**BOULDER CITY COUNCIL MEETING**
**MUNICIPAL BUILDING, 1777 BROADWAY**
**Tuesday, October 1, 2013**
**6 p.m.**

**AGENDA**

1. **CALL TO ORDER AND ROLL CALL**

   A. **Flood Recovery Update**

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. (Roll call vote required)

   A. Consideration of a motion to approve the City Council Meeting **Minutes from September 3**, 2013

   B. Consideration of a motion to approve the City Council Meeting **Minutes from September 17**, 2013

   C. Consideration of a motion to accept the **Study Session Summaries from August 13, 2013** for:

      1. Summary of City Council Discussion of **Draft Historic Preservation Plan**; and

      2. Summary of City Council Discussion of the **Draft 2014-2016 Capital Improvement Program** (CIP); and

      3. Summary of City Council Discussion of **Regional Transportation Issues**; and

      4. Summary of City Council Discussion of the **Transportation Master Plan Update**

   D. Consideration of a motion to accept the Study Session **Summary from September 10, 2013 on the 2014 Recommended Budget**

   E. **Third Reading** and consideration of a motion to adopt **Ordinance No. 7925** amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding new chapter 10-8.5; **adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the**

**2011 Electrical National Code**, **amending sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4 "Board of Building Appeals,"** B.R.C. 1981; and setting forth related details

F. Third reading and consideration of a motion to adopt **Ordinance no. 7926 amending floodplain regulations** in order to clarify existing regulations and **to protect critical facilities and lodging facilities in the 100- and 500-year floodplains**, including Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1, "Definitions" B.R.C. 1981

G. Second reading and consideration of a motion to adopt Ordinance No. 7936 for the **Intergovernmental Agreement with Boulder County for Hazardous Materials Management**

H. Introduction, **first reading** and consideration of a motion to order published by title only **ordinances** amending Chapters 2-3, 2-6, 4-2, 6-3, and Title 9 of the B.R.C. 1981, **to reduce impacts of hospitality establishments on neighboring priorities, amend the 500-foot rule, and restructure the Beverage Licensing Authority** as part of the broader effort to reduce community impacts from overconsumption of alcohol

I. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths** by amending "Definitions" in Sections 1-2-1 and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014

J. Introduction, **first reading** and consideration of a motion to order published by title only, an **emergency ordinance,** amending the Boulder Revised Code, 1981 and **extending temporary exceptions to specific city regulations to facilitate cleanup and recovery from flood impacts**

K. Consideration of a motion to authorize an **easement allowing Farmers Reservoir and Irrigation Company to use the planned Community Ditch multi-use trail. This is a disposal of Open Space land** under City Charter Section 177

L. Consideration of a motion to authorize the City manager to **convey the permanently affordable housing unit at 979 Laramie, Unit E**

M. Consideration of a motion to **cancel the** special **meeting called on October 3, 2013 to consider the Hogan-Pancost Annexation Application** (the application has been withdrawn)

4. **POTENTIAL CALL- UP CHECK IN**
Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda

## ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. Second reading and consideration of a motion to adopt **Ordinance No. 7932 designating the building and property at 2205 Broadway**, to be known **as the Boulder Masonic Lodge**, **as an individual landmark** under the city's Historic Preservation Ordinance

B. **Second reading** and consideration of the following **ordinances related to the purchase of the ERTL property located at 8323 Valmont Road**:

1. Ordinance No. 7933 approving and authorizing the issuance of Boulder Municipal Property Authority Lease Purchase Revenue Note, Series 2013A, in the aggregate principal amount of $5,000,000 and approving and authorizing a Lease Purchase Agreement for the purchase of 685 acres of land, oil and gas mineral estate interests and water rights for the ERTL property located at 8323 Valmont Road, Boulder, CO from Energy Resources Technology Land, Inc. for Open Space and Mountain Parks purposes

2. Ordinance No. 7934 approving the addition of the ERTL property as part of the Lower Boulder Creek Habitat Conservation Area

C. Consideration of the following **items relating to the 2014 Budget:**

1. **Public hearing on** the proposed 2014 City of Boulder Budget; and

2. Introduction, first reading and consideration of a motion to order published by title only an **ordinance that adopts a budget** for the City of Boulder, Colorado, **for** the fiscal year commencing on the first day of January **2014** and ending on the last day of December 2014, and setting forth details in relation thereto; and

3. Introduction, first reading and consideration of a motion to order published by title only an **ordinance that establishes the 2013** City of **Boulder property tax mill levies** which are to be collected by the County of Boulder, State of Colorado, within the City of Boulder in 2014 for payment of expenditures by the City of Boulder, County of boulder, State of Colorado, and setting forth details in relation thereto; and

4. Introduction, first reading and consideration of a motion to order published by title only an **ordinance that appropriates money to defray expenses and liabilities** of the City of Boulder, Colorado, **for** the **2014** fiscal year of the City of Boulder, commencing on the first day of January 2014, and ending on the last day of December 2014, and setting forth details in relation thereto; and

5. Introduction, first reading and consideration of a motion to order published by title only an **ordinance** that amends Chapters 3-8, 3-9 and 4-20 of the B.R.C. 1981**changing certain fees**, and setting forth details in relation thereto

D. Fifth reading and consideration of a motion to adopt **Ordinance No. 7832** amending Title 9, "Land Use Code," B.R.C. 1981, **regarding standards for congregate care facilities**

6. **MATTERS FROM THE CITY MANAGER**

A. Consideration of a **motion to adopt overarching goals regarding** cleanup and **flood recovery measures**

7. **MATTERS FROM THE CITY ATTORNEY**

None

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

A. Potential Call-Ups

1. **Vacation of an existing utility easement located at 3737 Spring Valley Road** Information Packet Date: October 1 Last Opportunity: October 1

2. **Vacation of an existing utility easement located at 6655 Lookout Road** Information Packet Date: October 1 Last Opportunity: October 1

B. **Library Commission Appointment**

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**

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**CITY OF BOULDER**
**CITY COUNCIL PROCEEDINGS**
**September 3, 2013**

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

Mayor Appelbaum called the regular September 3, 2013 City Council meeting to order at 6:00 PM in Council Chambers.

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

**Special Presentation**: Colorado State Senator for District 18, Rollie Heath, discussed the State ballot item related to education.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE – 6:40 PM**

1. Jeff McWhirter – Spoke in opposition to annexation of the Hogan-Pancost property.

2. Deb Roberts – Spoke as a member of Alternatives for Youth, in favor of tougher enforcement for youth in possession of marijuana and other drugs.

3. Jeff Rifkin – Spoke in opposition to annexation of the Hogan-Pancost property.

4. Kevin Cheney – Spoke in favor of offering duel-licensing for both medical and recreational marijuana dispensaries.

5. Heath Harmon – Spoke on behalf of Boulder County Public Health in favor of restricting marketing and labeling of recreational marijuana.

6. Shawn Coleman – Spoke in favor of the proposed regulations for implementation of Amendment 64 legalizing recreational marijuana.

7. Karey Christ-Janer – Spoke in favor of clean energy options and recapped information she learned at a conference in California.

8. Travis Howard – Spoke in opposition to regulations proposed related to recreational marijuana and urged Council to allow duel-licensing for medical and recreational marijuana dispensaries.

9. Jeff Kless – Spoke as an owner of a medical marijuana dispensary with intentions to make the change to recreational marijuana. He urged Council to pass all regulations so that businesses would be able to proceed at the beginning of 2014.

10. Timothy Rea – Spoke as an owner of a medical marijuana dispensary urging Council to ensure recreational marijuana businesses were able to open their doors at the same time as businesses in Denver.

11. Joshua Stevens – Spoke against strict regulation of recreational marijuana and urged Council to allow capitalism to take its course.

12. Elizabeth Handott – Spoke as the Chair of BOZA (Board of Zoning Adjustment) questioning the reasoning for call-up items on the Council agenda and the creation of landmarks in general.

STAFF RESPONSE: none

COUNCIL RESPONSE:
Council Member Wilson commented that City Council was very concerned about the impacts of recreational marijuana legalization on youth.

3. **CONSENT AGENDA – 7:10 PM**

A. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM AUGUST 5, 2013**

B. **CONSIDERATION OF A MOTION TO ACCEPT THE CITY COUNCIL STUDY SESSION SUMMARY FROM JULY 30, 2013 ON BOULDER'S CLIMATE COMMITMENT, ENERGY EFFICIENCY PROGRAMS AND MARKET INNOVATION PROGRAM UPDATES**

C. **CONSIDERATION OF A MOTION TO ACCEPT THE CITY COUNCIL STUDY SESSION SUMMARY FROM JULY 30, 2013 ON THE PRELIMINARY DRAFT PLAN OF THE BOULDER CIVIC AREA**

D. **FOURTH READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7832 AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, REGARDING STANDARDS FOR CONGREGATE CARE FACILITIES**

E. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7924 VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION TO VACATE A PORTION OF A TWENTY-FOOT EMERGENCY ACCESS AND UTILITY EASEMENT IN ASSOCIATION WITH AN APPROVED USE REVIEW REQUEST TO LOCATE 68 ATTACHED MULTI-FAMILY RESIDENTIAL UNITS IN AN INDUSTRIAL ZONING DISTRICT AT 6655 LOOKOUT ROAD**

F. **CONSIDERATION OF THE FOLLOWING ITEMS RELATED TO BOULDER COUNTY PROPERTIES IDENTIFIED AS 5399 KEWANEE DRIVE AND 5697 SOUTH BOULDER ROAD COMMONLY REFERRED TO AS THE HOGAN-PANCOST SITE:**

1. **A RESOLUTION FINDING THE ANNEXATION PETITION IN COMPLIANCE WITH STATE STATUTES AND ESTABLISHING OCT. 3, 2013, AS THE DATE FOR A PUBLIC HEARING;**

2. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION TO VACATE A PORTION OF UNUSED PUBLIC RIGHT-OF-WAY OF 55TH STREET PURSUANT TO SECTION 8-6-9(C), "VACATION OF PUBLIC RIGHTS OF WAY AND PUBLIC ACCESS EASEMENTS," B.R.C. 1981, AND**

3. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE ANNEXING THE SUBJECT PROPERTIES INCLUDING ADJACENT PARTS OF 55TH STREET WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL LOW – 2 (RL-2)**

G. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY THE THREE ORDINANCES AS FOLLOWS: AN ORDINANCE AMENDING SECTION 6-14, "MEDICAL MARIJUANA," B.R.C. 1981; AN ORDINANCE ADDING A NEW CHAPTER 6-16, " RECREATIONAL MARIJUANA," AND A NEW SECTION 4-20-67, "RECREATIONAL MARIJUANA BUSINESSES," B.R.C. 1981, AND AN ORDINANCE AMENDING SECTION 5-10 "MARIJUANA OFFENSES", ALL TO IMPLEMENT AND COMPLY WITH THE REQUIREMENTS OF AMENDMENT 64 TO THE COLORADO STATE CONSTITUTION**

Council provided questions for clarification on next reading for items 3D, 3F and 3G.

Council Member Karakehian moved, seconded by Council Member Plass, to approve Consent Agenda Items 3A – 3G. The motion carried 8:0, with Council Member Cowles absent, vote taken at 8:24 PM.

4. **POTENTIAL CALL- UP CHECK IN – 8:25 PM**

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

## ORDER OF BUSINESS

5. **PUBLIC HEARINGS – 8:25 PM**

A. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7923 DESIGNATING THE BUILDING AND PROPERTY AT 3015 KALMIA AVE., TO BE KNOWN AS THE LUNDGREN-HARPER HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE**

James Hewat, Senior Planner and Marcy Cameron, Historic Preservation Planner, presented on this item.

There were no *exparte* disclosures for this item.

The public hearing was opened at 8:32 PM, City Clerk Alisa Lewis swore in all participants.

1. Michael Markel (Property Owner) – Spoke to the importance of historic preservation and in favor of designating 3015 Kalmia Ave. as an individual landmark. He also encouraged support for creative solutions for this unique property.
2. Elizabeth Allen – Supported historic preservation and indicated that once a property was landmarked it should take a vote of the people to reverse the decision of Council.

There being no further speakers, the public hearing was closed at 8:37 PM.

Council Member Becker asked if proposed modifications to the existing property could be submitted in conjunction with a landmark application.

Mr. Hewat commented that changes were reviewed under a landmark alteration certificate. The two processes were separate.

Council Member Plass responded that the owners could begin the building permit process for additions while the property was going through the landmark process.

Council Member Plass praised the process for creation of landmarks.

Council Member Morzel moved, seconded by Council Member Plass, to adopt Ordinance No. 7923 designating the building and property at 3015 Kalmia Ave., to be known as the Lundgren-Harper House, as an individual landmark under the city's Historic Preservation Ordinance. The motion carried 9:0 at 8:42p.m.

B. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7925 AMENDING CHAPTERS 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5 AND 10-10, B.R.C. 1981, ADDING NEW CHAPTER 10-8.5; ADOPTING BY REFERENCE, WITH AMENDMENTS, THE 2012 INTERNATIONAL PROPERTY MAINTENANCE, BUILDING, RESIDENTIAL, ENERGY CONSERVATION, FIRE, WILDLAND-URBAN INTERFACE, MECHANICAL, FUEL GAS AND PLUMBING CODES, AND THE 2011 ELECTRICAL NATIONAL CODE, AMENDING SECTIONS 4-20-47, "ZONING ADJUSTMENT FILING FEES", AND 2-3-4 "BOARD OF BUILDING APPEALS," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS**

David Thacker, Building Services Manager and Kirk Moors, Senior Plans Examiner and Assistant Chief Building Official, presented on this item.

Assistant City Attorney Hella Pannewig answered technical and legal questions related to the ordinance and associated use tables.

Fire Chief Larry Donner answered questions regarding the sprinkler requirement for single-family residential homes as well as other changes being made that would assist in fire mitigation.

Battalion Chief David Lowrey assisted in answering questions regarding sprinkler requirements and fire mitigation.

The public hearing was opened at 10:00 PM.

1. Dan Yechout – Spoke as a representative of COSEIA (Colorado Solar Energy Industries Association), he described the outreach and work with city staff to address IFC (International Fire Code) issues and voiced enthusiastic support for the IFC changes recommended by staff.

There being no further speakers, the public hearing was closed at 10:03 PM.

Director of Public Works for Utilities Jeff Arthur answered questions related to Plant Investment Fees (PIF) and impacts to the water system related to requiring sprinklers in single-family homes.

Council Member Plass moved, seconded by Council Member Ageton, to adopt Ordinance No. 7925 amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding new chapter 10-8.5; adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the 2011 Electrical National Code, amending sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4 "Board of Building Appeals," B.R.C. 1981 as amended to include changes proposed to the Energy Conservation Code and to the effective date of the ordinance.

Council Member Plass summarized his support for the ordinance and the City's energy goals. He noted that he supported requiring sprinkler systems in new residential homes for safety reasons.

Council Member Ageton expressed appreciation for the level of detail provided in the agenda memo. She stated that she was also in favor of the fire sprinkler requirement because it was progressive and saved lives.

Council Member Jones expressed support for the motion.

Council Member Cowles moved, seconded by Council Member Wilson, to strike the requirements for sprinklers in new single family residential dwellings.

Council Member Cowles explained that he was concerned about the cost involved with requiring sprinklers in new single-family residential building. He commented that he would prefer time for a longer discussion before passing the requirement.

Council Member Wilson expressed concern that the fire sprinkler solution was in response to a very small problem or a problem that did not exist. He noted that the cost to build in Boulder was already extremely high and he did not want to increase those costs for builders. He agreed that there should be a larger community discussion before putting such measures in place.

Council Member Becker asked Chief Donner if Boulder had experienced large fire events in residences.

Chief Donner responded that the perception as to the severity of a fire was subjective. Comparatively speaking there was a lower fatality rate for fires in homes with sprinklers installed. He informed Council that there was a misconception that if one sprinkler head goes off, the entire system would be triggered. He clarified that was not the case and they were individually activated by heat. He said that in most cases only one or two sprinklers activating would take care of a fire in a single-family home.

Council Member Karakehian responded that he did not have enough information to approve a requirement for sprinklers in new single-family dwellings. He stated that if the ordinance were brought back with more information he may change his mind. He suggested more public outreach.

Council Member Becker agreed that she would need more information before supporting the sprinkler requirement.

Council Member Becker offered a substitute motion to continue the item to the meeting on October 1, 2013 requesting additional information from staff regarding Tap fees, PIFs and installation costs.

Mayor Appelbaum ruled Council Member Becker's motion out of order.

Vote was taken on the motion to amend the main motion to strike the requirements for sprinklers in new single family residential dwellings. The motion failed 4:5 with Council Members Becker, Cowles, Karakehian and Wilson in favor.

Council Member Becker renewed her substitute motion.

Council Member Becker offered a substitute motion, seconded by Mayor Appelbaum, to continue the item to the meeting on October 1, 2013 requesting additional information from staff regarding Tap fees, PIFs and installation costs. Vote was then taken on whether to substitute the main motion with the motion offered by Council Member Becker. The motion carried 9:0. Vote taken at 10:40 PM.

Vote was then taken on the substitute motion to continue the item until the meeting on October 1, 2013 with direction to staff to provide more information on Tap fees, PIFs and installation costs. The motion carried 9:0. Vote taken at 10:40 PM.

Mayor Appelbaum conducted an agenda check at 10:43 PM.

Mayor Appelbaum moved, seconded by Council Member Morzel, to suspend the rules and continue the meeting. The motion carried 8:1, with Council Member Karakehian opposed. Vote taken at 10:44 PM.

C. **CONSIDERATION OF A MOTION TO ACCEPT THE BOULDER POLICE MASTER PLAN, APPROVE THE BOULDER VALLEY COMPREHENSIVE PLAN (BVCP) POLICE**

**MASTER PLAN SUMMARY AND AMEND THE BVCP URBAN SERVICE CRITERIA AND STANDARDS FOR URBAN POLICE PROTECTION**

Police Chief Mark Beckner presented on this item.

Council Member Ageton moved, seconded by Council Member Wilson, to accept the Boulder Police Master Plan, approve the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection.

Council Member Ageton commented that she appreciated how in depth and comprehensive the information was related to the Police Master Plan.

Council Members Wilson and Karakehian expressed appreciation for the work the police do in the community and voiced support for the master plan.

Council Member Cowles thanked officers for their work and expressed support for the recommendations in the master plan. He commented that there was some concern about officers receiving the support they require from the court system.

Council Member Jones recalled a ride along she went on and what a great experience it was.

Council Member Morzel thanked the entire staff at the Boulder Police Department.

Chief Beckner thanked his staff for all of their hard work.

Mayor Appelbaum, Council Member Becker and Council Member Plass also praised the work the police were doing in the community and supported the master plan

The public hearing was opened at 11:41 PM. There being no speakers present, the public hearing was closed.

Council Member Ageton moved, seconded by Council Member Wilson, to accept the Boulder Police Master Plan, approve the Boulder Valley Comprehensive Plan (BVCP) Police Master Plan Summary and amend the BVCP Urban Service Criteria and Standards for Urban Police Protection. The motion carried 9:0. Vote taken at 11:42 PM.

D. **CONSIDERATION OF A MOTION TO APPROVE THE PLAN FOR BOULDER'S CIVIC AREA**

Senior Urban Designer Sam Assefa and Comprehensive Planning Manager Lesli Ellis presented on this item.

The public hearing was opened at 11:50 PM.

1. Carla Selby – Encouraged Council to build an art and science museum as part of the Plan for Boulder's Civic Area.

2. Elizabeth Allen – Reminded Council that they were voted in to maintain the charm and beauty of the city of Boulder.

There being no further speakers, the public hearing was closed at 11:56 PM.

Council Member Becker commented that she was impressed with the planning process.

Council Member Morzel expressed excitement and appreciation for the work being done.

Mayor Appelbaum noted that he was concerned that adjacent properties to the civic area would stand out once the plan was implemented and carried out. He was specifically worried about private properties and suggested staff reach out to those property owners so they might be included in revitalization efforts.

Mr. Assefa responded that staff would be continuing to build those relationships and work with adjacent property owners to integrate them into the broader downtown area.

Council Member Wilson expressed excitement about seeing the Plan for Boulder's Civic Area move forward.

Council Member Ageton commented that Council was responsible for communicating changes that would change the patterns of use for the area. She wanted to ensure that police and human services would be involved in changing the behavior and use patterns for the general civic area.

City Manager Jane Brautigam responded that outreach was currently in progress. Staff was also assessing the needs for various user groups and specifically the homeless.

Council Member Becker agreed with Council Member Ageton's concerns around public outreach and use patterns.

Council Member Jones moved, seconded by Council Member Morzel, to approve The Plan for Boulder's Civic Area. The motion carried 9:0. Vote taken at 12:12 AM.

6. **MATTERS FROM THE CITY MANAGER –** none **-** 12:12 AM

7. **MATTERS FROM THE CITY ATTORNEY – 12:12 AM**

**A. UPDATE ON BALLOT ORDER**

City Attorney Tom Carr provided Council with an update relating to the order of Boulder's ballot for the November 5, 2013 election.

City Clerk Alisa Lewis answered questions about changes in ballot item numbering.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 12:15 AM**

A. Potential Call-Ups

1. **SITE AND USE REVIEW FOR 1852 ARAPAHOE**

No action was taken on this item.

9. **PUBLIC COMMENT ON MATTERS –** none - **12:15 AM**

10. **FINAL DECISIONS ON MATTERS –** none - **12:15 AM**

11. **DEBRIEF – 12:15 AM**

Council Member Cowles commented that the adoption of codes should have gone smoother.

Council Member Morzel noted that the detailed conversation about the Consent Agenda was unusual.

Council Member Ageton agreed and stated that there were too many large items scheduled.

12. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on September 4, 2013 at 12:20 AM.

Approved this ___ day of _____, 2013.

APPROVED BY:

_____
Matthew Appelbaum
Mayor

ATTEST:

_____
Alisa D. Lewis
City Clerk

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**CITY OF BOULDER**
**CITY COUNCIL PROCEEDINGS**
**September 17, 2013**

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

Mayor Appelbaum called the regular September 17, 2013 City Council meeting to order at 6:00 p.m. in Council Chambers.

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

### SPECIAL PRESENTATION: FLOOD UPDATE

Mayor Appelbaum praised the work of staff, volunteers and citizens who worked together and continued to do so throughout the flood disaster.

City Manager Jane Brautigam gave introductory comments followed by video depicting images of the recent flooding in Colorado.

Police Chief Mark Beckner gave an update on how the Boulder Police Department responded to the flood event. He included information related to the Fire Department response and general public safety.

Fire Chief Larry Donner answered questions related to the Fire Department response and emergency measures taken to protect the local hospitals.

Director of Communications Patrick von Keyserling answered questions related to communication with the public, media and staff.

Executive Director of Public Works Maureen Rait gave the Public Works update on the flood response and the ongoing effort to assess the damages within the community related to water treatment, wastewater, storm drainage and transportation.

Director of Public Works for Utilities Jeff Arthur answered questions related to water and wastewater treatment and water main lines that may be impacted when the ground freezes. He assured Council and the public that water treatment was not a concern and the drinking water was safe.

Director of Public Works Transportation Tracy Winfree gave an update on transportation operations during the highest water flow periods, flood damage related to the transportation system and ongoing work to evaluate streets, paths and bridges.

Director of Open Space and Mountain Parks Mike Patton gave a presentation regarding the impact of the flood to the open space properties, closures and safety concerns. He noted that further assessment of damages and safety concerns would be completed by the end of the month.

Ms. Brautigam concluded the presentation on the flood impacts with key steps being taken to assist citizens with debris cleanup, special curbside cleanup discussions and the timeframe cleanup must occur within in order to receive reimbursement from FEMA (Federal Emergency Management Agency). She asked for Council direction to approve the curbside debris pickup program immediately.

Council Member Morzel expressed support for a curbside pickup program for flood debris.

Council Member Becker agreed that there were extraordinary circumstances.

Council Member Ageton agreed with the solution of a curbside program and noted that there was confusion in the community about what to do with debris. She expressed concern regarding the cost and commented that some projects may have to be put on hold to make emergency repairs and provide cleanup in the community.

Ms. Brautigam reviewed options for funding and opportunities for reimbursement. She noted that there were very specific requirements around reimbursement and she was not able to guarantee the city would receive those funds.

Council Member Plass expressed support for the curbside pickup program.

Council supported the proposal to begin a curbside debris pickup program and directed the City Manager to move forward with implementation.

Ms. Brautigam also provided information about how the city would continue with community outreach and communications. She also gave a brief explanation of how the city would provide opportunities for citizens to share their photos, videos and stories.

Mayor Appelbaum praised the coordinated efforts of local governments and FEMA for their flood response and commented that Boulder and Boulder County did a great job.

Council Member Ageton noted that firefighters across the state have come to the aide of Boulder. The Army and National Guard had been playing a large role in evacuation efforts and assistance with road blocks as well.

Council Member Cowles recalled interactions with flood victims and praised their strength and resilience.

2. **OPEN COMMENT AND COUNCIL/STAFF RESPONSE – 8:52 PM**

    1. Evan Ravitz – Spoke about the flooding and suggested widening bike and walking paths to eight feet across where reconstruction would be required.

    2. Ed Self – Spoke as the Executive Director of Wildlands Restoration Volunteers informing Council that his organization was ready to help in any way possible.

3. Shawn Coleman – Thanked the city of Boulder as a whole for its commitment to the community during difficult times. He also thanked Council for postponing the marijuana ordinances to allow for a thorough discussion before passing them.

4. Lynn Segal – Spoke about the flood planning efforts of Gilbert White and Al Bartlett. She also spoke to the importance of retaining the four body review for the Boulder Valley Comprehensive Plan (BVCP).

5. John Tayer – Also spoke to the passing of Al Bartlett and his contributions to the community in regard to flood planning. He also noted the efforts of Gilvert White. He then addressed the economic recovery efforts that Boulder would face and commented that the Boulder Chamber was ready to assist the city.

6. Carole Mandryk – Read an email from a friend recounting their experience with the flood.

7. Scott Hoffenberg – Spoke about the positive experience he had in working with others in the Gregory neighborhood during and after the flooding.

City Manager Jane Brautigam thanked John Tayer from the Boulder Chamber for being available over the weekend with communication between the city and businesses.

Council Member Wilson responded to comments about Gregory Creek stating that drainage problems will be reassessed once emergency and recovery efforts slow down. He noted that drainage mitigation had occurred in the Gregory Neighborhood and the recent storm and flooding will provides useful information for improving the system.

## 3. CONSENT AGENDA – 9:19 PM

A. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM AUGUST 6, 2013**

B. **CONSIDERATION OF A MOTION TO APPROVE THE CITY COUNCIL MEETING MINUTES FROM AUGUST 20, 2013**

C. **CONTINUATION OF SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7925 AMENDING CHAPTERS 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5 AND 10-10, B.R.C. 1981, ADDING NEW CHAPTER 10-8.5; ADOPTING BY REFERENCE, WITH AMENDMENTS, THE 2012 INTERNATIONAL PROPERTY MAINTENANCE, BUILDING, RESIDENTIAL, ENERGY CONSERVATION, FIRE, WILDLAND-URBAN INTERFACE, MECHANICAL, FUEL GAS AND PLUMBING CODES, AND THE 2011 ELECTRICAL NATIONAL CODE, AMENDING SECTIONS 4-20-47, "ZONING ADJUSTMENT FILING FEES," AND 2-3-4 "BOARD OF BUILDING APPEALS," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS**

Council Member Cowles moved, seconded by Council Member Karakehian to amend Council Member Plass's continued motion from the September 3, 2013 meeting to remove the requirement for sprinklers in single-family residential units. The motion carried, 6:3, with Council Members Jones, Morzel and Plass opposed. Vote taken at 9:41 PM.

D. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE DESIGNATING THE BUILDING AND PROPERTY AT 2205 BROADWAY, TO BE KNOWN AS THE BOULDER MASONIC LODGE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE**

Item 3D was amended according to the changes on the buff colored errata sheet provided by the City Attorney's Office.

E. **CONSIDERATION OF THE FOLLOWING ORDINANCES RELATED TO THE PURCHASE OF THE ERTL PROPERTY LOCATED AT 8323 VALMONT ROAD:**

1. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE OF BOULDER MUNICIPAL PROPERTY AUTHORITY LEASE PURCHASE REVENUE NOTE, SERIES 2013A, IN THE AGGREGATE AMOUNT OF $5,000,000, AND APPROVING AND AUTHORIZING A LEASE PURCHASE AGREEMENT FOR THE PURCHASE OF 685 ACRES OF LAND, OIL AND GAS MINERAL ESTATE INTERESTS AND WATER RIGHTS FOR THE ERTL PROPERTY LOCATED AT 8323 VALMONT ROAD, BOULDER, CO FROM ENERGY RESOURCE TECHNOLOGY LAND, INC. FOR OPEN SPACE AND MOUNTAIN PARKS PURPOSES**

2. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE APPROVING THE ADDITION OF THE ERTL PROPERTY AS PART OF THE LOWER BOULDER CREEK HABITAT CONSERVATION AREA**

F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE ADOPTING THE INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY FOR HAZARDOUS MATERIALS MANAGEMENT**

G. **CONSIDERATION OF A MOTION TO ADOPT AN EMERGENCY ORDINANCE APPOINTING THE CITY MANAGER AS THE ENTITY DESIGNATED TO RECEIVE APPLICATIONS AND IMPOSING A TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA BUSINESSES BETWEEN OCTOBER 1, 2013 AND JANUARY 2, 2013**

Item 3G was amended according to the changes on the pink colored errata sheet provided by the City Attorney's Office.

Council Member Morzel moved, seconded by Council Member Wilson, to approve the Consent Agenda items 3A – 3G as amended by Council Members Cowles and Karakehian and by the errata sheets provided by the City Attorney's Office. The motion carried 9:0. Vote taken at 9:42 PM.

4. **POTENTIAL CALL- UP CHECK IN – 9:43 PM**

No interest was expressed in call-up items.

**ORDER OF BUSINESS**

5. **PUBLIC HEARINGS – 9:43 PM**

A. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7926, AMENDING FLOODPLAIN REGULATIONS IN ORDER TO CLARIFY EXISTING REGULATIONS AND TO PROTECT CRITICAL FACILITIES AND LODGING FACILITIES IN THE 100- AND 500-YEAR FLOODPLAINS, INCLUDING CHAPTER 9-3 "OVERLAY DISTRICTS," SUBSECTION 9-6-1(D) "USE TABLE," AND SECTION 9-16-1 "DEFINITIONS" B.R.C. 1981**

Principal Engineer for Utilities Bob Harberg and Floodplain and Wetlands Administrator Katie Knapp presented on this item.

The public hearing was opened at 10:02 PM.

1. Jonathan Lind – Spoke on behalf of CordenPharma in opposition to the proposed critical facilities ordinance. His primary concern was that his business had previously been accredited by FEMA for work they had done to mitigate flooding due to their business being in the floodplain and had lost that accreditation forcing the company to pay the high cost of flood insurance.

Council Member Wilson asked Mr. Lind if the levy that they had built was maintaining the safety of the building why was it so important to have a FEMA accreditation. He commented that by building the levy the business had done everything possible to lower the risk of flooding.

Mr. Lind explained that the levy had done well in the flood, but would have to be raised another two feet before it met FEMA standards. In the meantime CordenPharma was incurring the cost of flood insurance.

There being no further speakers the public hearing was closed at 10:09 PM.

Mr. Harberg explained how the city had worked with CordenPharma to receive accreditation. He reviewed alternatives that had been explored due to FEMA accreditation requiring the city to take on the burden of liability if accreditation were to occur. He informed Council that in his research he was unable to find another example where a city had taken on such a liability in order to achieve FEMA accreditation.

City Attorney Tom Carr explained that federal law required the city to take on responsibility for the levy.

Council Member Cowles noted that whether the recent flood was a 100 or 500-year event had not been determined and was pleased that the levy had served its purpose.

Mayor Appelbaum moved, seconded by Council Member Morzel, to approve Ordinance No. 7926, amending floodplain regulations under Chapter 9-3 "Overlay Districts," and Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions," B.R.C. 1981 as proposed in Attachment A with an effective date of January 1, 2014 as amended on the errata sheet provided by the City Attorney's Office. The motion carried 9:0. Vote taken at 10:17 PM.

## 6. MATTERS FROM THE CITY MANAGER

### A. EXTENSION OF THE DECLARATION OF LOCAL DISASTER EMERGENCY

City Attorney Tom Carr presented on this item.

Council Member Morzel moved, seconded by Council Member Plass to extend the Declaration of Local Disaster Emergency to October 16, 2013.

## 7. MATTERS FROM THE CITY ATTORNEY

None

## 9. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 10:26 PM

### A. POTENTIAL CALL-UPS

#### 1. DEED OF VACATION AT 2085 BALSAM DRIVE

No interest was expressed in calling up this item.

#### 2. LANDMARK ALTERATION CERTIFICATE (LAC) FOR DEMOLITION OF 420 SPRUCE STREET

No interest was expressed in calling up this item.

### B. CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION IN SUPPORT OF COLORADO'S 2013 BALLOT MEASURE DESIGNATED AS AMENDMENT 66, FUNDING FOR PUBLIC SCHOOLS

Council Member Becker presented on this item.

Council Member Becker moved, seconded by Council Member Morzel, to adopt Resolution No. 1127 supporting Colorado's 2013 ballot measure designated as Amendment 66, Funding for Public Schools.

10. **PUBLIC COMMENT ON MATTERS – 10:26 PM**

The public hearing on matters was opened at 10:24 PM. There being no speakers present, the public hearing was closed.

11. **FINAL DECISIONS ON MATTERS – 10:26 PM**

Council Member Morzel moved, seconded by Council Member Plass to extend the Declaration of Local Disaster Emergency to October 16, 2013. The motion carried 9:0. Vote taken at 10:26 PM.

Council Member Becker moved, seconded by Council Member Morzel, to adopt Resolution No. 1127 supporting Colorado's 2013 ballot measure designated as Amendment 66, Funding for Public Schools. The motion carried 9:0. Vote taken at 10:26 PM.

12. **DEBRIEF – 10:26 PM**

Mayor Appelbaum announced that the city was recruiting for a position on the Library Commission with the requirement that the seat be filled by a male. He also announced that the annual Sister City State Meeting scheduled for September 28 had been cancelled due to the flooding.

Council Member Ageton thanked the Council Agenda Committee for rearranging the agenda to allow for the flood update.

Council Member Morzel thanked staff that attended the meeting and gave presentations after working for almost a week straight.

13. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on September 17, 2013 at 10:30 PM.

Approved this ___ day of _____, 2013.

APPROVED BY:

_____
Matthew Appelbaum
Mayor

ATTEST:

_____
Alisa D. Lewis
City Clerk

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE:** October 2, 2013

**AGENDA TITLE**
Consideration of a motion to accept the August 13, 2013, study session summaries for:

1. Summary of City Council Discussion of Draft Historic Preservation Plan
2. Summary of City Council Discussion of the Draft 2014-2019 Capital Improvements Program (CIP)
3. Summary of City Council Discussion of Regional Transportation Issues
4. Summary of city Council Discussion of the Transportation Master Plan Update

**PRESENTER/S**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
David Driskell, Executive Director of Community Planning and Sustainability
Tracy Winfree, Director of Public Works for Transportation
Susan Richstone, Deputy Director of Community Planning and Sustainability
Randall Rutsch, Senior Transportation Planner
Marcy Cameron, Historic Preservation Planner
Peggy Bunzli, Budget Manager
Chris Meschuk, Planner II

**EXECUTIVE SUMMARY**
This agenda item provides a summary of the topics presented at the Aug. 13, 2013 City Council study session. The purpose of the study session was to inform council and receive guidance on topics including: draft Historic Preservation Plan, draft 2014-2019 Capital Improvements Program (CIP), regional transportation issues and the Transportation Master Plan Update.

The following are highlights from the discussions:

1. Draft Historic Preservation Plan – Highlights of council discussion include:
    - The importance of a proactive vision for the program

- The importance of making improvements to the current program to increase clarity and predictability
- The need to clarify what it means to "Foster Greater Awareness for Postwar Architecture"
- The need to foster greater community dialogue and engagement when improving the current program

2. Draft 2014-2019 Capital Improvements Program (CIP) –Highlights of council discussion include:
    - The CIP guiding principles
    - Changes made to the CIP project categories and criteria
    - Improved financial documentation in project sheets
    - Efforts made across the list of improvements to coordinate among departments, cultivate partnerships with other agencies and organizations, and leverage funding from other sources
    - Examples of projects expected to be constructed in 2014
    - Previews of projects expected to be constructed between 2015 and 2019.

3. Regional Transportation Issues – Highlights of council discussion include:
    - A possible 2014 statewide ballot measure to fund transportation needs
    - New funding available from the Colorado Department of Transportation's *Responsible Acceleration of Maintenance and Partnerships* (RAMP) program
    - Implementation options for FasTracks in the Northwest Denver Region

4. Transportation Master Plan Update – Highlights of council discussion include.
    - A general overview of the work to date in key areas including; Regional Travel, TDM, Funding, Complete Streets, Integration with Sustainability Initiatives
    - Specific feedback regarding the work to date in the key TMP areas
    - Specific feedback regarding key areas of the Complete Streets initiative including: Transit Planning, Community-Wide EcoPass study findings to date and bicycle and pedestrian innovations being tested through the "living laboratories"

**STAFF RECOMMENDATION**
Staff recommends approval of the summary of the Aug.13, 2013, study session.

**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 summaries from the Aug. 13, 2013 City Council Study Session in the form of:

1. Summary of City Council Discussion of Draft Historic Preservation Plan –

**Attachment A**

2. Summary of City Council Discussion of the Draft 2014-2019 Capital Improvements Program (CIP) – **Attachment B**
3. Summary of City Council Discussion of Regional Transportation Issues – **Attachment C**
4. Summary of city Council Discussion of the Transportation Master Plan Update – **Attachment D**

The background information for these topics can be found in the study session folder for 2013, Aug. 13 meeting in the City Council Document Archive.

**ATTACHMENTS**

- **Attachment A -** Summary of City Council Discussion of Draft Historic Preservation Plan
- **Attachment B -** Summary of City Council Discussion of the Draft 2014-2019 Capital Improvements Program (CIP)
- **Attachment C -** Summary of City Council Discussion of Regional Transportation Issues
- **Attachment D -** Summary of city Council Discussion of the Transportation Master Plan Update

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**August 13, 2013**
**City Council Dinner Discussion**
**Draft Historic Preservation Plan**

**City Council:** Mayor Matt Applebaum, Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson

**Staff:** Jane Brautigam, City Manager; David Driskell, Executive Director Community Planning & Sustainability; Susan Richstone, Deputy Director Community Planning & Sustainability; Lesli Ellis, Comprehensive Planning Manager; James Hewat, Senior Historic Preservation Planner; Marcy Cameron, Historic Preservation Planner; Deb Kalish, Senior Assistant City Attorney

**PURPOSE:** The purpose of the discussion was to gather feedback on the Draft Historic Preservation Plan.

**OVERVIEW OF THE PRESENTATION:**
Staff presented an overview of the Draft Historic Preservation Plan. The City Council was asked for feedback.

**COUNCIL FEEDBACK:**

1. **Does the City Council have feedback on the Draft Historic Preservation Plan?**

**Overall Comments**
- It is a great idea to have a vision for the program and it is important to be proactive instead of reactive.
- It is important that the plan recommends improvements to the current program to increase clarity and predictability.

**Historic Resource Protection**
- Clarify what it means to "Foster Greater Awareness for Postwar Architecture;"
    - Greater community dialogue is needed to determine the value postwar neighborhoods and whether and how they might be preserved. The development of pattern books also needs to be discussed further and related to the broader discussion of potential zoning changes and the idea of walkable neighborhoods.
    - The opportunity to own a new, single-family house was an exciting prospect for many of the first occupants in postwar neighborhoods in Boulder. This sentiment should be carried through.
- It is important to clarify that fostering a more proactive program does not mean that properties and areas will be aggressively targeted for landmark designation.
- Encouraging the preservation of smaller houses a good idea, but outreach is needed to explain what designation entails;
- Existing incentives need to be publicized more broadly; many people are not aware they exist.

**Community Engagement**

- Community engagement and collaboration are an important aspect of the plan;
- Stories are the engaging part of preservation; continue to develop historic context reports;
- The integration of sustainability and historic preservation continues to be a point of apprehension for many; current treatment of this issue is lacking. More outreach is needed and current scholarship should be publicized.

**Program Operation**

- Recommendations to improve the consistency and predictability of the program strengthen the plan;
- A proactive approach is encouraged, but clarify what this means; avoid prescriptive designations, and do not send the message that the city will “go after” properties.

**Implementation**

- Each recommendation will require resources; leverage volunteers.
- It will be important to prioritize the items each year; all have costs.

**August 13, 2013**
**City Council Dinner Discussion**
**Draft 2014-2019 CIP**

**PRESENT**
**Members of City Council:** Suzy Ageton , Matt Appelbaum, K.C. Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, and Ken Wilson

**Staff Members:** City Manager Jane S. Brautigam, Budget Manager Peggy Bunzli, Planner II Chris Meschuk.

**PURPOSE**
The purpose of this Study Session was to present the Draft 2014-2019 Capital Improvement Program (CIP) to the City Council. The study session provided Council with an opportunity to ask questions and comment on recommended capital projects in the Draft 2014-2019 CIP prior to the City Manager's submission of the 2014 Recommended Budget to the City Council in late August.

**PRESENTATION OVERVIEW**
**Introduction**
City Manager Jane Brautigam opened the meeting by introducing the topic of the study session, thanking staff for their collaborative work on the CIP, and introducing Peggy Bunzli and Chris Meschuk as presenters.

