDIAN HIGH SCHOOL STUDENTS CHOSE TO ATTEND COLLEGE, WELL BELOW
17 THE NATIONAL AVERAGE OF FIFTY-SEVEN PERCENT OF ALL STUDENTS;

18 (c) AMERICAN INDIAN HIGH SCHOOL STUDENTS ARE ALSO MUCH
19 LESS LIKELY THAN THEIR PEERS TO ATTEND AN OUT-OF-STATE COLLEGE;

20 (d) THE FAMILIES OF AMERICAN INDIAN HIGH SCHOOL STUDENTS
21 HAVE POVERTY RATES MORE THAN TEN PERCENTAGE POINTS HIGHER THAN
22 THE NATIONAL AVERAGE, WITH TWENTY-SEVEN PERCENT OF AMERICAN
23 INDIAN HOUSEHOLDS LIVING BELOW THE FEDERAL POVERTY LEVEL; AND

24 (e) THEREFORE, IT IS IN THE BEST INTERESTS OF THE STATE AND OF

1 AFFECTED AMERICAN INDIAN STUDENTS FOR COLORADO TO EXTEND
2 IN-STATE TUITION CLASSIFICATION TO ANY AMERICAN INDIAN STUDENT
3 WHO IS A REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN
4 INDIAN TRIBE WITH HISTORICAL TIES TO COLORADO.

5 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO
6 THE CONTRARY, BEGINNING WITH THE 2014-15 ACADEMIC YEAR, A
7 STUDENT WHO WOULD NOT OTHERWISE BE CLASSIFIED AS AN IN-STATE
8 STUDENT PURSUANT TO THIS ARTICLE SHALL BE CLASSIFIED AS AN
9 IN-STATE STUDENT AT THE INSTITUTIONS OF THIS STATE IF THE STUDENT
10 IS A REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN
11 INDIAN TRIBE WITH HISTORICAL TIES TO COLORADO, AS DESIGNATED BY
12 THE COLORADO COMMISSION ON INDIAN AFFAIRS, ESTABLISHED PURSUANT
13 TO ARTICLE 44 OF TITLE 24, C.R.S., IN CONSULTATION AND PARTNERSHIP
14 WITH THE OFFICE OF ARCHEOLOGY AND HISTORIC PRESERVATION AT
15 HISTORY COLORADO, OR ITS SUCCESSOR OFFICE.

16 (3) A STUDENT WHO IS CLASSIFIED AS AN IN-STATE STUDENT
17 PURSUANT TO THIS SECTION:

18 (a) MAY BE COUNTED AS A RESIDENT STUDENT FOR ANY PURPOSE;
19 AND

20 (b) IS ELIGIBLE FOR STATE-FUNDED FINANCIAL AID, INCLUDING A
21 COLLEGE OPPORTUNITY FUND STIPEND PURSUANT TO THE PROVISIONS OF
22 PART 2 OF ARTICLE 18 OF THIS TITLE, AND MAY BE ELIGIBLE FOR
23 INSTITUTIONAL OR PRIVATE FINANCIAL AID.

24 (4) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO FORT
25 LEWIS COLLEGE DUE TO ITS HISTORIC COMMITMENT TO NATIVE AMERICAN
26 EDUCATION. FURTHERMORE, NOTHING IN THIS SECTION MODIFIES OR
27 AFFECTS THE INDIAN PUPIL TUITION WAIVER PURSUANT TO SECTION

1 23-52-105 (1) (b) (I).

2 **SECTION 2. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 14-0114.02 Jason Gelender x4330

SENATE BILL 14-019

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Moreno and Ginal,

Senate Committees
Finance

House Committees
Finance

HOUSE
3rd Reading Unamended
February 17, 2014

HOUSE
2nd Reading Unamended
February 14, 2014

SENATE
3rd Reading Unamended
January 22, 2014

SENATE
Amended 2nd Reading
January 21, 2014

A BILL FOR AN ACT

101 **CONCERNING THE STATE INCOME TAX FILING STATUS OF TWO**
102 **TAXPAYERS WHO MAY LEGALLY FILE A JOINT FEDERAL INCOME**
103 **TAX RETURN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires any 2 taxpayers who may legally file a joint federal income tax return to file separate state income tax returns if they file separate federal income tax returns and to file a joint state income tax return if they file a joint federal income tax return.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
3 **with amendments,** 14-15-117 as follows:

4 **14-15-117. Application of article to joint tax returns -**
5 **legislative declaration.** (1) THE GENERAL ASSEMBLY FINDS THAT SOME
6 PARTNERS IN A CIVIL UNION MAY LEGALLY HAVE THEIR FEDERAL TAXABLE
7 INCOME DETERMINED ON EITHER SEPARATE FEDERAL TAX RETURNS OR ON
8 A JOINT FEDERAL TAX RETURN. SINCE COLORADO INCOME TAX FILINGS
9 ARE TIED TO THE FEDERAL INCOME TAX FORM BY REQUIRING TAXPAYERS
10 TO PAY A PERCENTAGE OF THEIR FEDERAL TAXABLE INCOME AS THEIR
11 STATE INCOME TAXES:

12 (a) PARTNERS IN A CIVIL UNION WHO HAVE THEIR FEDERAL
13 TAXABLE INCOME DETERMINED ON SEPARATE FEDERAL TAX RETURNS
14 MUST HAVE SUCH INCOME SEPARATELY DETERMINED FOR PURPOSES OF
15 THE COLORADO INCOME TAX; AND

16 (b) PARTNERS IN A CIVIL UNION WHO HAVE THEIR FEDERAL
17 TAXABLE INCOME DETERMINED ON A JOINT FEDERAL TAX RETURN MUST
18 HAVE THEIR STATE TAXABLE INCOME DETERMINED BASED ON THEIR JOINT
19 FEDERAL TAXABLE INCOME.

20 **SECTION 2.** In Colorado Revised Statutes, 39-21-108, **amend**
21 (3) (a) (I) (A) as follows:

22 **39-21-108. Refunds.** (3) (a) (I) (A) Whenever it is established
23 that any taxpayer has, for any period open under the statutes, overpaid a
24 tax covered by articles 22 and 26 to 29 of this title, article 60 of title 34,
25 C.R.S., and article 3 of title 42, C.R.S., and that: There is an unpaid
26 balance of tax and interest accrued, according to the records of the

1 executive director, owing by such taxpayer for any other period; there is
2 an amount required to be repaid to the unemployment compensation fund
3 pursuant to section 8-81-101 (4), C.R.S., the amount of which has been
4 determined to be owing as a result of a final agency determination or
5 judicial decision or that has been reduced to judgment by the division of
6 unemployment insurance in the department of labor and employment;
7 there is any unpaid child support debt as set forth in section 14-14-104,
8 C.R.S., or child support arrearages that are the subject of enforcement
9 services provided pursuant to section 26-13-106, C.R.S., as certified by
10 the department of human services; there are any unpaid obligations owing
11 to the state as set forth in section 26-2-133, C.R.S., for overpayment of
12 public assistance or medical assistance benefits, the amount of which has
13 been determined to be owing as a result of final agency determination or
14 judicial decision or that has been reduced to judgment, as certified by the
15 department of human services; there is any unpaid loan or other
16 obligation due to a state-supported institution of higher education as set
17 forth in section 23-5-115, C.R.S., the amount of which has been
18 determined to be owing as a result of a final agency determination or
19 judicial decision or that has been reduced to judgment, as certified by the
20 appropriate institution; there is any unpaid loan due to the student loan
21 division of the department of higher education as set forth in section
22 23-3.1-104 (1) (p), C.R.S., the amount of which has been determined to
23 be owing as a result of a final agency determination or judicial decision
24 or that has been reduced to judgment, as certified by the division; there
25 is any unpaid loan due to the collegeinvest division of the department of
26 higher education as set forth in section 23-3.1-206, C.R.S., the amount of
27 which has been determined to be owing as a result of a final agency

1 determination or judicial decision or that has been reduced to judgment;
2 there is any outstanding judicial fine, fee, cost, or surcharge as set forth
3 in section 16-11-101.8, C.R.S., or judicial restitution as set forth in
4 section 16-18.5-106.8, C.R.S., the amount of which has been determined
5 to be owing as a result of a final judicial department determination or
6 certified by the judicial department as a judgment owed the state or a
7 victim; there is any unpaid debt owing to the state or any agency thereof
8 by such taxpayer, and that is found to be owing as a result of a final
9 agency determination or the amount of which has been reduced to
10 judgment and as certified by the controller; or the taxpayer is a qualified
11 individual identified pursuant to section 39-22-120 (10) or 39-22-2003
12 (9), so much of the overpayment of tax plus interest allowable thereon as
13 does not exceed the amount of such unpaid balance or unpaid debt must
14 be credited first to the unpaid balance of tax and interest accrued and then
15 to the unpaid debt, and any excess of the overpayment must be refunded.
16 If the taxpayer elects to designate his or her refund as a credit against a
17 subsequent year's tax liability, the amount allowed to be so credited must
18 be reduced first by the unpaid balance of tax and interest accrued and then
19 by the unpaid debt. If the taxpayer filed a joint return, the executive
20 director shall notify the ~~taxpayer's spouse~~ OTHER TAXPAYER NAMED ON
21 THE JOINT RETURN that the portion of the overpayment that is generated
22 by the ~~spouse's~~ OTHER TAXPAYER'S income will be refunded upon receipt
23 of a request detailing said amount. As used in this section, unless the
24 context otherwise requires, "agency" includes a state-supported institution
25 of higher education or a political subdivision of the state under contract
26 with central collection services.