The presentation began with a brief introduction of the agenda for the presentation. The agenda included the following elements:

- Introduction to CIP
- Discussion of the CIP highlights:
    - Financial highlights
    - CIP project categories and criteria update
    - A video of CIP project Highlights
- Next Steps

**Background on CIP**
Peggy Bunzli reviewed the purpose of the CIP, explained how the CIP fits in to the larger strategic planning framework of the city, and discussed the various opportunities for public and board input throughout the process.

The six year CIP is both a planning and a financial guide, prepared in coordination between Planning and Budget each year. It is a collaborative effort with many people from across departments coming together to build this guide to the city's investment into its infrastructure and the community. Priorities and timing are coordinated using the CIP Guiding Principles (p.2 of the CIP). Departments work together to determine coordination of projects in order to maximize leveraged funding, find cost savings and reduce impact to the community during the time the work is being done.

The CIP provides detailed descriptions of projects over a six year planning period, and the first year of the CIP, serves as the tool for building the capital portion of the 2014 overall City of Boulder budget.

The CIP is one part of the city's overall planning and financial strategy, designed to meet the goals of the community. Under the umbrella of the Sustainability Framework, the CIP is developed in line with the Boulder Valley Comprehensive Plan, department strategic and master plans and Priority Based Budgeting. There are a number of opportunities for public input and feedback throughout the process, including outreach through master planning efforts, Board and Commission meetings and public hearings of the budget. Before coming to council, the CIP is reviewed first by department Boards and Commissions and then by the Planning Board. The various Board and Commission recommendations, including the recommendation of Planning Board, to council were included in the CIP memo to council.

**Financial Highlights of Draft 2014-2019 CIP**
Peggy Bunzli discussed the financial highlights, particularly illustrating the 2014 funding level as well as the major projects in 2016 and 2018.

Total funding for the 2014-2019 CIP is proposed at about $240M, spread out over 136 projects.

For the 2011 Capital Improvement Bond, as of the study session date, 49% of the projects were in design and planning phase, 20% are under construction, 2% are nearly complete, and 29% are complete. Currently we are 57% of the way towards the funding goal to have 85% spent in three years. Projects will continue throughout 2014.

Chris Meschuk provided an overview of the CIP definition and project categories and criteria. For the 2014-2019 CIP the project categories were refined for a more consistent and common understanding of what should be included in the CIP. The new categories are:

- New Capital Project
- Capital Enhancement
- Capital Maintenance
- Land and Asset Acquisition
- Capital Planning Studies

The full definition and categories can be found on p. 10 of the Draft 2014-2019 CIP document.

A video was played that illustrated highlights of 2014-2019 CIP projects as well as projects completed in 2013. Projects highlighted in the video were grouped by project category. The video can be seen here: Capital Improvement Program Update 2014-2019. Below is a list of some of the projects highlighted in the video.

Capital Maintenance and Enhancement Projects:

- **Arapahoe Reconstruction:** Currently underway, the utilities upgrades and the initial concrete work were completed in 2013, the project will continue through fall 2014.
- **Ultraviolet Light Disinfection System**: Public Works / Utilities completed this project in 2013, which replaced the chlorine and sulfur dioxide systems. The new system is more efficient and does not require the city to store hazardous gasses.
- **Valmont Butte Project**: The voluntary clean was completed in 2013. Grading around the mill site was done and rock cap was installed.

- **Flatirons Golf Course Improvements**: This project is currently underway and includes irrigation system replacement which will improve water usage.
- **Betasso Water Treatment Facility**: This $17.6 million project will fund significant upgrades, construction, and major rehabilitation to the aging electrical and mechanical equipment, and improve the capabilities of the existing pretreatment capacities. This project is scheduled to begin in 2016.
- **Information Technology Improvements:** Replacements and enhancements to the city's network and server hardware are now included in the CIP. Also included in the Information Technology Department's CIP are security hardware and data backup and disaster recovery hardware and software.
- **Civic Area Projects:** Three projects are recommended in the 2014-2019 CIP for the Civic Area. Flood protection improvements for the Main Library, renovation of the existing playground south of the Municipal Building, and reconstruction of the plaza at the north entrance of the Main Library have all be included.

New Capital Projects

- **Baseline Underpass**: A new underpass located on Baseline Road, between Broadway and 27th Way, replacing the current at grade pedestrian crossing. This project has been granted federal and state funding. Adjacent multiuse paths will be upgraded on both sides of Baseline, including a connection to the Skunk Creek path.
- **New Parks**: Two new parks have been included in the 2014-2019 CIP. The Boulder Junction pocket park and Violet Park are funded and scheduled during this time period.
- **Downtown Parking Garage Signage**: New variable message signage has been installed at the Downtown Parking garages. These signs will alert drivers to the status of the garage. Later this fall the signs will inform drivers of the number of available spaces.
- **Barker Dam Improvements**: Improvements to Barker Dam include hydroelectric capabilities, outlet repair, and security updates. These improvements are scheduled to take place 2016-2018.

Land and Asset Acquisition

- **Open Space Land Acquisition:** 2013 the Granite-Opal and Joder properties were acquired. Funding for acquisition is recommended to increase to $5.4 million per year, in alignment with the recently updated acquisition plan.
- **Public Works / Utilities:** Pre-flood acquisitions are recommended to continue. These funds are for the purchase and removal of structures in areas prone to flooding, especially in the high hazard regulatory area.

Capital Planning Studies:

- Several planning projects are scheduled in the 2014-2019 CIP including the Transportation Master Plan update, Aquatic Facilities Plan, and continued assessments of city facilities.

**Conclusion**

Peggy Bunzli concluded the presentation by discussing the next steps including the 2014 Recommended Budget study session in September and the budget hearings in October.

**COUNCIL FEEDBACK:**

Following the presentation, City Council asked a series of questions related to the CIP that were addressed by staff. Additional information will be provided in materials for the Tuesday, October 1, 2013 public hearing on the 2014 Recommended Budget. The following questions from Council are paired with staff responses:

- Councilmember Ken Wilson indicated his support for the Carter Lake pipeline to improve reliability of our water supply. He indicated that he would like to see the current status of water bonds and better understand how we will be able to fund the pipeline.
- Councilmember Macon Cowles also indicated support of the Carter Lake pipeline project.
- Councilmember Matt Appelbaum asked for clarification of the unfunded projects list, including whether the city is prioritizing and funding some of them, or whether they truly do not have a funding source available. Jane Brautigam answered that we currently do not have robust funding options for CIP. She also indicated that there may be an opportunity to use one time resources from the General Fund for capital. She also mentioned that the city's Management Team is working on the comprehensive financial strategy and potential future tax and bond items to address capital needs.
- Councilmember Matt Appelbaum asked if there was anything that staff or council could do to facilitate finding a location for a new location for fire station #3. Chris Meschuk answered that initial work was done as a part of CIS round 1 and 2, but that nothing additional had been done since that time..
- Councilmember Matt Appelbaum suggested that we continue to search for opportunities for a location for fire station #3 and that if development takes place we should consider a partnership to get the station built. City Manager Jane Brautigam agreed and stated that this is a priority for the city.
- Councilmember Tim Plass asked how much electricity the Barker Dam hydroelectric would generate. Bob Harberg, Utilities Planning and Project Management Coordinator, answered that he anticipates that it would generate approximately 300-400 kW.
- Councilmember Ken Wilson requested that, when complete estimates are available, further information on the kW hours the hydroelectric turbine is expected to generate be provided to council.
- Councilmember Suzy Ageton asked when the Barker Dam work will take place. The project will begin in 2016 with much of the work taking place in 2017 and 2018, after several bonds are retired.
- Councilmember Matt Appelbaum asked for clarification about the projects on the Public Works / Utilities' unfunded list, given the significant nature of some of the projects. Bob Harberg answered that some of the projects on the unfunded list are funded in the division's 20-year CIP plan but are unfunded within this 6-year CIP.
- Councilmember Ken Wilson voiced support of the Public Works / Utilities' replacement and maintenance plans.
- Councilmember Macon Cowles asked if the Barker Reservoir has lost any capacity due to sedimentation. Bob Harberg answered that some capacity has been potentially lost, though the city has not done any measurements at this time. He also indicated concern that some of the lower gates of the dam may be blocked due to sediment and that the city will be sending divers in to evaluate these.

- Councilmember Suzanne Jones requested clarification on WRAB's divided vote on the CIP. Bob Harberg answered that one board member expressed interest in the city being more aggressive on water quality improvements. The city will likely meet the requirements prior to the required date. The other dissenting vote was due to the Carter Lake pipeline project. Before supporting the project, the board member would like to see additional justification for the need of this project. Bob also stated that two thirds of the land has been acquired and additional funding in 2014 will further support this project.
- Councilmember Suzanne Jones asked for clarification on the Planning Board's recommendation to include carbon reduction information. Chris Meschuk answered that we will be working to determine the best way to present this information for the 2015-2020 CIP.

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**August 13, 2013**
**City Council Dinner Discussion**
**Regional Transportation Issues Summary**

**City Council:** Mayor Matt Applebaum, Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson

**Staff:** Jane Brautigam, City Manager; Tracy Winfree, Director of Public Works for Transportation.

**PURPOSE:** The purpose of the discussion was to gather feedback on Regional Transportation Issues. The City of Boulder is engaged in multiple processes/conversations relative to regional transportation issues. Achieving multi-modal, regional connectivity is a high priority for the City of Boulder to achieve its sustainability goals. Through Metro Mayors Caucus (MMC), US 36 Mayors and Commissioners Coalition (MCC), the Denver Regional Council of Governments (DRCOG), the Northwest Area Mobility Study (NAMS) and other coalitions and regional efforts, elected officials and staff have been involved in supporting cost-effective, multi-modal solutions and determining ways to fund those solutions.

**OVERVIEW OF THE PRESENTATION:**
Mayor Appelbaum and Tracy Winfree presented summary information, based on the Aug 13 Study Session Memo, from other agencies and organizations to seek feedback from City Council regarding the city's approach to:

1. A possible 2014 statewide ballot measure to fund transportation needs;

2. New funding available from the Colorado Department of Transportation's *Responsible Acceleration of Maintenance and Partnerships* (RAMP) program, and;

3. Implementation options for FasTracks in the Northwest Denver Region.

**COUNCIL FEEDBACK:**

**Overall Comments and questions**

- the city's capacity, and that of other Colorado communities, to raise additional funding for important local investments if there is a significant increase in sales tax for state purposes;
- concern about the High Performance Transportation Enterprise (HPTE) approach to manage lanes being focused more on revenue and less on moving the most people most effectively and efficiently;
- recognition that there may need to be changes to the HPTE legislation in the next legislative session, increasing the focus on mobility over revenue;
- the importance of investing significant future funding in the Northwest area since there has been a small return on investment from the FasTracks sales tax;
- interest in statewide polling information that was collected regarding support for transportation investments, funding sources and funding levels (link to Statewide polling on Transportation);

- the success and importance of NW transit solutions serving Boulder, where there is significant transit ridership; if northwest rail is extended at all it must serve Boulder; and
- concern about potentially public funding going to projects, like Jefferson Parkway, when they were added to the DRCOG Regional Transportation Plan (RTP) based on a commitment that those projects would be based solely on private funding.

The Council would like city representatives to take the following approach to current regional transportation issues:

**Statewide Funding**

- Lower the proposed 0.7 Sales Tax preserving local government revenue capacity
    - Sales tax is a significant funding source for local governments for both capital and operational needs. An increase of 0.7 Sales Tax for state purposes is too high and makes Colorado a less competitive environment to shop and do business
    - Package a much smaller sales tax with other funding sources like gas tax and/or diesel tax to lower the Sales Tax impact
- Find an alternative to the current HUTF distribution formula in Metro Area so that those communities that provide for multimodal travel receive a more equitable share of transportation funds. For example, distribution by population and/or sales tax generation would be more equitable than lane miles;
- Support significant transit investment for Northwest Area since there has been very low return on investment from FasTracks especially compared to other parts of the region; and
- State funding for added capacity projects must be conditioned upon inclusion of managed lanes in a way that prioritizes moving people (prioritizing and investing in transit) over generating revenue.

**Northwest Area Mobility Study**

- Advocate for significant portion of new transit funding for NW Area since there has been an inequitable return from FasTracks relative to the rest of the Denver region;
- Develop a response to NAMS options based on the pending cost/benefit analysis; and
- NW Rail segmentation, if it is extended at all, must include service to Boulder.

**RAMP Projects**

- Support city project applications; and
- Oppose funding projects that were included in the DRCOG Regional Transportation Plan based on an assumption of receiving only local and private funding, not federal or state funds.

**August 13, 2013**
**City Council Dinner Discussion**
**Transportation Master Plan Update Summary**

**City Council:** Mayor Matt Applebaum, Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson

**Staff:** Jane Brautigam, City Manager; Tracy Winfree, Director of Public Works for Transportation; Randall Rutsch, Senior Transportation Planner.

**PURPOSE:** The purpose of the discussion was to describe the on-going TMP update work efforts and provide progress reports for each of the TMP Focus Areas. Following the Policy Review phase and Council direction in the fall of 2012, the TMP update is moving forward with work in each of the five Focus Areas approved by council.

**OVERVIEW OF THE PRESENTATION:**
Randall Rutsch, Senior Transportation Planner and Tom Brennen, Principle with Nelson/Nygaard consultants, presented a brief overview of the update work to date with an emphasis on Bike/Pedestrian Innovations and transit planning. Both areas have been involved in a community listening and learning phase which has produced themes providing a strong foundation for moving forward with the TMP update. Highlights of the work efforts to-date for each Focus Area include:

- ***Regional Travel-*** The city continues to work with regional partners on fully implementing true Bus Rapid Transit (BRT) on US 36 and to promote regional high quality transit service through the RTD Northwest Area Mobility Study. In addition, staff is working with Boulder County on outreach to other surrounding communities and to reach in-commuters as part of the city's TMP update process.
- ***TDM-*** The city is partnering with Boulder County on a Community-Wide Eco Pass Feasibility study with the results expected in the near future. GO Boulder staff is also partnering with Parking Services to develop the Access Management and Parking Strategies (AMPS) project.
- ***Funding-*** The funding challenge remains a central focus of the TMP update. The investment programs of the TMP will be refined and integrated with the results of the Complete Streets planning and TDM efforts to develop investment programs consistent with the city's Sustainability Framework and Priority Based Budgeting.
- ***Complete Streets-*** Transit system planning as well as bicycle and pedestrian innovations are major emphasis areas in this update.
    - ***Bike/Pedestrian Innovations***
      The bicycle system is substantially complete and recognized as one of the best in the country, so the bike innovations effort is focused on identifying the barriers that keep the estimated 60 percent of "interested but concerned" cyclists from using the system. A "living laboratory" approach includes bike and pedestrian audits with community members to identify potential barriers and opportunities and the pilot installation of innovative treatments that will be evaluated for their role in encouraging greater use.
    - ***Transit Planning***

The transit planning process has included an extensive community engagement phase using a variety of new outreach and social media tools as well as traditional methods. These themes and the technical analysis of the existing transit system are contained in the draft *State of the System Report* and will form the basis for the upcoming system planning.

- ***Integrate with Sustainability Initiatives-*** Council was provided with material on the inter-departmental management structure for the TMP update, its relationship to the Sustainability Framework and integration with other city planning efforts.

**COUNCIL FEEDBACK:**

1. **Does council have any questions on the information and work efforts to-date presented in each of the TMP Focus Areas?**
2. **Does council have any questions on the identified themes and next steps for the Complete Streets Focus Areas, including:**
    a. **Transit planning, including Draft *Transit State of the System Report*?**
    b. **Community-wide Eco Pass study findings to-date?**
    c. **Bicycle and pedestrian innovations being tested through the "living laboratory"?**

**Overall Comments**

- Overall, City Council members were supportive of the progress of the TMP Update and of the findings and themes emerging from the evaluation and public engagement process.

**General Response Based on City Council Discussion**

- Several questions were asked about the number of in-commuters, both in terms of how many there are and how the number could be increasing faster than the number of jobs. Aging of Boulder residents out of the work force was identified by a council member as one likely factor. It would help of know how we are doing if we have confidence in these numbers, otherwise how do we know what will be an efficient strategy and if it is successful?
  *From a transportation perspective, congestion during the commute hours tells us we have a problem. But it gets more complicated when we try to understand employment, as there are likely a number of factors that go into this, including some broad social trends like the aging of the population and the cost of housing. The Comprehensive Housing Strategy project will be looking at some of these factors, particularly the tradeoffs that people make relative to housing at different stages of life. We have a range of in-commuter numbers as there are different data sources and no good data set for all employment. Contract employment, telecommuting, and holding multiple jobs complicate the data but we have good data over many years for the number of vehicles entering and leaving the Boulder Valley.*
- Didn't we develop a transportation demand management (TDM) toolkit previously and has it been used?
  *A TDM toolkit was developed as part of the 2003 TMP update process and has been used as a voluntary menu of options in the city's development review process. The current*

*effort is intended to raise the bar and incorporate lessons learned from other city efforts such as the Green Points program.*

- Do we have any results from the Eco Pass study and any indication of how it will be priced? Council members are familiar with the negotiations with RTD on the Downtown Eco Pass and know the frustration involved in that effort. The high farebox recovery in Boulder is a red flag, shows that we are paying a lot for transit and supports the concept of a community Eco Pass.
  *Chris Hagelin is the lead staff on the study, which is currently being reviewed by RTD. Pending their agreement on the data used, results will be provided to council once they are received.*
- What is the distinction between the Complete Streets Focus Area and the Sustainable Streets and Center effort?
  *The multimodal corridors Focus Area has been renamed to Complete Streets to reflect the broad national and international use of this term. The Sustainable Streets and Center effort is a separate but related project that is looking at the design and performance characteristics of representational cross sections of street and land use types. Transportation staff has been highly involved in the Sustainable Streets and Center effort and Nelson/Nygaard is the consultant team for that effort as well.*
  *It will be important to provide clear definitions as these related efforts proceed.*
- The CU East Campus planning effort is covered very lightly in the materials. Where is that project at?
  *This process has produced a list of needed projects and studies to accommodate the anticipated growth of East Campus and integrate it with the city's transportation system. A joint open house was held in March that was well attended and since then CU and city staffs have developed a project list that prioritizes the projects and assigns agency responsibility. The capital projects from this list will be integrated in the TMP update and the scope for corridor studies of 30$^{th}$ and Colorado are being developed.*
- In response to the upcoming transit planning, a council member observed that this will involve some really hard choices in providing some service to everyone versus high quality service where it will be used. We need to be clear about our priorities and not develop an un-attainable vision plan that we can never build. We need to include modeling and cost/benefit analysis as part of our analysis and have a better handle on the service to value tradeoffs.
- As part of our transit planning, will we be considering jitneys or other approaches besides fixed route transit service?
  *We will be including strategies such as van pools, car pools and services such as access-a-ride and Via. While jitneys are common in second and third world countries, they tend to skim ridership from the best routes, competing with transit. And in this country, there would likely be issues with regulation by the Public Utilities Commission and other concerns.*
- Why will some of the bike innovations be delayed and when do we expect they can be installed?
  *In the case of protected bike lanes, we need to change our code which requires parking within a limited distance of the curb. And experimenting with advisory bike lanes requires FHWA approval which we expect to get in the next several months.*

- Amsterdam has real time bike counting and bike count displays. Do we have anything like that or will we?
  *The city has a number of existing automated bike count locations on lanes and paths. A real time bike count display will be installed on 13th Street in the next few months.*

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE** Consideration of a motion to accept the Study Session Summary from Sep. 10, 2013 on the 2014 Recommended Budget

**PRESENTERS**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Peggy Bunzli, Budget Manager

## EXECUTIVE SUMMARY

The purpose of the Sep. 10 Study Session was to present information on the 2014 Recommended Budget and receive council's feedback.

The first reading of the 2014 budget ordinances is held at the Oct. 1, 2013 City Council Meeting. Additional information related to the Sep. 10 Study Session is provided in the Oct. 1, 2013 City Council Meeting 2014 Recommended Budget memo.

## STAFF RECOMMENDATION

**Suggested Motion Language**:

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

Motion to accept the summary of the September 10, 2013 study session related to the 2014 Recommended Budget. The summary is included as Attachment A to this agenda item.

## BACKGROUND

Background information can be found in the 2014 Recommended Budget document, the Sep. 10 Study Session memo, and the Sep. 5 additional memo provided to council.

## ATTACHMENT

A. Summary of the Sep. 10, 2013 City Council Study Session

# September 10, 2013
# City Council Study Session Summary
# 2014 Recommended Budget

## PRESENT
**City Council:** Council Members Suzy Ageton, Matt Appelbaum, KC Becker, Macon Cowles, Suzanne Jones, Lisa Morzel, Tim Plass, Ken Wilson

**Staff Members:** City Manager Jane S. Brautigam, Chief Financial Officer Bob Eichem, Budget Manager Peggy Bunzli

## PURPOSE
The purpose of this study session was to present information on the 2014 Recommended Budget and to receive Council feedback in preparation for the first reading of the 2014 budget ordinances on October 1, 2013. The study session had the following agenda:

- Financial Update
- 2014 Recommended Budget
  - Budget Overview
  - Budget Highlights
- Old Hire Pension Plan changes
- Tax Increment Financing (TIF)
- Next Steps

## PRESENTATION
### Introduction
City Manager Jane Brautigam opened the meeting by acknowledging that the 2014 Recommended Budget was put together by many people throughout the city, and thanked the directors and the financial analysts for their efforts. She explained that this year's budget was developed with an emphasis on collaboration, which is embodied in the city's overarching approach called "One City One Boulder". This approach promotes collaboration among departments not just in the budget, but for many other efforts in the city. City Manager Brautigam then gave a brief overview of the agenda for the evening.

### Financial Update
Budget Manager Peggy Bunzli provided an update on the economic and financial factors relevant to the development of the 2014 Recommended Budget. She noted that economic conditions have improved in the past year, and Boulder continues to experience slow and steady economic and employment growth. While slow job recovery has made it difficult to predict consumer spending and confidence, Boulder is fortunate to have lower unemployment rates than the state and nation, more stable property values, and a strong housing market. The overall economic outlook is good, though the city continues to monitor the economic impact of sequestration and fragile global economic conditions.

Ms. Bunzli provided information on sales and use tax revenues. As of the June 2013 returns, city collections were 5.1% over 2012. While this is higher than the 3.4% projected increase for the

year, a significant portion of revenues received came from business to business sales, which are one-time in nature and not recurring. As a result, the city is on track to meet current 2013 projections and is still projecting a 3.5% increase in 2014. Ms. Bunzli also provided information on retail sales tax, noting the importance of monitoring these revenues since they make up more than 80% of the total sales and use taxes in the city. Ms. Bunzli then provided information on other state and regional economic indicators that help inform revenue projections ongoing.

Ms Bunzli presented information on revenue projections to actual receipts. The city aims to make revenue projections that are neither too conservative nor too optimistic. Over the past eight years, the city's projections have been generally in line with actual revenue receipts. Actual revenues were slightly lower than projections during the recession and slightly higher recently, due to a more cautious approach following the economic downtown. These one-time revenues above projections have been made available for one-time expenditures through the budget process, in line with the city's policy of using one-time revenues for one-time expenditures and ongoing revenues for ongoing expenditures only. As mentioned in prior meetings, the city continues to experience widening loss of buying power. Given that costs continue to rise at a greater rate than revenues, the city continues to focus on priorities and ensuring the best use of resources to achieve community goals.

**Budget Overview**

Ms. Bunzli reviewed the budget process and timeline. The Annual Budget process is a part of the city's overall planning and financial strategy work, designed to meet the goals of the community. Under the umbrella of the Sustainability Framework, the budget is developed in line with the Boulder Valley Comprehensive Plan, department strategic and master plans and Priority Based Budgeting. There are a number of opportunities for council and public input and feedback throughout the process, including outreach through master planning efforts, Board and Commission meetings, study sessions, and public hearings of the budget.

Ms. Bunzli provided an overview of the citywide budget. The 2014 Recommended Budget is approximately $269 million, of which $227 million is operating and $42 million is capital. Of the $227 million operating budget, $102 million is in the General Fund and $125 million is in restricted funds.

The city is projecting revenues of $260 million, a 4.8 percent increase over last year. Over half of city revenues come from sales and use tax and property tax collections. When you exclude revenues from Utilities, sales and use tax alone represents almost 50 percent of all revenue, highlighting the importance of economic factors discussed earlier in the study session.

The 2014 Recommended Budget of $269 million represents a 5.8 percent increase over 2013. The difference between revenue ($260 million) and expenditure ($269 million) is one-time saved funds that are planned for. Capital expenditures alone represent a 3.4 percent increase, with only a 2.4 percent increase to overall ongoing expenditure proposed. Significant areas of investment are in: Utilities, Public Safety, Transportation, Open Space and Mountain Parks, and Parks and Recreation.

In the General Fund, the city is projecting revenues of $115 million, also a 4.8 percent increase over 2013. Approximately two thirds of this comes from sales and use tax and property tax, with the remainder coming from various other taxes, such as the Accommodations tax and the Utility Occupation tax, as well as parking and court fines, licensing fees, and other miscellaneous revenues. Proposed General Fund expenditure of about $115 million represents a 3.3 percent increase over 2013. A significant portion of this (approximately 43 percent) goes to providing public safety to the community. Twelve percent of the General Fund budget is for transfers to other funds, such as the Open Space, Library, Affordable Housing and Recreation Activity funds, in support of operations in those areas.

Ms. Bunzli ended her portion of the presentation by discussing the city's recommendation to increase the General Fund reserve level to 15 percent ongoing. Reasons to do this include:

- Providing long-term stability for unanticipated needs, emergencies and revenue shortfalls;
- Aligning with industry standards;
- Strengthening bond ratings.

**Budget Highlights**

The City Manager reviewed the 2014 budget focus. The Recommended budget is strategic and focuses on public safety, maintaining existing assets, and investing in the future of the community. It was developed in a multi-year context with the goal of building sustainability, and incorporated a collaborative approach to help align resources with the highest priorities across the city. While city revenues are stable, demand for funding outweighs available resources. The City Manager stated that she issued a challenge to departments to reprioritize expenditures and use Priority Based Budgeting to find savings for reallocation to the General Fund to address some of the highest priorities of the organization and community. Through this process, the city is proposing a balance of new revenues and reallocations to help achieve community goals. Seven departments were able to propose a total of $1.2 million in reallocations.

Public safety allocations are a top priority in this budget. The recent Police staffing assessment and Master Plan recommend eight additional officers and an additional commander. Since funding for this level of staffing increase in a single year is not feasible, the 2014 budget allocates dollars for two new police officers and one new police commander, as a first step in what will likely be a multi-year process. The budget also includes funding to continue the master police officer compensation program. Costs for this valuable program are no longer an allowable expense from federal asset forfeiture monies, which previously funded it. Additional funding is also recommended for Police non-personnel expenditures to allow the department to keep up with rising costs. A final item recommended for Police is the use of the Asset Forfeiture reserve for the purchase of a new records management system to replace the current, outdated system. In the Fire Department, the budget implements the final year of aligning Wildland Fire Division staffing with best practices, converting seasonals to full time staff and providing equity reclassification. The budget funds replacement of outdated masks for self-contained breathing apparatus for firefighters, a one-time expenditure, and also sets aside funds for future equipment replacement, including the full replacement of all components of the self-contained breathing apparatus. The budget also allocates funding for Wildland Fire Training Center and Light Response Vehicle operations and maintenance.

The 2014 Recommended Budget also addresses high priority needs across the community. Library services in North Boulder have long been identified as a community need and the budget allocates funding for a North Boulder Library Station. This station, currently planned to be staffed at twenty hours per week, will focus on community based programs and services. Another high priority item is Civic Area implementation and funding is recommended for a fixed-term project manager to support this work. The budget includes funding for Open Space and Mountain Parks projects and operations, including acceleration of the West TSA implementation. Funding for Boulder's Energy future is evaluated each year, in line with the status and evolution of the project. Recommended funding for 2014 again supports backfill for staffing support, in addition to funding from the Utility Occupation Tax funding. The increase in recommended backfill funding for 2014, over 2013, is both a reflection of known costs for the specific backfill (versus estimates used for the 2013 budget recommendation) and regular personnel cost increases. As gas and electric rates have increased more than 3 percent in the past year, the budget will propose an allowable increase of 3 percent to the Utility Occupation Tax rate.

Other community investments included in the budget are in the areas of:

- Economic vitality
- Customer service enhancements in Planning and Development Services
- The snow and ice pilot – addressing snow removal on hills and shaded areas
- Via transit services - increased contribution
- An economic impact study for the Museum of Boulder (previously called the Boulder History Museum) related to the museum's relocation and capital campaign.

The 2014 budget recommends both one-time and ongoing funding for maintaining existing assets. One-time funding from the General Fund is recommended to reimburse the Facilities Renovation and Replacement Fund for Valmont Butte and 13th Street Plaza remediation costs. Ongoing funding of $400,000 is recommended to slow the growth of backlog in the areas of maintenance, renovation and replacement of city owned facilities. In addition, $125,000 ongoing funding is provided for Mall and Downtown assets repair and replacement. Finally, additional funding from dedicated Transportation tax revenue is provided for high priority transportation system maintenance and repairs identified in the Transportation Master Plan.

The City Manager noted that the recommended budget includes a net increase of fifteen fixed-term positions and nine ongoing positions. Most of the ongoing positions are in Public Safety. Other staffing increases, both fixed-term and ongoing support the focus areas already mentioned of Open Space and Mountain Parks, Planning and Development Services, the North Boulder Library Station, Civic Area planning

**Proposed Utility Rate Changes**

The City Manager then provided information on proposed Utility rate changes. Proposed changes are an increase of 4 percent for water, 5 percent for wastewater, and 3 percent for stormwater rates. These changes are needed to keep pace with inflation and, particularly in the wastewater area, to meet new federal regulations. Rates across the nation have been increasing at an average of 7 percent annually. These rates will impact the typical residential customers by

around $2.50 per month, the typical restaurant by around $12 per month and the typical hotel by around $106 per month. Even with these changes Boulder continues to have some of the lower rates in water and wastewater compared to other Front Range communities. The city's stormwater rates are in the middle of this comparison range, due in part to Boulder's significant flood risk.

The city continually strives to keep rates down. Some recent things that have contributed to this are:

- Process innovations at the Wastewater Treatment facility resulting in $200,000 annual savings;
- Bond refinancing resulting in $250,000 annual savings through 2025;
- An award of a little over one million dollars in grants from the State to help with the EPA nutrient criteria regulations.

*Questions from City Council Regarding Utility Rates*

- Council Member Becker asked if staff could provide information at the first reading of the budget on the percentage changes in utility rates over the last year. City Manager Brautigam replied that staff would provide this.

*Additional information related to this is provided in the Oct. 1 council meeting packet.*

**Old Hire Fire and Police Pensions**

Chief Financial Officer Bob Eichem provided an update on proposed changes to the Old Hire Fire and Police Pension Plans. He began with a brief history of the plans and explained that both plans are underfunded and that there have been no increases to the payments since 2008. In order to maintain the plans, the city's contributions have grown from $60,000 in 2000 to over $1,000,000 in 2013. The costs to the city are being driven by shorter amortization period, lower earnings, and a de-facto escalator clause built into the Police plan. Increased payments made through the plan cost more than the benefit given.

During the study session on April 23, the city proposed the possibility of making increases to payments from the operating budget (outside of the pension plan), which would be subject to the same guidelines and prioritization process as any other budget request. The idea of tiered increases, higher initial increases to those receiving the lowest payments, was also discussed, as well as removing the de-facto escalator. Council gave staff direction to recommend options including those elements.

The staff recommendation included in the budget is as follows:

- Provide increases from the General Fund, outside the plans and through the budget process;
- Make minimum payments of $650 per pay period for widows and $1,050 per pay period for retirees;
- Increase payments by 2 percent every other year, if funds are available through the budget process.

The total cost of the proposed changes is $250,000 per year, including both increases to payments and the cost of amortization and interest. Additional work is needed to determine the legal concerns and how to proceed with regard to the de-facto clause.

Mr. Eichem then provided information on how the changes would benefit the various people in the plans, as well as the number of pensioners of different ages receiving various benefit amounts.

*Questions from City Council regarding the Old Hire Fire and Police Pension Plans*

- Council Member Wilson asked if the retirees also receive Social Security. Mr. Eichem replied that they do not.

**Tax Increment Financing**

Mr. Eichem presented information regarding the expiration of the Tax Increment Financing (TIF), established to help cover debt payments on construction costs for the parking garage at 10th and Walnut. The TIF expires at the end of 2013, ten years before the debt payment ends. Final revenue from property tax will be disbursed to the TIF in 2014 with all other tax revenue to the TIF ending in 2013. Currently, any excess revenue generated, after expenses and debt service are paid, is transferred from CAGID to the General Fund. When the TIF expires, property tax revenues from non city entities will return to those entities, and city revenues will be deposited in the General Fund (and Transportation fund for the dedicated portion of the sales and use tax revenues). The remaining parking revenues in CAGID will not be sufficient to cover the debt service.

CAGID covered costs above the bond proceeds, covered the cash flow shortfall before TIF revenues began, and was not compensated for the air space above the garage.
The Cooperation agreement related to the TIF stated that City Council may consider supplemental contribution to cover the debt payment gap, subject to annual appropriation.

The proposal included in the Recommended Budget is that the General Fund cover any shortfall in the debt payment, after the net revenue is calculated (projected to be between $350,000 and $375,000 annually). This would be done using Accommodations tax revenues previously dedicated to the TIF. In line with timing of Accommodations tax revenue distribution to the Boulder Convention and Visitors Bureau (BCVB), which is done in the year following the revenue collection, 2014 (through 2022) collections would be set aside to cover 2015 (through 2023) debt obligation. The remaining revenues after the debt service gap coverage will be shared with the BCVB using the current allocation agreement of up to 20 percent going to the BCVB.

*Questions from City Council Regarding the TIF*

- Council Member Becker restated the issue for clarification and Mr. Eichem confirmed the information.
- Council Member Appelbaum stated that the only funds being lost to the city at the expiration of the TIF were the property taxes from other entities, such as the school district. Mr. Eichem confirmed this.
- Council Member Becker asked if the differences were that revenues collected in the TIF area had previously been “dedicated” to debt payment, that now, they would no longer be “dedicated,” and that the budget proposes using some of the previously “dedicated” Accommodations tax revenues for debt payment. The result would be that the BCVB

would only receive twenty percent of total Accommodations tax revenues, after the debt was covered. Mr. Eichem confirmed this.

- Council Member Becker asked if the BCVB was asking for twenty percent of Accommodations tax before any debt payment was taken out and if the city was proposing that the debt payment be covered off the top, before calculation of distribution. Mr. Eichem confirmed this.
- Council Member Becker asked if the city knew the amount of the difference. Mr. Eichem replied that it was about $75,000 (20 percent of $375,000).
- Council Member Appelbaum asked how much property tax would now be returned to the other entities. Mr. Eichem replied that it was about $800,000.
- Council Member Ageton asked if the BCVB would be receiving less than they had previously. Mr. Eichem explained that it would actually be more.
- Council Member Ageton asked about the agreement between the BCVB and the city when the Accommodations tax rate was changed in 2010. Mr. Eichem replied that the city had said at that time that it might need to pay the remaining debt coverage before splitting additional revenues no longer obligated to the TIF with the BCVB.
- Council Member Ageton asked what portion of the St. Julien Accommodations tax revenues had been received by the BCVB. Mr. Eichem replied that they had received 20 percent of the additional 2 percent (the 2010 increase) and none of the 5.5 percent (obligated to the TIF).
- Council Member Appelbaum asked if this proposal resulted in shared coverage of the debt. Mr. Eichem confirmed this and stated that CAGID's front end contributions also represented a share of the obligation.
- Mr. Eichem added that, because of the timing, TIF monies were only obligated for ten years and that due to the success of the project, all parties were benefitting.
- Council Member Ageton asked if there was ever any documentation of the BCVB being reimbursed for their marketing expenses in relation to the project. Mr. Eichem said that there were discussions about this but no agreement, documentation or commitment to do so.
- Council Member Appelbaum asked if the St. Julien generates more than the amount needed for debt gap coverage. Mr. Eichem replied that it generates more. He also said that there would be an increase in the payments that the BCVB receives.
- Mr. Eichem also noted that the proposal being made differed than what had appeared in the Recommended Budget originally by aligning the timing of revenue collections and payments.
- Council Member Wilson asked if the net change (the delta) to the BCVB was positive. Mr. Eichem confirmed this.

**Conclusion**

City Manager Brautigam concluded the presentation by providing an overview of the next steps, which included a possible second study session on September 24, the Budget Hearings on Oct. 1 and 15 (with a possible third reading on Oct. 29), and a report on the capital phase of the Comprehensive Financial Strategy in February 2014. She asked council to provide direction by the end of the study session on whether a second study session would be required.

**COUNCIL DISCUSSION AND QUESTIONS**

- Council Member Becker stated support for the staff recommendation related to expiring TIF.
- Council Member Becker stated concern related to the proposed reallocation of $150,000 from the Recreation Activity Fund and the reduction of $50,000 in the General Fund allocation to the Parks and Recreation Department. She noted that reduction of the General Fund support to the department could put pressure on Parks and Recreation to increase fee recovery. Parks and Recreation Director Kirk Kincannon noted that, during the Master Plan process and using Priority Based Budgeting from a citywide needs perspective, the Department looked at ways to find efficiencies without reducing services. One way to do this is to contract out the dance program. By doing this, the city achieves costs savings beyond revenue reductions. The Department has been looking at this option for over three years and it is supported by the program instructors and others involved in the program. Another program, currently out to bid, is the Pottery Lab. Contracting this program out will also produce savings to the city, without impacting the service to the community.
- Council Member Becker noted that the Play Foundation has been a supporter of the Parks and Recreation Department, and that, due to difficulties the foundation is experiencing; the foundation has not been able to provide as much support. Director Kincannon said the Department is working with the Play Foundation to find a good, sustainable solution. There is opportunity to help that foundation and to make it stronger.
- Council Member Ageton asked whether the city had ever funded an economic impact study for any other nonprofit and, if so, under what circumstances. She expressed concern about the precedent of doing this and questioned what the appropriate role of the city should be with regard to this. City Manager Brautigam responded that she was not aware of the city having done so. She also noted that when an organization does an economic impact study for itself, it has financial interest in the outcome of the study.
- Council Member Wilson asked if we could partner with BCVB and the History Museum to make economic impact evaluation much cheaper.
  *Additional information related to this is provided in the Oct. 1 council meeting packet.*
- Council Member Becker generally supported the city's approach and also expressed understanding that other options could be valuable.
- Council Member Ageton asked for clarification and justification of the proposed reallocations of Human Services funding. Human Services Director Karen Rahn explained that the city has been paying a greater proportional share than its partners in the Prevention and Intervention Program and that the County had agreed to increase its contribution in 2014, while all the partners came together to look at and better align their respective contributions to the program. City Manager Brautigam indicated that the reference to peer cities in the budget message could be better stated to reflect the realignment of contribution in the Prevention and Intervention Program.
- Council Member Ageton also noted that almost all programs in Children, Youth and Families showed reductions over 2013 except one program, which showed an increase, though it is in a lower Priority Based Budgeting quartile than the other programs. Financial Manager Barbara Long explained that this related primarily to grant funding fluctuations and reduced grant funding overall.
  *Additional information related to this is provided in the Oct. 1 council meeting packet*.

- Council Member Ageton asked for information related to the reduction to the Human Services Fund, in a time when human services needs in the community are increasing. Director Rahn replied that additional funding from Medicaid expansion and the Affordable Care Act may provide new funding to some of the agencies receiving funding from the Human Services Fund and may reduce the need for some portion of funding from the city without a negative impact to the community.
  *Additional information related to this is provided in the Oct. 1 council meeting packet*.
- Council Member Morzel asked whether the city should have a policy or fund to support events such as Ironman and the Procycle Challenge and whether there were dedicated city staff working on these events. City Manger Brautigam noted that support to these efforts is included in the budget under non-departmental funding (in the City Manager's Office pages of the budget). Staff expenses are generally included in each department. The non-departmental funds are to reimburse city departments for staff overtime and materials. No direct funding goes to the organizations. She also noted that through existing funding in the City Manager's Office, the city will be engaging a consultant to study event opportunities across the city.
- Council Member Cowles expressed concern that the Fire equipment replacement funding recommended in the budget might include funding for large Fire apparatus (vehicles) that were not consistent with environmental and transportation goals of the city. Deputy Fire Chief Frank Young explained that the equipment was self-contained breathing apparatus for firefighters. Budget Manager Bunzli added that, in the past, the city had obtained grant funding for the replacement of this protective equipment but that the city did not anticipate being able to obtain grant funding for this in the future. City Manager Brautigam stated that this was not for fire trucks.
- Council Member Cowles asked why the city needs eight additional Police Officers, given Boulder's positive rating as compared to its peer cities. City Manger Brautigam stated that Boulder has different public safety needs than its peer cities. These include: a major university, a dense surrounding population, a high numbers of transient people, and issues with alcohol. Additionally, Boulder's work in community policing such as in the Civic Area is highly valued and has proven beneficial to the community. She also expressed the need for an additional Commander, given all of the extra duties taken on by the Police Department in the last several years, including Animal Control and Code Enforcement.
- Council Member Morzel asked whether the self contained breathing apparatus has a shelf life. Deputy Chief Young replied that it does and that replacements are done based on nationally recognized standards.
- Council Member Wilson indicated his support of replacement funding for fire vehicles. He also noted rising call levels and the introduction of recreational marijuana as additional reasons for the need for more Police Officers.
- Council Member Ageton added that the large number of commuters to Boulder also puts pressure on public safety work.
- Council Member Appelbaum asked what the makeup of the Facilities and Asset Management (FAM) backlog is and if there were any particular items that needed attention sooner rather than later. Facilities and Fleet Manager Joe Castro stated that FAM uses a facility code index to categorize the condition of facilities. The city estimates the overall condition of facilities using the percent of repair backlog costs to replacement

value. Current backlog levels put the city in the fair category, progressing to poor. FAM targets facilities with a high repair to replacement index or major renovation projects. An example of a major project needed is replacement of the pool air handling system at the East Boulder Community Center.

- Council Member Jones asked what percent of the backlog is funded. Mr. Castro stated that the normal CIP for FAM is funded at $1-$1.2 million per year.
- Council Member Appelbaum asked for more details regarding the Cyber café. Mr. Eichem gave some background on the funding of the Cyber café and explained that the private notes held are accruing 6 percent annual interest. At these rates and given the amount owed currently, staff recommends repaying in full in 2014.
  *Additional information related to this is provided in the Oct. 1 council meeting packet.*
- Council Member Appelbaum asked whether we will recoup the costs for the Valmont Butte and 13th street cleanup efforts. Executive Director of Public Works Mo Rait stated that the city is splitting the costs of the Valmont Butte cleanup with Honeywell and that final costs have been incurred on this project. The city has not yet completed final reconciliation with Honeywell but will be doing so.
- Council Member Plass asked if there were any additional responsible parties. Ms. Rait answered that all responsible parties had been previously identified for the Valmont Butte cleanup.
- Council Member Ageton asked if the mitigation work was complete at both sites. Ms. Rait indicated that the work is completed at Valmont Butte but there is additional mitigation work needed at the 13th Street Plaza site. She noted that the city is in the investigation stage and preparing a Voluntary Cleanup Program (VCUP) for this site and that it is expected that there will be a responsible party (Xcel Energy) for that cleanup effort as well. The city is working with the State and hopes to submit the VCUP to the State for approval this fall in order to begin remediation work.
- Council Member Appelbaum asked if we had cost estimates for the 13th Street Plaza remediation work. Ms. Rait said that the projected range is from $2.5 to $4 million.
- Council Member Plass asked what the remediation effort was. Ms Rait explained that the site was an old gasification plant, and that materials were not removed. Remediation will include removal of these materials.
- Council Member Morzel asked if there would be testing to see if the contamination had moved with the ground water. Ms Rait replied that the city has a lot of monitoring wells and testing stations on the site.
- Council Member Jones asked for further explanation on reduction in transfer to the Affordable Housing Fund. Housing Manager Jeff Yegian responded that the transfer reduction is very small compared to total available funding in the city's affordable housing program and that the funds could have a bigger impact elsewhere for other city priorities.
- Council Member Jones asked whether the budget included potential new funding for transportation from a temporary tax that will be on the ballot in November. City Manager Brautigam replied that this was not included. She further stated that if the tax was approved by voters, it would not alter the funding proposal for Transportation included in the Recommended Budget, as that come from dedicated Transportation revenues. The city would bring a supplemental budget related to new revenues to council for consideration if the tax is approved.

- Council Member Jones asked where the General Fund transfer to Open Space and Mountain Parks (OSMP) was reflected in the budget. Ms. Bunzli responded that OSMP receives both a direct allocation of General Fund dollars and a transfer of approximately $1.2 million from the General Fund. The funding is accounted for in the OSMP budget. In the pie chart on uses of General Fund, transfers to other funds are combined in one pie slice and represent a total of about 12 percent of General Fund expenditure. OSMP Director Mike Patton further clarified that the direct allocation of General Fund to the Department is for real estate services that OSMP provides to General Fund departments.
- Council Member Cowles asked how additional revenues above projections were allocated. Mr. Eichem responded that one-time revenues such as these are used only for one-time expenditures. Examples of uses of one-time funds include: saving for future capital projects, pay as you go purchases, consultants for discrete studies or analysis, time limited projects, large citywide projects such as Civic Area planning or Boulder's Energy Future, where the nature of the work specifically funded by the one-time dollars is short-term. Additionally, one time revenues can be used to build reserves.
- Council Member Cowles asked if reserves are kept fund by fund or all together. Mr. Eichem replied that reserves are kept fund by fund.
- Council Member Ageton asked what the increase in funding to the Energy Strategy and Electric Utility Development Department is. City Manager Brautigam stated that increase is due to staffing costs and the increase in the utility occupation tax. She further noted that, while this is treated as one time funds, the same request will likely come up next year.
  *Additional information related to this is provided in the Oct. 1 council meeting packet*.
- Council Member Morzel stated her strong support of funding for the North Boulder Library Station. She asked for clarification on the funding amounts noted in the budget. City Manager Brautigam explained that the $115,000 was ongoing funding for staffing, operations and maintenance costs and that the remainder was for capital set up costs to provide the needed furniture, wiring, etc, in order to have a functioning library in the space.
- Council Member Morzel asked if there was a vision to increase the hours of operation of the Library Station. City Manager Brautigam said that the city would be evaluating the community need and best ways to serve that ongoing.
- Council Member Appelbaum asked what requested items were not recommended for funding in the budget. City Manager Brautigam replied that this information had been provided to council in a memo dated, Sept.5. She gave two examples: a web content manager position and technology needs in Police.
- Council Member Wilson asked for the city to consider ways to help the Museum of Boulder with capital needs. He suggested the possibility of using proceeds from the sale of the Harbeck House to help purchase the Masonic Lodge.
- Council Member Apppelbaum asked whether the funds from sale of the Harbeck House would need to be used for parks. City Manager Brautigam said that this was the case.
  *Additional information related to this is provided in the Oct. 1 council meeting*

Council had no further questions and determined that a second study session would not be needed.

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: Oct. 1, 2013**

**AGENDA TITLE:** Third reading and consideration of a motion to adopt Ordinance No. 7925 amending chapters 10-2, 10-5, 10-5.5, 10-6, 10-7,10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding a new chapter 10-8.5; adopting by reference, with amendments, the 2012 International Property Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes, and the 2011 Electrical National Code, amending Sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4 "Board of Building Appeals," B.R.C. 1981; and setting forth related details.

**PRESENTER/S**
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Hella Pannewig, Assistant City Attorney
Maureen Rait, Executive Director of Public Works
David Driskell, Executive Director of Community Planning and Sustainability
Larry Donner, Fire Chief
David Lowrey, Chief Fire Marshall
David Thacker, Building Services Manager/Chief Building Official
Kirk Moors, Senior Plans Examiner/Assistant Building Official

## EXECUTIVE SUMMARY

At second reading on Sept.17, 2013, city council amended the proposed ordinance to remove the fire sprinkler requirement for detached one and two family dwellings. This change requires a third reading.

## STAFF RECOMMENDATION

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

1. Motion to adopt Ordinance No. 7925 amending Chapters 10-2, 10-5, 10-5.5, 10-6, 10-7,10-7.5, 10-8, 10-9, 10-9.5 and 10-10, B.R.C. 1981, adding a new Chapter 10-8.5, adopting by reference, with amendments, the 2012 International Property

| |
|---|
| Maintenance, Building, Residential, Energy Conservation, Fire, Wildland-Urban Interface, Mechanical, Fuel Gas and Plumbing Codes and the 2011 Electrical National Code, amending Sections 4-20-47, "Zoning Adjustment Filing Fees," and 2-3-4 "Board of Building Appeals," B.R.C. 1981; and setting forth related details |

**BACKGROUND**

Background information including board and commission, and public feedback can be found in the Aug. 20, 2013 first reading memo, Sept. 03, 2013 second reading memo., and, second reading continuation memo.

**FISCAL IMPACTS**

Staff and consultant costs for the update work have been included into the 2013 budget. The staff time needed to implement the updated codes is not expected to be higher than current code review requirements.

**ANALYSIS**

Detailed analysis of the energy and building code adoption proposal can be found in the Aug. 20, 2013 first reading memo. Analysis for questions addressed at second reading can be found in the Sept. 03, 2013 second reading memo and the second reading continuation memo

**NEXT STEPS**

Staff will move forward with public education by offering code update workshops during the third and fourth quarter of 2013. Updates to the Site Review criteria will be scheduled for Planning Board consideration during the fourth quarter of 2013. An update to the city's Green Building, Green Points program is scheduled for the fourth quarter of 2014.

**ATTACHMENTS**

- ATTACHMENT A: Ordinance No. 7925.

ORDINANCE NO. 7925

AN ORDINANCE AMENDING CHAPTERS 10-2, 10-5, 10-5.5, 10-6, 10-7, 10-7.5, 10-8, 10-9, 10-9.5, AND 10-10, B.R.C. 1981; ADDING A NEW CHAPTER 10-8.5; ADOPTING BY REFERENCE, WITH AMENDMENTS, THE 2012 INTERNATIONAL PROPERTY MAINTENANCE, BUILDING, RESIDENTIAL, ENERGY CONSERVATION, FIRE, WILDLAND-URBAN INTERFACE, MECHANICAL, FUEL GAS AND PLUMBING CODES, AND THE 2011 NATIONAL ELECTRICAL CODE; AMENDING SECTIONS 4-20-47, "ZONING ADJUSTMENT FILING FEES," AND 2-3-4, "BOARD OF BUILDING APPEALS," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 10-2, B.R.C. 1981, is amended to read:

**CHAPTER 10-2 – PROPERTY MAINTENANCE CODE**

**10-2-1 Legislative Intent.**

(a) The City Council finds:

(1) Energy efficiency requirements for housing are necessary because:

(A) Reducing greenhouse gas emissions in existing buildings is imperative to meet the City of Boulder's sustainability goals;

(B) Rental housing represents the largest number of existing housing units in the City; and

(C) Efforts to establish incentives for voluntary energy efficiency retrofits in rental housing have proven to be ineffective.

(b) Reducing greenhouse gas emissions has been established as an important public policy objective and mandated by the City of Boulder due to:

(1) The well-documented link between reduction of such emissions and current and projected climate change; and

(2) The profound public health and safety impacts of such emissions, including but not limited to:

(A) Increased risk of extreme weather events,

(B) Increased flood severity,

(C) Increased risk and intensity of catastrophic wildfire,

(D) Increased insect invasions causing forest die-offs, and

(E) Increased risk of drought.

(c) The purposes of this chapter are as follows:

(1) To protect the public health, safety and general welfare of the residents of the City by regulating existing residential rental and privately occupied residential structures and to promote conservation and the efficient use of energy;

(2) To establish minimum energy efficiency requirements for existing rental and privately occupied housing in the City of Boulder with the goal of reducing greenhouse gas emissions; and

(3) To address the unique needs and challenges associated with energy retrofits in existing rental and privately occupied housing.

(d) The City Council hereby adopts the ~~2009~~ 2012 edition of the International Property Maintenance Code as the Property Maintenance Code of the City of Boulder. This chapter establishes minimum code standards related to: administration; definitions; general requirements; light, ventilation and occupancy limitations; plumbing facilities and fixture requirements; mechanical and electrical systems; fire safety requirements; rental licensing and existing residential rental structure energy conservation.

**10-2-2 Adoption of the International Property Maintenance Code with Modifications.**

(a) The ~~2009~~ 2012 edition of the International Property Maintenance Code (IPMC) of the International Code Council is hereby adopted by reference as the City of Boulder Property Maintenance Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended for local application by this chapter.

(b) IPMC Appendix chapters A, "Boarding Standard," and B, "Rental Housing Inspections," are adopted.

(c) For ease of reference, the following identifies all chapters, sections and appendices of the published and adopted IPMC and includes specific amendments for local application. Chapter, Section, Subsection or Appendix numbers of provisions not amended appear, followed by the words, "No changes." The amended text of specifically amended provisions appears below. Chapter, Section, Subsection or Appendix numbers of any provisions not adopted appear, followed by the word, "Deleted."

## CHAPTER 1
## SCOPE AND ADMINISTRATION

### PART 1 — SCOPE AND ADMINISTRATION

### SECTION 101
### GENERAL

**101.1 Title.** These regulations shall be known as the Property Maintenance Code of the City of Boulder, hereinafter referred to as "this code."

**101.2 Scope.** This code shall apply to all existing ~~residential~~ structures and all existing ~~residential~~ premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, energy conservation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; this code also specifies the responsibility of the owners, operators and occupants related to code compliance; the occupancy of existing structures and premises, and provides for administration, licensing, enforcement and penalties.

**101.2.1 Application of Rental Licenses Code.** Existing residential structures utilized as rental properties will also be subject to the requirements of Chapter 10-3, "Rental Licenses," B.R.C. 1981.

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Except as provided below, existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Existing structures and premises that comply with all applicable codes in force at the time of construction will be deemed to comply with this code except where the code official determines that deviations from this code pose a danger to the health, safety or welfare of the public or occupants, and issues an order for the owner to correct those specific conditions or alterations.

**101.4 Severability.** No changes.

## SECTION 102
## APPLICABILITY

**102.1 General.** No changes.

**102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code shall be maintained in accordance with the code in effect when the structure or premises was legally constructed, altered or repaired and shall be maintained in good working order.

**102.3 Application of Other Codes.** Repairs, additions or alterations to a structure, inspections or changes of occupancy, shall be done in accordance with the procedures and provisions of the City of Boulder Building Code, City of Boulder Residential Code, City of Boulder Fuel Gas Code, City of Boulder Mechanical Code, City of Boulder Plumbing Code, City of Boulder Fire ~~Prevention~~ Code, City of Boulder Energy Conservation ~~and Insulation~~ Code and City of Boulder Electrical Code.

**102.4 — 102.10** No changes.

## PART 2 — ADMINISTRATION AND ENFORCEMENT

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## SECTION 106
## VIOLATIONS

**106.1 Violations.**

(a) General Provisions:

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City, or cause or permit the same to be done, except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) If an order under section 107 is not complied with, the code official may institute any appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or the order or direction made pursuant thereto. The code official may charge the cost of any action taken to correct a violation, plus up to fifteen percent of such cost, for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the code official finds that a violation of any provision of this code or of any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit, until such time as the person submits a declaration of use that is in a form acceptable to the code official.

**106.~~1~~2 — 106.3** ~~No changes~~Deleted.

**106.4 Violation Penalties.** ~~Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Violations of this code are punishable as provided in sections 9-15-3 through 9-15-5, of chapter 9-15, "Enforcement," B.R.C. 1981.~~Deleted.

**106.5 Abatement of Violation.** No changes.

## SECTION 107
## NOTICES AND ORDERS

**107.1 Notice to Person Responsible.** No changes.

**107.2** Except in those instances where section 308, "RUBBISH AND GARBAGE," or section 309, "PEST ELIMINATION," applies or if a violation of chapter 10-3, "Rental

Licenses," B.R.C. 1981, is alleged, whenever the code official determines that there is or has been a violation of any provision of this code, notice shall be given of such determination to the person responsible to correct the violation. The notice shall:

1. Be in writing

2. Include a description of the real estate sufficient for identification.

3. Include a statement of the violation or violations and why the notice is being issued.

4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

5. Inform the property owner or other person responsible to correct the violation of the right to appeal.

6. Include a statement of the rights under section 106.1 (a)(6) ~~to file a lien in accordance with section 106.3~~.

**107.3 Method of Service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally upon the responsible person, or by leaving a copy thereof at the person's usual place of abode, with any person eighteen years of age or older and who is a member of the person's family; or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

2. Sent by certified or registered mail addressed to the owner at the last known address with return receipt requested; or

3. Delivered in any other manner as prescribed by law. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

**107.4** ~~**107.5**~~ No changes.

**107.5 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in section 106.1.

**107.6** Deleted.

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## SECTION 111
## MEANS OF APPEAL

**111.1 Application of Appeal.**

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing office under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b) Any person directly affected by a decision of the code official or by an order issued under this code may appeal the decision or order on the ground that:

(1) The decision or order was based on an error of fact or on an erroneous interpretation of this code or the rules legally adopted thereunder;

(2) The code official has erroneously failed to approve an alternative material or method pursuant to Section 105.2 prior to its installation or use. In determining such an appeal the board shall apply the standards of Section 105.2, but the board shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; or

(3) The code official has erroneously failed to grant a modification pursuant to Section 105.1 prior to its installation. In determining such an appeal the board or hearing officer shall apply the standards of Section 105.1.

The code official has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2. and 3. The board or hearing officer shall determine the appeal and decide whether the code official's interpretation or application of such code was correct or in error at a hearing under the procedures described in Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) An application for appeal must be filed in writing with the city manager within fourteen days after the date the decision or order was served.

(d) An applicant for an appeal shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(e) The city manager may apply to the Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 105.1 or 105.2 of the Property Maintenance Code.

(f) The board or hearing officer has neither authority to interpret Chapter 1 (the administrative requirements) of this code, except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

~~Any person directly affected by a decision of the code official or a notice and order issued under this code shall have the right of appeal to the board of appeals, provided under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if a written application for appeal is filed with the code official within ten days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.~~

**111.2 Membership of Board.** ~~The board of appeals shall consist of the Board of Building Appeals, established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.~~Deleted.

**111.2.1 Alternate Members.** Deleted.

**112.2.2 Chairman.** Deleted.

**112.2.3 Disqualification of Member.** Deleted.

**112.2.4 Secretary.** Deleted.

**112.2.5 Compensation of Members.** Deleted.

**111.3 Notice of Meeting.** Deleted.

**111.4 Open Hearing.** Deleted.

**111.4.1 Procedure.** Deleted.

**111.5 Postponed Hearing.** Deleted.

**111.6 Board Decision.** Deleted.

**111.6.1 Records and Copies.** Deleted.

**111.6.2 Administration.** Deleted.

**111.7 Court Review.** Deleted.

**111.8 Stays of Enforcement.** Deleted.

**111.9 Fees.** ~~The fee for filing an appeal is that prescribed in section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981.~~ Deleted.

**SECTION 112**
**STOP WORK ORDER**

**112.1 — 112.3** No changes.

**112.4 Failure to Comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties as detailed in section 106.1, "Violations ~~Penalties.~~" ~~as detailed in section 106.4~~.

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**CHAPTER 3**
**GENERAL REQUIREMENTS**

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**SECTION 605**
**ELECTRICAL EQUIPMENT**

**605.1 — 605.2** No changes.

**605.2.1 Non-grounding type electrical receptacles (two-prong receptacles).** Where attachment to an equipment grounding conductor (two-wire circuits) does not exist in the receptacle enclosure, the installation shall comply with 1, 2 or 3 below.

1. A two-prong receptacle shall be permitted to be replaced with another two-prong receptacle.

2. A two-prong receptacle may be replaced with a ground-fault circuit interrupter-type (GFCI) three-prong receptacle. These receptacles shall be marked "No Equipment Ground." An equipment grounding conductor shall not be connected

from the GFCI-type receptacle to any outlet supplied from the GFCI-type receptacle.

3. A two-prong receptacle may be replaced with a three-prong, grounding-type receptacle where supplied through a GFCI device. Three-prong, grounding-type receptacles, supplied through the GFCI shall be marked "GFCI Protected" and "No Equipment Ground." An equipment grounding conductor shall not be connected between the grounding-type receptacles.

**605.3 Luminaires.** Deleted.

**605.4. Wiring.** No changes.

~~**605.4**~~**605.5 Branch Circuits in Buildings with More Than One Occupancy.** Each occupant shall have ready access to all circuit breakers protecting the conductors supplying that occupancy.

~~**605.5**~~**605.6 Flexible Cord Uses Not Permitted.** Flexible cords and cables shall not be used:

1. As a substitute for the fixed wiring of the structure.

2. Where run through holes in walls, structural ceilings, suspended ceilings, dropped ceilings or floors.

3. Where run through doorways, windows or similar openings.

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## CHAPTER 7
## FIRE SAFETY REQUIREMENTS

### SECTIONS 701 — 703
No changes.

### SECTION 704
### FIRE PROTECTION SYSTEMS

**704.1 — 704.4** No changes.

**704.5 Residential Rental Smoke Alarms.** In R-occupancies governed by chapter 10-3, "Rental Licenses," B.R.C. 1981, smoke alarms shall be installed and inspected as required in this section.

**704.6 Smoke Alarm Inspections.** Smoke alarm inspections shall be conducted by the property owner or agent as detailed below.

1. Smoke alarms that receive their primary power from the building wiring shall be checked for good operating condition once each year and if supplied with battery backup, the battery shall be replaced as necessary for proper function of the smoke alarm.

2. Battery-powered smoke alarms shall be tested for proper function on an annual basis. Batteries shall be replaced as necessary for proper function of the smoke alarm.

**704.7 Fire Alarms.** Fire alarms in existing residential structures shall be installed in accordance with chapter 10-8, section 907.3, "Fire ~~Prevention~~ Code," B.R.C. 1981.

## SECTION 705
## PORTABLE FIRE EXTINGUISHERS

**705.1 Where Required.** Portable fire extinguishers shall be installed as required by the City of Boulder Fire Code Section 906.

**705.1.1** In new and existing R-1, R-2 and R-4 occupancies, portable fire extinguishers need only be installed when interior corridors and common areas exist in accordance with section 906.1 and table 906.3(2) for light (low) hazard occupancies and sections 906.3 through 906.9.

## APPENDIX A
## BOARDING STANDARD

**A101 — A103** No changes.

## APPENDIX B
## RENTAL HOUSING INSPECTION AND LICENSING

**B101 Scope.** Appendix B sets standards for administering the rental housing maintenance, inspection and licensing process.

**B102 Rental Licenses.** Residential rental licenses are applied for and renewed in accordance with chapter 10-3, "Rental Licenses," B.R.C. 1981.

**B103 Inspections.** "Baseline" and "Renewal inspections" shall be performed and certified by licensed contractors as detailed in chapter 4-4, "Building Contractor License," B.R.C. 1981.

## APPENDIX C
## ENERGY EFFICIENCY REQUIREMENT

## EXISTING RESIDENTIAL RENTAL STRUCTURES ENERGY CONSERVATION

### C101

### SCOPE

**C101.1 Scope.** Appendix C sets standards for residential rental dwelling unit energy efficiency. Effective January 2, 2019, the energy efficiency requirements of this section shall apply to all residential rental dwelling units licensed according to B.R.C. 1981, 10-3-2, Rental Licenses, except:

1. Buildings that can be verified as meeting or exceeding the energy efficiency requirements of the Energy Conservation ~~and Insulation~~ Code, Chapter 10-7, B.R.C. 1981.

2. Any manufactured home.

3. Accessory Dwelling Units and Attached Owner Accessory Units as detailed in section 9-6-3, "Specific Use Standards Residential Uses." B.R.C. 1981.

. . .

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

## CHAPTER 10-5 - BUILDING CODE

**10-5-1 Legislative Intent.**

The purpose of this chapter is to protect the public health and safety by regulating the construction, alteration, repair, wrecking, and moving of structures in the city. The city council hereby adopts the ~~2006~~ 2012 edition of the *International Building Code* ~~and the 1997 edition of the *Uniform Code for the Abatement of Dangerous Buildings*~~ with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

**10-5-2 Adoption of International Building Code with Modifications.**

(a) The ~~2006~~ 2012 edition of the *International Building Code* of the International Code Council is hereby adopted by reference as the City of Boulder Building Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Appendix chapters I, "PATIO COVERS~~,~~;" ~~and~~ J, "GRADING~~,~~;" and K, "ADMINISTRATIVE PROVISIONS," and sections contained therein are adopted.

(c) Section 101.1, "Title," is repealed and reenacted to read:

101.1 Title. These regulations shall be known as the Building Code of the City of Boulder or building code, hereinafter referred to as "this code." Where other codes are referenced in this code those code provisions shall not apply unless otherwise adopted by the City of Boulder. Where reference is made anywhere in this code to the "Department" or "Department of Building Safety" it shall have the same meaning as the "Division of Building Safety."

(d) Section 101.4, "Referenced codes," is repealed and reenacted to read:

Chapter 1, "Administration," in this code shall also apply and serve as Chapter 1, "Administration," in the following codes adopted by reference in this title: Chapter 10-5.5, International Residential Code; Chapter 10-9, International Mechanical Code; Chapter 10-9.5, International Fuel Gas Code; and Chapter 10-10, International Plumbing Code, B.R.C. 1981. Where administrative provisions are expressly adopted, or adopted in an altered form, for use in those chapters, they shall supersede any conflicting provisions of the administrative provisions of this chapter.

The other codes listed in Sections 101.4.1 through 101.4.~~7~~ 6 and referenced elsewhere in this code shall be considered as part of the requirements of this code as applicable.

(e) ~~Section 101.4.5, "Property Maintenance," is repealed.~~ Section 102.6, "Existing structures," is amended by addition of the following:

Existing structures and their systems, equipment, devices, installations and safeguards shall be maintained in proper operating condition in accordance with the original design and in a safe and sanitary condition. Structures, their systems, equipment, devices, installations and safeguards required by this code shall be maintained in compliance with the code in effect when they were installed. The owner or the owner's designated agent shall be responsible for the maintenance of the structures, their systems, equipment, devices, installations and safeguards. To determine compliance with this provision, the city manager shall have authority to require a structure, equipment, system, device, installations or safeguards to be reinspected.

(f) Section 103, "Department of Building Safety," is repealed and reenacted to read:

Section 103

"Division of Building Safety" means the administrative unit established by the city manager or the manager's delegates, and the personnel assigned to the unit by the manager.

(g) 104.8, "Liability," is repealed and reenacted to read:

Liability

No employee of the city who enforces, attempts to enforce, or is authorized to enforce this code renders him or herself or the city liable to third parties for any damage or injury to the

person or property of such third parties as a result of the enforcement or non-enforcement of this code. The city assumes no duty of care by virtue of the adoption of this code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all the requirements of this code. It is the duty of the person owning, controlling, or constructing any building or structure to insure that the work is done in accordance with the requirements of this code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(h) Subsection 104.10.1, "Flood hazard areas," is repealed.

(~~h~~i) Section 105.2, "Work exempt from permit," is repealed and reenacted to read:

105.2 Work Exempt from permit. Exemptions from the building permit requirements of this code do not grant authorization for any work to be done in violation of the requirements of this code or any other laws or ordinances of the city. Building permits shall not be required for the following:

General:

1. One story detached non-conditioned buildings accessory to a residential structure and not more than 80 square feet in area or ten feet in height and not being served by any electrical, mechanical or plumbing fixtures or systems.

2. Fences not over ~~three~~ six feet high.

3. Retaining walls which are not over 3 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A flammable liquids.

4. Sidewalks and driveways not more than thirty inches above grade and not over any basement or story below and which are not part of an accessible route.

5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.

6. Temporary motion picture, television, and theater stage sets and scenery.

7. Prefabricated swimming pools accessory to a Group R-3 occupancy which are less than 24 inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.

8. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.

9. Swings and other playground equipment accessory to detached one-and two-family dwellings.

10. Window awnings in Group R and Group U occupancies supported entirely by an exterior wall and which do not project more than 54 inches from the exterior wall.

11. Moveable cases, counters and partitions not over 5 feet 9 inches in height.

12. Replacement of windows in low-rise residential buildings that are three-stories or less in height.

13. Replacement of exterior siding on low-rise residential buildings that are three-stories or less in height.

14. Building energy efficiency components that (a) are required as part of a City energy efficiency program; (b) do not include any electrical, heating, ventilation and air conditioning equipment, solar photo voltaic and solar hot water heating systems; and (c) are inspected by a HERS rater (a Home Energy Rating System rater certified through Residential Energy Services Network) or a city licensed energy inspector as defined in chapter 4-4, "Building Contractor License," B.R.C. 1981.

Electrical:

Minor repair and maintenance work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles, radio and television transmitting stations, temporary testing systems for the testing or servicing of electrical systems or apparatus and those items in Article 90.2 (B) of the electrical code.

Gas:

1. Portable heating appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance, portable cooling unit, portable evaporative cooler or portable ventilation equipment.

2. Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this code.

3. Replacement of any part which does not alter an approval or listing or make any appliance or equipment unsafe.

4. Self contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste, or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves, or fixtures, and the replacement of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves or pipes.

(~~i~~j) A paragraph is added to Section 105.3.1, "Action on application," to read:

No building permit shall be issued until approved by every department of the city or Boulder County that has applicable regulations, including, without limitation, the following departments: building, flood control, utilities, wastewater, health, fire, engineering, zoning, planning, parks, and city clerk.

(~~j~~k) Section 105.3.2, "Time limitation of application," is repealed and reenacted to read:

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned one hundred eighty days after the date of filing unless the permit has been issued; except that the building official is authorized to grant not more than two extensions of time for additional periods not exceeding ~~ninety~~ 180 days each. The extension shall be requested in writing before the expiration date and justifiable cause demonstrated.

(~~k~~l) Section 105.5, "Expiration," is repealed and reenacted to read:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty days after the time the work is commenced. The building official is authorized to grant in writing one or more extensions of time for periods not more than one hundred eighty days each. The extension shall be requested in writing and justifiable cause demonstrated. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not completed and approved for occupancy within three years from the date the permit was issued. The permit fee for renewals may be prorated based on the amount of work completed and approved under the previous permit.

(~~l~~m) Section ~~106.1~~107.1, "~~Submittal Documents~~General," is repealed and reenacted to read:

~~106.1~~107.1 ~~Submittal Documents~~General. An applicant for a building permit shall submit a minimum of two sets of plans and specifications with each application when required by the building official for enforcement of any provisions of this code.

(1) A~~n~~ professional engineer or architect registered in the State of Colorado shall prepare the plans and specifications for and observe the construction of all buildings except for the following:

(a) Detached dwellings intended solely for private use, occupancy, or resale, including accessory buildings commonly associated with the same;

(b) Farm buildings and buildings for the marketing, storage, or processing of farm products;

(c) Minor additions, alterations, or repairs to the foregoing buildings that do not cause the completed buildings to exceed the applicable limitations herein set forth; or

(d) Non-structural alterations of any nature to any building, if such alterations do not affect the safety of the building.

(2) Drawings and specifications for footings and foundations shall bear the seal and signature of a professional engineer or architect registered in Colorado and be designed as specified in chapter 18 of the building code for all occupancies. ~~except those classified as R-3 and U, which shall be designed as specified in Chapter 4 of the residential code.~~

Exceptions:

(a) Detached structures not intended for human occupancy;

(b) Additions to existing detached dwellings not exceeding 150 square feet.

(~~m~~n)~~106.3.2~~107.3.2, "Previous ~~A~~approvals," is amended to read:

~~106.3.2~~107.3.2 Previous Approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has heretofore been issued or otherwise lawfully authorized, and the constraints of which have been pursued in good faith within one hundred eighty days after the effective date of this code and has not been abandoned. No person shall fail to comply with all of the conditions of such building permit and the provision of the building code under which such building permit has been issued.

(~~n~~o) Section ~~108.3~~109.3, "Building ~~P~~permit ~~V~~valuations," is repealed and reenacted to read:

~~108.3~~109.3 Building permit valuation. The valuation for buildings shall be as set forth in subsections 4-20-4(d) and (e), B.R.C. 1981.

(~~o~~p) Section ~~112~~113, "Board of Appeals," is repealed and reenacted to read:

Section ~~112~~113 Appeals and Advisory Opinions.

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city

manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b)~~(a)~~ A person refused a building permit or refused approval of work done under a permit on the grounds that the proposed or completed construction fails to comply with this code or any other city building code other than the fire code may appeal the decision ~~to the board of zoning adjustment and building appeals~~ on the ground that:

(1~~.~~) The denial was based on an error in fact or an erroneous interpretation of such code by the city manager;

(2~~.~~) The city manager has erroneously failed to approve an alternate material or method pursuant to Section 104.11 prior to its installation or use. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.11, but the board or hearing officer shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; ~~or~~

(3~~.~~) The city manager has erroneously failed to grant a modification pursuant to Section 104.10 prior to its installation. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.10; or~~.~~

(4~~.~~) The city manager has erroneously failed to approve an alternative design pursuant to Section K105 prior to its installation or use. In determining such an appeal, the board or hearing officer shall apply the standards of Section K105, but the board or hearing officer shall have no jurisdiction to consider if a design expressly prohibited by this code is an acceptable alternative.

The city manager has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2, ~~and~~ 3 and 4. The board or hearing officer shall determine the appeal and decide whether the city manager's interpretation or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c)~~(b)~~ Any person whose building permit or certificate of occupancy or certificate of completion has been suspended or revoked may appeal such action by the city manager ~~to the board of building appeals~~ on the ground that the suspension or revocation was based on an error in fact or an erroneous application of this code to the facts. The city manager has the burden of proving the facts upon which the manager relies at such a hearing.

(d) An application for appeal must be filed in writing with the city manager within fourteen days after the date of refusal of the building permit or approval of work performed under the permit or revocation or suspension of the building permit or certificate of occupancy or certificate of completion stating the basis for appeal.

(e)~~(c)~~ An applicant for an appeal ~~to the board of appeals~~ shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(f)~~(d)~~ The city manager may apply to the ~~board of appeals~~Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 104.10 or 104.11 of the Building Code.

(g)~~(e)~~ The board ~~of building appeals~~or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) and Chapter 34 of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

(~~p~~q) Section ~~113~~114, "Violations," is repealed and reenacted to read:

~~Violations~~ Section ~~113~~114 Violations.~~.~~

(a) General Provisions

(1) No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the code official under this code. No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of any permit, certificate, or other approval issued under this code, or of any directive of the building official.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land, and the agents of each of them, are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code, or of any directive of the code official, may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b)~~(a)~~ Administrative Procedures and Remedies

(1) If the city manager finds that a violation of any provision of this ~~title~~ code or any approval granted under this ~~title~~ code exists, the manager, after notice and an opportunity

for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100~~.00~~;

(ii) For the second violation of the same provision or approval, $300~~.00~~; and

(iii) For the third violation of the same provision or approval, $1,000~~.00~~;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e) of this section. ~~If the city manager determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the manager may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the city manager is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this title, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the city manager~~; or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this ~~title~~ code or any approval granted under this ~~title~~code.

(2) Prior to the hearing, the city manager may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the manager to exist with respect to such structure or land.

(3) If notice is given to the city manager at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the manager will reinspect the structure or land. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the manager under this section.

(c)~~(b)~~ Criminal Penalties. ~~No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done, contrary to or in violation of any of the provisions of the building code.~~ Violations of ~~the building~~this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in

and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the city manager determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the manager may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the city manager is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit~~,~~ or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the city manager.

(r) Section 116.1, "Conditions," is repealed and reenacted to read:

116.1 Conditions. Premises, structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe premises shall be made safe and unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

(s) Section 116.3, "Notice," is repealed and reenacted to read:

116.3 Notice. If an unsafe condition is found, the building official shall serve on the owner, agent, or person in control of the structure or premises, a written notice that describes the condition deemed unsafe and specifies the required repairs, improvements, or modifications to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

(t) The last two sentences of Section 116.4, "Method of service," are amended to read as follows:

If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on the premises or in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the premises or structure shall constitute service of notice upon the owner.

(u) Section 116.5, "Restoration," is amended by adding the following sentence:

The abatement of an unsafe condition of premises shall comply with the requirements of this code.

(~~q~~v)The definition of "Building Official" in Section 202 is repealed and reenacted to read:

BUILDING OFFICIAL is the city manager.

(~~r~~w) Section 202, "Definitions," is amended by the addition of the following new definition:

PERMIT ISSUANCE is the date that the approved building permit is paid for and received back from the city manager by the applicant or a representative of the applicant.

(x) A new subsection 6. is added to section 708.1, "General." to read:

6. Walls separating marijuana growing, processing and dispensing occupancies from adjacent occupancies.

~~(s)~~(y) A paragraph is added to Section (F) 903.2, "Where required," to read:

The maximum fire area without an automatic sprinkler system shall be determined by Section ~~903.1~~903.2 of the fire code.

~~(t) Section 1007.3, "Exit Stairways", is repealed and reenacted to read:~~

~~1007.3 Exit Stairways. In order to be considered part of an accessible means of egress, an exit stairway shall have a clear width of 48 inches (1219 mm) minimum between handrails and shall either incorporate an area of refuge within an enlarged floor-level landing or shall be accessed from either an area of refuge complying with Section 1007.6 or a horizontal exit.~~

~~Exceptions:~~

~~The area of refuge is not required at unenclosed interior exit stairways as permitted by Section 1020.1 in buildings or facilities that are equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~The clear width of 48 inches (1219 mm) between handrails is not required at exit stairways in buildings of facilities equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~Areas of refuge are not required at exit stairways in buildings or facilities equipped throughout by an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

~~The clear width of 48 inches (1219 mm) between handrails is not required for exit stairways accessed from a horizontal exit.~~

~~Areas of refuge are not required at exit stairways serving open parking garages.~~

~~Areas of refuge are not required for smoke protected seating areas complying with Section 1025.6.2.~~

~~The areas of refuge are not required in Group R-2 occupancies.~~

(z) Section 907.2.11, "Single- and multiple-station smoke alarms," is amended by the addition of the following subsections:

907.2.11.5 Alterations, repairs, and enlargements. (1) When buildings or structures, or portions of buildings or structures classified as Group R are altered, repaired or enlarged and the work requires a building permit or (2) when one or more sleeping rooms are added or created, smoke alarms shall be installed for each dwelling or sleeping unit affected by such work in accordance with Section 907.2.11, except as provided otherwise in this Section or its Subsections.

Exceptions:

1. Work involving solely the exterior surfaces of the building or structure, such as replacement of roofing or siding or the addition of a porch or deck.

2. Installation, alterations, and repairs of plumbing or mechanical systems.

907.2.11.5.1 Exception to interconnection. Section 907.2.11.3 applies except that interconnection of smoke alarms in existing areas shall not be required where alterations and repairs do not include removal of interior wall and ceiling finishes exposing the structure unless an attic, crawl space or basement is available to provide access for interconnection without removal of interior finishes.

907.2.11.5.2 Exception to power source. Section 907.2.11.4 applies except that (1) smoke alarms may be battery operated when installed in a building without commercial power and (2) hard wired smoke alarms shall not be required in existing areas where alterations or repairs do not result in the removal of interior wall and ceiling finishes exposing the structure unless an attic, crawlspace or basement is available to provide access for hard wiring without removal of interior finishes.

~~(t)~~(aa) Section 1405.3, "Vapor Retarders" is amended by adding two exceptions:

4. Commercial and multiple-residence buildings complying with the 2012 International Energy Conservation Code section C402.4, "Air leakage (mandatory)."

5. Residential buildings complying with the 2012 International Energy Conservation Code section R402.4, "Air leakage (mandatory)."

~~(u)~~(bb) Section 1505.1, "General," is repealed and reenacted to read:

1505.1 General. All roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM Standard E 108 or UL Standard 790. Class A roofs and the exceptions noted in 1505.3 for class B roofs as described in this chapter 15 are the only roof assemblies and roof coverings allowed to be installed on any new or existing building within the city of Boulder. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(v)~~(cc) Section 1608.1, "General," is repealed and reenacted to read:

1608.1 General. The minimum roof snow load shall be thirty pounds per square foot, but the design roof load shall not be less than that determined by Section 1607.

(dd) Section 1608.2, "Ground snow loads," is deleted.

~~(w)~~(ee) Section 1609.3~~.1~~, "Basic ~~W~~wind speed ~~conversion~~," is repealed and reenacted to read:

~~1609.3.1 Wind velocities. In Table 1609.3.1, the three second gust wind speed for the city shall be 110 miles per hour.~~

1609.3 Basic wind speed. The ultimate design wind speed, $V_{ult}$, in mph, for the determination of wind loads, shall be in accordance with local jurisdiction requirements. The ultimate design winds speeds, $V_{ult}$, determined by the local jurisdiction shall be in accordance with Section 26.5.1 of ASCE 7. Per the Colorado Front Range Wind Table, the ultimate design wind speed shall be 130 mph for areas west of Broadway Street and 120 mph for areas east of Broadway Street.

~~(x)~~(ff) Sections 1612.3, 1612.4, and 1612.5 are repealed.

(gg) Section 1705, "Required Verification and Inspection," is amended by the following Subsection:

1705.18. Special inspection for medical gas systems. Medical gas systems shall be tested as detailed in Chapter 12, "Special Piping and Storage Systems," of the City of Boulder Plumbing Code.

(hh) Section J103, "Permits Required," of Appendix J, "GRADING," is amended by adding the following subsections:

J103.3 Compliance with code and permit requirements. No person shall fail to perform and no property owner shall fail to perform or fail to cause the performance of all grading in compliance with this code, the Boulder Revised Code, and the conditions of the grading permit.

J103.4 No adverse affects. No person shall perform and no property owner shall perform or fail to prevent any grading that adversely affects the property of another without first obtaining the consent of the owner of such property.

J103.5 Unsafe premises. No person shall perform and no property owner shall perform or fail to prevent grading that results in any premises that are unsafe. For purposes of this Appendix J, premises are considered unsafe if they are found to be dangerous to life, health, property, or the safety of the public.

J103.6 Abatement of unsafe premises. If the city manager determines that grading is not performed in accordance with the law and resulted in unsafe premises, the city may notify the owner of the unsafe premises, agent, or other person in control of the premises in accordance with Section 116.3 of this code. If the person so notified fails to abate the unsafe condition as required by the notice, the city manager may enter the property, pursuant to an

administrative warrant issued by the municipal court, and abate the unsafe condition. The city manager may collect the full cost of the abatement and any expense to the city related to the abatement against the property owner, agent, or other person in control of the premises, and against the financial guarantee provided under Subsection J103.8. The permit holder, property owner and guarantor shall be jointly and severally liable for such costs and expenses. If the property owner fails or refuses to pay when due any charge imposed under this subsection, the city manager may certify due and unpaid charges, including interest, to the Boulder County Treasurer for collection, as provided in Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection,' B.R.C. 1981.