27 **SECTION 3.** In Colorado Revised Statutes, 39-22-107, **amend**

1 (1) and (2) as follows:

2 **39-22-107. Income tax filing status.** (1) If the federal taxable
3 income of a ~~husband or wife, or both~~, TWO TAXPAYERS MAY LEGALLY BE
4 DETERMINED ON A JOINT FEDERAL RETURN BUT ACTUALLY is determined
5 on separate federal returns, such income for purposes of the Colorado
6 income tax shall be separately determined.

7 (2) If the federal taxable income of a ~~husband and wife~~ TWO
8 TAXPAYERS is determined on a joint federal return, their tax shall be
9 determined on their joint federal taxable income.

10 **SECTION 4.** In Colorado Revised Statutes, 39-22-104, **amend**
11 (4) (f) (III), (4) (n) (I) (B), and (4) (n.5) (I) (B) as follows:

12 **39-22-104. Income tax imposed on individuals, estates, and**
13 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
14 from federal taxable income:

15 (f) (III) For income tax years commencing on or after January 1,
16 1989, amounts subtracted under this paragraph (f) shall not exceed twenty
17 thousand dollars per tax year; except that, for income tax years
18 commencing on or after January 1, 2000, amounts subtracted under
19 subparagraph (I) of this paragraph (f) shall not exceed twenty-four
20 thousand dollars per tax year for any individual who is sixty-five years of
21 age or older at the close of the taxable year. For the purpose of
22 determining the exclusion allowed by this paragraph (f), in the case of a
23 joint return, social security benefits included in federal taxable income
24 shall be apportioned in a ratio of the gross social security benefits of each
25 ~~spouse~~ TAXPAYER to the total gross social security benefits of both
26 ~~spouses~~ TAXPAYERS. For the purposes of this paragraph (f), "pensions and
27 annuities" means retirement benefits that are periodic payments

1 attributable to personal services performed by an individual prior to his
2 or her retirement from employment and that arise from an
3 employer-employee relationship, from service in the uniformed services
4 of the United States, or from contributions to a retirement plan which are
5 deductible for federal income tax purposes. "Pensions and annuities"
6 includes lump-sum distributions from pension and profit sharing plans to
7 the extent that such distributions qualify for the tax-averaging
8 computation under section 402 (e) (1) of the internal revenue code,
9 distributions from individual retirement arrangements and self-employed
10 retirement accounts to the extent that such distributions are not deemed
11 to be premature distributions for federal income tax purposes, amounts
12 received from fully matured privately purchased annuities, social security
13 benefits, and amounts paid from any such sources by reason of permanent
14 disability or death of the person entitled to receive the benefits.

15 (n) (I) (B) In the case of two ~~individuals~~ TAXPAYERS filing a joint
16 return, the amount subtracted from federal taxable income shall not
17 exceed two thousand five hundred dollars in any taxable year. In the case
18 of a ~~married individual who files a separate return~~, TWO TAXPAYERS WHO
19 MAY LEGALLY FILE A JOINT RETURN BUT ACTUALLY FILE SEPARATE
20 RETURNS, only one ~~individual in the marriage~~ OF THE TAXPAYERS may
21 claim the deduction specified in this paragraph (n).

22 (n.5) (I) (B) In the case of two ~~individuals~~ TAXPAYERS filing a
23 joint return, the amount subtracted from federal taxable income shall not
24 exceed two thousand five hundred dollars in any taxable year. In the case
25 of a ~~married individual who files a separate return~~, TWO TAXPAYERS WHO
26 MAY LEGALLY FILE A JOINT RETURN BUT ACTUALLY FILE SEPARATE
27 RETURNS, only one ~~individual in the marriage~~ OF THE TAXPAYERS may

1 claim the deduction specified in this paragraph (n.5).