J103.7 Financial guarantee. Prior to the issuance of a permit under this Appendix J, "Grading," for any work on steep slope lots with a 15 percent or greater slope and on any projects with a cut, fill, or excavation of ten feet or more or cut, fill, or excavation less than two feet from the property line, the permittee or property owner shall provide a financial security in the form of a performance bond or other form of guarantee approved by the city manager that will satisfy the objectives of this subsection, for the benefit of the city to secure the abatement of an unsafe condition of any premises that may result from grading work. The performance bond or other financial guarantee shall be provided for a period of two years, following the expiration of the permit, and shall be for $10,000 for construction costs less than $10,000 and for the value of the project permit for construction costs greater than $10,000. At the time of permit application, the permittee shall submit documentation of the project costs, subject to review and approval by the City Manager. A bond shall be issued by a company licensed to do business in Colorado and shall be in a form acceptable to the City Attorney. The city manager shall review the performance bond or other financial guarantee annually to assure that it meets the term requirements and the full current cost of the completion of the work that is guaranteed and may require the permittee to augment the performance bond or other financial guarantee amount to meet such costs.

~~(y)~~(ii)-A new C~~c~~hapter 99 is added to the Building Code to read:

CHAPTER 99. FENCES AND WALLS.

Section 9901. Definitions.

(1) As used herein, the term "wall" means a free standing structure such as a fence or retaining wall.

(2) As used herein and in Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, the term "finished grade" means the top surfaces of lawns, walks, drives, or other improved surfaces after completion of construction or grading operations, but not including vegetation growing on the surface.

(3) For purposes of determining the maximum height allowable for any fence or wall other than wind load height as specified in subsection (4) of this section, refer to Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, and the diagram below.

[SPACE FOR DIAGRAM HERE] B.R.C. 9-9-15 (c)

4) For purposes of determining wind load design in the case of a fence erected above a retaining wall, the height of such fence means the distance from the top of the retaining wall to the top of the fence, as illustrated in the figure below:

[SPACE FOR DIAGRAM HERE] B.R.C. 9-9-15 (c)

(5) Nothing in this section is intended to prohibit the installation of a guardrail for safety purposes which otherwise conforms to the requirements of this code.

Section 9902. All fences and walls hereafter installed in the city shall comply with Section 9-3.3-6, "Fences, Hedges, and Walls," B.R.C. 1981, and the following provisions:

(1) All fences and walls thirty-six inches high and lower shall have a wind load design of ten pounds per square foot or shall conform to paragraph (3) of this section.

(2) All fences and walls thirty-seven through eighty-four inches high shall have a wind load design of twenty pounds per square foot or shall conform to paragraph (3) of this section.

(3) As an alternative to the requirements of paragraphs (1) or (2), a wood fence that does not exceed seven feet in height may be installed if the following requirements are met:

(a) All posts shall be at least four inch by four inch timber or two inch Schedule 40 pipe and shall be set at least twenty-four inches in the ground in concrete;

(b) All wood below grade shall be cedar, redwood, or penta pressure treated fir;

(c) Post spacing shall be arranged so that the area of the fence between posts does not exceed 30 square feet;

(d) Wood fencing more than fifty percent open may exceed the 30 square foot post spacing requirements if designed for a ten pound wind load.

(4) Chain link fences. On all chain link fences, the fence posts shall be at least one and one-half inch diameter pipe, and shall be set at least twenty-four inches in the ground in concrete.

(5) For the purpose of minimizing traffic hazards at street intersections by improving visibility for converging vehicles, obstructions higher than thirty inches above the adjacent top or curb elevation are not permitted to be planted, placed, or erected on any corner lot within the triangular portion of land designated as "Restricted Area" in the figure below or on the adjacent right of way:

[SPACE FOR DIAGRAM HERE]

6) Where permitted, fences exceeding seven feet in height shall conform to the zoning requirements for accessory structures.

**10-5-3 ~~Adoption of Uniform Code for Abatement of Dangerous Buildings with Modifications.~~** (Repealed)

~~The 1997 edition of the *Uniform Code for the Abatement of Dangerous Buildings* of the International Conference of Building Officials is hereby adopted by reference as the City of Boulder's Abatement Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this section set forth below:~~

~~(a) Section 201.3, "Right of Entry," is repealed and reenacted to read:~~

~~Section 201.3 Right of Entry.~~

~~(1) Whenever the city manager has probable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous, or hazardous, and the manager determines that an inspection of the property is necessary to discover the extent of the hazard and to order the appropriate corrections, the manager shall request entry from the occupants or, if the building is unoccupied, from the owner or any other person having charge or control over the building or premises. If entry is refused, or if the manager is unable, after making reasonable efforts, to locate a person responsible for an unoccupied building, or such person does not respond to the manager's request, the manager shall apply to a judge of the municipal court for an inspection warrant pursuant to Subsection 2-6-3(e), B.R.C. 1981.~~

~~(2) In cases of emergency where there is imminent danger of injury to any person or of damage to property of another, the manager may enter any property to make any necessary inspections under this code or to take any other action authorized by this code without permission or warrant.~~

~~(b) Section 203, "Violations," is repealed and reenacted to read:~~

~~Violations~~

~~Section 203. (1) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the Code for Abatement of Dangerous Buildings. (2) No owner and no person having charge or control over any building or premises shall fail to comply with any order issued to such person under the Code for Abatement of Dangerous Buildings.~~

~~(c) Section 205.1, "Board of Appeals," is repealed and reenacted to read:~~

~~Appeals~~

~~Section 205.1.~~

~~(a) The record owner of a building or the owner's authorized agent or any person with any other legal interest in the building may appeal any order issued pursuant to Section 401.2 to the board of building appeals on the ground that such order was based on an erroneous interpretation or application of this or any other city code by the city manager. The city manager has the burden of proof in such an appeal. The board shall determine whether the city manager's interpretation~~

~~or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.~~

~~[SPACE FOR DIAGRAM HERE] (b) An applicant for an appeal to the board of building appeals shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981.~~

~~(c) The board of building appeals has no authority to interpret the administrative provisions of this code nor may the board waive any requirement of this code.~~

~~(d) The definition of "housing code" in Section 301, "General," is repealed and reenacted to read:~~

~~HOUSING CODE means Chapter 10-2, "Housing Code," B.R.C. 1981.~~

~~(e) The introductory paragraph of Section 302, "Dangerous Building," is repealed and reenacted to read:~~

~~For the purposes of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building.~~

~~(f) Paragraphs 4 and 5 of Section 401.2, "Notice and Order," and Sections 401.4 and 401.5 are repealed and reenacted to read:~~

~~4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the city manager:~~

~~(I) will order the building vacated and posted to prevent further occupancy until the work is completed;~~

~~(II) may proceed to cause the work to be done and charge the costs thereof against the property or its owner pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981; and~~

~~(III) may cause a summons and complaint to be served upon the property owner or any person having charge or control over the building or premises for failure to make required repairs or demolition within the time specified.~~

~~5. Statements advising:~~

~~(I) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the city manager to the board of building appeals, provided the appeal is made in writing as provided in this code and filed with the city manager within ten days from the date of service of such notice and order; and~~

~~(II) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.~~

~~401.4 The method of service shall be as prescribed in Section 1-3-3, "Notice of Agency Action," B.R.C. 1981.~~

~~(g) The final paragraph of Section 501.1 is repealed.~~

~~(h) Chapter 6, "Procedure for Conduct of Hearing Appeals," is repealed and reenacted to read:~~

~~Chapter 6.~~

~~Appeal Procedure. Appeals shall be heard pursuant to Section 1-3-5, "Hearings and Determinations," B.R.C. 1981.~~

~~(I) Section 801.2, "Costs," is repealed and reenacted to read:~~

~~The cost of such work plus twenty percent for administrative overhead shall be billed to the record owner of the property, and if not paid within thirty days of billing may be collected pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.~~

~~(i) Chapter 9, "Recovery of Cost of Repair or Demolition," is repealed.~~

**10-5-~~4~~ 3 Building Permit Fees.**

Building permit fees are those prescribed by Subsection 4-20-4(c), B.R.C. 1981. Fees for other permits issued pursuant to this chapter and charges for services are those prescribed by Subsection 4-20-4(d), B.R.C. 1981.

**10-5-~~5~~ 4 Wood Roof Covering Materials Prohibited.**

(a) No person shall install or cause to be installed any wood roof covering materials, including, without limitation, wood shakes or wood shingles. This prohibition includes wood roof covering materials with fire retardant treatments of any kind.

~~(b) It shall be a specific defense to a charge of violation of subsection (a) of this section that the wood roof covering materials were installed before January 1, 2014, to repair portions of an existing wood roof, that the repair wood roof covering materials were factory pressure treated so as to be fire retardant and are approved as meeting Class B standards in accordance with Section 1501.1 of the building code, and that the wood roof covering materials were installed in a quantity not exceeding fifty percent of the roof surface in any three-hundred-sixty-five-day period.~~

~~(c)~~(b) No person owning a building with wood roof covering materials shall fail to remove or cause to be removed from the building all wood roof covering materials before January 1, 2014, and to replace the removed roofing with approved roof covering materials which conform to the International Building Code as adopted, and no person shall thereafter take possession or ownership of a building with wood roof covering materials.

~~(d)~~(c) The following additional definition applies to this section and to Chapter 15 of the building code:

"Wood roof covering material" means an exterior surface material used as a top covering and made of wood. "Wood," for the purposes of this definition, means any natural or composite material containing at least fifty percent wood by volume.

Section 3. Chapter 10-5.5, B.R.C. 1981, is amended to read:

**CHAPTER 10-5.5 – RESIDENTIAL BUILDING CODE**

**10-5.5-1 Legislative Intent.**

The purpose of this chapter is to protect the public health, safety, and general welfare by regulating the construction, alteration movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one and two-family dwellings and townhouses, not more than three stories above grade in height with a separate means of egress, and their accessory structures. The city council hereby adopts the ~~2006~~2012 edition of the International Residential Code with certain amendments thereto found to be in the best interests of the city.

**10-5.5-2 Adoption of the International Residential Code with Modifications.**

(a) The ~~2006~~ 2012 edition of the International Residential Code of the International Code Council is hereby adopted by reference as the City of Boulder Residential Building Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Appendix chapters D, E, G, H, J, K, and ~~O~~P and sections contained therein are adopted.

(c) Section R101.1 "Title" is repealed and reenacted to read:

R101.1 Title. These provisions shall be known as the Residential Code of the City of Boulder or residential code and shall be cited as such and will be referred to herein as "this code.".

(d) Sections R102 through R114 are repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code With Modifications," B.R.C. 1981.

(e) The following definitions are added to Section R202, "Definitions":

NEW DWELLING UNIT. A dwelling unit is considered to be a new dwelling unit when the entire structure is newly built and when the dwelling unit is built on top of an existing foundation, such as caissons, footings, and other foundation systems, that remains from a demolished structure.

STORAGE ROOMS OR SPACES. Storage rooms or spaces are rooms or spaces with a level of finish sufficient only to make the room usable for the intended storage purposes. Rooms or areas that exceed these minimums will be considered habitable space and will have to meet the code requirements applicable to habitable space.

(f) A new sentence is added to the end of Section 301.1, "Application," stating:

Structural calculations demonstrating how the proposed construction meets the applicable requirements for load supports must be provided to the building official.

~~(e)~~ (g) The climatic and geographic design criteria applicable to Table R301.2 (1) are:

Ground Snow Load = thirty pounds per square foot with a minimum Roof Snow Load of 30 pounds per square foot.

Three second wind gust velocity = ~~110 MPH~~ 120 MPH east of Broadway, 130 MPH west of Broadway

Seismic Design Category = B

Weathering = severe

Frost line depth = 32 inches

Termite = slight

Decay = none to slight

Winter Design Temp = 2 degrees Fahrenheit

Ice barrier underlayment required = NO

Flood Hazards = See B.R.C. 1981 Sections 9-3-3 through 9-3-9

Air freezing index = 459

Mean annual temp = 52.1

~~(f)~~(h) Section R301.2.4, "Floodplain construction": A new sentence is added to the end of the section reading "All work on structures in the scope of this ~~C~~code shall also meet the requirements of ~~B.R.C. 1981~~ Sections 9-3-3 through 9-3-9, B.R.C. 1981."

(i) The exception listed in R302.2, "Townhouses," is repealed and reenacted to read:

Exception: A common 1-hour fire-resistance rated wall assembly tested in accordance with ASTME 119 or UL 263 is permitted for townhouses equipped throughout with an automatic sprinkler system installed in accordance with the requirements of Section P2904 if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides

and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be installed in accordance with Chapters 34 through 41 and Chapter 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. For townhouses not equipped throughout with an automatic sprinkler system installed in accordance with the requirements of Section P2904, a common 2-hour fire-resistance-rated wall is permitted if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with Chapters 34 through 41 and Chapter 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

(j) The first sentence of the Exception to Item 2 in Section R302.2.2, "Parapets," is amended by deleting " a minimum class C roof covering" and replacing it with "a minimum class B roof covering."

(k) Section R302.5.1, "Opening protection," is repealed and reenacted to read:

R302.5.1 Opening protection. Openings from a garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with weather stripped, solid wood doors not less than 1 and 3/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 1and 3/8 inches (35 mm) in thickness, or 20-minute fire-rated doors, equipped with a self-closing device.

(l) Section R309.5, "Fire sprinklers," is deleted.

(m) Section R311.2, "Egress doors," is repealed and reenacted to read:

R311.2 Egress doors. At least one egress door shall be provided for each *dwelling unit*. The egress door shall be side hinged, and shall provide a minimum clear width of 32 inches (813 mm) when measured between the face of the door and the stop, with the door open 90 degrees (1.57 rad). The minimum clear height of the door opening shall not be less than 78 inches (1981 mm) in height measured from the top of the threshold to the bottom of the stop.

(n) The following sentences are added to the end of R311.7.5.1, "Risers":

Where the bottom or top riser adjoins a sloping public way, walkway or driveway having an established grade and serving as a landing, the bottom or top riser is permitted to be reduced along the slope, with the variation in height of the bottom or top riser not to exceed one unit vertical in 12 units horizontal (8-percent slope) of stairway width. The nosings or leading edges of treads at such non-uniform height risers shall have a distinctive marking stripe, different from any other nosing marking provided on the stair flight. The distinctive marking stripe shall be visible in descent of the stair and shall have a slip-resistant surface. Marking stripes shall have a width of at least 1 inch (25 mm) but not more than 2 inches (51 mm).

(o) A new Section R311.9, "Access to exterior balconies, porches, decks and other walking surfaces from the interior of the building," is added, reading as follows:

> R311.9 Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building. Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building shall be through a side hinged or sliding glass door and shall provide a minimum clear width of 24 inches (610 mm), when measured between the face of the door and the stop, when the door, other than the sliding glass door, is open 90 degrees (1.57 rad). The minimum clear height of the door opening shall not be less than 78 inches (1981 mm) in height, measured from the top of the threshold to the bottom of the stop. Access to exterior balconies, porches, decks, and other walking surfaces from the interior of the building for the required egress door shall meet the provisions of 311.2 for required height and width.

(p) Section R313.1, "Townhouse automatic fire sprinkler systems," is repealed and reenacted to read as follows:

> R313.1 Townhouse automatic fire sprinkler systems. Automatic sprinkler systems shall be installed in townhouses in accordance with the requirements of Section 903.2.8 of the City of Boulder Fire Code.

(q) Section R313.2, "One- and two-family dwelling automatic fire sprinkler systems," is repealed and reenacted to read:

> R313.2 One- and two-family dwelling automatic fire sprinkler systems. Automatic sprinkler systems shall be installed in one- and two-family dwellings in accordance with the requirements of Section 903.2.8 of the City of Boulder Fire Code.

(r) Section R315.1, Carbon monoxide alarms," is repealed and reenacted to read:

> R315.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed outside each sleeping area in the immediate vicinity of bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units and accessory structures containing habitable space that have attached garages. All carbon monoxide alarms shall be installed so as to meet the requirements of Section R315, Carbon Monoxide Alarms, and of the applicable provisions of C.R.S.§38-45-101 through 106. Where the provisions of this code and the C.R.S. are in conflict, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(s) Section R322, "Flood resistant construction," is repealed and reenacted to read:

> R322 Flood resistant construction. Buildings and structures constructed in whole or in part in the floodplain must be designed and constructed in accordance with the floodplain regulations of Title 9, Land Use Regulation,, B.R.C. 1981.

(t) The first paragraph of Section R401.1, "Application," is repealed and reenacted to read:

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in a floodplain as established in Title 9, Land Use Regulation, B.R.C. 1981, shall meet ~~the provisions~~ all applicable provisions of Title 9, Land Use Regulation~~,~~, B.R.C. 1981. Where, in any specific case, the provisions of this code and the B.R.C. are in conflict, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Wood foundations shall be designed and installed in accordance with AF&PA PWF.

(u) A new Section R401.5, "Placement of backfill," is added to read:

R401.5 Placement of backfill. The provisions of Section 1804.2 of the Building Code of the City of Boulder shall apply to the placement of backfill.

(v) Section 408.7, "Flood resistance," is repealed and reenacted to read:

408.7 Flood resistance. Buildings located in a floodplain as established in Title 9, Land Use Regulation, B.R.C. 1981, shall comply with the applicable provisions in Title 9, Land Use Regulation, B.R.C. 1981.

(w) Exception 1 in Section R703.2, "Water-resistive barrier," is repealed and reenacted to read:

Exception 1: In detached accessory buildings which are not intended to be conditioned and where the interior wall cavities will remain exposed and unfilled.

(x) Exception 3 of Section 806.5, "Unvented attic and unvented enclosed rafter assemblies," is deleted.

~~(g)~~(y) Section R902.1, "Roof covering materials," is repealed and reenacted to read:

R902.1. Roof covering materials. All roof covering materials shall be listed as Class A as tested in accordance with UL Standard 790 or ASTM Standard E 108. Roof assemblies with covering of brick, masonry, slate, clay or concrete roof tile, exposed concrete roof deck, ferrous or copper shingles or sheets and metal sheets and shingles, shall be considered Class A roof coverings. Unless otherwise specified in this section, roof coverings shall be installed to resist the component and cladding loads specified in table R301.2(2), adjusted for height and exposure in accordance with table R301.2 (3).

~~(h)~~(z) Section R905.7, "Wood shingles," is repealed and reenacted to read:

R905.7. Wood shingles. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(i)~~(aa) Section R905.8, "Wood shakes," is repealed and reenacted to read:

R905.8. Wood shakes. Wood shakes, wood shingles and wood roof covering materials are prohibited except as provided in Section 10-5-5, "Wood Roof Covering Materials Prohibited," B.R.C. 1981, for certain minimal repairs.

~~(j)~~(bb) Chapter 11, "Energy Efficiency".

Sections N1101 through ~~N1103~~ N1105 are repealed. A new Section N1101 is added to read:

N1101~~.~~ Scope. Regulations concerning the design and construction of buildings for the effective use of energy and requirements for green building practices shall be administered in accordance with the ~~2006~~ 2012 International Energy Conservation Code as adopted, with amendments, by Chapter 10-7, "Energy Conservation ~~and Insulation~~ Code", B.R.C. 1981 and Chapter 10-7.5 "Green Points", B.R.C. 1981.

(cc) Section M1301.1.1, "Flood-resistant installation," is repealed and reenacted to read:

> M1301.11 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, the mechanical appliances, equipment and systems shall be located or installed in accordance with the applicable provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(dd) A new Section M1308.3, "Rooftop equipment support and clearances," is added to read:

> M1308.3 Rooftop equipment support and clearances.
>
> > (1) Mechanical equipment placed, replaced, or resting over roofing shall be supported by curbs or legs which shall be flashed to the roofing and made watertight. Mechanical equipment includes, but is not limited to, heating equipment, cooling and refrigeration equipment, ventilating fans, blowers, and other similar devices located on the roof.
> >
> > (2) Flat roofs. On roofs having a pitch of less than 2 in 12, mechanical equipment shall be supported on a solid curb greater in size than the equipment which it serves. Curbs may be manufactured or built-in-place. If built-in-place, the curb shall be covered with metal of at least 26 gauge. The metal shall be weather tight. The curb shall be a minimum of 9 inches above the finished roof.
> >
> > > (A) Ducts less than ~~four~~4 feet in width shall have at least ~~twelve~~12 inches clearance from the finished roof surface to the bottom of the duct.
> > >
> > > (B) Ducts between ~~four~~4 feet and ~~eight~~ 8 feet in width shall have at least ~~twenty-four~~24 inches clearance from the finished roof surface to the bottom of the duct.

(C) Ducts over ~~eight~~8 feet in width shall have at least ~~thirty-six~~36 inches clearance from the finished roof surface to the bottom of the duct.

(3) Pitched Roofs. On roofs having a roof pitch exceeding 2 in 12, mechanical equipment may be set on legs which provide a minimum of 11 inches clearance between the finished roof surface and the equipment frame.

(ee) Section M1401.5, "Flood hazard," is repealed and reenacted to read~~.~~:

M1401.5 Flood hazard. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, heating and cooling equipment and appliances shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(k) Section M1501.1 "Outdoor discharge" is amended by adding "at a point where it will not create a nuisance" to the first sentence to read:~~

~~The air removed by every mechanical exhaust system shall be discharged to the outdoors at a point where it will not create a nuisance.~~

~~(l) A new sentence is added to item 2 of Section M1601.1.1, "Above-ground duct systems," to read:~~

~~Flexible air duct shall not exceed 7 feet in length and flexible connectors are limited to toilet rooms and bathroom exhaust systems only.~~

(ff) Section M1601.4.9, "Flood hazard areas," is repealed and reenacted to read~~.~~:

M1601.4.9 Flood hazard areas. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, duct systems shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(~~m~~gg) A new sentence is added to Section M1602.1, "Return air," to read:

Within individual dwelling units there shall be at least one return air opening on each floor.

(hh) Section M2001.4, "Flood-resistant installation," is repealed and reenacted to read~~.~~:

M2001.4 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, boilers, water heaters and their control systems shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(ii) Section M2201.6, "Flood-resistant installation," is repealed and reenacted to read~~.~~:

M2201.6 Flood-resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, tanks shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(jj) A new Section M2303, "Solar photovoltaic power systems," is added to read:

M2303 Solar photovoltaic power systems. Solar photovoltaic power systems shall also meet the provisions of Section E3804, as amended.

(kk) Section G2404.7, "Flood hazard," is repealed and reenacted to read~~.~~:

G2404.7 Flood hazard. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, the appliance, equipment, and system installations regulated by this code~~,~~ shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(n) Exceptions 2, 3, and 4 to Section G2406.2, "Prohibited locations," are repealed, and exception 5 is amended by adding "thermally isolated" to the first sentence to read:~~

~~The appliance is installed in a thermally isolated room or space that opens only onto a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an approved self-closing device.~~

~~(o) A new sentence is added to Section G2407.6, "Outdoor combustion air," to read:~~

~~The room in which the appliances are receiving outdoor combustion air must be thermally isolated from the conditioned space of the dwelling unit or such outdoor air must be conditioned prior to entering the dwelling unit or room in which the appliance served, is located.~~

~~(p) G2415.4 is repealed and reenacted to read:~~

~~G2415.4 Piping through foundation wall. Gas piping shall enter the building above grade through the foundation wall, building or structure.~~

~~(q) Section G2415.9, "Minimum burial depth," is repealed and reenacted to read:~~

~~G2415.9 Minimum burial depth. Underground piping systems shall be installed at a minimum depth of 12 inches below grade for metallic piping and a minimum depth of 18 inches for non-metallic piping. Where such depths cannot be obtained, equivalent protection must be provided by other means approved by the building official.~~

~~(r) Section G2415.9.1 is repealed.~~

~~(s) Section G2417.4.1, "Test pressure," is repealed and reenacted to read:~~

~~G2417.4.1. Test pressure. The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than 10 psig.~~

(ll) Items 2 and 3 of Section G2427.8, "Venting system termination location," are amended by adding a new sentence to the end of each Items 2 and 3 reading:

Vents shall terminate a minimum of 18 inches (46 mm) above finished grade in the immediate vicinity of each vent.

~~(t) Section G2432.1, "Decorative appliances for installation in fireplaces," is amended by adding a new item 2432.1.2 to read:~~

~~G2432.1.2. Within a vented fireplace the damper must be removed or welded open and glass doors installed over the fireplace opening.~~

~~(u) Section G2434.1, "Vented gas fireplaces," is amended by adding a new item G2434.1.1 to read:~~

~~G2434.1.1. Vented gas fireplaces shall be provided with outside combustion air and glass doors.~~

~~(v) Section G2435.1, "Vented gas fireplace heaters," is amended by adding a new item G2435.1.1 to read:~~

~~G2435.1.1. Vented gas fireplace heaters shall be provided with outside combustion air.~~

~~(w) Section G2445.4, "Prohibited locations," is repealed and reenacted to read:~~

~~These appliances shall not be used in bedrooms or rooms readily used for sleeping purposes.~~

~~(x) Section P2503.6 "Water-supply system testing," is amended by deleting the words "for piping systems other than plastic" in the first paragraph.~~

(mm) Section P2503.7, "Water supply system testing," is repealed and reenacted to read:

> P2503.7 Water--supply system testing. Upon completion of the water-supply system or a portion of it, the system or portion completed shall be tested and proved tight under a water pressure of not less than the working pressure of the system or by an air test of not less than 100 psi (689.5 kPa). This pressure shall be held for not less than 15 minutes. The water used for tests shall be obtained from a potable water source."

(nn) The Exception to P2601.2, Connections to drainage system," is deleted in its entirety.

(oo) Section P2601.3, "Flood hazard areas," is repealed and reenacted to read~~.~~:

> P2601.3 Flood hazard areas. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, plumbing fixtures, drains, and appliances shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

(pp) The first sentence of Section P2602.2, "Flood resistant installation," is repealed and reenacted to state:

> In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981:
>
> Items 1 and 2 remain unchanged.

~~(y) Section P2603.6.1 is deleted in its entirety.~~

~~(z) Section P2801.5.1 "Piping for safety pan drains shall be of those materials listed in Table P204.5." is repealed.~~

~~(aa) Section P2904.5 is amended by adding a new paragraph to read:~~

~~Water service line pipe between the water meter and building shall be Type K copper if it is in the public right-of-way, a public utility easement, or on other public property.~~

(qq) Section P 3001.3, "Flood--resistant installation," is repealed and reenacted to state:

> P3001.3 Flood--resistant installation. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981,drainage, wastes and vent systems shall be located and installed to prevent infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(rr) Section P3009, "Gray Water Recycling Systems," is deleted in its entirety.

(ss) Section P3101.5, "Flood resistance," is repealed and reenacted to read~~.~~:

> P3101.5 Flood resistance. In floodplains, as established in Title 9, Land Use Regulation, B.R.C. 1981, vents shall be located or installed in accordance with the provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(bb) Section P3103.1 "Roof extensions" is amended to read:~~

~~Open vent pipes that extend through a roof shall be terminated at least 12 inches (305 mm) above the roof on the high side of the vent, except that where a roof is to be used for any other purpose other than weather protection, the vent extension shall run at least 7 feet (2138 mm) above the roof.~~

~~(cc) Section E3501.6.2. "Service Disconnect Location". A new sentence is added to the end to read: Service entrance conductors shall not exceed ten feet maximum developed length unspliced between the meter housing and the main disconnect. This allows the service entrance conductors to run within the building up to ten feet and to terminate at the disconnecting means.~~

~~(dd) The last sentence of section E3508.1.1.1, concerning metal underground water pipe as a grounding electrode system, is repealed and reenacted to read:~~

~~The supplemental electrode shall be permitted to be bonded to the grounding electrode conductor, the grounded service-entrance conductor, the grounded service raceway, or any grounded service enclosure by means of a separate grounding electrode conductor.~~

(tt) A new Section E3804, "Solar photovoltaic power systems," is added to read:

> E3804 Solar photovoltaic power systems. Solar photovoltaic power systems shall meet the provisions of Sections 605.11 through 605.11.3.2.3 of the City of Boulder Fire Code.

~~(ee) Section E3808.14 is repealed and reenacted to read:~~

~~E3808.14 Connecting receptacle grounding terminal to box. An equipment bonding jumper shall be used to connect the gounding of a grounding-type receptacle to a grounded box.~~

~~(ff) Section E3901.6"Access" , the last sentence is repealed and reenacted to read:~~

~~They shall be so installed that the center of the grip of the operating handle of the switch or circuit breaker, when in its highest position, will not be more than six feet seven inches nor less than three feet above the floor or working platform if within a building, or exterior grade or a working platform if on the exterior of a building.~~

(uu) Section E4209.3, "Accessibility," is amended by adding the following to the end of the Section:

> Equipment shall be accessed by a panel with a minimum size of 12 inches (305 mm).

~~(gg) Section AJ102.4 is amended to read:~~

~~Replacement Windows. Regardless of the category of work, when an existing window, including sash and glazed portion is replaced, the replacement window shall be in accordance with the 2006 International Energy Conservation Code as adopted, with amendments, by Chapter 10-7, "Energy Conservation and Insulation Code", B.R.C. 1981 and Chapter 10-7-5 "Green Points", B.R.C. 1981.~~

(vv) Section AJ102.5, "Flood hazard areas," is repealed and reenacted to read~~.~~:

> AJ102.5 Flood hazard areas. Work performed in existing buildings located in a floodplain, as established by Title 9, Land Use Regulation, B.R.C. 1981, shall be done in accordance with the applicable provisions of Title 9, Land Use Regulation, B.R.C. 1981.

~~(hh) Section AK102.1, "Airborne Sound," is amended to read:~~

~~Airborne sound insulations for wall and floor-ceiling assemblies shall meet a Sound Transmission Class rating 50 when tested in accordance with ASTM Standard E 90. Penetrations or openings in construction assemblies for piping, electrical devices, recessed cabinets, bathtubs, soffits; or heating, ventilating, or exhaust ducts shall be sealed, lined, or insulated, or otherwise treated to maintain the required rating . Dwelling unit entrance doors which share a common space shall be tight fitting to the frame and sill.~~

~~(ii) Section AK103.1, "Structural-Borne Sound," is amended to read:~~

~~Floor/ceiling assemblies between dwelling units or between a dwelling unit and a public or service area within a structure shall have an impact insulation class (IIC) rating of not less than 50 when tested in accordance with ASTM Standard E 492.~~

~~(jj) Section AO101.1, The words "and for subsurface landscape irrigation" are repealed, and a new sentence is added to the end of the exception to read:~~

~~Such systems shall be designed as required by the Boulder County Health Department.~~

~~(kk) FigureAO101.1 (2) is repealed.~~

~~(ll) Section AO103 is repealed in its entirety.~~

(ww) A new footnote notation "b" is added to the heading and a new footnote "b" is added to AP Table AP103.3(2), "Load values assigned to fixtures," reading:

> b. For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is repealed and replaced by the Fixture Unit/GPM Demand Chart and PIF Computation sheet found at Appendix A to Chapter 11-1, Water Utility, B.R.C. 1981.

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

## CHAPTER 10-6 – ELECTRICAL CODE

**10-6-1 Legislative Intent.**

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, or repair of or addition to electrical conductors or equipment installed within or on any structure in the city. The city council hereby adopts the ~~2005~~2011 edition of the *National Electrical Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

**10-6-2 Adoption of the National Electrical Code with Modifications.**

(a) The ~~2005~~2011 edition of the *National Electrical Code* of the National Fire Protection Association is hereby adopted by reference as the City of Boulder Electrical Code or electrical code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) ~~Article 90 is repealed.~~ This code shall be administered in accordance with Chapter 1, "Administration," of the 2012 edition of the International Building Code and Appendix K, "Administrative Provisions," of the 2012 edition of the International Building Code, as adopted, respectively, with amendments, by Section 10-5-2, "Adoption of the International Building Code with Modifications," B.R.C. 1981 ~~the 2006International Code Council Electrical Code (ICCEC) with the deletion of ICCEC Section 1202.2 Nonmetallic-sheathed Cable~~.

(c) The following definition is added to part "I. General" of Article 100, "Definitions:"

> **Dried in.** The building or structure is protected from weather in that all openings can be closed, the roofing material is installed, and the exterior walls provide the building or structure with a weather-resistant exterior wall envelope.

~~(c)~~(d) Subsection 210-.70(~~a~~A)3 is repealed and reenacted to read:

> (3) Storage or Equipment Spaces. For attics, underfloor spaces, utility rooms and basements, at least one lighting outlet controlled by a wall switch shall be installed where

these spaces are used for storage or contain equipment requiring servicing. The control wall switch shall be located at the usual point of entry to such space. The lighting outlet shall be provided at or near the equipment requiring servicing.

~~(d)~~(e) The first sentence of Section 230.2, "Number of Services," is repealed and reenacted to read:

230.2. Number of Services. A building or other structure shall be supplied by only one service unless permitted in 230.2(A) through (D) and approved prior to permit issuance or prior to the start of any electrical work indicated on the permit.

~~(e)~~(f) A new item 3 is added to Section 230.2(B), Special Occupancies, to read:

(3) Fire areas separated by a minimum two hour fire wall as defined by the building code may be considered as separate buildings for the purpose of calculating the number of services if approved by the building official.

~~(f)~~(g) A new item 4 is added to Section 230.2(C), Capacity Requirements, to read:

(4) Where the existing service is being used to capacity and has been properly maintained.

~~(g)~~(h) Subsection 230-40, concerning the number of service-entrance conductor sets, is amended by deleting exceptions 3 and 4.

~~(h)~~(i) Subsection 230-~~.~~70(A)(1)~~(a)~~, concerning the location of service equipment disconnecting means, is repealed and reenacted to read:

(a) Readily Accessible Location. The service disconnecting means shall be installed at a readily accessible location either immediately adjacent to or attached to the outside of a building or structure, or inside nearest the point of entrance of the service conductors.

(1) Service entrance conductors shall not exceed ten feet maximum developed length unspliced between the meter housing and the main disconnect. This allows the service entrance conductors to run within the building up to ten feet and to terminate at the disconnecting means.

(2) Electrical rooms containing building main disconnects located within a structure shall be located near the point of service entrance and on the exterior wall with a door leading directly outside. The door shall be identified with three inch high lettering stating "Electrical Equipment Room."

~~(i)~~(j) Section 250.146, concerning connecting receptacle grounding terminal to box, is amended by ~~the~~ deleting items (A), (B) and (C).

~~(j) The last sentence of the first paragraph of Subsection 250.53(D)2, concerning metal underground water pipe as a grounding electrode system, is repealed and reenacted to read:~~

~~The supplemental electrode shall be permitted to be bonded to the grounding electrode conductor, the grounded service-entrance conductor, the grounded service raceway, or any grounded service enclosure by means of a separate grounding electrode conductor.~~

~~(k)Section 310.12(C) is amended by specifying the colors of ungrounded conductors to be black, red, blue for 120/208 volt systems and brown, orange, yellow for 277/480 volt systems.~~

(k) A new section 310.12, "Conductor Identification," is added to read:

310.12 Conductor Identification. The colors of ungrounded conductors shall be black, red, and blue for 120/208 volt systems and brown, orange, and yellow for 277/480 volt systems.

(l) A new item (6) is added to section 334.10, "Uses Permitted," to read:

(6) Type NM, Type NMC, and Type NMS shall not be installed in any building or any structure until the building or structure is completely dried in.

~~(l) The first sentence of section 334.10(2) is amended to read:~~

~~(2) Multifamily dwellings permitted to be of types II, III, IV and V construction except as prohibited in 334.12.~~

~~(m) The first sentence of Section 334.10(3) is amended to read:~~

~~(3) Other structures permitted to be of Types IIB,IIIB, IVB and VB construction of 10,000 square feet or less.~~

~~(n)~~(m) The ~~last~~ second sentence of the introductory portion of Subsection 404.8(A), concerning the location of switches, is repealed and reenacted to read:

They shall be ~~so~~ installed such that the center of the grip of the operating handle of the switch or circuit breaker, when in its highest position, will not be more than six feet seven inches nor less than three feet above the floor or working platform if within a building, or exterior grade or a working platform if on the exterior of a building.

~~(o)~~(n) Subsection 517.-13(A), concerning grounding of receptacles and fixed electric equipment in patient care areas, is amended by adding a sentence to read:

Receptacles and electrical outlets within examining rooms, treatment rooms, and similar areas where the patient may come in contact with electrical devices in these rooms shall be listed hospital grade and identified as such.

~~(p) Subsection 518-4(B), concerning Non-rated Construction, is repealed and reenacted to read:~~

~~(B) Non-rated Construction. Non-metallic-sheathed cable, Type AC cable, electrical non-metallic tubing, and rigid non-metallic conduit shall be permitted to be installed in buildings or portions of buildings of non-rated types of construction in accordance with section 334.10(3).~~

(o~~q~~) Subsection 680.73, "Accessibility," is amended by adding the following: Equipment shall be accessed by a panel with a minimum size of twelve inches by twelve inches.

(p)A new subsection (I) is added to section 690.4, "Installation," to read:

> (I) **Compliance with Fire Code.** Solar photovoltaic power systems shall be installed in accordance with the requirements of sections 605.11.1 through 605.11.4 of the City of Boulder Fire Code.

~~(r)~~(q) Subsection 690.9~~16~~ (C) ~~Location~~Photovoltaic Source Circuits. Concerning direct current solar photovoltaic source conductors entering into a building add the following text~~.~~:

> (1) Rooftop mounted solar photovoltaic array systems whose source conductor circuits are entering the building ~~are to~~shall be protected against overcurrent at their source on the roof~~s with a slope of 4 inches of rise in 12 inches of run or less slope~~ before entering the building.
>
> ~~(2) Rooftop mounted solar array systems whose source conductor circuits are entering the building are to be protected against overcurrent at their source but no more than 900 mm (3 feet) from the roof eave on roof with a slope of more than 4 inches of rise in 12 inches of run.~~

**10-6-3 Electrical Permit Fees.**

Electrical permit fees are those prescribed by Subsection 4-20-8(a), B.R.C. 1981.

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

**CHAPTER 10-7 – ENERGY CONSERVATION ~~AND INSULATION~~ CODE**

**10-7-1 Legislative Intent.**

The purpose of this chapter is to protect the public health, safety, and welfare by encouraging the conservation of scarce energy resources through the regulation of building construction standards to minimize energy consumption for heating, cooling, lighting, and ventilating structures in the city and to encourage building design utilizing green building techniques.

**10-7-2 Energy Conservation Code.**

(a) Council adopts by reference the ~~2006~~ 2012 International Energy Conservation Code of the International Code Council with the amendments specified below. This chapter shall be administered, applied, and interpreted in accordance with and as part of Chapter 10-5, "Building Code," B.R.C. 1981. This chapter is also intended to comply with and be interpreted and enforced so as to comply with 42 U.S.C. Section 6297(f)(3) and any other federal requirements to avoid preemption. For purposes of 42 U.S.C. Section 6297(f)(3), "new construction" shall be interpreted to include all work that triggers the requirements established in this chapter.

(b) ~~Section C101.4.3 Additions, alterations, renovations and repairs. A new sub-section is added previous to the exceptions to read as follows:~~

~~C101.4.3.1 All permit applications involving demolition, new construction and remodels and/or additions of residential buildings greater than 500 square feet shall meet the requirements of this code and Chapter 10-7-5 "Green Points", B.R.C. 1981 as applicable.~~

~~(c)~~(b) Exception 3 of section C101.4.3 is repealed and reenacted as follows:

> 3.1. For an interior remodel of a residential structure, where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet of the existing conditioned space, existing ceiling, wall, or floor cavities exposed during construction are exempt from meeting the provisions for new construction provided that exposed wall framing cavities are insulated to their fullest depth, but no less than R-13, and attics and exposed or accessible floor/ceiling assemblies separating conditioned spaces from unconditioned spaces are insulated to their fullest depth, but no less than R-38 wherever possible. All replacement fenestration shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3. Portions of basements and crawlspaces separating conditioned spaces from unconditioned spaces shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3 for climate zone 5 wherever possible. The provisions of section R402.2 shall apply.
>
> 3.2. For additions to residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not add more than 500 square feet, building envelope components shall meet the provisions of Table R402.1.1 or R402.1.3, and applicable portions of Chapter 10-7-5 "Green Points", B.R.C. 1981. The provisions of section R402.2 shall apply.
>
> 3.3 .Remodels of non-residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet.

~~(d)~~(c) Section C10~~3~~2.1.1 is repealed and reenacted as follows:

> Section C10~~3~~2.1.1 Above Code Programs. Except for those residential structures and portions of structures exempt from this code, the requirements of Chapter 10-7.-5 "Green Building and Green Points Program", B.R.C. 1981 shall be used to demonstrate compliance with the energy efficiency components of this code.

~~(e)~~(d) Section~~ECTION 104~~C103.1 is repealed and reenacted to read as follows:

~~104~~C103.~~2~~ 1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of this chapter shall be prepared by and bear the stamp of a Colorado licensed professional engineer or architect. Documents submitted for the purposes of section ~~404 and~~ C50~~7~~6 shall be submitted by a Colorado licensed engineer, architect or a professional who demonstrates the knowledge and experience to perform such calculations.

Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a licensed professional.

Exceptions:

1. The code official may waive the submission of construction documents and other supporting data if the official finds that the nature of the work does not require review of the documents or data to obtain compliance. This waiver authority does not apply to documents required to be prepared by a licensed architect or engineer.

~~(f)~~(e) Sections C103.3 through C103.5 are deleted.

(f) Section C10~~4~~5.3, "Final Inspection," is amended by adding a new paragraph to read:

The applicant must provide at time of final inspection of a commercial building written verification which bears the stamp of a licensed architect or engineer or special inspector as described in section 107~~9~~.3.4~~7~~ of the 2012 edition of the International Building Code that the structure conforms with the provisions of Chapter ~~5~~4.

(g) Sections C104.5 through C104.8.1 are deleted.

(h) Section C107, "Fees," is deleted.

(i) Section C108, "Stop Work Order," is deleted.

(j) Section C109, "Board of Appeals," is deleted.

~~(g)~~(k) Section C202, the definition of "Code Official" is repealed and reenacted to read:

Code official is the city manager.

~~(h)~~(l) Section C401~~501~~.1 is repealed and reenacted to read:

Section C~~501~~401.1 Scope.

The requirements contained in this chapter are applicable to new commercial buildings and additions to or remodels of commercial buildings. Commercial buildings shall exceed the energy efficiency requirements of ASHRAE/IESNA Standard 90.1 Energy Standard for Building Except for Low-Rise Residential Buildings by at least 30 percent or other approved equivalent design criteria.

~~501~~401.1.1 Alternative approaches for compliance.

The following methods of compliance may be used in place of the approach described in section ~~501~~401.1 above:

1. Buildings of 20,000 square feet or less may be designed to a prescriptive standard as detailed in this chapter or through other measures that result in a building that is at least 30 percent more energy efficient than the ~~2006~~ 2012 IECC.

2. Commercial core and shell buildings that have 50 percent or less finished floor area may divide the 30 percent energy efficiency requirement between the core and shell building design and the future interior tenant finish design. The energy efficiency savings percentages assigned to each element of the building shall be designated at the time of the submittal of the building permit for the core and shell permit.

3. The construction documents for remodeling an existing commercial envelope, mechanical and lighting systems shall demonstrate compliance with this section in one of the following ways described below. The construction documents shall include compliance documentation that demonstrates that:

A. The altered building area or systems will meet the requirements of section ~~506~~C407, "Total Building Performance" ~~2006~~ 2012 IECC and the resulting compliance package shows an altered building area or system that is 30 percent more energy efficient than the ~~2006~~ 2012 IECC;

B. The remodel area will meet a ~~an approved~~ set of prescriptive requirements approved by the city manager that are at least 30 percent more efficient than the ~~2006~~ 2012 IECC~~. An applicant may use the ASHRAE Advanced Energy Design Guides for such prescriptive requirements, or equivalent method that is approved by the city manager~~; or

C. The remodel area meets the ~~2006~~ 2012 IECC requirements and is submitted with an energy efficiency implementation plan prepared by a licensed architect or registered professional engineer which shows how the process will contribute to future energy efficiency improvements to bring the building up to 30 percent above the ~~2006~~ 2012 IECC.

Exception: If the work is limited to mechanical equipment replacement, the replacement equipment shall meet the requirements of Sections C403 and C404.

(m) Section C401.2, "Application," is repealed and reenacted to read:

C401.2 Application.

1.Buildings larger than 20,000 square feet must demonstrate compliance through third party performance modeling that is approved by the city manager.

2. Commercial buildings of 20,000 square feet or less, meeting the requirements of this Section C401 through the alternate approach of compliance found in C401.1,1 Subparagraph 1. by demonstrating that a building or system is 30 percent more energy efficient than the 2012 IECC, shall also comply with:

a. The requirements of Sections C402, C403, C404, C405, and C406; or

b. The requirements of Sections C407, C402.4, C403.2, C404, C405.2, C405.3, C405.4, C405.6, and C405.7.

(n) Section C401.2.1 is deleted.

(o) The first sentence of Section C407.3 is repealed and reenacted to read as follows:

Compliance based on total building performance requires that a proposed building (proposed design) be shown to have an annual energy cost that is at least 85 percent less than the annual energy cost of the standard reference design.

(p) Section R101.4.3 Additions, alterations, renovations and repairs. A new sub-section is added previous to the exceptions to read as follows:

R101.4.3.1 All permit applications involving demolition, new construction and remodels and/or additions of residential buildings greater than 500 square feet shall meet the requirements of this code and Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981 as applicable.

(q) Exception 3 of section R101.4.3 is repealed and reenacted as follows:

3.1. For an interior remodel of a residential structure, where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not alter more than 500 square feet of the existing conditioned space, existing ceiling, wall, or floor cavities exposed during construction are exempt from meeting the provisions for new construction provided that exposed wall framing cavities are insulated to their fullest depth, but no less than R-13, and attics and exposed or accessible floor/ceiling assemblies separating conditioned spaces from unconditioned spaces are insulated to their fullest depth, but no less than R-38 wherever possible. All replacement fenestration shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3. Portions of basements and crawlspaces separating conditioned spaces from unconditioned spaces shall meet the prescriptive requirements of Table R402.1.1 or R402.1.3 for climate zone 5 wherever possible. The provisions of section R402.2 shall apply.

3.2. For additions to residential structures where the work authorized by a building permit under Chapter 10-5, "Building Code," B.R.C. 1981, does not add more than 500 square feet, building envelope components shall meet the provisions of Table 402.1.1 or 402.1.3, and applicable portions of Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981. The provisions of section 402.2 shall apply.

(r) Section R102.1.1 is repealed and reenacted as follows:

Section R102.1.1 Above Code Programs. Except for those residential structures and portions of structures exempt from this code, the requirements of Chapter 10-7-5 "Green Building and Green Points Program", B.R.C. 1981 shall be used to demonstrate compliance with the energy efficiency components of this code.

(s) Section R103.1 is repealed and reenacted to read as follows:

R103.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of this chapter shall be prepared by and bear the stamp of a Colorado licensed professional engineer or architect. Documents submitted for

the purposes of section R405 shall be submitted by a Colorado licensed engineer, architect or a professional who demonstrates the knowledge and experience to perform such calculations. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a licensed professional.

Exceptions:

1. The code official may waive the submission of construction documents and other supporting data if the official finds that the nature of the work does not require review of the documents or data to obtain compliance. This waiver authority does not apply to documents required to be prepared by a licensed architect or engineer.

(t) Sections R103.3 through R103.5 are deleted.

(u) Sections R104.5 through R104.8.1 are deleted.

(v) Section R107, "Fees," is deleted.

(w) Section R108, "Stop Work Order," is deleted.

(x) Section R109, "Board of Appeal," is deleted.

(y) Section R202, the definition of "Code Official" is repealed and reenacted to read:

Code official is the city manager.

**10-7-3 Regulations.**

The city manager may make reasonable interpretive and administrative regulations to aid in applying this chapter under the procedures of Chapter 1-4, "Rulemaking," B.R.C. 1981, including rules establishing methods for showing compliance with the requirements of this chapter.

Section 6. Chapter 10-7.5, B.R.C. 1981, is amended to read:

**CHAPTER 10-7.5 – GREEN BUILDING AND GREEN POINTS PROGRAM**

**10-7.5-1 Legislative Intent and Purpose.**

The purpose of this chapter is to protect the public health safety and welfare by regulating residential construction with the intent to conserve energy, water and other natural resources, preserve the health of our environment through optional and mandatory requirements related to design, construction, operations, recycling, and deconstruction This chapter has the following additional purposes:

(a) It provides criteria for rating the environmental performance of residential construction practices and provides guidelines for documentation that demonstrates conformance with the criteria;

(b) It encourages cost-effective and sustainable residential building methods, by encouraging conservation of fossil fuels, water and other natural resources, reduction of greenhouse gas emissions, recycling of construction materials, reducing solid waste and improving indoor air quality;

(c) It identifies the specific requirements for complying with the Green Points Program and how the program interfaces and exceeds the ~~2006~~ 2012 International Energy Conservation Code adopted in Chapter 10-7, "Energy Conservation ~~and Insulation~~ Code," B.R.C. 1981;

(d) It includes mandatory green building requirements to ensure that construction waste and deconstruction materials are recycled, reused, or otherwise diverted from land fills, and minimum requirements to ensure that dwellings are constructed in an efficient manner; ~~and~~

(e) It includes provisions intended to provide for joint administration with the processing of building permits for remodeling, adding on, and constructing dwelling units; and~~.~~

(f) It is intended to comply with, and be interpreted and enforced so as to comply with, 42 U.S.C. Section 6297(f)(3) and any other federal requirements to avoid preemption. For purposes of 42 U.S.C. Section 6297(f)(3), "new construction" shall be interpreted to include all work that triggers the requirements established in this chapter.

**10-7.5-2 Scope and Administration.**

(a) Scope. The provisions of this chapter apply to the following:

(1) New construction, remodels, or additions to a dwelling, including without limitation single-unit dwellings, multi-unit dwellings, and dwellings within mixed use developments.

(2) Any two or more building permits for the same structure that are applied for in any 12 month period shall be considered as one application for the purpose of meeting the requirements of Sections 10-7.5-3, "Mandatory Green Building Requirements" and 10-7.5-4, "Resource Conservation – Green Points," B.R.C. 1981.

(3) The requirements of this chapter shall apply to construction activities of all types of dwellings unless the context clearly indicates otherwise.

(4) The requirements of this chapter are in addition to and do not replace the requirements within the Boulder Revised Code, including without limitation all of the life safety codes, the historic preservation ordinance, the land use code and the City of Boulder Design and Construction Standards.

(b) Administration. The Green Points Program shall be administered, applied, and interpreted in accordance with Chapter 1, "Administration," Chapter 2, "Definitions," of the International Building Code (IBC) and the International Residential Code (IRC) as adopted with amendments by Sections 10-5-2, "Adoption of International Building Code with Modifications," and 10-5.5-2, "Adoption of International Residential Code with Modifications," B.R.C. 1981.

(c) Inspection and Compliance. No person shall fail to comply with the requirements of this chapter. No person shall construct in violation of a Green Points approval. All approvals and inspections of Green Point's applications and requirements shall be done in conjunction with a residential building permit application and field inspections. An application shall be made on a form that is approved by the city manager. The applicant shall demonstrate compliance with all of the provisions of this chapter prior to the issuance of a certificate of occupancy by the city manager.

(d) Exceptions. Any structure that includes dwellings that are pursuing a U.S. Green Building Council's LEEDT (Leadership in Energy and Environmental Design) Silver Certification or comparable green building rating certification or higher will be exempt from the Green Points requirements. No person that applies for this exception shall fail to complete the LEED$^{tm}$ certification process and receive such certification within six months after the final inspection on the building permit. The city manager may grant an extension to this time period if a request is made by the applicant and the applicant demonstrates a good cause as to why additional time is needed to complete the certification.

**10-7.5-3 Mandatory Green Building Requirements.**

(a) Energy Efficiency – New Dwelling Units. An applicant for a building permit for each new dwelling shall demonstrate that the building is more energy efficient than a building that meets the minimum requirements of Chapter 10-7, "International Energy Conservation ~~and Insulation~~ Code," B.R.C. 1981. Table 1 lists the minimum energy efficiency requirements.

TABLE 1A - Tiers for Energy Efficiency Thresholds

| Type of Project | Square Footage | Energy Efficiency Thresholds Above Code |
|---|---|---|
| New Construction | Up to 3,000 | ~~30~~ 14 percent more energy efficient than ~~2006~~ 2012 IECC (HERS 60) |
| | 3,001-5,000 | ~~50~~43 percent more energy efficient than ~~2006~~ 2012 IECC (HERS 50) |

| | | |
|---|---|---|
| | 5,001 and up | ~~75~~64 percent more energy efficient than ~~2006~~ 2012 IECC (HERS 25) |
| Multi-Unit Dwellings | Applies to all | ~~30~~14 percent more energy efficient than ~~2006~~ 2012 IECC (HERS 60) |

(b) Thresholds for Application of New Construction Standards to Entire Building as the Result of an Addition. Any addition which meets any of the thresholds described below will require that the conditioned floor area of the entire building be upgraded to meet new construction standards for energy efficiency in Subsection 10-7.5-3(a), B.R.C. 1981.

(1) The addition is 100 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is up to 3,000 sq. ft in size.

(2) The addition is 50 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is from 3,001 to 5000 sq. ft in size.

(3) The addition is 25 percent or more than the conditioned floor area of the existing dwelling unit and the dwelling unit will have a total conditioned floor area after the addition to the dwelling unit that is over 5001 sq. ft in size.

(c) Energy Efficiency – Additions and Remodels. An applicant for a building permit for a remodel or an addition to a dwelling that does not exceed the thresholds in subsection (b) above shall demonstrate that it meets the energy efficiency requirements of this section. A building permit for an addition to or a remodel of a dwelling unit shall meet one of the following standards:

(1) Requirement if upgrading the energy efficiency of the entire structure. The applicant may demonstrate that the entire building meets the HERS requirements that are described in Table 1B below; or

(2) Requirement for the new addition or the area of the house that is subject to a remodel. The applicant may demonstrate that the addition or the area of the building subject to a remodel meets the requirement of the IECC for the remodel area or addition as described in Table 1B below. Building permits under this requirement shall also meet the following:

(A) Complete a blower door test before application for the building permit to determine whether the building has a fresh air infiltration rate of no more than 0.5 natural air changes per hour (NACH) compliance rating. If this standard is exceeded, then the applicant shall meet the requirement of paragraph (B).

(B) Improve, repair and seal the dwelling unit, verified by a subsequent blower door test and prior to a certificate of occupancy or completion that demonstrates that:

(i) for buildings that had an air infiltration rate of 1.0 NACH or greater, then the building shall have a NACH 50 percent or less than the original blower door test,

(ii) for all other buildings, the building has an air infiltration rate of not greater than 0.5 NACH compliance rating.

TABLE 1B - Tiers for Energy Efficiency Thresholds

| **Total Conditioned Area** | **HERS Rating** | **Increased efficiency above the 2012 IECC** |
|---|---|---|
| Up to 3,000 | ~~100~~70 | ~~1~~5 percent |
| 3,001 – 5,000 | ~~85~~60 | ~~30~~15 percent |
| 5,001 and up | ~~70~~50 | ~~50~~30 percent |

(3) Remodels – Limitations. A remodel that does not substantially remove the interior finish of the thermal envelope of the conditioned space is not required to meet the energy efficiency requirements of Table 1B.

(d) Compliance with Energy Efficiency Requirements. A dwelling that is required to meet the energy efficiency requirements for new construction shall demonstrate that it meets such standard by:

(1) Using the Home Energy Rating System (HERS). The HERS rating will be used for the verification of energy performance of new construction. A HERS rating shall be performed by a rater accredited by the Residential Energy Services Network (RESNET);

(2) For multidwelling projects, through a HERS rating sampling protocol authorized and approved by the city manager; or

(3) For multidwelling projects, by demonstrating that the energy efficiency has been achieved by using the methodology in section R405 ~~404~~, "Simulated Performance Alternative" or section ~~506~~C407, "Total Building Performance" of the ~~2006~~ 2012 International Energy Conservation Code.

(e) Energy Audit. An applicant for a building permit for an addition to a dwelling or a remodel of a dwelling shall be required to obtain an energy audit. The applicant shall provide proof of the completion of the energy audit with a building permit application. The energy audit of the house shall quantify the annual energy performance of the building according to generally accepted standards for energy audits approved by the city manager. An energy audit or an optional HERS rating report will indicate how efficiently the building is operating and where inefficiencies are occurring.

~~(f) Lighting Efficiency. Prior to final inspection for an addition to a dwelling or a remodel of a dwelling the applicant shall install energy efficient lamps (light bulbs) with a luminous efficacy of 40 lumens per watt or above in at least 50 percent of the existing home's light fixtures.~~

~~(g) Direct Vent Furnace. When the scope of the work of an addition to a dwelling or a remodel of a dwelling requires replacement of a furnace, the furnace shall be replaced with a direct vent unit that has a minimum 90 percent AFUE.~~

~~(h) Direct Vent Boiler. When the scope of the work of an addition to a dwelling or a remodel of a dwelling requires replacement of a boiler, the boiler shall be replaced with a direct vent unit that has a minimum 85 percent AFUE.~~

(~~i~~f) Construction Waste Recycling. An applicant for a building permit for a new dwelling or an addition to a dwelling shall demonstrate that a minimum of 50 percent of construction waste is recycled. Waste diversion calculations and tracking spreadsheet form must be provided at project completion which shows that the minimum recycling requirements have been met. No person shall fail to complete the diversion calculations and tracking spreadsheet or recycle construction waste as required by this section.

(~~j~~g) Demolition Management. An applicant proposing to demolish the dwelling, as that term is defined in Section 10-7.5-7, "Definitions," B.R.C. 1981, shall demonstrate through a deconstruction plan that at least 65 percent of material by weight from deconstruction of the existing structure, including concrete and asphalt, will be diverted from the landfill. Verification of deconstruction plan compliance must be provided prior to final inspection. No person shall fail to follow or otherwise implement an approved deconstruction plan.

**10-7.5-4 Resource Conservation – Green Points.**

. . .

Section 7. Chapter 10-8, B.R.C. 1981, is amended to read:

**CHAPTER 10-8 – Fire ~~Prevention~~ Code**

**10-8-1 Legislative Intent.**

The purpose of this chapter is to protect public health and safety by regulating the use, condition, construction, alteration, and repair of property, structures, and occupancies in the city in order to prevent the ignition and spread of fire and risk of harm to persons or property from fire and other causes. The city council hereby adopts the ~~2006~~2012 edition of the International Fire Code with certain amendments, additions, and deletions thereto found to be in the best interests of the city. The standards provided in this chapter shall be used, insofar as they are applicable, in determining whether a condition is ~~a~~ hazardous ~~one~~, whether any work that has been performed has been done in an approved manner, or whether any equipment is of an approved type or quality, and in any determination concerning fire hazards and fire safety in the city building code not specifically provided for therein.

**10-8-2 Adoption of International Fire Code with Modifications.**

(a) The ~~2006~~2012 edition of the International Fire Code of the International Code Council are adopted by reference as the City of Boulder Fire Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) The Fire Code adopted by subsection (a) of this section is amended in the following places:

(1) Section 102.3 is repealed and reenacted to read:

102.3 Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the International Building Code.

(2) Section 103.1 is repealed and reenacted to read:

103.1 Division of Fire Safety

A Division of Fire Safety is established within the fire department under the direction of the manager, which shall consist of such fire department personnel as may be assigned thereto by the manager. The function of this division shall be to assist the manager in the administration and enforcement of the provisions of this code.

(3) Section 103.4, is repealed and reenacted to read:

103.4 Liability

The fire code shall not be construed to hold the City of Boulder or any of its employees or agents responsible for any damage to persons or property by reason of inspection or

reinspection or failure to inspect or reinspect as herein provided or by reason of the approval or disapproval of any equipment as herein provided.

No employee of the city who enforces, attempts to enforce, or is authorized to enforce the fire code renders him or herself or the city liable to third parties for any damage or injury to the person or property of such third parties as a result of the enforcement or non-enforcement of the fire code. The city assumes no duty of care by virtue of the adoption of the fire code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all requirements of the fire code. It is the duty of the person owning, controlling, or constructing any building or structure to insure that the work is done in accordance with the requirements of the fire code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(4) 104.4 Identification, is repealed and reenacted to read:

104.4 Identification.

For the purposes of this section, the term “fire code official” includes all firefighters appointed pursuant to Section 2-5-4, “Identification Card for Firefighters,” B.R.C. 1981.

(5) Section 105.6 is repealed and reenacted to read:

105.6 Required operational permits. The fire code official may issue an operational permit for the following operations:

(a) 105.6.14, Explosives

(b) 105.6.30, Open Burning

(c) 105.6.32, Open Flames and Candles

(d) 105.6.36 Pyrotechnic special effects material

(e) 105.6.43~~4~~ is amended by the addition of the following:

105.6.43 Temporary Membrane Structures, tents and canopies. An operational permit may be issued with the construction permit that will be issued by the building official.

(6) Section 105.7 is repealed and reenacted to read:

105.7 Required construction permits. All construction permits will be issued by the building official. The Division of Fire Safety will be the approving authority for following:

(a) 105.7.1 Automatic fire-extinguishing systems

(b) 105.7.6~~4~~ Fire alarm and detection systems and related equipment

(c) 105.7.7~~5~~ Fire pumps and related equipment

(d) 105.7.15~~2~~ Standpipe systems

(7) Section~~s~~ 108, "Board of Appeals," is repealed and reenacted to read:

108 ~~Board of~~ Appeals

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing officer under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

~~(a)~~(b) Appeal of refusal to approve work or building permit. A person refused a building permit or refused approval of work done under a permit on the grounds that the proposed or completed construction fails to comply with this code or any other city building code may appeal the decision ~~to the board of zoning adjustment and building appeals~~ on the grounds that:

1. The denial was based on an erroneous interpretation of such code by the city manager; or

2. The city manager has erroneously failed to approve an alternate material or method pursuant to Section 104.9 of the fire code prior to its installation or use. In determining such an appeal the board or hearing officer shall apply the standards of Section 104.9 of the fire code.

The city manager has the burden of proof under paragraph 1 above. The appellant has the burden of proof on appeals brought pursuant to paragraph 2. The board or hearing officer shall determine the appeal and decide whether the city manager's interpretation or application of such code was correct or in error at a hearing under the procedures described by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

~~(b)~~(c) Appeal of suspension or revocation of building permit or certificates. Any person whose building permit or certificate of occupancy or certificate of completion has been suspended or revoked may appeal such action by the city manager ~~to the board of appeals~~ on the ground that the suspension or revocation was based on an error in fact or an erroneous application of this code to the facts. The city manager has the burden of proving the facts upon which the manager relies at such a hearing.

(d) An application for appeal must be filed in writing with the city manager within fourteen days after the date of refusal of the building permit or approval of work

performed under the permit or revocation or suspension of the building permit or certificate of occupancy or certificate of completion stating the basis for appeal.

(e) Appeals Concerning Existing Conditions

i. Any aggrieved person who has been issued an order or other notice of violation under this fire code, other than a summons and complaint, under Section 102.1 and 102.2 concerning legally existing conditions in a structure based upon the city manager's determination that such conditions constitute a distinct hazard to life or property, and who believes the alleged violation to be factually or legally contrary to the requirements of this fire code or rules and regulations issued pursuant to this fire code may appeal the order or notice. An appellant shall file the appeal with the board within thirty days from the date of service of the notice of alleged violation. The appellant may request enlargement of time to file if such request is made before the end of the time period. The city manager may extend for a reasonable period the time to file with the board if the applicant shows good cause therefor.

ii. Any person aggrieved by a decision of the city manager upon a reinspection that any or all of the violations alleged in the notice of violation have not been adequately corrected may appeal such determination by filing a notice of appeal within fourteen days of the date of the reinspection.

iii. The appeal will be conducted under the procedures of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The burden of proof is on the city manager to establish an alleged violation.

iv. If the board of appeals or hearing officer affirms the determination by the city manager, it shall grant the person a reasonable period of time to correct the violation appealed. Any subsequent determination by the manager as to whether the violations alleged in the notice of violation have been adequately corrected is final.

v. If no person appeals a notice of violation under this section, the provisions of the notice becomes final when the time for filing an appeal with the board has expired. An order appealed to court is final unless a stay is in effect.

vi. If a person to whom the city manager has issued a notice of violation does not appeal under this section, such person may not raise as a defense to any subsequent prosecution in municipal court for a violation of an order that the conditions alleged to be violations in the notice of violation were not in fact or law violations.

~~(c)~~(f) An applicant for an appeal ~~to the board of appeals~~ shall pay the fee prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

~~(d)~~(g) The city manager may apply to the ~~board of appeals~~Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of

specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 104.8 or 104.9 of the fire code.

~~(e)~~(h) The ~~b~~Board of Building ~~a~~Appeals or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

~~(8) Appeals Concerning Existing Conditions~~

~~(i) Any aggrieved person who has been issued an order or other notice of violation under this fire code, other than a summons and complaint, under Section 102.1 and 102.2 concerning legally existing conditions in a structure based upon the city manager's determination that such conditions constitute a distinct hazard to life or property, and who believes the alleged violation to be factually or legally contrary to the requirements of this fire code or rules and regulations issued pursuant to this fire code may appeal the order or notice to the board of building appeals in a manner provided by the board under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. An appellant shall file the appeal with the board within thirty days from the date of service of the notice of alleged violation. The appellant may request enlargement of time to file if such request is made before the end of the time period. The city manager may extend for a reasonable period the time to file with the board if the applicant shows good cause therefor.~~

~~(ii) Any person aggrieved by a decision of the city manager upon a reinspection that any or all of the violations alleged in the notice of violation have not been adequately corrected may appeal such determination by filing a notice of appeal with the board of appeals within ten days of the date of the reinspection.~~

~~(iii) The appeal will be conducted under the procedures of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The burden of proof is on the city manager to establish an alleged violation.~~

~~(iv) If the board of appeals affirms the determination by the city manager, it shall grant the person a reasonable period of time to correct the violation appealed. Any subsequent determination by the manager as to whether the violations alleged in the notice of violation have been adequately corrected is final.~~

~~(v) The fee for filing an appeal is that prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.~~

~~(f)~~(i) An aggrieved person seeking judicial review of a decision of the ~~b~~Board of Building ~~a~~Appeals or hearing officer made under this section shall file a complaint for such review within thirty days after the date of the decision under Colorado Rule of Civil Procedure 106(a)(4).

~~(g) If no person appeals a notice of violation to the board of appeals, the provisions of the notice becomes final when the time for filing an appeal with the board has expired. An order appealed to court is final unless a stay is in effect.~~

~~(h) If a person to whom the city manager has issued a notice of violation does not appeal to the board, such person may not raise as a defense to any subsequent prosecution in municipal court for a violation of an order that the conditions alleged to be violations in the notice of violation were not in fact or law violations.~~

~~(i)~~(j) If the city manager determines that the subject of an order or notice issued under this fire code constitutes an immediate hazard to the public health, safety, or welfare, the manager may order immediate compliance. Persons subject to such orders shall comply forthwith, but shall be entitled to a prompt post-compliance appeal hearing before the board of building appeals or a hearing officer under the procedures specified in this section.

(8) Section 109.1, "Unlawful acts," is repealed and reenacted to read:

109.1 Violations.

(a) General Provisions:

(1) No person shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof. No person shall fail to comply with any order issued by the city manager under this code. No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, maintain, or utilize any building, structure, occupancy, premises, or system in the ~~C~~city or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, or use continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land, and the agents of each of them, are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code or of any directive of the fire code official may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the fire code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as

provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) The fire code official may charge the cost of any action taken to correct or abate a violation, as authorized by this code, plus up to fifteen percent of such cost for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the fire code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies:

(1) If the fire code official finds that a violation of any provision of this code or any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000.

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the fire code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the fire code official to exist with respect to such structure or land.

(3) If notice is given to the fire code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the fire code official will reinspect the structure or land. If the fire code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the fire code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the fire code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the fire code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the city manager is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the fire code official.

(9) Section 109.3.3, “Prosecution of violations,” is repealed.

(10) Section 109.4, “Violation penalties,” is repealed and reenacted to read:

109.4 Abatement of violation.

In addition to the imposition of the penalties described in Section 109.1 Violations, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

~~(9)~~(11) Chapter 2, “Definitions,” is amended by the addition of the following additional definitions:

“Accessible Private Drive” means a twenty foot unobstructed clear width with a twelve foot hard-all weather drivable surface which can support forty tons on ten wheels and has a SU-30 turning radius for the fire department’s fire apparatus.

“Attached Dwelling Unit” means a structure which contains more than one dwelling unit regardless of any fire separation features.

“Fire code official” means the city manager or the manager's delegate.

“Detached Dwelling Unit” means a structure which contains only one dwelling unit together with any building accessory to the dwelling unit, and is structurally independent

of other structures or occupancies, and has a fire separation distance of not less than six feet from other structures.

"Emergency Vehicle Access Street" means a street meeting the requirements of this code and the City of Boulder Design and Construction Standard.

"Fire Access Distance" means the distance between two hydrants, or the distance from a hydrant to any external portion of any building or buildings or the distance from the center line of a non-dead-end emergency vehicle access street to the point on the curb on such street from which access to such building is gained, measured along public or private (but accessible to fire equipment) roadways or fire lanes, as would be traveled by motorized firefighting equipment.

"Fire Department" or "Municipal Fire Department" means the Fire Department of the City of Boulder, Colorado.

"House Behind a House" exists if the dwelling unit is on a lot which does not front on an emergency vehicle access street meeting the requirements of Sections 503.1 and 503.2, or the dwelling unit is not served by a fire lane meeting the requirements of Section 502.1 from an emergency vehicle access street to an entrance to the dwelling unit, and access from the emergency vehicle access street to the unit is obstructed by any structure.

"Portable Appliance" Means any appliance that is designed to be moved or relocated on a daily basis without any special knowledge. This includes, but not limited to, box or oscillating fans, power tools, vacuums cleaners and floor polishers.

"Tank Truck" means any single rear axle, self-propelled motor vehicle, equipped with a cargo tank mounted thereon, and used for the transportation of flammable and combustible liquids, but this term excludes any combination of units, such as a semi-trailer. Said tank truck shall not exceed 35,000 GVW, and its total capacity shall not exceed 3,000 gallons.

"Transport route" means:

(1) Denver-Boulder Turnpike (U.S. 36) from the south city limits to Baseline Road.

(2) Foothills Parkway (Colorado 157) from U.S. 36 to the north city limits.

(3) 28th Street from Baseline Road to the north city limits.

(4) Arapahoe Avenue from Folsom~~28th~~ Street to the east city limits.

(5) Canyon Boulevard from 28th Street to the west city limits.

(6) Pearl Street/Pearl Parkway from Folsom~~28th~~ Street to the east city limits.

(7) Longmont Diagonal Highway (Colorado 119) as it passes through the city limits.

(8) Valmont Road from Folsom Street~~the Foothills Parkway (Colorado 157)~~ to 55th Street.

(9) Airport Road and Airport Boulevard~~Road~~.

(10)~~(9)~~ Baseline Road from ~~the east side of 28th Street (U.S. 36)~~27th Way to Foothills Parkway (Colorado 157).

(11) 55th Street from Valmont Road to Arapahoe Avenue.

(12) 30th Street from Arapahoe to Diagonal Highway (Colorado 119).

(13) Longmont Diagonal Highway (Colorado 119) from 28th Street to and connecting with Foothills Parkway (Colorado 157).

(14) South Foothills Highway/Broadway (Colorado 93) from the south city limits to 27th Way and connecting to Baseline Road.

"Unobstructed By Any Structure Above Grade" means that no structure blocks the view so that there is not at least one entire face of the building substantially visible in a direct line over the lot upon which the building sits from the nearest emergency vehicle access street, and no structure would significantly interfere with a stream of water being sprayed on the building by a nozzle mounted on a fire truck parked on the nearest emergency vehicle access street. For the purposes of this definition, a legal fence shall not be considered an obstruction if it has a gate which opens at least three feet wide, which is not locked, and through which firefighters on foot have ready access to the building within the distance limitations.

~~(10)~~(12) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces," is repealed and reenacted to read:

307 Open Burning and Recreational Fires.

(1) No person shall kindle or maintain outside of a habitable building or outside of an exterior fireplace built in accordance with the City of Boulder Building Code any bonfire or burn or permit to be burned any trash, paper, rubbish, wastepaper, wood, weeds, brush, plants, or other combustible or flammable material anywhere within the city limits or anywhere on city property outside of the city limits, except when:

(a) The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity;

(b) The burning is a smokeless flare or a safety flare used to indicate some danger to the public;

(c) The burning is a training fire conducted by the fire department, or is a training fire conducted by another fire department, or privately for industrial or commercial fire training purposes; or

(d) The burning is solely for the purpose of fuels mitigation to alleviate wildland fire potential, or weed abatement to assist restoration of native plants~~, and~~.

(2) Mobile or portable type outdoor fire places are prohibited within the city limits or anywhere on city property outside of the city limits.

~~(11) Section 308 is repealed and reenacted to read:~~

~~308 Open Flames. Open flames are prohibited within the city limits.~~

~~Exception: Where a permit is obtained through the Boulder Fire Department, Division of Fire Safety.~~

~~(12)~~(13) Exceptions 1 and 2 to Section 311.2.2., "Fire protection," are repealed.

~~(13)~~(14) A new Section ~~401.3.1.1~~ 401.9, "Fire Alarm Fees," is added to read:

(a) After the fire department has responded to two alarms of fire from any property or address in any calendar year, the city manager may impose a charge for each additional response to an alarm which originates from the property during the same calendar year, in accordance with the schedule prescribed by Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.

(b) The city manager may waive a charge imposed for a fire alarm response if the property owner of record demonstrates that such alarm was caused by a fire or the threat of a fire, or that such alarm was not under the property owners control. It shall not be a defense that the alarm system is malfunctioning, unless the owner or manager is able to demonstrate that said alarm system is currently being serviced to remedy the problems being encountered.

(c) If any fee is not paid within thirty days after demand therefor has been mailed to the record owner of the building, the city manager may certify the amount due to the County Treasurer pursuant to Section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

~~(14)~~(15)Section 503.2.1, "Dimensions," is repealed and reenacted to read:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6,096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 15 feet (4,572 mm).

~~(15)~~(16) Section 507~~8~~.5.1, "Where required," is repealed and reenacted to read:

507~~8~~.5.1 Where required. Location and spacing of fire hydrants will be in accordance with the City of Boulder Design and Construction Standards.

~~(16)~~(17) Section 603.4, "Portable unvented heaters," is repealed and reenacted to read:

603.4 Portable unvented heaters. Portable unvented fueled-fired heating equipment are prohibited.

(18) Subsection 605.11.3.2.1, "Residential buildings with hip roof layouts", is repealed and reenacted to read:

605.11.3.2.1 Residential buildings with hip roof layouts. Panels/modules installed on residential buildings with hip roof layouts shall be located in a manner that provides a 3-foot-wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels/modules are located.

Exceptions:

1. These requirements shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal (2:12) or less.

2. These requirements shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, a clear access pathway of not less than 12-inch-width is provided along each side of all horizontal ridges, and a clear access pathway of not less than 30-inch-width is provided from the eave to the ridge of one roof slope where panels/modules are located.

3. These requirements shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, a clear access pathway of not less than 12-inch-width is provided along each side of all horizontal ridges, and, where panels/modules are to be placed on both sides of a hip, a clear access pathway of not less than 18-inch-width is provided along each side of such hip.

4. These requirements shall not apply to roofs -where the total combined area of solar array does not exceed 33 percent as measured in plan view of the total roof area of the structure,

(19) Subsection 605.11.3.2.2, "Residential buildings with a single ridge," is repealed and reenacted to read:

605.11.3.2.2 Residential buildings with a single ridge. Panels/modules installed on residential buildings with a single ridge shall be located in a manner that provides two, 3-foot-wide (914 mm) clear access pathways from the eave to the ridge on each roof slope where panels/modules are located.

Exceptions:

1. -This requirement shall not apply to roofs with slopes of 2 units vertical in 12 units horizontal (2:12) or less.

2. This requirement shall not apply to roofs where each panel/module array area on the roof is 1,000 square feet (92.90 m²) or less in size, no continuous section of panels/modules is larger than 150 feet in length or width, and a clear access pathway of not less than 12-inch-width is provided along each side of the horizontal ridge provided that:

a. The total combined area of solar array does not exceed 33 percent as measured in plan view of the total roof area of the structure; or

b. A 30-inch-wide clear access path is provided from the eave to the ridge of a roof slope where panels/modules are located.

(20) Subsection 605.11.3.2.3, "Residential buildings with roof hips and valleys," is repealed and reenacted to read:

605.11.3.2.3 Residential buildings with roof hips and valleys. Panels/modules installed on residential buildings with roof hips and valleys shall be located no closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley. In addition, a 12-inch-wide clear access pathway shall be provided along each side of any horizontal ridge.

Exceptions:

1. This requirement shall not apply to roofs with slopes of ~~two~~2 units vertical in 12 units horizontal (2:12) or less.

2. These requirements shall not apply to roofs where a 30-inch-wide clear access pathway is provided from the eave to the ridge as well as 12-inch-wide clear access pathways along each side of any horizontal ridge.

(21) Subsection 605.11.3.2.4, "Residential building smoke ventilation," is repealed and reenacted to read:

605.11.3.2. 4 Pathways. All access pathways required under this Section 605.11.3.2 shall be provided in a structurally strong location on the building capable of supporting the live load of fire fighters accessing the roof.

~~(17)~~(22)Section 901.6, "Inspection, testing and maintenance," is amended by the addition of the following:

> If any building, structure, or portion of the same is protected by a fire detection, alarm and extinguishing system or the owner has agreed with the city manager so to protect the building or structure or portion thereof, then no person shall shut off or disable such system except as authorized under Section 11-1-45, Water to Be Shut Off for Failure to Pay, B.R.C. 1981, and no owner, manager, or tenant of such space shall fail to prevent the shutting off or disabling of such system. It is a specific defense to a charge of violation of this section that the system was shut off in order to perform maintenance work on the system, that it was shut off for the minimum period of time necessary to perform such work, and that maintenance personnel were on the premises performing such work during the entire time the system was shut off. The minimum penalty for violation of this section, no portion of which may be suspended, is a fine of $1,000~~.00~~.

~~(18)~~(23) Section 903 is amended by the addition of the following:

> Any new building or change of occupancy of an existing building that does not have approved fire department access as required by the fire code may be required by the fire code official to have an automatic fire sprinkler system installed regardless of the building size.

~~(19)~~(24) Section 903.1, is repealed and reenacted to read:

> Section 903.1 General. An automatic sprinkler system shall be installed in the occupancies and locations as set forth in this section. ~~Changes in use, as defined in Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981, shall comply with the provisions listed below.~~

(25) The first sentence of Section 903.2 is repealed and reenacted to read:

> Approved automatic sprinkler systems in new buildings and structures shall be provide in the locations described in Section 903.2.1 through 903.2.15.

~~(20)~~(26) Section 903.2.1 is amended by the addition of the following:

> 903.2.1 Group A. All basements classified as, or a part of, a Group A occupancy shall be provided with an automatic sprinkler system regardless of the gross square footage.
>
> (a) Section 903.2.1.1 Group A-1, # 1 is repealed and reenacted to read.
>
> 1. The fire area exceeds 2,000 square feet (185.8m$^2$)
>
> (b) Section 903.2.1.2 Group A-2, # 1 is repealed and reenacted to read.
>
> 1. The fire area exceeds 2,000 square feet (185.8m$^2$)
>
> (c) Section 903.2.1.3 Group A-3, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m$^2$)

(d) Section 903.2.1.4 Group A-4, # 1 is repealed and reenacted to read.

1. The fire area exceeds 2,000 square feet (185.8m$^2$)

~~(21)~~(27) A new subsection is added to Section 903.2.1 is added to read:

903.2.1.6~~,~~ Group B occupancies.~~, is enacted to read:~~ ~~a~~An automatic sprinkler system shall be provided throughout all new Group B occupancies greater than 2,000 gross square feet (185.8m$^2$).

~~(22)~~(28) Section 903.2.3~~2~~, Group E. #1is repealed and reenacted to read:

(a) Throughout all Group E fire areas greater than 2000 (185.8m$^2$) in area.

(b) Exception is repealed.

(c) All basements classified as, or a part of, a Group E occupancy shall be provided with an automatic sprinkler system regardless of the gross square footage

~~(23)~~(29) Section 903.2.4~~3~~, Group F-1 is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all new Group F occupancies greater than 2000 square feet (185.8m$^2$).

(30) Exceptions 3 and 4 to Section 903.2.6, Group I, are repealed.

~~(24)~~(31) Section 903.2.7~~6~~, Group M is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group M occupancies greater than 2000 square feet (185.8m$^2$).

~~(25)~~(32) Section 903.2.8~~7~~ is amended by the addition of the following:

(a) Exception 1: Detached and two unit attached dwelling units are not required to have an automatic fire sprinkler system if they are not used as residential board and care occupancies, and the distance, unobstructed by any structure above grade, landscaping or topographical obstructions, from the curb face of the emergency vehicle access street on which the structure is addressed, to a face of the unit containing an entrance, is not greater than one hundred feet.

(b) Exception 2. A detached dwelling unit is not required to have an automatic fire sprinkler system if it is not used as a residential board and care occupancy, and is located on a lot larger than 14,500 square feet, in which the driveway meets the requirements of a fire department accessible private drive, and extends without interruption from the nearest emergency vehicle access street on which the structure is addressed, to the side of the building which contains the main entrance.

(c) If more than one principal building is constructed on a lot pursuant to the exceptions listed in Section 9-3.2-16, "Two Detached Dwelling Units on a Single Lot," B.R.C. 1981, then each building other than the building closest to an emergency vehicle access street on which the structure is addressed, shall be protected by an approved and supervised automatic sprinkler system in accordance with Section 903.3.

Exception: If a lot has frontage on two streets and each street is an emergency vehicle access street, then two buildings, each closest to their respective streets, shall not be required to be so protected by this subsection.

(d) Houses behind houses shall be protected throughout by an approved automatic sprinkler system in accordance with Section 903.3.

~~(26)~~(33) Section 903.2.9~~8~~ Group S-1, is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group S-1 occupancies greater than 2000 square feet (185.8m$^2$) , including, but not limited to, repair garages.

~~(27)~~(34) Section 903.2.10~~9~~ Group S-2, is repealed and reenacted to read:

An automatic sprinkler system shall be provided throughout all ~~new~~ Group S-2 occupancies greater than 2000 square feet (185.8m$^2$).

~~(28)~~(35) A new ~~section~~Section, 903.2.13 "Group U occupancies," is added to read:

Section 903.2.1~~2.~~3 Group U ~~O~~occupancies. An automatic sprinkler system shall be provided throughout all new Group U occupancies greater than 2,000 gross square feet (185.8m$^2$).

~~(29)~~(36)A new Section 903.2.1~~2.~~4 is added to read:

Section 903.2.14 Any occupancy, structure or unit required to be protected by a sprinkler system by one provision of the fire code or the building code, and falling within an exception to a requirement of such protection to any other provision of the fire code or building code, shall be so protected.