2 **SECTION 5.** In Colorado Revised Statutes, 39-22-109, **amend**
3 (3) (a) and (3) (b) as follows:

4 **39-22-109. Income of a nonresident individual for purposes of**
5 **Colorado income tax.** (3) (a) If the federal taxable income of a ~~husband~~
6 ~~or wife, or both,~~ TWO TAXPAYERS, both of whom are nonresidents, is
7 determined on separate federal returns, their Colorado taxable incomes
8 shall be separately determined.

9 (b) If the federal taxable income of a ~~husband and wife,~~ TWO
10 TAXPAYERS, both of whom are nonresidents, is determined on a joint
11 federal return, their tax shall be determined on their joint Colorado
12 nonresident federal taxable income.

13 **SECTION 6.** In Colorado Revised Statutes, 39-22-522, **amend**
14 (4) (a) (III) as follows:

15 **39-22-522. Credit against tax - conservation easements.**
16 (4) (a) (III) In no event shall a credit claimed by a taxpayer filing a joint
17 federal return, or the sum of the credits claimed by taxpayers ~~filing~~
18 ~~married~~ WHO MAY LEGALLY FILE A JOINT FEDERAL RETURN BUT ACTUALLY
19 FILE separate federal returns, exceed the dollar limitations of this
20 paragraph (a).

21 **SECTION 7.** In Colorado Revised Statutes, 39-22-604, **amend**
22 (11) as follows:

23 **39-22-604. Withholding tax - requirement to withhold - tax**
24 **lien - exemption from lien - definitions.** (11) Separate refunds may be
25 made by the department to a ~~husband or wife~~ TWO TAXPAYERS who have
26 filed a joint return, at the written request of either, the amount payable to
27 each ~~spouse~~ TAXPAYER being proportioned upon the gross earnings of

1 each as shall be established to the satisfaction of the department. If an
2 employee entitled to a refund dies, payment of such refund shall be made
3 in such manner as provided for by law for distribution of moneys payable
4 by the state of Colorado to a decedent.

5 **SECTION 8.** In Colorado Revised Statutes, 39-22-605, **amend**
6 (6) (c) (II) as follows:

7 **39-22-605. Failure by individual to pay estimated income tax.**

8 (6) For purposes of this section, the amount of the required installments
9 shall be as follows:

10 (c) Limitation on use of preceding year's tax:

11 (II) In the case of ~~a married individual~~ A TAXPAYER who MAY
12 LEGALLY FILE A JOINT FEDERAL RETURN BUT ACTUALLY files a separate
13 return for the taxable year for which the amount of the installment is
14 being determined, subparagraph (I) of this paragraph (c) shall be applied
15 by substituting seventy-five thousand dollars for one hundred fifty
16 thousand dollars.

17 **SECTION 9. Applicability.** This act applies to income tax years
18 commencing on or after January 1, 2013, and any other income tax years
19 that are open under section 39-21-107 or 39-21-108, Colorado Revised
20 Statutes.

21 **SECTION 10. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.

This Page Intentionally Left Blank



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 5, 2014

AGENDA TITLE: Update on 2014 Human Services Fund Allocations

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Housing and Human Services
Wendy Schwartz, Human Services Planning Manager

EXECUTIVE SUMMARY

This memorandum informs City Council of the 2014 Human Services Fund (HSF) awards, which will allocate \$2,056,188 to 50 human services programs administered by 36 community agencies. The HSF Advisory Committee (HSFAC) developed and approved the recommendations in December. The city manager approved the recommendation on Feb. 5.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** More than \$2 million will be allocated for programmatic operating expenses to human services agencies serving Boulder residents in 2014. Many services provide support that allows lower income families and individuals to remain housed, employed, and productive members of the community.
- **Social:** HSF funding provides a safety net of basic services, ensuring physical and mental health care, emergency shelter, transitional and permanent supportive housing; and programming to assist Boulder residents in meeting basic needs and achieve self-sufficiency and self-reliance. HSF funds promote a system of prevention and early intervention services designed to preclude more costly treatment services before problems become acute. Residents served by agencies receiving HSF funding are diverse low-income or at-risk populations, who are under-represented.

BACKGROUND

The 2014 allocations represent the 20th year of the HSF, established after passage of the 0.15 percent sales and use tax in 1992. The HSF allocations are guided by the Housing and Human Services Master Plan (HHSMP), approved by City Council in 2005.

Beginning in 1992, 40 percent of the funds collected through this tax were used to fund human services. In 2009, a ballot initiative extended the 0.15 percent sales and use tax indefinitely and without restriction to continue “to fund, without limitation, fire, police, library, parks, human services, and other general fund purposes.” The HHSMP identifies five priority areas for human services funding through the HSF.