~~(30)~~(37) A new Section 903.2.1~~2.~~5 is added to read:

Section 903.2.15 If the floor area of an addition to any existing occupancy as described in 903.1 through 903.2.1~~2.~~3 above is greater than either fifty percent of the existing gross floor area or 2,000 square feet, and the total altered structure would be required to be protected by a sprinkler system by this section if it were new construction, then the entire addition shall be protected throughout by an approved and supervised automatic sprinkler system, installed in accordance with Section 903.3.1. Said sprinkler system shall be continuous throughout the addition up to a fire barrier built in accordance with the building code for that occupancy.

~~(31)~~(38) Section 903.3.1.1.1 Exception 4 is repealed

~~(32) Section 903.3.5.1 is repealed~~

~~(33)~~(39) -Section 903.3.5.1.2 is repealed and reenacted to read:

903.3.5.1.2 Residential combination services. Combination of domestic and fire service lines shall be in accordance with the City of Boulder Design and Construction Standard.

~~(34)~~(40) Section 903.4.1, "Monitoring," is repealed and reenacted to read:

903.4.1 ~~Signal~~Monitoring. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an Underwriters Laboratory listed ~~central~~supervising station.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or-public utility need not be supervised.

2. Systems installed in accordance with NFPA 13D.

~~(35)~~(41) Section 903.4.2, "Alarms," is repealed and reenacted to read:

903.4.2 Alarms. Approved audible and visual devices shall be connected to every new automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided in the interior of the building in accordance with NFPA 72 and on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler shall actuate the building fire alarm system.

~~(36)~~(42) A new Section 903.7, "Response time sprinkler requirement," is adopted to read:

903.7 Response time sprinkler requirement.

(a) It is the city's goal, as reflected in the Boulder Valley Comprehensive Plan's urban-fire service criteria, that land not be annexed unless the response time for service is normally six minutes or less. Nonetheless, there may be occasions when annexation outside the existing six minute limit but within eight minutes or less is, due to special circumstances, in the city's best interest. Before such land is annexed, consideration must be given to the need for and provision of additional fire stations and equipment to serve properly the area being annexed and to bring it within the six minute limit eventually. Protection by a sprinkler system as required by subsection (c) below is a temporary substitute, and is not intended to eliminate the requirement for additional fire stations and equipment.

(b) Land used or to be used for residential purposes will not normally be annexed if it is outside the six minute limit unless excepted from this policy by subsection (d) below. All new dwelling unit on land annexed outside the six minute limit shall be protected by an automatic fire sprinkler system.

(c) On land annexed after the effective date of this chapter and not excepted under subsection (d) below, all new non-residential construction and any existing non-residential structures shall be provided throughout with an approved and supervised fire sprinkler system installed in accordance with Section 903.3.1 adopted in Chapter 10-8, "Fire ~~Prevention~~ Code," B.R.C. 1981, if such land is outside of the six minute City of Boulder fire response time from city fire stations housing at least one pumper which is rated at one thousand gallons per minute pumping capacity or greater, and which requires a crew of three or more for proper operation.

(d) The requirements of this Section may be waived by the city council by a provision doing so in an annexation agreement incorporated into an annexation ordinance if, in the opinion of the city council it is in the city's best interest to do so because:

(1) Of changed or special conditions;

(2) The land to be annexed is located on Arapahoe Avenue west of the city; or

(3) The land to be annexed is below the blue line, west of Broadway, south of Norwood Avenue, and north of Table Mesa Drive.

Exceptions (2) and (3) above reflect the fact that it is not anticipated that new fire stations will be constructed to bring these areas within the six minute limit. In other areas it is anticipated that new fire stations will eventually be constructed or upgraded to bring the service area within this limit.

~~(37)~~(43) A new Section 903.8, "Fire suppression systems," is added to read:

903.8 Fire Suppression Systems

All existing structures in the following categories shall be protected throughout by an approved and supervised automatic sprinkler system installed in accordance with the provisions of Section 903.3.1 Except that any structure or portion thereof required by this section to be so protected prior to the effective date of this ordinance shall be immediately so protected:

(a) R-1 and R-2 occupancies greater than fifty five feet high.

(b) Hotels and motels. Exceptions: One- and two-story structures, and three story structures with an exterior exit balcony for all rooms above grade.

(c) Congregate residences classified as Group R-4.

(d) Group I-1 and I-2 occupancies as defined in the fire code.

(e) Basements greater than 2,000 gross square feet.

Exception 1. Basements below R occupancies.

Exception 2. Basements used exclusively for "services to the building," such as electric meters, compressors, and so forth. But "services to the building" shall not include any storage (either combustible or non-combustible), nor routine human occupancy.

Exception 3. Basements where there is provided at least 20 square feet of opening entirely above the adjoining ground level in each fifty lineal feet or fraction thereof of exterior wall in the basement on at least one side of the building. Openings shall have a minimum dimension of not less than 30 inches, and shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that firefighting or rescue cannot be accomplished from the exterior.

When openings are provided on only one side and the opposite wall of said basement is more than seventy-five feet from such openings, said basement shall be provided with an approved automatic sprinkler system, or openings as specified above shall be provided on at least two sides of an exterior wall of the basement.

(f) All Group A occupancies used primarily for dining, drinking or motion picture viewing, shall be protected throughout by an approved and supervised automatic sprinkler system installed in accordance with the provisions of Section 903.3.1 when said Group A occupancy is greater than 2,000 gross square feet in size.

For Group A occupancies described in this part (f) not currently provided with complete automatic sprinkler protection, this paragraph shall take effect during a remodel or renovation which 1) requires one or more building permits with a combined valuation (labor and materials) of $30~~.00~~ per square foot or more within any calendar year, and 2) necessitates business closure for a combined period of five calendar days or more, in the aforementioned calendar year.

~~(38)~~(44) Section 907.6.5~~15~~, is repealed and reenacted to read:

Section 907.6.5~~15~~ Monitoring. Fire alarm systems shall be supervised by an Underwriters Laboratory listed ~~central~~supervising station.

(45) Section 1103.5, "Sprinkler systems," is repealed and reenacted to read:

1103.5. Sprinkler systems. The automatic sprinkler system requirements set forth in Sections 903.1 and 903.2 of this code shall be complied with in existing buildings where the occupancy or use, as defined in Chapter 3 of the Building Code of the City of Boulder, changes in a fire area exceeding 2,000 square feet.

~~(39)~~(46) Section ~~33~~5601.2.4.2, "Fireworks," is amended by the addition of the following:

The city manager shall require a certificate of insurance to protect persons and property from death or injury as a result of the fireworks display, in an amount not less than $150,000~~.00~~ per person injured and $600,000~~.00~~ per incident. The insurance shall cover any liability of the city or any employee or agent thereof arising out of or connected with the permit and the fireworks display permitted thereunder. Before any permit for a fireworks display is issued, the applicant shall comply with the provisions of this Section.

~~(40)~~(47) Section ~~34~~5701.4, "Permits," is amended by the addition of the following:

(1) A regular permit allows a permittee on a transport route to take delivery of flammable and combustible liquids from any delivery vehicle or from a tank truck where the premises are ~~not~~ located on a transport route. Upon payment of the fee provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981, the city manager shall issue to an applicant therefor a permit to receive deliveries of flammable and combustible liquids at a particular location or outlet if the manager finds that:

(a) The outlet or location contains sufficient room to accommodate the delivery vehicle, so that the delivery vehicle is capable of being parked entirely within the property boundary lines of the outlet or location and in such a manner that no part of the vehicle extends into any street, sidewalk, or alley while the vehicle is off-loading and no backing of the vehicle either into or out of station property is necessary;

(b) The entrance and exit access-ways for the delivery vehicle are so arranged that no obstruction of traffic will result from the vehicle entering or leaving the outlet or location; and

(c) The storage tanks for flammable and combustible liquids are located underground and constructed in accordance with the applicable provisions of this code, unless specifically allowed to be installed above ground by other sections of this code.

(2) A special permit allows a permittee to take delivery of flammable and combustible liquids on premises outside of transport routes from specified delivery vehicles other than a tank truck. The owner or person in control of any outlet or location holding a regular permit may, upon payment of the fee provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981, apply to the city manager for a special permit allowing delivery with a vehicle other than a tank truck as defined in Section 221. The city manager shall schedule with the applicant a simulated demonstration with an empty vehicle of the size and design that the applicant will use under the permit. The applicant shall furnish the vehicle and driver at its cost. The simulated test shall be observed by the city manager who shall issue the special permit if the manager finds that:

(a) The outlet or location contains sufficient room to accommodate the delivery vehicle, so that the delivery vehicle is capable of being parked entirely within the property boundary lines of the outlet or location in such a manner that no part of the vehicle shall extend into any street, sidewalk or alley while the vehicle is off-loading, and no backing of the vehicle either into or out of the station property is necessary;

(b) The entrance and exit access-ways for the delivery vehicles are so arranged that no obstruction of traffic will result from the vehicle entering or leaving the outlet or location;

(c) The roads and streets are accessible to fire-fighting equipment and vehicles;

(d) The topography or configuration of the roads and streets does not involve potential difficulties in containing, fighting, or suppressing a fire or spill and does not impair the ability of a transport vehicle to maneuver safely; and

(e) The traffic congestion and flow of vehicles using the roads and streets will not create potential hazards to transport vehicles. Upon issuance, the permit will designate a specific route to be followed from the nearest transport route to the permit location and to return to the transport route. The permit will specify a vehicle capacity. Special permits are valid only between 3:00 a.m. and 6:00 a.m. But, for the delivery of gasoline or diesel fuel only, if the permit location is in an industrial zone, and is connected to a transport route by a former transport route established by ordinance 4636 (1982), and the applicant demonstrates that there were no incidents involving the discharge of gasoline or diesel fuel from delivery vehicles using the relevant portion of such former route, then the city manager may issue the special permit for such other hours as the applicant is able to demonstrate present no more hazard than delivery during the hours of 3:00 a.m. through 6:00 a.m.

(3) Revocation or Suspension of Permits.

(a) Each of the following is a ground for revocation of a special permit:

1. Failure of a transport vehicle to park entirely on the site while unloading;

2. Obstructing of sidewalks while unloading;

3. Backing the vehicle onto or off of the site;

4. Obstruction of traffic while entering or leaving;

5. Failure of a transport driver to follow the prescribed route to or from the permit location; or

6. Failure to maintain a copy of the special permit on the premises.

7. Failure of a transport driver to be present while off loading.

(b) Each of the following is a ground for suspension of a regular permit for up to fourteen days:

1. Failure of a transport vehicle to park entirely on the site while unloading;

2. Obstructing of sidewalks while unloading;

3. Backing the vehicle onto or off of the site;

4. Obstruction of traffic while entering or leaving; or

5. Failure of a transport driver to follow the prescribed route to or from the permit location.

6. Failure of a transport driver to be present while off loading.

(c) When matters are brought to the attention of the city manager, which if substantiated would be grounds for revocation of a special permit or suspension of a regular permit, the manager shall issue a written notice thereof to the permittee containing a concise written statement of the violation constituting grounds for revocation or suspension and indicating that the revocation or suspension shall take effect fourteen days after the issuance of said notice unless the permittee appeals in accordance with the terms of Section 108~~3.1.4~~.

(d) All special permit revocations shall be for a period of six months, after which time the permittee may reapply for a special permit. During the period of revocation, the outlet may continue to operate with and according to the terms of a regular permit.

(4) If, due to changed conditions, including without limitation changes in the transport routes, the manager has probable cause to believe that an existing regular or special permit no longer meets the criteria for issuance, the manager may require a new simulated demonstration. For purposes of notice and appeal, such proceedings shall be deemed a new application, but no additional fee shall be charged.

~~(41)~~(48) A new Section ~~34~~5701.6, "Prohibited acts," is adopted to read:

(a) No owner and no person in control of any outlet or location shall accept deliveries of flammable or combustible liquids, unless such person has applied for and has been issued a permit therefor by the city manager.

(b) No owner and no person in control of any outlet or location for which a permit to accept deliveries of flammable or combustible liquids has been issued shall accept deliveries of such liquids unless delivery is in compliance with all the provisions of this code and any conditions on the permit.

(c) No person shall spill more than thirty-two fluid ounces of flammable or combustible liquid upon the ground.

(d) No person shall fail to notify the fire department of any spill of flammable or combustible liquid of more than thirty-two fluid ounces at the earliest practicable moment after said spill has occurred.

(e) Except to replace existing tanks, no person shall install any tanks used for the storage of any type of flammable or combustible liquid, or other hazardous material or waste in the floodplain as defined in Section 9-9-2, "Definitions," B.R.C. 1981. This prohibition is not retroactive, but no person shall use or maintain any tank installed in violation of this prohibition.

(f) No person shall weld or cut by torch on the premises of a service station or allow or cause crankcase drainings to be spilled or poured onto the ground. No person shall dispose of hazardous materials by dumping or pouring on the ground or into a storm drain or sanitary sewer or any connection thereto.

~~(42)~~(49) Section ~~34~~5704.2, "Tank ~~S~~storage," is amended by the addition of the following.

(a) Except for fuel carried on tank trucks, above-ground storage of all Class I, II, and III flammable and combustible liquids in aggregate amounts of more than 500 gallons of such liquids on a single lot is allowed only in those areas of the city zoned "industrial." All installations shall comply in all respects with Chapter 57~~34~~. Any tank intended for the bulk storage of any Class I, II or III flammable or combustible liquid may be stored above ground only in those areas of the City zoned industrial.

(b) ~~All service stations, as defined in Chapter 22, regardless of zoning, shall install all bulk fuel storage tanks, oil storage tanks, and waste oil storage tanks underground and meet all requirements of Chapter 22 and Chapter 34. All bulk fuel storage tanks, oil storage tanks, and waste oil storage tanks in a residential zone shall be installed underground and meet all requirements of Chapter 34.~~ Liquefied natural gas (LNG) or liquefied petroleum gas (LP-Gas) may be stored above ground in areas of the city zoned "industrial" and dispensed at such sites by a service station, if the city manager finds that such installation meets all the requirements of applicable fire codes before any dispensing of such fuel and proper and necessary on-site fire control devices are provided. ~~The fee for review and inspection of such a specialized installation shall be as provided in Section 4-20-52, "Fire Code Permit and Inspection Fees," B.R.C. 1981.~~

(c) All underground tanks used for dispensing or bulk storage of any flammable or combustible liquid shall comply with the requirements of Chapter 57~~34~~, "Flammable and Combustible Liquids," any other pertinent city codes, including without limitation those concerning fire and flood, the Colorado State Oil Division, and the manufacturer's specifications for installation. Plans for installation shall be approved by the Colorado State Oil Division and the city flood control office, before the city may issue permits for construction, installation, and use of the tanks. No person shall install a used tank.

(d) No person shall install a tank or tanks for the dispensing or bulk storage of any flammable or combustible liquid, including temporary installations on construction sites,

until such person has first submitted plans for the installation to the city manager and has received approval of such plans and of the installation.

~~(43)~~(50) A new Section ~~34~~5706.2.8.2, "Safety devices required for outlets or locations accepting deliveries of flammable or combustible liquids, is adopted to read:

No owner and no person in control of any outlet or location shall accept deliveries of flammable and combustible liquids, and no person shall make deliveries of such liquids to any outlet or location, unless the following conditions are met during such delivery:

(a) The hose connection employed in making a delivery of flammable or combustible liquids contains the safety device known as a "glass elbow" to allow inspection of the contents of the delivery hose; and

(b) Any hose used in making deliveries of flammable or combustible liquids contains the apparatus commonly known as a tight-fill connection device to secure the off-loading device of the delivery vehicle to the intake structure of the storage tank.

(c) Exceptions to (1) and (2) above may be granted by the city manager for industrial installations if conditions warrant.

~~(44)~~(51) A new Section ~~34~~5706.2.8.3, Full compartment dumps required," is adopted to read:

Any person delivering flammable and combustible liquids in a vehicle that contains compartments larger than six hundred gallons shall empty each such compartment at a single stop, if any delivery of liquids is made at any outlet or location from any such compartment.

(52) In Chapter 80, "Referenced Standards," the NFPA standard reference numbers for 13, 13D, 13R, and 72 are repealed and reenacted to read:

13-13

13D-13

13R-13

72-13

~~**10-8-3 Violations.**~~

~~Any violation of the International Fire Code, any appendix thereto adopted by this chapter, or of any order issued by the city manager thereunder is punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981. Every twenty-four-hour period in which a violation exists constitutes a separate violation.~~

**Section 8.** **A new Chapter 10-8.5, B.R.C. 1981, is enacted to read:**

## Chapter 10-8.5 Wildland Code

**10-8.5-1 Legislative Intent.**

The purpose of this chapter is to protect public health and safety by regulating the use, condition, construction, alteration, repair and maintenance of buildings, structures and premises within the wildland-urban interface areas in the City in order to prevent the spread of fire and risk of harm to persons and property from the intrusion of fire from wildland fire exposures and fire exposures from adjacent structures as well as to prevent structure fires from spreading to wildland fuels. The city council hereby adopts the 2012 edition of the International Wildland-Urban Interface Code with certain amendments, additions, and deletions thereto found to be in the best interests of the city.

**10-8.5-2 Adoption of the International Wildland-Urban Interface Code with Modifications.**

(a) The 2012 edition of the International Wildland-Urban Interface Code of the International Code Council are adopted by reference as the City of Boulder Wildland Code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Appendix B, "Vegetation Management Plan" and Appendix C, "Fire Hazard Severity Form" and sections contained therein are adopted.

(c) Section 102.4.1, "Conflicts," is amended to read:

> 102.4.1 Conflicts. Where conflicts exist between provisions of this code and the referenced standards or the building, residential, or fire code, the most restrictive provisions shall govern.

(d) Section 103.1, "Creation of an enforcement agency," is repealed and reenacted to read:

> 103.1 Division of Building Safety. "Division of Building Safety" means the administrative unit established by the city manager or the manager's delegates, and the personnel assigned to the unit by the manger. The Division of Building Safety administers the City of Boulder Wildland Code assisted by a Division of Fire Safety, established within the fire department, under the direction of the city manager.

(e) Section 104.3, "Liability of the code official," is repealed and reenacted to read:

> 104.3. Liability. The Wildland Code shall not be construed to hold the City of Boulder or any of its employees or agents responsible for any damage to persons or property by reason of inspection or reinspection or failure to inspect or reinspect as herein provided or by reason of the approval or disapproval of any equipment as herein provided.

No employee of the city who enforces, attempts to enforce, or is authorized to enforce the Wildland Code renders him or herself or the city liable to third parties for any damage or injury to the person or property of such third parties as a result of the enforcement or non-enforcement of the fire code. The city assumes no duty of care by virtue of the adoption of the Wildland Code. No person is justified in relying upon the approval of a plan, the results of an inspection, or the issuance of a certificate of inspection or occupancy, and such approvals, inspections, and certificates are not a guarantee that the plan or work so approved, inspected, or certificated in fact complies with all requirements of the Wildland Code. It is the duty of the person owning, controlling, or constructing any building or structure to-einsure that the work is done in accordance with the requirements of the fire code, and it is such persons and not the city who are responsible for damages caused by negligent breach of such duty.

(f) Section 106, "Appeals," is repealed and reenacted to read:

SECTION 106 APPEALS

106.1 Appeals.

(a) Any appeal under this section shall be heard by the Board of Building Appeals established under section 2-3-4, "Board of Building Appeals," B.R.C. 1981, unless the city manager determines, due to the nature of the issues in a particular appeal, to appoint a hearing office under section 1-3-5, "Hearings and Determinations," B.R.C. 1981.

(b) Any person directly affected by a decision of the code official or an order issued under this code may appeal the decision or order on the ground that:

1. The decision or order was based on an error of fact or an erroneous interpretation of this code or the rules legally adopted thereunder; or

2. The code official erroneously failed to approve an alternative material or method pursuant to Section 105.3 prior to its installation or use. In determining such an appeal the board shall apply the standards of Section 105.3, but the board shall have no jurisdiction to consider if a material or method expressly prohibited by this code is an acceptable alternative; or

3. The code official has erroneously failed to grant a modification pursuant to Section 105.1. In determining such an appeal the board or hearing officer shall apply the standards of Section 105.1.

The code official has the burden of proof under paragraph 1. The appellant has the burden of proof on appeals brought pursuant to paragraphs 2~~.~~ and 3. The board or hearing officer shall determine the appeal and decide whether the code official's interpretation or application

of such code was correct or in error at a hearing under the procedures described in Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) An application for appeal must be filed in writing with the city manager within fourteen days after the date the decision or order was served.

(d) An applicant for an appeal shall pay the fee prescribed by Section 4-20-47, "Zoning Adjustment and Building Appeals Filing Fees," B.R.C. 1981. The fee for an appeal heard by a hearing officer shall be the same as the fee for an appeal heard by the Board of Building Appeals.

(e) The city manager may apply to the Board of Building Appeals, without fee, for an advisory opinion concerning alternative methods, applicability of specific requirements, approval of equipment and materials, and granting of special permission as contemplated in Sections 105.1, "Practical difficulties," or Section 105.3, "Alternative materials or methods," of the Wildland Code.

(~~g~~f) The board or hearing officer has no authority to interpret Chapter 1 (the administrative requirements) of this code except as expressly provided in this section, nor, because this code sets minimum standards, to waive any requirement of this code.

(g) Section 107, "Permits," is repealed and reenacted to read:

107 Permits. The provisions of Section 105, "Permits," of the City of Boulder Building Code, Section 105, "Permits," of the City of Boulder Fire Code, and Section 105, "Permits," of the City of Boulder Residential Code, apply, as otherwise applicable to the work requiring the permit.

(h) Section 108.1, "General," is repealed and reenacted to read:

108.1 General. The requirements of Section 106.1, "Submittal Documents," of the City of Boulder Building Code apply.

(i) Section 109.4.6, "Prosecution of violation," is repealed and reenacted to read:

**109.4.6 Violations**

(a) General Provisions

(1) No person shall erect, construct, enlarge, alter, extend, repair, move, remove, improve, convert, demolish, equip, use, occupy, or maintain any building or structure in the City or cause or permit the same to be done except in conformity with all of the provisions of this code and in conformity with the terms and conditions of approval issued under this code, or of any directive of the code official. No person shall violate the provisions of this code, fail to comply with any requirements thereof, or fail to comply with any order issued by the code official under this code.

(2) In accordance with the provisions of section 5-2-11, "Prosecution of Multiple Counts for Same Act," B.R.C. 1981, each day during which illegal construction, alteration, maintenance, occupancy, use, or violation continues, constitutes a separate offense remediable through the enforcement provisions of this code.

(3) The owner, tenant, and occupant of a structure or land and the agents of each of them are jointly and severally liable for any violation of this code with respect to such structure or land.

(4) The remedies for any violation of any provision of this code or of any permit, certificate, or other approval issued under this code or other City of Boulder code or of any directive of the code official may be pursued singly or in combination.

(5) If any person fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(6) The code official may charge the cost of any action taken to correct or abate a violation, as authorized by this code, plus up to fifteen percent of such cost for administration to the property owner. If any property owner fails or refuses to pay when due any charge imposed under this section, the code official may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer, to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected, under the procedures described by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

(b) Administrative Procedures and Remedies

(1) If the code official finds that a violation of any provision of this code or any approval granted under this code exists, the manager, after notice and an opportunity for hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

(A) Impose a civil penalty according to the following schedule:

(i) For the first violation of the provision or approval, $100;

(ii) For the second violation of the same provision or approval, $300; and

(iii) For the third violation of the same provision or approval, $1,000;

(B) For a violation concerning the use of a residential building under a rental license, revoke such license;

(C) Require the filing of a declaration of use as provided in subsection (e); or

(D) Issue an order reasonably calculated to ensure compliance with the provisions of this code or any approval granted under this code.

(2) Prior to the hearing, the code official may issue an order that no person shall perform any work on any structure or land, except to correct any violation found by the code official to exist with respect to such structure or land.

(3) If notice is given to the code official at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the code official will reinspect the structure or land. If the code official finds that the violation has been corrected, the manager may cancel the hearing.

(4) No person shall fail to comply with any action taken by the code official under this section.

(c) Criminal Penalties. Violations of this code are punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

(d) Other Remedies. The city attorney may maintain an action for damages, declaratory relief, specific performance, injunction, or any other appropriate relief in the District Court in and for the County of Boulder for any violation of any provision of this code or any approval granted under this code.

(e) Declaration of Use. If the code official determines that a person is using a structure in a way that might mislead a reasonable person to believe that such use is a use by right or otherwise authorized by this title, the code official may require such person to sign under oath a declaration of use that defines the limited nature of the use and to record such declaration in the office of the Boulder County Clerk and Recorder against the title to the land. In addition to all other remedies and actions that the code official is authorized to use under the Boulder Revised Code or other applicable federal, state or local laws to enforce the provisions of this code, the code official is authorized to withhold any approval affecting such structure or land, including, without limitation, a building permit, use review, site review, subdivision, floodplain development permit, or wetland permit until such time as the person submits a declaration of use that is in a form acceptable to the code official.

(j) Section 109.4.7, “Violation penalties,” is repealed.

(k)The definition of “Code Official” in Section 202, “Definitions,” is repealed and reenacted to read:

CODE OFFICIAL. Code official means the city manager or the city manager’s delegate.

(l) Section 403.2, “Driveways,” is repealed and reenacted to read:

403.2 Driveways. Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 100 feet (30 480 mm) from a fire apparatus access road.

(m) Section 403.2.1, "Dimensions," is repealed and reenacted to read:

403.2.1 Dimensions. Driveways shall be provided as defined in Section 503.2.1. "Dimensions," of the City of Boulder Fire Code, as locally amended in Section 10-8-1(15), B.R.C. 1981~~,~~, for an "accessible private drive" and with a minimum unobstructed height of 15 feet (4572 mm).

(n) Section 403.2.4, "Turnarounds," is repealed and reenacted to read:

403.2.4 Turnarounds. Driveway turnarounds shall have a turning radius to accommodate an SU-30 vehicle. Driveways that connect with a road or roads at more than one point shall be considered as having a turnaround if all changes in direction meet the radii requirements for driveway turnaround.

(o) Section 403.3, "Fire apparatus access road," is repealed and reenacted to read:

403.3 Fire apparatus access road. When required, fire apparatus access roads shall meet the requirements of the City of Boulder Design and Construction Standard.

(p) Section 404.2, "Water sources," is repealed and reenacted to read:

404.2 Water sources. Water sources shall be designed and installed in accordance with the City of Boulder Design and Construction Standard.

(q) Section 505.2, "Roof covering," is repealed and reenacted to read:

505.2 Roof covering. Roofs shall be installed in accordance with the requirements of the City of Boulder Building Code and the City of Boulder Residential Building Code~~.~~, as applicable.

(r) Section 506.2, "Roof covering," is repealed and reenacted to read:

506.2 Roof covering. Roofs shall be installed in accordance with the requirements of the City of Boulder Building Code and the City of Boulder Residential Building Code., as applicable.

(s) Section 507, "Replacement or repair of roof coverings," is repealed and reenacted to read:

507 Replacement or repair of roof coverings. Replacement or repair of any wood roof shall meet the requirements of section 10-5-5, Wood Roof Covering Materials Prohibited, B.R.C. 1981.

(t) Section 601.1 "Scope" is repealed and reenacted to read:

601.1 Scope. The provisions of this chapter establish general requirements for new buildings, structures, and premises located within wildland-urban interface areas. Only the requirements of Sections 607.1~~,~~, "General," and 607.2,"Storage for off-site use," shall apply to new and existing buildings, structures and premises located within wildland-urban interface areas.

(u) The first sentence of Appendix C, "Fire Hazard Severity Form," is repealed and reenacted to read:

This appendix may be used in place of Table 502.1 to determine the fire hazard severity.

**Section 9. Chapter 10-9, B.R.C. 1981, is amended to read:**

**Chapter 10-9 Mechanical Code**

**10-9-1 Legislative Intent**.

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, and repair of heating, ventilating, cooling, and refrigeration devices in structures in the city. The city council hereby adopts the ~~2006~~2012 edition of the *International Mechanical Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

**10-9-2 Adoption of the International Mechanical Code with Modifications**.

(a) The ~~2006~~2012 edition of the *International Mechanical Code*, including Appendices A thereto of the International Code Council, is hereby adopted by reference as the Mechanical Code of the City of Boulder or mechanical code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except as specified below, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(1) Section 101.2, "Scope," is adopted as an administrative provision.

(2) Section 101.2.1, "Appendices," is adopted as an administrative provision. Appendix A is adopted as a part of this code.

(3) Section 101.3, "Intent," is adopted as an administrative provision.

(c) Section 301.10~~7~~ "Electrical" is repealed and reenacted to read:

301.10~~7~~ Electrical. Electrical wiring, controls and connections to equipment and appliances regulated by this code shall be in accordance with Chapter 10-6, "Electrical Code," B.R.C. 1981.

~~(d) Section 306.5 "Equipment and appliances on roofs or elevated structures" is repealed and reenacted to read:~~

~~306.5 Equipment and appliances on roofs or elevated structures. Where equipment and appliances requiring access are installed on roofs or elevated structures at a height exceeding 16 feet (4877mm), such access shall be provided by a permanent approved means of access. The means of access shall start at no more than 8 feet (2438 mm) above finished grade or floor level and continue unobstructed to the equipment and appliances level service space.~~

~~(e)~~(d) A new Section 306.6, Rooftop equipment support and clearances, is added:

306.6 Rooftop equipment support and clearances.

(1) Mechanical equipment placed, replaced, or resting over roofing shall be supported by curbs or legs which shall be flashed to the roofing and made watertight. Mechanical equipment shall include, but not be limited to, heating equipment, cooling and refrigeration equipment, ventilating fans, blowers, and other similar devices located on the roof.

(2) Flat roofs. On roofs having a pitch of less than 2 in 12, mechanical equipment shall be supported on a solid curb greater in size than the equipment which it serves. Curbs can be manufactured or built-in-place. If built-in-place, the curb shall be covered with metal of at least 26 gauge. All seams and miter corners of the metal shall be riveted and soldered so as to be weathertight. The curb shall be a minimum of 9 inches above the finished roof.

(A) Ducts less than four feet in width shall have at least twelve inches clearance from the finished roof surface to the bottom of the duct.

(B) Ducts between four feet and eight feet in width shall have at least twenty-four inches clearance from the finished roof surface to the bottom of the duct.

(C) Ducts over eight feet in width shall have at least thirty-six inches clearance from the finished roof surface to the bottom of the duct.

(3) Pitched Roofs. On roofs having a slope over a 2 and 12, mechanical equipment may be set on legs which provide a minimum of 11 inches clearance between the finished roof surface and the equipment frame.

~~(f)~~(e) Section 603.6.1.1 "Duct length" is repealed and reenacted to read:

603.6.1.1 Duct length. Approved Class 0 and Class 1 flexible air duct shall not exceed ~~seven~~fourteen feet in length.

~~(g) Section 603.6.2.1 "Connector length" is modified to read limited in length to 7 feet (2134 mm).~~

~~(h)~~(f)Section 606.3, "Installation" is amended by the addition of a new sentence to read:

Smoke detectors must be capable of being tested from a remote and readily accessible location.

**10-9-3 Mechanical Permit Fees**.

Mechanical permit fees are those prescribed by Subsection 4-20-13(c), B.R.C. 1981.

**Section 10. Chapter 10-9.5, B.R.C. 1981, is amended to read:**

**Chapter 10-9.5 Fuel Gas Code**

**10-9.5-1 Legislative Intent.**

The purpose of this chapter is to protect the public health and safety by regulating fuel gas systems and gas-fired appliances in the city. The city council hereby adopts the ~~2006~~2012 edition of the International Fuel Gas Code as a new chapter 10-9.5 with certain amendments thereto found to be in the best interest of the city.

**10-9.5-2 Adoption of the International Fuel Gas Code With Modifications.**

(a) The ~~2006~~2012 edition of the International Fuel Gas Code of the International Code Council is hereby adopted by reference as the City of Boulder Fuel Gas Code or fuel gas code and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except as specified below, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(c) SECTION 101, "GENERAL," is adopted as an administrative provision with the following amendments:

(1) 101.1, "Title," is amended to read:

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Boulder or fuel gas code.

(2) SECTION 107, "INSPECTIONS AND TESTING," is adopted as an administrative provision.

(3) Exceptions 2, 3 and 4 in Section 303.3, "Prohibited locations," are repealed.

(4) Section 404.4 Piping through foundation wall is repealed and reenacted to read:

404.4 Piping through foundation wall. Gas piping shall enter the building above grade through the foundation wall, building or structure.

~~(5) Section 404.9 "Minimum burial depth" is repealed and reenacted to read:~~

~~404.9 Minimum burial depth. Underground piping systems shall be installed at a minimum depth of 12 inches below grade for metallic piping and a minimum depth of 18 inches for non-metallic piping or where such depths cannot be obtained, other equivalent protection must be provided.~~

(5~~6~~) Section 404.9.1 is repealed.

(6~~7~~) Section 406.4.1 "Test pressure" is repealed and reenacted to read:

The test pressure to be used shall be no less than 1-1/2 times the proposed maximum working pressure, but not less than 10 psig.

~~(8) Section 406.4.2 "Test duration" is repealed and reenacted to read:~~

~~Test duration shall not be less than 15 minutes.~~

(8~~9~~) Section 602.1 "General" is amended by adding a new sentence to read:

Within a vented fireplace the damper must be removed or welded open and glass doors installed over the fireplace opening.

~~(10) Section 604 "VENTED GAS FIREPLACES" is amended by adding a new section to read:~~

~~604.3 Combustion air. Vented gas fireplaces shall be provided with outside combustion air and glass doors.~~

~~(11) Section 605 "VENTED GAS FIREPLACE HEATERS" is amended by adding a new section to read:~~

~~605.2 Vented gas fireplace heaters shall be provided with outside combustion air.~~

~~(12) Section 621.4 "Prohibited locations" is amended by adding a new sentence to read:~~

~~These appliances shall not be used in bedrooms or rooms readily used for sleeping purposes.~~

**Section 11. Chapter 10-10, B.R.C. 1981, is amended to read:**

**Chapter 10-10 Plumbing Code**

**10-10-1 Legislative Intent.**

The purpose of this chapter is to protect the public health and safety by regulating the installation, alteration, and repair of plumbing devices in structures in the city. The city council hereby adopts the ~~2006~~2012 edition of the *International Plumbing Code* with certain amendments and deletions thereto found to be in the best interests of the residents of the city.

**10-10-2 Adoption of the International Plumbing Code with Modifications.**

(a) The ~~2006~~2012 edition of the *International Plumbing Code*, published by the International Code Council, including ~~appendices C Gray Water Recycling Systems, and~~Appendix E, "~~-~~Sizing of Water Piping System,~~"~~ is hereby adopted by reference as the City of Boulder Plumbing Code or plumbing code, and has the same force and effect as though fully set forth in this chapter, except as specifically amended by the provisions of this chapter.

(b) Except for Sections 101, 102, and 107, Chapter 1 is repealed. This code shall be administered in accordance with Chapter 1, "Administration," of the International Building Code as adopted, with amendments, by Section 10-5-2, "Adoption of International Building Code with Modifications," B.R.C. 1981.

(c) Section 101.1 is repealed and reenacted to read:

101.1 Title. These regulations shall be known as the Plumbing Code for the City of Boulder or plumbing code and will be referenced herein as "this code."

(d) The Exception to Section 301.3, "Connections to drainage system," is deleted in its entirety.

(e)Section 312.5, "Water supply system test," is amended by deleting the words "for piping systems other than plastic" and by modifying the test pressure required from 50 psi (344 kPa) to 100 psi (688 kPa).

~~(e)~~(f) Section 504.7.1 "Piping for safety pan drains shall be of those materials listed in Table 605.4." is repealed.

~~(f)~~(g) Section 610, "Disinfection of potable water system," is repealed.

~~(g)~~(h) Section 605.3~~4~~ is amended by adding a new paragraph to read:

Water service line pipe between the water meter and building shall be Type K copper if it is in the public right-of-way, a public utility easement, or on other public property.

~~(h)~~(i) Section 712.4.2, "Capacity," is amended by the addition of a new sentence to read:

Sewage pumps and sewage ejectors serving public fixtures shall be provided with dual pumps and ejectors arranged to operate independently in case of overload or failure.

(j) Section 903.1, "Roof extension," is repealed and reenacted to read:

Open vent pipes that extend through a roof shall be terminated not less than 6 inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall terminate not less than 7 feet above the roof.

(k)Section 1003.1, "Where required," is amendment by adding the following:

Grease, oil, and sand interceptors shall hold a minimum capacity of 750 gallons and shall be remotely located.

(l) Section 1003.3, "Grease interceptors," is amended by adding the following:

Grease interceptors shall not receive the drainage and retain grease from more than four fixtures. A grease interceptor shall not be connected to heated water fixtures, including, without limitation, dishwashers, and shall not be connected before waste disposal units, including without limitation, garbage disposals and grinders.

(m) Section 1003.4, "Oil separators required," is repealed.

~~(i)~~(n) Section 1101.3, "Prohibited drainage," is repealed and reenacted to read:

No rain, surface, or subsurface water shall be connected to or discharged into any drainage system, unless first approved by the ~~Administrative Authority~~code official.

~~(j)~~(o) Section 1106.1, "General," is repealed and reenacted to read:

1106.1 General. The size of the vertical conductors and leaders, building storm drains, building storm sewers, and any horizontal branches of such drains or sewers shall be based on the 100-year hourly rainfall rate of 2.5 inches per hour or other approved local weather data.

~~(k)~~(p) Chapter 13, "Gray Water Recycling Systems," is deleted in its entirety.

~~Appendix C, Section C101, last sentence of exception is repealed and reenacted to read:~~

~~Such systems that may impact public health in commercial and multiple residence projects shall be designed as required by the Boulder County Health Department.~~

~~(l)~~(q) Table E103.3(2), "Load Values Assigned to Fixtures," is amended by the addition of a new sentence to read:

For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is repealed and replaced by the Fixture Unit/GPM Demand Chart and PIF Computation Sheet found at Appendix A to Chapter 11-1, "Water Utility," B.R.C. 1981.

~~(m)~~(r) Table E103.3(3), "Table for Estimating Demand," is amended by the addition of a new sentence to read:

For the purpose of determining the largest instantaneous demand required in order to size a water meter, or for determining the amount of the plant investment fee, this table is repealed and replaced by the Fixture Unit/GPM Demand Equations and PIF Computation Sheets found at Appendix A to Chapter 11-1, "Water Utility," B.R.C. 1981.

**Section 12. Section 4-20-47, "Zoning Adjustment Filing Fees," B.R.C. 1981, is amended to read:**

**4-20-47. Zoning Adjustment and Building Appeals Filing Fees.**

(a) The fee for filing an appeal to or requesting a variance from the board of zoning adjustment under subsection 9-9-21(s) or section 10-3-9, "Temporary License Appeals," 10-2-2, "Adoption of the International Property Maintenance Code with Modifications," 10-5-2, "Adoption of International Building Code With Modifications," 10-6-2, "Adoption of the National Electrical Code With Modifications," 10-8.5-2, "Adoption of the International Wildland-Urban Interface Code with Modifications," 10-9-2, "Adoption of the International Mechanical Code With Modifications," 10-9.5-2, "Adoption of the International Fuel Gas Code with Modifications," 10-10-2, "Adoption of the International Plumbing Code With Modifications," or 10-12-24, "Appeals and Variances," B.R.C. 1981, is $106~~.00~~, except that the fee for an emergency appeal is $210~~.00~~.

(b) The fee for requesting a variance from the board of zoning adjustment under subsection 9-9-21(s), B.R.C. 1981, is $550~~.00~~.

(c) The fee for requesting a setback variance or for a variance for parking spaces in front yard setbacks from the board of zoning adjustment under section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is $550~~.00~~.

(d) The fee for filing an appeal to the board of zoning adjustment under section 10-12-24, "Appeals and Variances," B.R.C. 1981, is $550~~.00~~.

Section 13. Section 2-3-4, Board of Building Appeals, B.R.C. 1981, is amended to read:

**2-3-4. Board of Building Appeals.**

(a) The City of Boulder Board of Building Appeals consists of the five members of the Board of Zoning Adjustment, who shall sit as the Board of Building Appeals.

(b) The chief city building official and the city fire chief shall be advisory members of the board without vote. The city manager shall be secretary of the board.

(c) In addition to any other duties the council may prescribe, the responsibility of the board is to hear appeals by any person as provided in section 9-9-21, "Signs," chapters 10-2, "Property Maintenance Code," 10-5, "Building Code," 10-6, "Electrical Code," 10-7, "Energy Conservation ~~and Insulation~~ Code," 10-8, "Fire ~~Prevention~~ Code," 10-8.5, "Wildland Code," 10-9, "Mechanical Code," 10-10, "Plumbing Code," and 10-12, "Mobile Homes," B.R.C. 1981.

Section 14. The City Council orders and directs the city manager to make any additional citation and reference changes not included in this ordinance that are necessary to properly implement the adoption of 2012 editions of the International Codes and the adoption of the 2011 edition of the National Electrical Code and all related local amendments.

Section 15. This ordinance shall become effective on January 31, 2014. It shall be applied to building permit applications submitted after the effective date. Building permits applied for before the effective date shall be considered under the program in effect at the time of application.

Section 16. 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 17. 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 20th day of August, 2013.

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_____
Mayor

Attest:

_____
City Clerk

K:\PLBI\o- 7925 ICC Codes Adoption Ordinance 3rd Reading-1804.doc

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of September, 2013.

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_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 2013.

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_____
Mayor

Attest:

_____
City Clerk

K:\PLBI\o- 7925 ICC Codes Adoption Ordinance 3rd Reading-1804.doc

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: Oct. 1, 2013**

**AGENDA TITLE:** Third reading and consideration of a motion to adopt Ordinance No. 7926, amending floodplain regulations in order to clarify existing regulations and to protect critical facilities and lodging facilities in the 100- and 500-year floodplains, including Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions" B.R.C. 1981.

**PRESENTERS:**
Jane S. Brautigam, City Manager
Paul Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bob Harberg, Principal Engineer–Utilities
Heidi Schum, Public Works Development Review Manager
Annie Noble, Flood and Greenways Engineering Coordinator
Katie Knapp, Utilities Project Manager

**EXECUTIVE SUMMARY**
At second reading on Sept. 17, 2013, the ordinance was amended to correct superfluous language and eliminate initially proposed changes to the Land Use Table as indicated in Attachment B. This change requires a third reading.

Additional background information and details about the proposed ordinance can be found in the first reading memo, available online at:
https://documents.bouldercolorado.gov/weblink8/0/doc/123452/Electronic.aspx
and in the second reading memo, available online at:
https://documents.bouldercolorado.gov/weblink8/0/doc/123660/Electronic.aspx

## STAFF RECOMMENDATION

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

> Motion to adopt Ordinance No. 7926, amending floodplain regulations under Chapter 9-3 "Overlay Districts," Subsection 9-6-1(d) "Use Table," and Section 9-16-1 "Definitions" B.R.C. 1981 as proposed in Attachment A with an effective date of March 1, 2014.

## ATTACHMENTS

Attachment A: Critical Facilities and Lodging Facilities Ordinance
Attachment B: Second Reading Errata Sheet

ORDINANCE NO. 7926

AN ORDINANCE AMENDING FLOODPLAIN REGULATIONS IN ORDER TO CLARIFY EXISTING REGULATIONS AND TO PROTECT CRITICAL FACILITIES AND LODGING FACILITIES IN THE ONE HUNDRED-YEAR AND FIVE HUNDRED-YEAR FLOODPLAINS, INCLUDING CHAPTER 9-3, "OVERLAY DISTRICTS," SUBSECTION 9-6-1(d), "USE TABLE," AND SECTION 9-16-1, "GENERAL DEFINITIONS," 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 9-3-2, B.R.C. 1981, is amended as follows:

**9-3-2 Floodplains.**

(a) Legislative Intent: The purpose of this ~~section~~ chapter is to regulate certain areas of the city subject to flooding in order to protect the public health, safety, and welfare by:

(1) Restricting or prohibiting certain uses that are hazardous to life or property in time of flood;

(2) Restricting the location of structures intended for human occupancy and regulating the manner in which such structures may be built in order to minimize danger to human life within and around such structures;

(3) Requiring that those structures allowed in the floodplain be expanded or enlarged, and equipment and fixtures be installed or replaced, in a manner designed to prevent their being washed away and to assure their protection from severe damage;

(4) Regulating the method of construction and replacement of water supply and sanitation systems in order to prevent disease, contamination, and unsanitary conditions;

(5) Maintaining for public inspection available maps delineating areas subject to such provisions in order to protect individuals from purchasing or using lands for purposes that are not suitable;

(6) Protecting and preserving the water-carrying and water-retention characteristics and capacities of watercourses used for conveying and retaining floodwaters; and

(7) Obtaining and maintaining the benefits to the community of participating in the National Flood Insurance Program.

(b) Flooding May Occur: The degree of flood protection provided by the terms of this ~~section~~ chapter has been determined to be reasonable for regulatory purposes. Floods of greater magnitude will occur, and flood heights may be increased as a result of natural or human-made causes. The provisions of this ~~section~~ chapter do not imply that areas outside of the floodplain or land uses permitted within the floodplain are free from flooding, flood hazard, or flood damages. A grant or approval by the city under the requirements of this ~~section~~ chapter does not constitute a representation, guarantee, or warranty of any kind or nature by the city or any city official or employee of the practicability or safety of any structure or proposed use, and it creates no liability to or cause of action against the city or any city official or employee for any damages from flood or otherwise that may result from such structure or use.

(c) Scope and Application:

(1) The requirements of this ~~section~~ chapter supplement those imposed on the same lands by any underlying zoning provisions of this code or other ordinance of the city. If there is a conflict between such requirements, the more restrictive controls.

(2) If a lot or parcel of land lies partly within the high hazard zone, ~~or~~ the conveyance zone, the one hundred-year floodplain, or the five hundred-year floodplain~~flood fringe area~~, the part(s) of such lot or parcel lying within such area or areas shall meet all the standards and requirements of such respective area as prescribed by this ~~section~~chapter. ~~For the purposes of new construction, i~~If any portion of a structure lies partly within the high hazard zone, ~~or~~ the conveyance zone, the one hundred-year floodplain, or the five hundred-year floodplain~~flood fringe area~~, all the standards and requirements of ~~this section~~ such respective area(s) as prescribed by this chapter shall apply to the entire structure unless stated otherwise.

(3) If lands located outside the city limits are included within the five hundred-year floodplain, the one hundred-year floodplain~~flood fringe~~, the conveyance zone, or the high hazard zone, the requirements of this ~~section~~chapter shall apply to such lands upon annexation.

(d) Administration: The city manager shall administer the requirements of this ~~section~~chapter and shall:

(1) Determine that the requirements of this ~~section~~chapter have been met before issuing any permit for development in the floodplain;

(2) Obtain and maintain for public inspection any certificates of floodproofing required by this ~~section~~chapter, and any information on the elevation (in relation to mean sea level) of the ~~level of the~~ lowest floor (including basement) of all new or substantially improved structures, and information specifying whether ~~or not~~ such structures contain a basement, and, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed;

(3) Notify Boulder County and the Colorado Water Conservation Board before permitting any change in a watercourse and submit evidence of such notice to FEMA;

(4) Adopt rules interpreting and implementing the requirements of this ~~section~~chapter, including~~,~~ without limitation, application procedures for floodplain development permits~~,~~; ~~and~~ specifications for the floodproofing of structures, substantial improvements, and utilities~~,~~; and specifications for the content of and application procedures for emergency management plans;

(5) Assure that the Boulder Valley Comprehensive Plan is consistent with the floodplain management objectives of this ~~section~~ chapter and the regulations of FEMA;

(6) Make necessary interpretations of the exact location of the boundaries of the floodplain, the five hundred-year floodplain, the one hundred-year floodplain~~flood fringe~~, the conveyance zone~~,~~, and the high hazard zone;

(7) Amend the boundaries of the high hazard zone and the conveyance zone pursuant to subsection (f) of this section;

(8) Determine that all necessary permits have been obtained from state, federal, or local agencies the approval of which is required before issuing any permit for development in the floodplain;

(9) Require that persons changing a watercourse maintain the watercourse so that its flood carrying capacity is not diminished;

(10) Require that new and replacement water supply systems in the floodplain be designed to minimize or eliminate infiltration of floodwaters into the systems;

(11) Require that new and replacement sanitary sewage systems within the floodplain be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(12) Require that on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding; and

(13) Obtain, review, and reasonably utilize any~~ base~~ flood elevation and floodway data available from federal, state, and other sources, including data developed pursuant to ~~c~~Chapter 9-12, "Subdivision," B.R.C. 1981, as criteria for requiring that all new development meet the requirements of this ~~section~~chapter.

(e) Appeals: Any person contesting the city manager's interpretation of a boundary location under paragraph (d)(6) of this section, or any person aggrieved by the granting or denial of a floodplain development permit, may appeal such determination to the planning board through the process described in S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981. The request shall set forth the reason and basis for the appeal and such other information as the manager may prescribe by rule.

(f) Map Amendments: As watercourse or flood channel improvements or mapping corrections are made, the city manager may amend the flood regulatory area maps to recognize the changed conditions produced by such improvements or corrections, provided that no such amendments or corrections may change a FEMA "area of special flood hazard" or "regulatory floodway" unless the City is in receipt of a letter of map amendment or a letter of map revision issued by FEMA.

(g) Flood Regulatory Areas:

(1) The provisions of this ~~section~~ chapter apply to the area shown as floodplain on the most recent maps adopted by the city council, as amended from time to time by the city manager pursuant to subsections (d), (e), and (f) of this section. The regulatory floodplain encompasses the five hundred-year floodplain, the one hundred-year floodplain, ~~the flood fringe,~~ the conveyance zone, and the high hazard zone. The following regulations governing each portion of the floodplain are cumulative and not exclusive.

(2) In addition to the regulatory areas identified in paragraph (g)(1) of this section, the City has adopted the areas of special flood hazard identified in the Flood Insurance Study for Boulder County, effective December 18, 2012, and delineated on the Flood Insurance Rate Map for Boulder County and the City of Boulder as adopted by the City in compliance with 44 C.F.R. chapter 1. In no event will the regulations contained in this ~~section~~ chapter be interpreted to permit any action not permitted under those regulations promulgated by FEMA for the regulation of areas of special flood hazard and regulatory floodways.

(h) Floodproofing: Whenever this chapter requires floodproofing a building or structure or a portion thereof, the following standards shall be met:

(1) Such building or structure or portion thereof shall be floodproofed in accordance with any rules adopted by the city manager for floodproofing and with current state and federal laws and regulations governing floodproofing;

(2) Such building or structure or portion thereof shall be floodproofed to the flood protection elevation in such a manner that the building or structure is watertight with walls substantially impermeable to the passage of water and in a manner requiring no human intervention;

(3) Such building or structure or portion thereof shall have structural components capable of resisting projected hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(4) Such floodproofing shall be certified by a Colorado registered professional engineer or registered architect to comply with this paragraph. Such certifications shall be provided to the city manager as set forth in Paragraph 9-3-2(d)(2), B.R.C. 1981.

(i) Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain:

(1) Floodplain Development Permit: In the five hundred-year floodplain, no person shall construct or establish a new critical facility or make any development to a structure housing an existing critical facility prior to issuance of a floodplain development permit pursuant to Section 9-3-6, "Floodplain Development Permits," B.R.C. 1981, unless the activity is exempt under Subsection 9-3-6(a), "Activities Exempt from Floodplain Development Permit Requirement," B.R.C. 1981.

(2) Requirements Apply to Entire Building: If any portion of a structure housing a critical facility or lodging facility lies partially within the five hundred-year floodplain, the requirements of this section shall apply to that entire structure.

(3) Emergency Management Plans:

(A) Emergency Management Plan Required: No owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall fail to develop and have approved an emergency management plan meeting the requirements of this subsection prior to issuance of any floodplain development permit for any development requiring a floodplain development permit but no later than January 1, 2019, or five years after the effective date of a map change that placed the facility into the five hundred-year floodplain, if that date is later than January 1, 2019,

(B) Floodplain Development Permit: To obtain the required approval of an emergency management plan, an owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall file an application for floodplain development permit pursuant to Section 9-3-6, Floodplain Development Permits, B.R.C. 1981.

(C) Purpose: The purpose of the emergency management plan requirements set forth in this section is:

(i) To protect the health, safety, and welfare of the public and of employees, visitors, residents, guests, contractors, and others at risk from hazards at the facility;

(ii) To minimize interruptions or disruptions of operations of critical facilities;

(iii) To protect buildings, physical assets, and electronic information; and

(iv) To prevent environmental contamination.

(D) Emergency Management Plan Requirements: With the exception of requirements the city manager finds inapplicable to a particular facility, all emergency management plans shall contain, without limitation:

(i) An assessment by a Colorado registered professional engineer or an International Facility Management Association Certified Facilities Manager of the risks to persons at the facility and others at risk from hazards at the facility, to the facility itself, its physical assets, and its operation, and to the environment during flood events;

(ii) An assessment of the resources needed for responding to the risk of flood events and for continuing business operations and for communicating during and after an incident;

(iii) A plan for obtaining and maintaining the resources identified as needed in subsection (i)(3)(C)(ii) above;

(iv) A plan to protect employees, visitors, residents, guests, contractors, and others at risk from hazards at the facility during flood events. Such plan shall include an evacuation plan or a shelter-in-place plan, unless both are necessary to protect the health, safety and welfare of the persons at risk at the facility.

a. Evacuation plans shall be certified by a Colorado registered professional engineer or an International Facility Management Association Certified Facilities Manager and shall provide a means for safely evacuating occupants to a location outside of the five hundred-year floodplain or to an approved shelter-in-place location.

b. Shelter-in-place plans shall be certified by a Colorado registered professional engineer, shall demonstrate that the structure will be safe to occupy during a five hundred-year flood event, and shall designate a safe shelter-in-place location within the building and safe routes to such location.

(v) A system and strategies to communicate with employees, customers, residents, guests, contractors, and others at risk at the facility during a flood event:

(vi) Strategies to minimize and quickly overcome any disruption or interruption of operations of the facility during a flood event;

(vii) An incident management system that defines responsibilities and coordinates activities before, during, and after a flood event;

(viii) A program to train persons with defined roles in the management plan to do their assigned tasks and to train all employees and other regular occupants of the facility so they can take appropriate protective actions during a flood event; and

(ix) Any other strategies, techniques, systems, programs, or plans the city manager determines are necessary to serve the health, safety, and welfare of the public and any persons at or near the facility.

(E) —Posting of Evaluation Routes and Routes to Shelter-In-Place Locations: The approved evacuation routes and routes to shelter-in-place locations shall be posted on the inside of each doorway leading to a separate unit in a lodging facility and be displayed in a prominent location or a location designed to provide information to persons within the critical facility that is approved by the city manager.

(F) Implementation of Emergency Management Plans: No owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall fail to implement and to annually review and update, if necessary, an approved emergency management plan and to make the plan available to the city manager for review upon request.

(4) Construction Requirements for Critical Facilities in the Five Hundred-Year Floodplain. The following standards apply to critical facilities located in the five hundred-year floodplain:

(A) No owner or operator of a critical facility shall construct, modify, or establish, or cause to be constructed, modified, or established a critical facility within the five hundred-year floodplain except in compliance with the requirements of this subsection.

(B) Any person making an expansion or an enlargement to a structure housing an existing at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation.

(C) Any person making a substantial modification or a substantial improvement to a structure housing an existing at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, of the substantially modified or improved portion to or above the flood protection elevation and shall floodproof or elevate the remainder of the existing structure to or above the flood protection elevation.

(D) Any person constructing or establishing a new at-risk population facility or essential service facility shall floodproof or elevate the lowest floor, including the basement, to or above the flood protection elevation.

(E) Any person constructing or establishing a new hazardous material facility shall secure all hazardous materials from flooding and from being released during a five hundred-year flood event or shall floodproof the facility. Any person making a substantial modification or a substantial improvement to a structure housing an existing hazardous material shall secure the hazardous materials from flooding or otherwise being released during a five hundred-year flood event. The owner or operator shall demonstrate compliance with this standard by providing a certification from a Colorado registered professional engineer that documents that hazardous material will not be released at or from the facility during a five hundred-year flood event.

(F) No person owning, operating, or otherwise using a hazardous material facility shall fail to secure all hazardous materials from flooding and from being released during five hundred-year flood events or to floodproof the facility before January 2024 or five years after the effective date of a map change that

placed the facility into the five hundred-year floodplain, whichever date is later.

(G) Whenever any construction, modification, improvement or other activity related to a critical facility triggers any floodproofing or elevation requirements of this subsection (4), the construction standards described in Subsections (a)(3), "Construction Materials and Methods," (a)(4), "Utilities," (a)(18), "Enclosures," and (a)(19), "Below Grade Crawl Space Construction," of Section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, shall also be complied with.

(H) Existing Uses: The use of any land or structure that was lawful before the application of this subsection (i)(4), Construction Requirements for Critical Facilities in the Five Hundred-Year Floodplain, or any amendment thereto but that does not conform to the requirements of this subsection may be continued subject to the requirements of this subsection. If such a use not conforming to the requirements of this subsection is discontinued for twelve consecutive months, no person shall use the land or structure thereafter unless such use conforms to the requirements of this subsection.

(5) Exemption for Critical Facilities Protected by Levee System: Critical facilities protected by a levee system within the five hundred-year floodplain are exempt from the requirements of subsection (i)(4) of this section 9-3-2, provided that the following requirements are satisfied:

(A) The owner or operator of a new or existing critical facility located landward of a levee system~~,~~ outside of the one hundred-year floodplain, but within the five hundred-year floodplain, demonstrates that the levee system provides protection against a five hundred-year flood event by:

(i) meeting the riverine levee design criteria of 44 C.F.R. § 65.10, as amended from time to time, except that the minimum riverine levee freeboard shall be one foot above the water surface elevation of a five hundred-year flood, rather than three; and

(ii) providing an operating and maintenance manual for the levee that incorporates all operating and maintenance requirements of 44 C.F.R. § 65.10 and Rule 10 of the Colorado Rules and Regulations for Regulatory Floodplains in Colorado (2 C.C.R. 408-1:10, Criteria for Determining Effects of Levees on Regulatory Floodplains), as amended from time to time, to ensure continuing proper function of the structure.

(B) The owner or operator of a new or existing critical facility located landward of an accredited levee or a provisionally accredited levee within areas mapped Zone X (shaded) shall demonstrate that the levee system meets the riverine levee design, operation, and maintenance criteria of 44 C.F.R. § 65.10 and

Rule 10 of the Colorado Rules and Regulations for Regulatory Floodplains in Colorado (2 C.C.R. 408-1:10, Criteria for Determining Effects of Levees on Regulatory Floodplains).

(C) If the levee is owned by a person other than the owner or operator of the critical facility, the owner or operator, respectively, must demonstrate that a fully executed agreement exists between the levee owner and the owner or operator of the critical facility ensuring that the requirements of subsections 9-3-2(i)(5)(A) or (B) and (F) for continued operation and maintenance of the levee system will be met.

(D) The exemptions under this subsection (i)(5) for critical facilities located landward of an levee system were approved by the city manager through the issuance of a floodplain development permit pursuant to Subsection 9-3-6, "Floodplain Development Permits," B.R.C. 1981, after finding that all requirements of this subsection (i)(5) have been met~~,~~.

(E) If a levee system protecting an existing critical facility in the five hundred-year floodplain fails to meet the freeboard requirement of subsection (i)(5)(A) of this section solely because FEMA revises a FIRM, maintenance and use of that critical facility may occur for two years after the revision before having to meet the requirements of subsections (i)(3) and (i)(4) of this section.

(F) No person shall fail to construct, operate, or maintain or fail to cause the construction, operation, or maintenance of a levee system protecting a critical facility and approved by the city manager in a floodplain development permit as an exemption to the requirements of subsections (i)(3) and (i)(4) of this section in accordance with a design and an operating and maintenance manual meeting the requirements of this subsection (i)(5).

(6) As the one hundred-year floodplain, conveyance zone, and high hazard zone are all located within of the five hundred-year floodplain, the requirements of this subsection 9-3-2(i), "Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain," also apply to critical facilities and lodging facilities in the one hundred-year floodplain, conveyance zone, and high hazard zone unless stricter requirements apply in the one hundred-year floodplain, conveyance zone, or high hazard zone, as applicable.

Section 2. Section 9-3-3, B.R.C. 1981, is amended as follows:

**9-3-3 Regulations Governing the One Hundred-Year Floodplain.**

(a) General Provisions: In the ~~entire~~ one hundred-year floodplain, the following standards apply:

(1) Floodplain Development Permit: Except as specified ~~in paragraph (a)(1)(A)~~Subsection 9-3-6(a), "Activities Exempt from Floodplain Development Permit Requirement," B.R.C. 1981, no development in the one hundred-year floodplain may occur prior to the issuance of a floodplain development permit pursuant to section 9-3-6, "Floodplain Development Permits," B.R.C. 1981.

~~(A) Activities exempt from a floodplain development permit: The following activities are allowed within the flood regulatory area and do not require a floodplain development permit:~~

~~(i) "Maintenance" as defined in chapter 9-16 "Definitions" that does not constitute a substantial improvement and does not affect the efficiency or capacity of the conveyance zone or high hazard zone.~~

~~(ii) Sidewalks, concrete, asphalt or stone flatwork that does not result in the establishment or expansion of parking area and does not modify existing grade by more than six inches.~~

~~(iii) Underground utilities that do not modify existing grade.~~

~~(iv) Poles, lines, cables, sign posts, landscaping and artwork that do not affect the efficiency or capacity of the conveyance zone or high hazard zone.~~

~~(v) Temporary facilities that are not permanently attached to the ground such as tents, traffic control devices and lawn furniture provided that they will not affect the efficiency or capacity of the conveyance zone or high hazard zone, or they will remain in place for no more than thirty days.~~

(2) Anchoring:

(A) All new construction and substantial improvements or substantial modifications shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.

(B) All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties connecting to permanent ground anchors, in addition to any anchoring requirements for resisting wind forces and any tie-down requirements of chapter 10-12, "Mobile Homes," B.R.C. 1981. Requirements shall include, without limitation, the following:

(i) Over-the-top ties shall be provided at each of the four corners of the manufactured homes. For manufactured homes fifty feet or longer, two additional ties per side are required at intermediate locations. For manufactured homes less than fifty feet long, one additional tie per side is required;

(ii) Frame ties shall be provided at each of the four corners of the manufactured homes. For manufactured homes fifty feet or longer, five

additional ties per side are required at intermediate points. For manufactured homes less than fifty feet long, four additional ties per side are required;

(iii) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred pounds; and

(iv) Any additions to manufactured homes shall be similarly anchored.

(3) Construction Materials and Methods:

(A) All new construction, substantial improvements, and substantial modifications shall be constructed with materials and utility equipment resistant to flood damage as outlined in the most current FEMA Technical Document on~~2-93,~~ Flood-Resistant Materials Requirements.

(B) All new construction, substantial improvements, and substantial modifications shall be constructed using methods and practices that minimize flood damage.

(C) All new construction, substantial improvements and substantial modifications shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located (by elevating or floodproofing the components) so as to prevent water from entering or accumulating within the components during flooding conditions.

(4) Utilities:

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(B) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(C) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

(5) Subdivision Proposals:

(A) All subdivision proposals shall demonstrate efforts to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development.

(E) No subdivision proposal shall create a lot which is unbuildable pursuant to this section.

(6) Floodproofing: Whenever this section requires a building or structure to be floodproofed, the ~~following~~ standards in Subsection 9-3-2(h), "Floodproofing," B.R.C. 1981, shall be met.~~:~~

~~(A) Such building or structure shall be floodproofed in accordance with any rules for floodproofing promulgated by the city manager pursuant to chapter 1-4, "Rulemaking," B.R.C. 1981, and with current FEMA National Flood Insurance Program (NFIP) Technical Bulletins;~~

~~(B) Such building or structure shall be floodproofed to the flood protection elevation in such a manner that the building or structure is watertight with walls substantially impermeable to the passage of water and in a manner requiring no human intervention;~~

~~(C) Such building or structure shall have structural components capable of resisting projected hydrostatic and hydrodynamic loads and the effects of buoyancy; and~~

~~(D) Such floodproofing shall be certified by a Colorado registered professional engineer or registered architect to comply with this paragraph. Such certifications shall be provided to the city manager as set forth in paragraph 9-3-2(d)(2), B.R.C. 1981.~~

(7) Hazardous ~~Materials~~Substances: No person shall store a hazardous substance at or below the flood protection elevation for the area of the floodplain in which it is located, except for the storage of ~~gasoline~~ fuel in existing and replacement underground tanks in existing ~~gasoline~~ fueling service stations and service garages, which tanks are designed to prevent infiltration and discharge into floodwaters and which are adequately anchored and shielded against rupture. For purposes of this paragraph, "existing" means in place and in use on January 1, 1989.

(8) Automobile Parking: Notwithstanding other provisions of this title, no person shall establish an area for automobile parking in any portion of the floodplain where flood depths exceed eighteen inches.

(9) Flood Warning System: No owner of a hotel, a motel, a dormitory, a rooming house, a hostel, a school, a bed and breakfast, a daycare center, a group home, or a residential or congregate care facility located in the Boulder Creek one hundred-year floodplain shall fail to provide a flood warning system approved by the city manager that is connected to a point of central communication in the building with twenty-four-hour monitoring. No such person shall fail to maintain such a flood warning system.

(10) Rental Property: No owner of property that is located in a one hundred-year floodplain and subject to a city rental license under chapter 10-3, "Rental Licenses," B.R.C. 1981, shall fail to post on the exterior of the premises at the entrance a sign approved by the city manager stating that the property is subject to flood hazard and containing such further information and posted at such other locations inside the building as the city manager may require.

(11) Manufactured Housing: All manufactured homes placed in the City after July 1, 1989, and all manufactured homes which are substantially improved or substantially modified shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is at or above the flood protection elevation and is securely

anchored to an adequately anchored foundation system, and shall meet the anchorage and tie-down requirements of paragraph (a)(2) of this section.

(12) Recreational Vehicles: In order to reduce debris and hazard potential, recreational vehicles shall either: a) be in the one hundred-year floodplain for fewer than one hundred eighty consecutive days, b) be fully licensed and ready for highway use, or c) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

(13) Structure Orientation: In order to minimize the obstruction to flow caused by buildings, to the extent consistent with other city policies regarding solar access, new structures shall be placed with their longitudinal axes parallel to the predicted direction of flow of floodwaters or be placed so that their longitudinal axes are on lines parallel to those of adjoining structures.

(14) Existing Uses: The use of any land or structure that was lawful before the application of this section or any amendment thereto but that does not conform to the requirements of this section may be continued subject to the requirements of this section. If such a use not conforming to the requirements of this section is discontinued for twelve consecutive months, no person shall use the land or structure thereafter unless such use conforms to the requirements of this section.

(15) New Uses: All uses allowed by the underlying zoning district may be established, subject to the requirements of this section, except for the outdoor or uncontained storage of moveable objects below the flood protection elevation.

(16) Existing Structures: Any structure in existence before the enactment of this section or any amendment thereto that does not conform to the requirements of this section may remain or may undergo rehabilitation subject to the requirements of this section. Further, any such structure may be otherwise improved as follows:

(A) Any person making an expansion or an enlargement to an existing residential structure shall elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation.

(B) Any person making an expansion or an enlargement to an existing nonresidential structure shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation except that any lodging units within the expanded or enlarged portion of such structure shall be elevated to or above the flood protection elevation.

(C) Any person making an expansion or an enlargement to an existing mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the expanded or enlarged portion to or above the flood protection elevation and shall elevate the residential lodging units within the expanded or enlarged portion to or above the flood protection elevation.

(D) Any person making a substantial modification or a substantial improvement to any existing nonresidential structure shall floodproof or elevate the lowest floor, including the basement, of the ~~substantially modified or improved portion~~entire

structure to or above the flood protection elevation~~ and shall floodproof the remainder of the existing structure~~ except that any lodging units within the expanded or enlarged portion of such structure shall be elevated to or above the flood protection elevation.

(~~D~~E) Any person making a substantial modification or a substantial improvement to any existing residential structure shall elevate the lowest floor, including the basement, of the entire residential structure to or above the flood protection elevation.

(F) Any person making a substantial modification or a substantial improvement to an existing mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the entire structure and shall elevate all residential and lodging units within the structure to or above the flood protection elevation.

(17) New Structures: Construction of new structures shall meet the following requirements:

(A) Any person constructing a new residential structure shall elevate the lowest floor, including the basement, to or above the flood protection elevation;

(B) Any person constructing a new mixed-use structure shall floodproof or elevate the lowest floor, including the basement, of the entire structure and shall elevate all residential and lodging units within the structure to or above the flood protection elevation;

(C) Any person constructing a new nonresidential structure shall elevate all lodging units within the structure to or above the flood protection elevation and shall floodproof in a manner requiring no human intervention or elevate the lowest floor, including the basement, to or above the flood protection elevation with the following exceptions:

(i) Open air carwashes;

(ii) Unheated pavilions;

(iii) Unfinished or flood resistant building entryways or access areas;

(iv) Garden storage sheds;

(v) Sidewalks, paving, or asphalt, concrete, or stone flatwork;

(vi) Fences; and

(vii) Poles, lines, cables, or other transmission or distribution facilities of public utilities.

(~~C~~D) Any person constructing a new structure on a property removed from the one hundred-year floodplain through a FEMA Letter of Map Revision Based on Fill (LOMR-F) shall protect the lowest floor, including the basement, to or above the flood protection elevation that existed before placement of fill, as follows:

(i) Residential structures: by elevating the structure; or

(ii) Nonresidential structures: by elevating or floodproofing the structure.

Solely for the purposes of this subparagraph (a)(17)(C), previously designated floodplain areas that have been removed from the one hundred-year floodplain through a LOMR-F shall be considered to be within the floodplain. No person shall construct a new structure subject to this subparagraph (a)(17)(C) prior to the issuance of a floodplain development permit pursuant to S~~s~~ection 9-3-6, "Floodplain Development Permits," B.R.C. 1981.

(18) Enclosures: Enclosures below the lowest floor that are unfinished or flood resistant, usable solely for parking of vehicles, crawl spaces, building access or storage, in an area that is not a basement, and that are not floodproofed as set forth in this section shall meet the following requirements:

(A) Compliance with the provisions of paragraphs (a)(2), (a)(3), and (a)(4) of this section; and

(B) Design and construction that automatically equalizes hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(i) Designs for meeting this requirement shall meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(ii) Any designs not in conformance with subparagraph (a)(18)(B)(i) above, shall be certified by a registered professional engineer or licensed architect and shall conform with the most current FEMA Technical Bulletin on~~1-93,~~ Openings in Foundation Walls.

(C) Fully enclosed areas below the lowest floor subject to this provision include the following:

(i) Residential garages placed at or above grade;

(ii) Enclosures or vestibules that are attached to structures and that are utilized for storage or entryways;

(iii) Crawl spaces; and

(iv) Outdoor pavilions and patio enclosures with removable walls not located in the high hazard zone.

(19) Below Grade Crawl Space Construction: New construction, expansion or enlargement, substantial improvement and substantial modification of any below grade crawl space shall meet the following requirements:

(A) Interior grade elevation that is below the base flood elevation shall be no lower than two feet below the lowest adjacent grade;

(B) The height of the below grade crawl space measured from the interior grade of the crawl space to the top of the foundation wall shall not exceed four feet at any point;

(C) Adequate drainage systems shall allow floodwaters to drain from the interior area of the crawl space following a flood; and

(D) The provisions of paragraphs (a)(2), (a)(3), (a)(4) and (a)(18) of this section shall be complied with.

(20) Critical Facilities and Lodging Facilities: The requirements of Subsection 9-3-2(i), "Standards for Critical Facilities and Lodging Facilities in the Five Hundred-Year Floodplain," B.R.C. 1981, apply to critical facilities and lodging facilities in the one hundred-year floodplain. Where a conflict exist between the requirements of this section and the provision of Subsection 9-3-2(i), B.R.C. 1981, the most restrictive requirements apply.

Section 3. Section 9-3-4, B.R.C. 1981, is amended as follows:

**9-3-4 Regulations Governing the Conveyance Zone.**

In the conveyance zone, the following standards apply:

(a) The provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981.

(b) The provisions of section 9-3-5, "Regulations Governing the High Hazard Zone," B.R.C. 1981, if the land is also located in the high hazard zone.

(c) All uses allowed under the provisions of section 9-3-3, "Regulations Governing the Floodplain," B.R.C. 1981, if they are not prohibited by the underlying zoning district or any ordinance of this City, may be established except that no person shall establish or change any use that results in any rise in the elevation of the one hundred-year flood.

(d) All structures allowed under section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, may be established except that no person shall:

(1) Place any structure in the conveyance zone that will result in any rise in the elevation of the one hundred-year flood; or

(2) Place any obstruction in the conveyance zone, except a device reasonably necessary for flood management if the device is designed and constructed to minimize the potential hazards to life and property.

(e) No person shall carry out any other development that results in any rise in the elevation of the one hundred-year flood.

(f) Localized rises within flood channels or on a specific parcel that is being developed are permissible if there is no adverse impact on nearby properties and there is no increase in the average water surface elevations along the cross sections of the floodplain.

(g) Localized rises on land owned or controlled by a government or government subdivision or agency, or within public drainage or flood control easements, are permissible if the following requirements have been satisfied:

(1) The applicant has necessary property interests or permission to use land to allow the increase in any water sur-face elevation or there is no adverse impact to such land;

(2) There are no insurable structures under the FEMA National Flood Insurance Program affected by the localized rise;

(3) The applicant minimizes the amount of the localized rise in a flood elevation; and

(4) The applicant complies with all necessary FEMA requirements, including, without limitation, obtaining a Condi-tional Letter of Map Revision (CLOMR) prior to development and a Letter of Map Revision (LOMR) upon completion of a project causing a localized rise in flood elevation.

Section 4. Section 9-3-5, B.R.C. 1981, is amended as follows:

**9-3-5 Regulations Governing the High Hazard Zone.**

In the high hazard zone of the floodplain, the following standards apply:

(a) The provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981.

(b) The provisions of section 9-3-4, "Regulations Governing the Conveyance Zone," B.R.C. 1981, if the land is also located in the conveyance zone.

(c) All uses allowed under the provisions of section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, if they are not prohibited by the underlying zoning district or any other ordinance of the City, may be established, except that no person shall:

(1) Change the use of an existing structure intended for human occupancy from a nonresidential use to a residential use or use as a school, daycare center, group home, residential care facility, or congregate care facility.

(2) Establish any new parking lot for motor vehicles.

(3) Establish any campground.

(d) All structures allowed under the provisions of S~~s~~ection 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, may be established, except that no person shall:

(1) Construct or place any new structure intended for human occupancy.

(2) Expand, enlarge, or make a substantial modification or substantial improvement to any existing structure intended for human occupancy. Notwithstanding this provision, a person may reconstruct a non-flood-damaged structure or portion thereof, which otherwise does constitute a substantial improvement, under the provisions of S~~s~~ubparagraphs 9-3-3(a)(16)(C) and (a)(16)(D), B.R.C. 1981.

(e) Unconditioned, unenclosed building elements such as balconies, awnings and roof overhangs may extend up to four feet into the high hazard zone if completely located above the flood protection elevation and the remainder of the structure complies with this chapter.

Section 5. Section 9-3-6, B.R.C. 1981, is amended as follows:

**9-3-6 Floodplain Development Permits.**

(a) Activities Exempt from Floodplain Development Permit Requirement: The following activities are allowed within the one hundred-year floodplain and in the five hundred-year floodplain and do not require a floodplain development permit:

(i) "Maintenance" as defined in Section 9-16-1, "General Definitions," B.R.C. 1981, that does not affect the efficiency or capacity of the conveyance zone or high hazard zone.

(ii) Sidewalks, concrete, asphalt or stone flatwork that does not result in the establishment or expansion of parking area and does not modify existing grade by more than six inches.

(iii) Underground utilities that do not modify existing grade.

(iv) Poles, lines, cables, sign posts, landscaping and artwork that do not affect the efficiency or capacity of the conveyance zone or high hazard zone.

(v) Temporary facilities that are not permanently attached to the ground such as tents, traffic control devices and lawn furniture provided that they will not affect the efficiency or capacity of the conveyance zone or high hazard zone, or they will remain in place for no more than thirty days.

(b) An applicant for a floodplain development permit shall pay the fee prescribed by S~~s~~ection 4-20-44, "Floodplain Development Permits and Flood Control Variance Fees," B.R.C. 1981, and shall complete an application form provided by the city manager that shall include, without limitation, the following:

(1) The written consent of the owners of all property subject to the development request;

(2) A written statement addressing the criteria for approval;

(3) Information on the location of hazardous material and how it will be secured to prevent its release during a five hundred-year flood event, if the floodplain development permit application is for a critical facility which will contain hazardous

material~~A surface view plan showing elevations and contours of the ground; pertinent structures, fill, and storage elevations; sizes, locations, and spatial arrangements of all proposed, anticipated, and existing structures on the site; location and elevations of streets, water supplies and sanitary facilities; and soil types~~; ~~and~~

(4) A copy of the emergency management plan, if the floodplain development permit application is for a critical facility or lodging facility; and~~Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply, and sanitary facilities.~~

(5) A written statement by a Colorado registered professional engineer certifying that the proposed levee design and operating and maintenance manual meet the requirements of Subsection 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, if the flood development permit application is for a critical facility or lodging facility for which an exemption is sought under Subsection 9-3-2(i)(5).

(~~b~~c) The manager may require the applicant to furnish additional information and details deemed necessary to evaluate the effects of the proposed construction upon the floodplain or to determine whether the requirements of this chapter have been met, including, without limitation:

(1) A surface view plan showing elevations and contours of the ground; pertinent structures, fill, and storage elevations; sizes, locations, and spatial arrangements of all proposed, anticipated, and existing structures on the site; location and elevations of streets, water supplies, and sanitary facilities; and soil types;

(2) Specifications for building construction and materials, filling, dredging, grading, channel improvements and changes, storage of materials, water supply, and sanitary facilities;

(3) Valley cross sections showing the floodplain surrounding the watercourse, cross sections of the area to be occupied by the proposed development, ~~and~~ one hundred-year flood maximum water surface elevation information, and, for critical facilities and lodging facilities, five hundred-year flood maximum water surface elevation information;

(~~2~~4) A profile showing the slope of the bottom of the channel or thalweg of the watercourse;

(~~3~~5) A floodplain analysis by a Colorado registered professional engineer of the flood profile, elevation, and velocity, using methodology acceptable to FEMA, including existing and anticipated uses and making a determination that the proposed construction or development will not cause a rise in the elevation of the water surface of a one hundred-year flood; and

(~~4~~6) A structural analysis by a Colorado registered professional engineer showing that any proposed structures will be adequately designed and constructed to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and scouring.

(~~c~~d) When reviewing an application for a permit, the city manager shall determine which portion or portions of the floodplain are affected by the particular development request and shall then apply the provisions of S~~s~~ections 9-3-2, "Floodplains," 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," 9-3-4, "Regulations Governing the Conveyance Zone," and 9-3-5, "Regulations Governing the High Hazard Zone," B.R.C. 1981, as applicable. The manager also shall determine whether the application meets the intent of this chapter prescribed by S~~s~~ubsection 9-3-2(a), B.R.C. 1981, after considering the following factors:

(1) The effects upon the efficiency or capacity of the conveyance zone and high hazard zone;

(2) The effects upon lands upstream, downstream, and in the immediate vicinity;

(3) The effects upon the one hundred-year flood profile;

(4) The effects upon any tributaries to the main stream, drainage ditches, and any other drainage facilities or systems;

(5) Whether additional public expenditures for flood protection or prevention will be required;

(6) Whether the proposed use is for human occupancy;

(7) The potential danger to persons upstream, downstream, and in the immediate vicinity;

(8) Whether any proposed changes in a watercourse will have an adverse environmental effect on the watercourse, including, without limitation, stream banks and streamside trees and vegetation;

(9) Whether any proposed water supply and sanitation systems and other utility systems can prevent disease, contamination, and unsanitary or hazardous conditions during a flood;

(10) Whether any proposed facility and its contents will be susceptible to flood damage and the effect of such damage;

(11) The relationship of the proposed development to the Boulder Valley Comprehensive Plan and any applicable floodplain management programs;

(12) Whether safe access is available to the property in times of flood for ordinary and emergency vehicles;

(13) Whether the applicant will provide flood warning systems to notify floodplain occupants of impending floods;

(14) Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood heights; and

(15) Whether the expected heights, velocities, duration, rate of rise, and sediment transport of the floodwaters expected at the site will adversely affect the development or surrounding property.

(~~d~~e) If the city manager determines that the applicant meets the purposes and requirements of this chapter, the manager shall issue the permit and may attach such conditions as deemed necessary to further the purposes of this chapter.

(~~e~~f) ~~A~~ Every permit issued on or after April 7, 1985, shall become invalid ~~expires three years after its date of issuance, if the permittee has not commenced construction under the permit.~~ if the work authorized by such permit is not completed and approved by the city manager within three years from the date such permit was issued. Upon receipt of a request in writing that demonstrates justifiable cause and is received prior to expiration of the permit, the city manager may grant in writing one or more extensions of time for periods not more than 180 days each. As part of an approval of extension of a permit, the city manager may impose additional conditions on the applicant in order to ensure compliance with any amendments to this chapter or the floodplain mapping effective after the date of the original permit approval. ~~The term "commenced construction" shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation; but does not include land preparation, grading and filling, or installation of streets or sidewalks.~~

(~~f~~g) No person who has obtained a permit shall fail to construct in accordance with their approved application and design.

(~~g~~h) Floodplain development permits that allow for development in the conveyance zone or the high hazard zone, or which will involve a change of watercourse, shall be decided by the city manager. The decision of the city manager shall be subject to call-up by the planning board, or appeal by any aggrieved party to the planning board, subject to the call-up and appeal procedure of S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(i~~h~~) A floodplain development permit for any of the following items is effective upon the date of its issuance:

(1) Sidewalks, parking lots, or other concrete, asphalt, or stone flatwork that do not modify existing grade;

(2) Uninhabited overhead structural projections, no portion of which extends below the flood protection elevation; or

(3) Rehabilitation of an existing structure in accordance with the definitions in ~~c~~Chapter 9-16, "Definitions," B.R.C. 1981. In addition, for properties in the high hazard zone, the rehabilitation shall not result in a prohibited change in use as set forth in S~~s~~ubsection 9-3-5(c), B.R.C. 1981.

(j~~i~~) No person shall initiate any use after obtaining a permit under this section without first submitting to the city manager a certification by a Colorado registered professional engineer that the development has been completed in compliance with the approved permit application and that all conditions have been fulfilled.