Applications to the HSF are made through a competitive Request for Proposals (RFP) during the late summer/early fall. The process for deliberations and developing recommendations was:

- Technical assistance and trainings for local agencies interested in applying;
- Staff review and analysis of applications;
- HSFAC interviews with selected agencies regarding proposals;
- HSFAC deliberations and recommendations;
- Preliminary recommendations communicated to applicants; requests for appeals considered; and;
- Recommendations to city manager.

Notably, the 2014 HSF funding cycle featured the launch of e-CImpact, a regional online grant management and application system (GMS) in collaboration with Boulder County and the City of Longmont. United Way will join the collaborative in 2014. The Department of Human Services, partnering with IT, served as the project leader for the year-long process, which included research on systems, procurement and development of the GMS, and provided technical assistance to the funding partners and applicants. The GMS fulfills a key objective of the city and partners and is a key goal in the regional Boulder County Human Services Strategic Plan (HSSP). The development and implementation of e-CImpact required a delay in the release of the 2014 Request for Proposals and subsequent processes. The 2015 fund round is anticipated to be fully completed by the end of this year.

Creating a shared application allowed community nonprofits to apply to one or more funders using one online application and funders to align their funding processes county-wide. The online shared system includes consistent impact areas with community outcomes and indicators for all three funders (**Attachment A**). These impact areas incorporate the five priority areas identified in the HHSMP. These impact areas will be revised, as necessary, to align with priorities in the updated Human Services Strategy, expected to be complete in mid-2015. Community funding will be one of the areas discussed with City Council during the Human Services Strategy study session, planned for May.

ANALYSIS

The City of Boulder received funding requests totaling \$3,090,236 for 72 programs from 52 agencies. \$2,056,188 was available for 2014 funding. The competition for funds

resulted in difficult funding decisions based on the established criteria. Out of 72 program applications, 53 received less than their requested funding or were not funded.

Attachment B lists the 2014 HSF funding awards, approved by the city manager, as well as programs not funded.

In addition to assessing alignment to the new impact areas, outcomes and indicators, the HSFAC (**Attachment C**) evaluated proposals based on criteria established in the Request for Proposals (RFP), the funding application, and funding guidelines.

The HSFAC determined that 22 applications did not fit within the HSF funding criteria, were more appropriate for other funding sources or were lower priority than other proposed programs given the funding limitations.

Applicants were notified of preliminary funding recommendations on Friday, Jan. 17. Appeals were accepted through Jan. 29. No appeals were submitted.

NEXT STEPS

- Negotiations and execution of contracts between the city and funded agencies during March.
- In July, funded agencies submit a mid-year progress report on outcomes achieved.
- May 13 – Human Services Strategy Study Session
- June – RFP released for 2015 fund round.
- Fourth Quarter Human Services Strategy Study Session – further council direction on community funding as HS Strategy options are refined.

ATTACHMENTS

- A. 2014 Regional impact areas with community outcomes and indicators
- B. 2014 HSF Awards and requests
- C. HSFAC members

This Page Intentionally Left Blank

**2014 Human Services Fund
Regional Impact Areas, Outcomes and Indicators**

Impact Area 1 (Children and Youth): Preparing low-income and at-risk children and youth for success

A. Outcome: Children are school-ready upon entering kindergarten

Indicators:

- Increased parenting knowledge, skills and engagement
- Increased access and availability of quality, affordable, culturally competent child care options
- Increased percentage of kindergarten students who are measured as school ready
- Increased physical, social, emotional, language and cognitive skills development for children

B. Outcome: Youth are healthy and successful in school and have the skills necessary for self-sufficiency and success as an adult

Indicators:

- Increased school attendance rates
- Increased minority or at-risk youth high school graduation or GED completion rates
- Increased number and percentage of youth who complete career technical training or post-secondary education
- Decreased achievement gaps for minority or at-risk youth
- Decreased number of youth engaging in risk behaviors as defined by the Youth Risk Behavior Survey

Impact Area 2 (Self-Sufficiency): Improving economic well-being, independence and self-reliance for adults

A. Outcome: Individuals and families have a path toward greater financial independence and security

Indicators:

- Increased number and percentage of people completing career or job readiness training, and/or employment services
- Increased number and percentage of lower-income people achieving stabilization with housing, employment, education and/or asset building
- Increased number and percentage of adults who complete basic adult literacy and/or GED

B. Outcome: Individuals who have continuing and long-term needs achieve or maintain healthy, safe and independent lives to the maximum extent possible

Indicators:

- Decreased isolation and increased community engagement
- Increased mobility and independence through use of community-based services and resources
- Improved independence of individuals with disabilities and elderly

Impact Area 3 (Basic Needs): Meeting basic needs for individuals and families

A. Outcome: Individuals and families at-risk or in crisis access services to help meet immediate and/or basic needs

Indicators:

- Increased number and percentage of homeless persons living on street, in cars, or are otherwise outside who are provided emergency shelter or housing
- Increased number and percentage of persons provided short-term assistance who are homeless or who are housed but would become homeless
- Increased number and percentage of homeless persons seen who are moved into permanent, permanent supportive or transitional housing

ATTACHMENT A: HSF Impact areas and outcomes

- Decreased number of individuals or families who are homeless or at risk of homelessness
- Increased access to affordable, nutritious food
- Increased access to transportation
- Increased number and percentage of clients that develop, implement and/or complete recovery/treatment/service plans
- Increased number of uninsured/under-insured people accessing prevention and treatment for dental, mental and physical health care
- Increased enrollment in public benefits for qualified individuals and families

Impact Area 4 (Safety): Building a safer community

A. Outcome: Individuals and families access services to prevent and reduce interpersonal violence in their lives; remain safe and crime-free in their neighborhoods; and have the tools and resources to prevent future harm

Indicators:

- Increased access to services that provide individual and family safety
- Decreased isolation and increased physical and emotional safety for individuals and families
- Reduction in child abuse and neglect cases
- Reduction in acts of crime and violence in the community*
- Increased number and percentage of residents who have a support network and did not re-offend 12 months after their release from correctional institutions

**Currently, the City of Boulder does not fund this indicator*

2014 Human Services Fund Awards and Requests

Impact Area: Children and Youth			
Agency	Program	Requested	Approved
Acorn School for Early Childhood Development	School Readiness Initiative	\$50,000	\$ 25,000
Alternatives For Youth	Boulder County iTHRIVE	\$20,000	\$10,000
Boulder County Public Health	GENESIS/GENESISTER	\$125,000	\$50,000
Boulder Day Nursery	Early Learning Programs	\$65,000	\$65,000
Boulder Institute for Psychotherapy and Research	Bright Beginnings	\$10,000	\$0
	Zero-to-Five	\$10,000	\$0
Boulder Valley School District	Boulder High School Adelante! Program	\$58,600	\$25,000
	Casey Middle School Community Learning Center	\$11,000	\$0
	Teen Parent Program	\$40,000	\$20,000
Children's House Preschool	First Chance Scholarship	\$25,000	\$22,050
Family Learning Center, The	Circular Sustainability Pathways to Success for School Readiness	\$88,000	\$ 56,989
	Circular Sustainability Pathways to Success for Youth Development	\$88,000	\$11,762
I Have A Dream Foundation of Boulder County	Positive Futures	\$30,000	\$0
Longmont Community Justice Partnership	Restorative Practices in Schools	\$25,000	\$0
New Horizons Cooperative Preschool	Bilingual Early Childhood Education	\$45,156	\$42,000
Partners of Boulder County	Community-Based Mentoring	\$10,000	\$0
Second Wind Fund of Boulder County	Second Wind Fund programs	\$10,000	\$0
YMCA of Boulder Valley	Youth and Teen Programs	\$20,000	\$0
YWCA of Boulder County	Latina Achievement Support	\$25,000	\$25,000
	Strengthening Families	\$10,000	\$0
Total Children and Youth		\$765,756	\$352,801

Impact Area: Self-Sufficiency			
Agency	Program	Requested	Approved
Association for Community Living in Boulder County	Adult & Family Empowerment	\$10,000	\$0
Audio Information Network of Colorado	Services for Blind/Visually Impaired/Print Disabled Boulder County Residents	\$10,000	\$0
Bridge House	Employment Services	\$40,000	\$ 40,000
CareConnect	Safety Net and Community Outreach Services	\$42,500	\$32,000
Center for People with Disabilities	Core Services	\$15,000	\$0
	Independent Living Program	\$25,000	\$18,000
	Personal Assistance Services	\$27,500	\$22,000
Circle of Care	Circle of Care Communities	\$128,000	\$0
Community Action Development Corporation	Circles	\$20,772	\$10,000
Centro AMISTAD, El	Compañeras	\$25,000	\$10,000

ATTACHMENT B: 2014 HSF Awards

Comité de Longmont, El	Case Management, Community Referral & Operations	\$12,500	\$0
Immigrant Legal Center of Boulder County	Immigrant Legal Services	\$25,000	\$25,000
Intercambio	Uniting Communities Programs	\$30,000	\$20,000
Mental Health Center of Boulder County	Mental Health Services for Severely Mentally Ill Individuals	\$433,653	\$350,000
Veterans Helping Veterans Now	Veteran and Family Member Mental Health and Wellness Services	\$15,000	\$15,000
YWCA of Boulder County	Career Services and Getting Ahead	\$20,000	\$0
	Children's Alley Child Care	\$70,813	\$70,000
Total Self-Sufficiency		\$950,738	\$612,000

Impact Area: Basic Needs			
Agency	Program	Requested	Approved
Agape Family Services	Emergency Homeless Shelter (Warming Center)	\$20,000	\$0
Attention Homes	Meeting Basic Needs for At-Risk Youth	\$40,000	\$40,000
Boulder County AIDS Project	HIV Care and Prevention Services	\$39,000	\$30,000
Boulder County Legal Services	Critical Legal Services for Low-Income City of Boulder Residents	\$19,000	\$19,000
Boulder Housing Partners	1175 Lee Hill	\$33,592	\$33,592
Boulder Institute for Psychotherapy and Research	Mental Health Outpatient Clinic	\$10,000	\$0
Boulder Outreach for Homeless Overflow	Emergency Warming Centers	\$20,000	\$20,000
Boulder Shelter for the Homeless	Boulder County Cares	\$15,000	\$15,000
	Housing First	\$12,000	\$12,000
	Transition Program	\$28,000	\$28,000
	Transitional Housing (formerly BCATH)	\$10,000	\$10,000
	Winter Sheltering	\$55,000	\$55,000
Boulder Valley Women's Health Center	Subsidized Reproductive & Sexual Health Services and Education Program	\$113,000	\$100,000
Bridge House	Bridge House Programs	\$30,000	\$30,000
Clinica Campesina Family Health Services	Health Care for Low-Income City of Boulder Residents	\$375,000	\$300,000
Community Food Share	Food Procurement and Food Distribution Program	\$15,000	\$5,000
Dental Aid	At Risk Adult Assured Access	\$75,000	\$70,000
	Children and Youth Oral Health Program	\$25,000	\$25,000
	Preschool Virtual Dental Home	\$40,000	\$26,295
Emergency Family Assistance Association	Shelter and Basic Needs	\$110,000	\$110,000
Growing Gardens of Boulder County	Growing Gardens	\$17,000	\$0
Mother House	Mother House	\$10,000	\$10,000
Safehouse Progressive Alliance for Nonviolence	Transitional Services for Domestic Violence Survivors	\$10,000	\$10,000
St. Benedict Health and Healing Ministry	COB St. Benedict programs	\$10,000	\$0
Total Basic Needs		\$1,131,592	\$948,887

ATTACHMENT B: 2014 HSF Awards

Impact Area: Safety			
Agency	Program	Requested	Approved
Blue Sky Bridge	Child and Family Advocacy Program	\$30,000	\$25,000
Boulder County Legal Services	Legal Services for Victims of Domestic Violence	\$18,000	\$18,000
Boulder Pride	Out Boulder Public Education	\$15,000	\$0
Children First of the Rockies (formerly St. Vrain Family Center)	SAFE Services	\$10,000	\$5,000
FOCUS Reentry	FOCUS Reentry	\$5,000	\$5,000
Rocky Mountain Legal Center	Rocky Mountain Legal Center	\$15,000	\$0
Safehouse Progressive Alliance for Nonviolence	Counseling & Advocacy Services	\$41,471	\$34,000
	Domestic Violence Victim Services	\$49,325	\$45,500
	Outreach & Increased Access	\$16,354	\$5,000
Voices For Children	Court-Appointed Special Advocate (CASA)	\$10,000	\$5,000
	Growing Your Child	\$2,000	\$0
Total Safety		\$212,150	\$142,500
Total HSF		\$3,090,236	\$2,056,188

This Page Intentionally Left Blank

Human Services Fund Advisory Committee members

Lynn Gilbert, RN, CPNP, PhD, FAAN	Retired nurse practitioner with expertise in early childhood development
Dr. Stephanie Greenberg	Human services research consultant and analyst
Will Murray	Community member with local nonprofit expertise
Amy Zuckerman	Human Relations Committee member with expertise in business leadership

This Page Intentionally Left Blank

Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, through hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

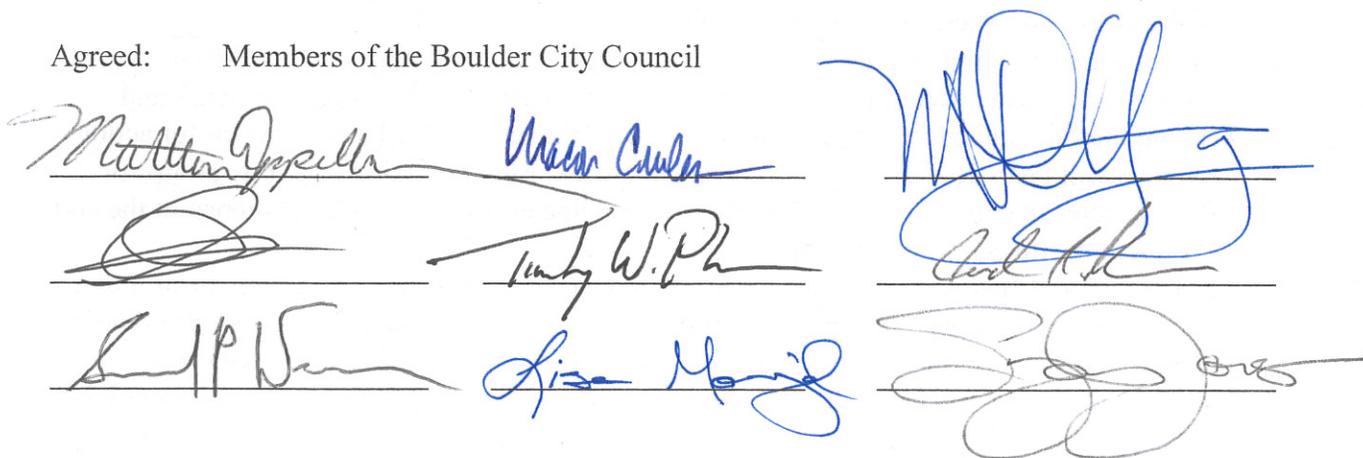
Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to the select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
 - make their interest in the positions known to their fellow members as soon as possible;
 - focus their communication with other council members on the positive attributes the member brings to the positions; and
 - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
 - the skills and attributes the member would bring to the mayoral position;
 - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
 - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
 - how the member would serve on and appoint other council members to regional and national boards and commissions; and
 - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council



The image shows nine handwritten signatures in blue ink, arranged in three rows and three columns. Each signature is written over a horizontal line. The signatures are: Row 1: Matthew Appella, Warren Cullen, [unclear]; Row 2: [unclear], Andy W. Ph..., [unclear]; Row 3: [unclear], Lisa M..., [unclear].

Approved by Council: January 21, 2014



**CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012**

TOP PRIORITIES:

GOAL: BOULDER’S ENERGY FUTURE

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder’s energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city’s Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS¹

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

Key:

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
George Karakehian	Mayor Pro Tem
Macon Cowles	Council Member
Suzanne Jones	Council Member
Lisa Morzel	Council Member
Tim Plass	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Mary Young	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Community Planning + Sustainability - Executive Director
Paul J. Fetherston	Deputy City Manager
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Larry Donner	Fire Chief
Mary Ann Weideman	Housing, Assistant City Manager for Human Resources (Acting) Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
Valerie Maginnis	Library and Arts Director
Lynne C. Reynolds	Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Jeff Dillon	Acting Parks and Recreation Director
Mark Beckner	Police Chief
Maureen Rait	Public Works - Executive Director
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Morzel, Young
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones, Plass
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum, Cowles
Resource Conservation Advisory Board	Morzel (at large seat), Plass
Rocky Flats Stewardship	Morzel, Plass (1 st alternate), Castillo (2 nd alternate)
University of Colorado (CU) / City Oversight	Cowles, Shoemaker, Weaver
US36 Mayors and Commission Coalition	Appelbaum
US36 Commuting Solutions	Karakehian, Morzel (alternate)
Urban Drainage and Flood Control District	Karakehian

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Young
Boulder Convention and Visitors Bureau	Plass, Cowles (alternate)
Dairy Center for the Arts	Jones
Downtown Business Improvement District Board	Shoemaker, Weaver, Young

INTERNAL CITY COMMITTEES

Audit Committee	Cowles, Morzel, Shoemaker
Boards and Commissions Committee	Plass, Shoemaker
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Karakehian
Charter Committee	Karakehian, Morzel, Weaver
Civic Use Pad/ 9 th and Canyon	Karakehian, Morzel, Young
Council Retreat Committee	Jones, Morzel
Evaluation Committee	Morzel, Plass
Legislative Committee	Jones, Karakehian, Weaver, Young
School Issues Committee	Morzel, Plass, Shoemaker

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian
Sister City Sub-Committee	Morzel, Cowles, Karakehian