(~~j~~k) At least once every three years, the owner or operator of a critical facility protected by a levee for which the city manager approved an exemption under Paragraph 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, in a floodplain development permit, shall file with the city manager a written certification from a Colorado registered professional engineer that the levee meets the minimum freeboard requirements set forth in Subsection 9-3-2(i)(5) and that the levee appears, on visual inspection, to be structurally sound and adequately maintained. The city manager may require the owner or operator to submit such certification more frequently than once every three years if warranted by recent flood conditions or circumstances that may lead to changes in the levee system at the critical facility. The permit expires if the certification required pursuant to this subsection is not filed with the city manager. Once a floodplain development permit has been issued granting an exemption under Paragraph 9-3-2(i)(5), "Exemption for Critical Facilities Protected by Levee System," B.R.C. 1981, for a critical facility protected by a levee system, future development on the land protected by the levee system that does not in any way affect the levee system or its operation and maintenance shall not require a floodplain development permit so long as the requirements of this subsection (k) and Paragraph 9-3-2(i)(5), B.R.C. 1981, are met.

Section 6. Section 9-3-7, B.R.C. 1981, is amended as follows:

**9-3-7 Variances.**

(a) ~~A person wishing to expand or enlarge an existing structure that does not conform to the requirements of this chapter and cannot be made to conform without unreasonable expense or unreasonable impact on the existing structure may apply to the city manager for a variance from the requirements of subparagraphs 9-3-3(a)(16)(C) and (a)(16)(D)~~The city manager may grant a variance from the requirements of Subsection 9-3-2(i) and Sections~~,~~ 9-3-3, 9-3-4, and 9-3-5, B.R.C. 1981, except that no variance shall be granted for expansion or enlargement of any structure constructed after July 12, 1978, unless such expansion or enlargement conforms to the flood protection elevation requirement in effect at the time of the original construction.

(b) The city manager shall not grant a variance under this section unless the manager determines that:

(1) Considering the flood hazard, the variance is the minimum necessary to afford relief;

(2) To do so would not result in additional threats to public safety, extraordinary public expense, nuisance, fraud, victimization of the public, or for variances in the conveyance zone a rise in the elevation of the water surface of a one hundred-year flood, or be in conflict with existing provisions of this code, ~~or~~ any ordinance of the City, or any other applicable laws; and

(3) Failure to grant the variance would result in exceptional hardship to the applicant, except that a hardship need not be shown for a variance sought to the requirements of Paragraph (i)(4) of 9-3-2, B.R.C. 1981, for a~~n~~ public essential services facility in the five hundred-year floodplain if the applicant demonstrates to the satisfaction of the city manager that the facility is an element of a redundant system for which services will not be interrupted during a flood. At a minimum, the applicant shall demonstrate that one or more redundant facilities are available, either owned by the same public entity or available through an intergovernmental agreement or other contract, and are connected; that the alternative facilities are either located outside of the five hundred-year floodplain or are compliant with the requirements of this chapter~~,~~; and that an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the city manager by the owner or operator of the facility upon request by the city manager.

(c) The manager shall examine the following factors in determining whether or not to grant a variance under this section:

(1) The danger to life and property due to flooding or erosion damage;

(2) The likelihood that the proposed development, in conjunction with existing and anticipated development, may increase flood hazards;

(3) The relationship of the proposed development to the Boulder Valley Comprehensive Plan and any applicable floodplain management programs; and

(4) The cost and ability of providing essential services such as maintaining and protecting public utility systems, roads, and bridges and of restoring normal operations for the community during and after floods.

(d) The city manager shall not grant a cumulative total of variances that increases a structure's floor area by more than ten percent of the structure throughout the life of the structure.

(e) An applicant for a variance shall apply on forms provided by the city manager and pay the fee prescribed by S~~s~~ection 4-20-44, "Floodplain Development Permits and Flood Control Variance Fees," B.R.C. 1981, unless a floodplain development permit is required as well, in which case no fee is required for the variance.

(f) Any decision by the city manager to approve a variance is subject to call-up by the planning board or appeal by any aggrieved party to the planning board as described by S~~s~~ection 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(g) When granting any variance that allows for construction below FEMA's one hundred-year flood protection elevation, the city manager shall provide to the recipient of the variance written notice that the proposed construction does not conform with FEMA guidelines and that the proposed construction and the original structure may be subject to increased flood insurance premiums.

Section 7. Table 6-1: USE TABLE of Subsection 9-6-1(d), B.R.C. is amended as follows:

**9-6-1 Schedule of Permitted Land Uses**

The schedule shows the uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

(a) Explanation of Table Abbreviations: The abbreviations used in table 6-1 of this section have the following meanings:

...

(8) Additional Regulations: There may be additional regulations that are applicable to a specific use type. The existence of these specific use regulations is noted through a reference in the last column of the use table entitled "Specific Use." References refer to subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards~~.~~," or other sections of this title. Such standards apply to all districts unless otherwise specified.

...

(d) Use Table:

**TABLE 6-1: USE TABLE**

| Use Modules | R1 | R2 | R3 | R4 | R5 | R6 | R7 | R8 | MH | M1 | M2 | M3 | M4 | B1 | B2 | B3 | B4 | B5 | D1 | D2 | D3 | I1 | I2 | I3 | I4 | P | A | Specific Use Standard |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Detached dwelling units | A | A | A | A | C | A | A | * | * | A | U | U | A | A | A | A | * | A | A | A | A | * | U | U | * | U | U | 9-8-4 |
| Detached dwelling unit with two kitchens | C | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | 9-6-3(c) |
| Duplexes | * | A | A | A | C | A | A | * | * | A | A | A | A | A | A | A | * | A | A | A | A | G | U | U | N | U | * | 9-8-4 |
| Attached dwellings | * | A | A | A | C | A | A | C | * | A | A | A | A | A | A | A | * | A | A | A | A | G | U | U | N | U | * | 9-8-4 |
| Mobile home parks | * | U | U | * | U | U | * | * | A | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | |
| Townhouses | * | A | A | A | C | A | A | A | * | A | A | A | A | A | A | A | * | A | A | A | A | G | U | U | N | U | * | 9-8-4 |
| Live-work | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | * | * | * | * | * | U | U | U | A | * | * | |
| Cooperative housing units | C | C | C | C | C | C | C | * | * | C | C | C | * | * | * | * | * | * | * | * | * | * | U | U | * | * | * | 9-6-3(b) |
| Efficiency living units: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| A. If <20% of total units | * | * | * | * | U | A | A | * | * | M | A | A | A | A | G | A | * | A | A | A | A | G | U | U | N | U | * | |
| B. If ≥20% of total units | * | * | * | * | * | U | A | * | * | U | A | A | U | U | U | U | * | U | U | U | U | U | U | U | U | U | * | |
| Accessory units: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Accessory dwelling unit | C | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | 9-6-3(a) |
| B. Owner's accessory unit | C | * | * | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-3(a) |
| C. Limited accessory unit | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-3(a) |
| Caretaker dwelling unit | * | * | * | * | * | * | * | * | * | ** | * | * | * | * | * | * | * | * | * | * | A | A | A | A | A | A | | |
| Group quarters: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Congregate care facilities | * | * | A | A | A | A | A | A | * | A | A | A | C | A | C | A | * | A | C | C | C | * | U | U | * | U | * | 9-6-3(f) 9-3-2(i) |
| B. Custodial care | * | * | U | U | U | U | U | U | * | U | U | U | * | U | * | U | * | U | * | U | U | * | U | U | * | * | * | |
| C. Group homes | C | C | C | C | C | C | C | C | * | C | C | C | C | C | C | C | * | C | C | C | C | * | * | * | * | * | * | 9-6-3(d) 9-3-2(i) |
| D. Residential care facilities | * | * | C | C | C | C | C | C | * | C | C | C | C | C | C | C | * | C | C | C | C | * | U | U | * | * | * | 9-6-3(f) 9-3-2(i) |
| E. Fraternities, sororities, and dormitories | * | * | * | * | * | A | A | * | * | U | * | * | * | A | G | A | * | A | * | * | A | * | U | U | * | * | * | 9-3-2(i) |
| F. Boarding houses | * | * | U | U | A | A | A | * | * | U | A | A | G | A | G | A | * | A | * | * | A | * | U | U | * | * | * | |
| Home occupation | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | * | C | C | C | C | C | C | C | C | C | C | 9-6-3(e) |
| Transitional housing | C | C | C | C | C | C | C | C | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | * | 9-6-3(h) |
| **Dining and Entertainment** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Art or craft studio space ≤2,000 square feet | * | U | U | U | U | U | U | U | * | A | A | A | A | A | A | A | A | A | A | A | A | A | A | * | A | U | * | |
| Art or craft studio space >2,001 square feet | * | U | U | U | U | U | U | * | * | M | U | U | A | A | A | A | A | A | A | A | A | A | A | * | A | * | * | |
| Breweries, distilleries or wineries <15,000 square feet and with a restaurant | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | * | * | 9-6-5(b)(3.5) |
| Breweries, distilleries or wineries <15,000 square feet and without a restaurant | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | * | * | 9-6-5(b)(3.5) |
| Breweries, distilleries or wineries with or without a restaurant >15,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | C | C | * | * | * | 9-6-5(b)(3.5) |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Commercial kitchens and catering | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | U | U | U | U | U | A | A | A | A | * | * | |
| Indoor amusement establishment | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | U | U | A | U | U | U | * | * | * | * | * | * | |
| Mobile Food Vehicle on Private Property | * | * | * | * | * | * | * | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | * | 9-6-5(d) |
| Mobile Food Vehicle on Public Right of Way | C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | C | * | 9-6-5(d) |
| Museums | * | * | * | * | * | * | * | * | * | * | * | * | A | U | A | A | A | A | A | A | A | U | U | U | U | * | * | |
| Restaurants (general) | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | C | C | C | C | n/a | n/a | 9-6-5(b) |
| Restaurants, brewpubs and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m. | * | * | * | * | * | U | A | * | * | A | A | A | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | |
| Restaurants, brewpubs and taverns no larger than 1,500 square feet in floor area, which may have meal service on an outside patio not morethan ⅓ the floor area, and which close no later than 11:00 p.m. | * | * | * | * | * | n/a | * | * | * | * | A | * | A | U | A | A | A | A | A | A | C | n/a | n/a | n/a | n/a | n/a | n/a | 9-6-5(b) |
| Restaurants, brewpubs and taverns over 1,000 square feet in floor area, or which close after 11:00 p.m., or with an outdoor seating area of 300 square feet or more | * | * | * | * | * | U | * | * | * | U | A | U | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | |

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| Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district; over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m. | * | * | * | * | * | n/a | n/a | n/a | n/a | n/a | n/a | n/a | U | U | U | A | A | A | A | A | U | n/a | n/a | n/a | n/a | n/a | n/a | |
| Restaurants, brewpubs and taverns in the University Hill general improvement district that are greater than 1,500 square feet and do not exceed 4,000 square feet in floor area, and which close no later than 11:00 p.m. | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | C | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 9-6-5(b) |
| Restaurants, brewpubs and taverns with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | U | U | U | U | U | U | U | U | U | n/a | n/a | n/a | n/a | n/a | n/a | |
| Small theater or rehearsal space | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | U | U | A | U | U | U | A | A | U | A | * | * | |
| Taverns (general) | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | * | * | * | * | n/a | n/a | |
| Temporary outdoor entertainment | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | * | 9-6-5(c) |
| Lodging uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hostels | * | * | * | * | * | U | U | * | * | U | A | U | G | U | G | A | * | A | G | G | U | * | U | U | * | * | * | 9-3-2(i) |
| Bed and breakfasts | * | * | * | * | * | U | A | * | * | U | A | A | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-5(a) 9-3-2(i) |
| Motels and hotels | * | * | * | * | * | * | * | * | * | * | * | * | A | U | A | A | * | A | A | A | U | * | * | * | * | * | * | 9-3-2(i) |
| **Public and Institutional Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airports and heliports | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | 9-3-2(i) |
| Cemeteries | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | |
| Daycare, home | A | A | A | A | A | A | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | |

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| Daycare center with ≤50 children | U | U | C | U | U | C | C | U | U | A | U | U | U | A | U | A | A | A | U | A | A | U | U | U | U | U | U | 9-6-6(a) 9-3-2(i) |
| Daycare center with >50 children | U | U | U | U | U | U | U | * | * | U | U | U | U | A | U | A | A | A | U | A | A | U | U | U | U | U | U | 9-6-6(a) 9-3-2(i) |
| Day shelter | * | * | U | * | U | C | C | * | * | U | C | U | C | C | C | C | C | C | C | C | C | C | C | C | C | U | * | 9-6-6(b) |
| Emergency shelter | U | U | U | U | U | C | C | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | U | * | 9-6-6(b) 9-3-2(j) |
| Essential municipal and public utility services | U | U | U | U | U | U | U | U | U | U | U | U | A | A | A | A | A | A | A | A | A | A | A | A | A | U | U | 9-3-2(i) |
| Governmental facilities | U | U | U | U | U | U | U | U | U | U | U | U | A | A | A | A | A | A | A | A | A | A | A | A | A | U | * | 9-3-2(i) |
| Mortuaries and funeral chapels | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | U | U | U | * | * | U | * | * | * | * | * | * | |
| Nonprofit membership clubs | * | * | * | * | * | * | * | * | * | * | * | * | A | U | G | A | A | A | A | A | A | * | * | * | * | U | * | |
| Overnight shelter | * | * | U | * | U | C | C | * | * | U | C | U | C | C | C | C | C | C | C | C | C | C | C | C | C | U | * | 9-6-6(b) 9-3-2(i) |
| Private elementary, junior, and senior high schools | U | U | U | U | U | A | U | * | * | U | U | U | A | A | G | A | A | A | U | A | U | * | * | * | * | * | * | 9-3-2(i) |
| Public elementary, junior, and senior high schools | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | * | 9-3-2(i) |
| Public colleges and universities | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | * | |
| Private colleges and universities | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | A | * | A | * | U | U | * | U | U | * | A | * | |
| Public and private office uses providing social services | * | * | * | * | * | * | * | * | * | U | U | U | C | A | G | A | A | A | G | A | A | * | U | * | U | U | * | |
| Religious assemblies | A | A | A | A | U | A | A | * | * | A | U | U | A | A | A | A | A | A | A | A | A | * | * | * | * | * | * | |
| Adult educational facility with <20,000 square feet of floor area | U | U | U | U | U | U | U | * | * | U | U | U | A | A | G | A | A | A | U | A | U | A | A | A | A | A | * | |
| Adult educational facilities with ≥20,000 square feet or more of floor area | U | U | U | U | U | U | U | * | * | U | U | U | * | A | G | A | A | A | U | A | U | U | U | U | U | A | * | |
| Vocational and trade schools | * | * | * | * | * | * | * | * | * | * | * | * | A | U | G | A | U | A | U | U | U | A | A | A | A | A | U | |
| **Office, Medical and Financial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Data processing facilities | * | * | * | * | * | * | * | * | * | * | * | * | C | A | G | A | C | A | G | A | A | * | A | A | A | * | * | 9-6-7 |
| Financial institutions | * | * | * | * | * | * | M | * | * | M | M | M | C | U | A | A | A | A | A | A | A | * | * | * | * | * | * | |
| Hospitals | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | * | 9-3-2(i) |

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| Medical or dental clinics or offices or addiction recovery facilities | * | U | U | U | * | U | U | * | * | M | U | U | C | A | A | A | C | A | G | A | A | * | * | * | * | U | * | 9-6-7<br>9-3-2(i) |
| Medical and dental laboratories | * | * | * | * | * | * | M | * | * | M | M | M | C | A | A | A | A | A | * | * | * | U | A | * | U | * | * | |
| Offices, administrative | * | * | * | * | * | * | * | * | * | * | * | * | C | A | A | A | C | A | G | A | A | * | A | A | * | * | * | 9-6-7 |
| Offices, professional | * | U | U | U | U | U | M | * | * | M | M | M | C | A | A | A | C | A | G | A | A | * | * | * | * | * | * | 9-6-7 |
| Offices, technical; with <5,000 square feet of floor area | * | U | U | U | U | U | M | * | * | M | M | M | A | A | A | A | C | A | G | A | A | A | A | A | A | * | * | 9-6-7 |
| Offices, technical; with >5,000 square feet of floor area | * | U | U | U | U | U | M | * | * | M | M | M | U | A | U | A | C | A | G | A | A | * | A | A | A | * | * | 9-6-7 |
| Offices - other | * | U | U | U | U | U | M | * | * | M | M | M | C | A | A | A | C | A | G | A | A | * | * | * | * | * | * | 9-6-7 |
| **Parks and Recreation Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Campgrounds | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | * | * | U | |
| Outdoor entertainment | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | U | U | U | U | U | * | * | * | * | U | * | |
| Park and recreation uses | A | A | A | A | A | A | A | * | A | A | A | A | * | A | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Indoor recreational or athletic facilities | * | * | * | * | * | U | U | * | * | U | U | A | A | A | A | A | A | A | A | A | A | A | U | U | A | * | * | |
| **Commercial, Retail and Industrial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Service Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal hospital or veterinary clinic | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | A | U | A | * | * | U | A | A | A | U | * | * | |
| Animal kennel | * | * | * | * | * | * | * | * | * | * | * | * | C | * | U | U | A | U | * | * | * | A | A | U | A | * | * | |
| Antennas for wireless telecommunications services | * | * | * | C | C | C | C | * | * | C | C | C | A | C | C | C | C | C | C | C | C | C | C | C | C | C | C | 9-6-9(a) |
| Broadcasting and recording facilities | * | U | U | U | U | U | U | * | * | M | M | M | A | A | G | A | A | A | A | A | A | A | A | A | A | * | * | 9-3-2(i) |
| Business support services <10,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | A | * | A | A | A | A | A | A | A | A | U | U | A | * | * | |
| Business support services ≥10,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | A | A | A | A | A | A | U | U | U | U | * | * | |
| Industrial service center | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | * | * | * | * | * | * | * | * | * | |
| Non-vehicular repair and rental services without outdoor storage | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | A | U | U | U | U | A | U | * | A | * | * | |
| Neighborhood business center | * | U | U | * | * | U | U | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-9(f) |

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| Personal service uses | * | U | U | U | * | U | A | U | U | A | A | A | A | A | A | A | A | A | A | A | A | * | * | * | * | * | * | |
| Retail Sales Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory sales | * | * | * | * | * | A | A | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | * | 9-16 |
| Convenience retail sales ≤2,000 square feet | * | U | U | U | * | U | A | * | * | A | * | A | A | U | A | A | U | U | * | A | A | C | C | * | C | * | * | |
| Convenience retail sales >2,000 square feet | * | * | * | * | * | U | U | * | * | M | M | * | A | U | A | A | A | U | A | A | A | * | C | * | C | * | * | |
| Retail fuel sales (not including service stations) | * | U | U | U | * | U | U | * | * | U | U | U | C | U | C | C | U | C | * | U | U | C | C | * | U | * | * | 9-6-9(d) |
| Retail sales ≤5,000 square feet | * | * | * | * | * | * | * | * | * | U | * | U | A | * | A | A | A | A | A | A | A | * | * | * | * | * | * | |
| Retail sales >5,000 square feet but ≤20,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | A | * | A | A | A | A | A | A | A | * | * | * | * | * | * | |
| Retail sales >20,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | U | A | A | A | A | U | * | * | * | * | * | * | |
| Building material sales ≤15,000 square feet of floor area | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | * | * | A | A | A | A | * | * | |
| Building material sales >15,000 square feet of floor area | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | * | * | * | U | U | U | U | * | * | |
| Temporary sales | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | * | * | 9-6-5(c) |
| Vehicle-Related Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Automobile parking lots, garages, or car pool lots as a principal use | U | U | U | U | U | U | U | U | U | U | U | U | U | U | U | A | U | U | * | U | U | A | A | A | U | U | * | 9-6-9(b) |
| Car washes | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | A | U | U | U | U | * | * | * | * | * | * | |
| Drive-thru uses | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | * | U | U | * | * | * | * | * | * | 9-6-9(c) |
| Fuel service stations or retail fuel sales | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | C | C | C | * | U | C | C | C | * | U | * | * | 9-6-9(d) |
| Sales and rental of vehicles | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | A | U | * | * | * | A | A | * | * | * | * | |
| Sales and rental of vehicles within 500 feet of a residential use module | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | C | C | * | * | * | C | C | * | * | * | * | 9-6-9(i) |
| Service of vehicles with no outdoor storage | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | U | A | U | * | * | * | A | A | A | A | * | * | |
| Service of vehicles with limited outdoor storage | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | * | * | * | A | A | * | A | * | * | |

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| Industrial Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Building and landscaping contractors | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | * | A | A | A | A | * | * | |
| Cleaning and laundry plants | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | * | * | |
| Cold storage lockers | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | U | U | A | A | A | A | * | * | |
| Computer design and development facilities | * | * | * | * | * | * | * | * | * | * | * | * | A | A | G | A | C | A | G | A | A | * | A | A | A | * | * | 9-6-7(a) |
| Equipment repair and rental with outdoor storage | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | A | U | U | U | U | A | A | A | A | * | * | |
| Lumber yards | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | * | * | * | * | |
| Manufacturing uses ≤15,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | A | * | * | * | * | A | A | A | A | * | * | |
| Manufacturing uses >15,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | A | A | A | * | * | |
| Manufacturing uses with potential off-site impacts | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | * | * | * | 9-6-9(e) |
| Outdoor storage | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | U | A | * | * | * | |
| Outdoor storage of merchandise | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | * | C | * | * | * | C | C | C | C | * | * | 9-6-9(g) |
| Printers and binders | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | * | * | |
| Recycling centers | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | U | * | * | |
| Recycling collection facilities - large | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | * | * | * | U | U | U | U | U | * | 9-6-9(h) |
| Recycling collection facilities - small | * | * | * | * | * | * | * | * | * | * | * | * | C | * | C | C | C | U | U | U | U | C | C | C | C | C | * | 9-6-9(h) |
| Recycling processing facilities | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | U | U | * | U | * | 9-6-9(h) |
| Self-service storage facilities | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | U | * | * | * | * | |
| Telecommunications use | * | * | * | * | * | * | * | * | * | * | * | * | G | A | G | A | U | A | G | A | A | * | A | A | A | * | * | |
| Warehouse or distributions facilities | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | * | * | |
| Wholesale business | * | * | * | * | * | * | * | * | * | * | * | * | A | * | * | * | * | * | * | * | * | A | A | A | A | * | * | |
| **Agriculture and Natural Resource Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Open space, grazing and pastures | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | |
| Community gardens | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | 9-6-4(a) |
| Crop production | A | A | A | A | A | A | A | A | A | A | A | A | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | |
| Mining industries | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | * | U | |
| Firewood operations | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | * | * | * | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Greenhouse and plant nurseries | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | A | A | |
| **Accessory** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory buildings and uses | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 9-16 |

**A**: Allowed use.
**C**: Conditional use. See Section 9-2-2 for administrative review procedures.
*****: Use prohibited.
**U**: Use review. See Section 9-2-15 for use review procedures.
**G**: Allowed use provided that it is located above or below the ground floor.
**M**: Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.
**N**: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.
**n/a**: Not applicable; more specific use applications apply.

Section 8. Section 9-16-1, B.R.C. 1981, is amended as follows:

**9-16-1 General Definitions.**

(a) The definitions contained in chapter 1-2, "Definitions," B.R.C. 1981, apply to this title unless a term is defined differently in this chapter.

(b) Terms identified with the references shown below after the definition are limited to those specific sections or chapters of this title:

(1) Airport influence zone (AIZ).
(2) Floodplain regulations (Floodplain).
(3) Historic preservation (Historic).
(4) Inclusionary housing (Inclusionary Housing).
(5) Residential growth management system (RGMS).
(6) Solar access (Solar).
(7) Wetlands Protection (Wetlands).
(8) Signs (Signs).

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

**…**

"Accredited levee or provisionally accredited levee" means a system of artificial embankment(s) or flood control structure(s) used for property protection, flood control, and flood hazard mitigation that is accredited or provisionally accredited and mapped Zone X (shaded) by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP). (Floodplain)

**…**

"Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Such areas may be designated as Zones A, AO, AH, AE and A1-30 on the FIRM for the City of Boulder. (Floodplain)

…

"At-risk population facility" means a pre-school, public or private primary or secondary school, before and after school care center with twelve or more students, daycare center with twelve or more children the parents or guardians of which do not remain in the same building of the facility, group home, or residential or congregate care facility with twelve or more residents. (Floodplain)

…

"Base flood elevation" means the computed elevation to which floodwater is anticipated to rise during the one hundred-year flood. (Floodplain)

"Basement" means any enclosed area of a building having its lowest floor a minimum of two feet below grade level on all sides. (Floodplain)

…

"Change in a watercourse" means any change in an existing thalweg, bed, or bank of a watercourse. (Floodplain)

…

"Conveyance zone" means those portions of the floodplain required for the passage or conveyance of the one-hundred-year flood. The conveyance zone is delineated based on an equal encroachment methodology (measured in volume of water), which is applied to the floodplain from the edges of the flood channel to a point where the one-hundred-year flood profile will be raised no more than six inches, after considering a reasonable expectation of blockage at bridges and other obstructions by flood-borne debris. The City may, in its discretion, delineate the conveyance zone on city owned land or right of way based on unequal encroachment to minimize delineation on other properties. The conveyance zone is equivalent to a floodway delineation based on a six-inch rise. (Floodplain)

…

"Crawl space" means the enclosed area contained inside the foundation walls and below the habitable floor of a structure. Crawl spaces having the lowest floor a minimum of two feet below grade level on all sides shall be considered a basement, and not a crawl space. (Floodplain)

"Critical facility" means any structure or related infrastructure, the loss of which may result in severe hazards to public health and safety or may interrupt essential services and operations for the community at any time before, during, and after a flood. Critical facilities are classified as

follows: (1) essential services facility, (2) hazardous material facility, and (3) at-risk population facility. (Floodplain)

…

"Daycare center" means a facility:

(1) Licensed by the state, if applicable;

(2) Providing care for children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and

(3) Which may include some instruction.

(4) Which is not located within a dwelling unit.

"Daycare home" means a facility:

(1) Licensed by the state, if applicable;

(2) Which is located within a dwelling unit;

(3) Providing care for twelve or fewer children or adults who (except for family members) do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. Family members who receive care in the facility are included in the total.

…

"Development" means any change to improved or unimproved real estate, including, without limitation, constructing, relocating, rehabilitating, reconstructing or expanding or enlarging (but not maintaining) a building or other structure or portion thereof, or establishing or changing a use, or mining, dredging, filling, grading, paving, or excavation. (Floodplain)

"Essential service facility" means any facility providing an essential service that, if flooded, may result in severe hazards to public health and safety or interrupt essential services and operations for the community at any time before, during, or after a flood. Examples of essential service facilities include without limitation the following:

(1) Public safety facilities such as police stations, fire and rescue stations, and emergency operation centers;

(2) Emergency response facilities, such as emergency vehicle and equipment storage, and essential governmental work centers for continuity of government operations;

(3) Emergency medical facilities, such as hospitals, emergency care, urgent care, and ambulance services, but excluding clinics, doctors offices, and non-urgent care medical facilities;

(4) Shelters designated by the city manager that will be used during or after a flood for displaced persons;

(5) Communication facilities, such as main hubs for telephone systems, main broadcasting equipment for television systems, radio and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits;

(6) Public utility plant facilities and essential equipment for treatment, generation, storage, pumping, and distribution, such as hubs for water, wastewater, power, and gas, but excluding hydro electric facilities, towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines;

(7) Essential governmental facilities, including, without limitation, facilities where permanent records, as defined by an agency's data retention policy, are stored; courts and jails; building permitting and inspection services; departments that manage utilities and transportation systems; information technology departments, finance departments, and health departments; the county commissioner's office, the city manager's office, and maintenance and equipment centers; and

(8) Air transportation lifelines, such as an airport or heliport, and structures serving emergency functions, and associated infrastructure, such as aviation control towers, air traffic control centers, and emergency equipment aircraft hangars.

(Floodplain)

…

"Exceptional hardship" means a substantially disproportionate burden in relationship to the benefit to be derived from conformance with the requirements of this title. (Floodplain)

…

"Expansion or enlargement of a structure" means any addition of an exterior wall to the structure or any addition to the floor area of the structure, whether under, at, or above grade, and whether or not the external dimensions of the structure are changed, or the reconstruction of a flood-damaged portion of a structure, so long as such expansion, enlargement or reconstruction does not constitute a "substantial modification" or a "substantial improvement." (Floodplain)

…

"FEMA" means the Federal Emergency Management Agency. (Floodplain)

…

"Five hundred-year flood" means a flood having a 0.2 percent chance of occurring in any year. (Floodplain)

"Flood" or "flooding" means a general or temporary condition of partial or complete inundation of normally dry land areas from a watercourse that temporarily overflows the boundaries within which it is ordinarily confined or from the rapid accumulation of runoff of surface water caused by rain, snow melt, flow blockage, or any other source. (Floodplain)

"Flood channel" means a natural or artificial watercourse with a definite bed and banks which periodically or continuously conducts flowing water and is shown on the Flood Channel Inventory Map prepared by the City's Utility Division of the Public Works Department. (Floodplain)

~~"Flood fringe" means those portions of the floodplain that are not in the conveyance zone or in the high hazard zone. (Floodplain)~~

"Flood Insurance Rate Map (FIRM)" means the official map on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. (Floodplain)

"Flood insurance study (FIS)" means the official report provided by the Federal Emergency Management Agency that included flood profiles, the Flood Boundary-Floodway Map, and the water surface elevations of the base flood. (Floodplain)

"Flood profile" means a graph showing the elevations of the floodwater surface and the elevations of the underlying land as a function of distance along a path of flow. (Floodplain)

"Flood protection elevation" means ~~an elevation of~~:

(1) In the one hundred-year floodplain, an elevation of:

(A) ~~t~~Two feet above the elevation of the water surface of a one-hundred-year flood as determined pursuant to ~~s~~Sections 9-3-2 through 9-3-8, B.R.C. 1981, or, if no such elevation is determined, two feet above the highest grade adjacent to a structure~~,~~; or

(B) ~~t~~Two feet above the base flood elevation in AE zones or two feet above the flood depth number indicated for AO zones on the FIRM for the City of Boulder;~~,~~ whichever is higher.

(2) In the five hundred-year floodplain, the lower of the following elevations:

(A) One foot above the water surface of a five hundred-year flood under the standards in Sections 9-3-2 through 9-3-8, B.R.C. 1981; or

(B) The one hundred-year flood protection elevation.

(Floodplain)

"Floodplain" means the area that is susceptible to being inundated by a flood. (Floodplain)

"Floodplain development permit" means any permit granted under the terms and conditions of S~~s~~ections 9-3-2 through 9-3-8, B.R.C. 1981, for development on land in a floodplain. (Floodplain)

"Floodplain, five hundred-year" means the area of the floodplain ~~inundated by a flood~~ having a 0.2 percent or greater chance of ~~occurring~~ flooding in any given year. (Floodplain)

"Floodplain, one hundred-year" means the area of the floodplain~~inundated by a flood~~ having a one percent or greater chance of ~~occurring~~ flooding in any given year. (Floodplain)

"Floodproofing" means any combination of structural and nonstructural changes, modifications, or adjustments to structures or real property which reduce or eliminate flood damage to improved or unimproved real property, water and sanitary facilities, structures and their contents. (Floodplain)

"Floodway, FEMA regulatory" means the channels of watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. (Floodplain)

...

"Hazardous material" means any material used, generated, or stored at a facility of a type and in a quantity that would classify the facility as a hazardous materials facility. (Floodplain)

"Hazardous material facility" means a structure (or group of structures) that is:

(1) Subject to Section 303 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §11003, as amended from time to time, because it has an "Extremely Hazardous Substance" on site in quantities that meet or exceed the "Threshold Planning Quantities" established by the United States Environmental Protection Agency and listed at 40 C.F.R. Part 355, Appendix A and Appendix B, as may be amended from time to time;

(2) Unless covered by subpart (1) above, storing hazardous material as defined by Department of Transportation regulations at 49 C.F.R. Parts 171-180, as may be amended from time to time, but only to the extent that the facility is storing the hazardous material in the "Bulk Packaging" container in which it was delivered as that term is defined at 49 C.F.R. 171.8, as may be amended from time to time;

(3) Storing a hazardous substance of the type and quantity listed by §29-22-107, C.R.S., as may be amended from time to time; or

(4) Regulated as a transfer facility under Colorado hazardous waste regulations at 6 C.C.R. 1007-3, Part 263, as may be amended from time to time.

(Floodplain)

"Hazardous substance" means any substance, as determined from time to time by the city manager pursuant to the rule making authority granted by S~~s~~ubsection 9-3-2(c), B.R.C. 1981,

that is flammable, radioactive, toxic, or explosive, and that in times of flooding could be released in sufficient quantities to be harmful to humans, animals, or plant life. (Floodplain)

…

"High hazard zone" means those portions of the floodplain where an unacceptably high hazard to human safety exists defined as those areas where the product number of flow velocity (measured in ft./sec.) times flow depth (measured in feet) equals or exceeds four, or where flow depths equal or exceed four feet. (Floodplain)

…

"Hostel" means a facility for residence of under one month that provides simple dormitory or sleeping rooms and common rooms for cooking, meeting, recreational, and educational use; that is chartered or approved by the International Hostel Federation or its national or regional affiliates, or similar organizations; and that is supervised by resident house-parents or managers who direct the guests' participation in the domestic duties and activities of the hostel.

"Hotel/motel" means an establishment that offers temporary lodging in rooms, for less than one month, and may include a restaurant, meeting rooms, and accessory uses and services, including, without limitation, newsstands, gift shops, and similar incidental uses conducted entirely within the principal building but excludes a "bed and breakfast," as defined in this section.

…

"Intended for human occupancy" means, as applied to structures, capable of and likely to be used for residential habitation, or for commercial, industrial or governmental occupation by persons on a regular basis. Examples of structures normally not intended for human occupancy include, without limitation, garages useable solely for the parking of vehicles or storage, open air carwashes, unheated pavilions, porches or patio covers, crawl spaces, flood resistant enclosures useable solely for building access, barns and other agricultural buildings, garden storage sheds, ATMs, and mausoleums. (Floodplain)

…

<u>"Lodging facility" means a hotel, motel, dormitory, bed and breakfast, hostel, emergency shelter, and overnight shelter as defined in the Boulder Revised Code. (Floodplain)</u>

…

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement or crawl space). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable design requirements of <u>S</u>~~s~~ections 9-3-2 through 9-3-8, B.R.C. 1981. (Floodplain)

…

"Maintenance" means any activity undertaken to repair or prevent the deterioration, impairment or failure of any stream, previously constructed improvement or structure, including, without limitation the removal of sediment and debris, installation of erosion and sediment control devices and the replacement of structural components. Maintenance does not include expansion or enlargement of a structure, substantial modifications, substantial improvements, total replacement of existing facilities or total reconstruction of a facility. (Floodplain)

…

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle." (Floodplain)

"Manufactured home park or manufactured home subdivision" means any lot or tract of land designed, used, or intended to provide a location or accommodation for one or more manufactured homes and upon which any manufactured home or homes are parked or located, whether or not the lot or tract or any part thereof is held or operated for profit, on which construction was completed on or after July 12, 1978. (Floodplain)

…

“Mixed-use structure” means any structure with both residential uses and nonresidential uses where no less than twenty-five percent of the finished floor area contains nonresidential uses. (Floodplain)

…

"Moveable object" means an item or material not anchored to the ground that is subject to being transported by water, including, without limitation, a manufactured home not anchored to a permanent foundation, a tank, a trash dumpster, lumber, and other materials, but not a motor vehicle. (Floodplain)

…

"New construction" means structures for which the "start of construction" commenced on or after July 12, 1978, and includes any subsequent improvements to such structures. (Floodplain)

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading, or pouring of concrete pads) is completed on or after July 12, 1978. (Floodplain)

...

"Nonresidential structure" means any structure ~~or any portion of a structure~~ used exclusively for, or designed as and capable of being used for, office, commercial, industrial, or governmental occupation, or the temporary lodging of persons for periods of less than six months including hotels, motels, emergency shelters, and overnight shelters but excluding dormitories, fraternities, and bed and breakfasts. (Floodplain)

...

"Obstruction" means any item or material not constituting a moveable object in, along, across, or projecting into the floodplain that might impede, retard, or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such water, in a way that the city manager determines would increase the flood hazard to adjacent properties. (Floodplain)

...

"One hundred-year flood" means a flood having a one percent chance of occurring in any year. (Floodplain)

...

"Residential structure" means any structure ~~or any portion of a structure~~ that is used for, or designed as and capable of being used for, the temporary or permanent domicile of persons for periods of six months or more, including, without limitation, a dwelling, a boarding house, a dormitory, a fraternity, a bed and breakfast~~hotel, a motel~~, and similarly used structures. (Floodplain)

...

"Reconstruction" means exact replacement of an existing structure or portion thereof or exact structural repair of a damaged structure. (Floodplain)

"Recreational vehicle" means a vehicle which is: 1) built on a single chassis; 2) four hundred square feet or less when measured at the largest horizontal projections; 3) designed to be self-propelled or permanently towable by a light duty truck; and 4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. (Floodplain)

...

...

"Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or

footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. (Floodplain)

...

"Structure" means a building or other roofed construction, a basement, a wall, a fence, a manufactured home, or a storage tank. (Floodplain)

...

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. (Floodplain)

"Substantial improvement" means any repair, reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or 2) any alteration of a structure listed on the National Register of Historic Places or the Colorado Inventory of Historic Places or designated as an individual landmark under S~~s~~ection 9-11-2, "City Council May Designate Or Amend Landmarks And Historic Districts," B.R.C. 1981. (Floodplain)

"Substantial modification" means any expansion or enlargement of a structure which equals or exceeds fifty percent of the floor area of the structure intended for human occupancy, considered cumulatively, commencing July 12, 1978. (Floodplain)

...

Section 9. This ordinance shall become effective on the later of March 1, 2014, or 30 days after its final passage by the City Council. This ordinance shall apply to all permits and development applications submitted to the city after the effective date of its passage.

Section. 10. 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 11. 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 20th day of August, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of September, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

K:\FCAD\o- 7926 Critical Facilities Ordinance 3rd Reading-1190.doc

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 2013.

.

_____
Mayor

Attest:

_____

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# Council Meeting
# Tuesday, September 17, 2013
# ERRATA SHEET
# ITEM 5A ORDINANCE NO. 7926

| Packet Page # | Item # | Ord # | Line | Change/Addition |
|---|---|---|---|---|
| 264 | 5A | 7926 | 4 | Correct language of Subparagraph B.R.C. 9-3-2(i)(3)(F), B.R.C. 1981, by deleting superfluous "shall" and to read as follows:<br><br>Implementation of Emergency Management Plans: No owner or operator of a critical facility or lodging facility in the five hundred-year floodplain shall fail to implement and to annually review and update, if necessary, an approved emergency management plan and to make the plan available to the city manager for review upon request. |
| 264 | 5A | 7926 | 25 | Correct language of Subparagraph B.R.C. 9-3-2 (i)(4)(F), B.R.C. 1981, by deleting superfluous language and to read as follows:<br><br>No person owning, operating, or otherwise using a hazardous material facility shall fail to secure all hazardous materials from flooding and from being released during five hundred-year flood events or to floodproof the facility before January 2024 or five years after the effective date of a map change that placed the facility into the five hundred-year floodplain, whichever date is later. |
| 281 | 5A | 7926 | | Add an amendment to Paragraph 9-6-1(a)(8), "Additional Regulations," B.R.C. 1981, to read as follows with newly proposed amendments showing in bold underline and bold strikethrough:<br><br>Additional Regulations: There may be additional regulations that are applicable to a specific use type. The existence of these specific use regulations is noted through a reference in the last column of the use table entitled "Specific Use." References refer to subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards,~~.~~" or other sections of this title. Such standards apply to all districts unless otherwise specified.<br><br>This amendment corrects Paragraph 9-6-1(a)(8), B.R.C. 1981, as some additional regulations applicable to a specific use type are located in other sections of Title 9, "Land Use Code," B.R.C. 1981. |
| 281-288 | 5A | 7926 | | As the standards of Subsection 9-3-2(i), B.R.C. 1981, will apply to all districts of the affected use types and to ensure internal consistency of the Use Table, change Table 6-1: Use Table in Section 9-6-1(d), B.R.C. 1981, to the eliminate initially proposed changes from Allowed Uses ("A") to Conditional Uses ("C") but keeping the proposed Specific Use Standard reference to Subsection 9-3-2(i) in the last column of the Use Table and to read as follows: *See* **Attachment A** to this Errata Sheet |
| 298 | 5A | 7926 | 13 | Change effective date from January 1, 2014, to March 1, 2014. |

# Council Meeting
# Tuesday, September 17, 2013
# ERRATA SHEET
# ITEM 5A ORDINANCE NO. 7926

## Attachment A

**TABLE 6-1: USE TABLE**

| Use Modules | R1 | R2 | R3 | R4 | R5 | R6 | R7 | R8 | MH | M1 | M2 | M3 | M4 | B1 | B2 | B3 | B4 | B5 | D1 | D2 | D3 | I1 | I2 | I3 | I4 | P | A | Specific Use Standard |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Group quarters: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. Congregate care facilities | * | * | A | A | A | A | A | A | * | A | A | A | C | A | C | A | * | A | C | C | C | * | U | U | * | U | * | 9-6-3(f) 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C. Group homes | C | C | C | C | C | C | C | C | * | C | C | C | C | C | C | C | * | C | C | C | C | * | * | * | * | * | * | 9-6-3(d) 9-3-2(i) |
| D. Residential care facilities | * | * | C | C | C | C | C | C | * | C | C | C | C | C | C | C | * | C | C | C | C | * | U | U | * | * | * | 9-6-3(f) 9-3-2(i) |
| E. Fraternities, sororities, and dormitories | * | * | * | * | * | A | A | * | * | U | * | * | * | A | G | A | * | A | * | * | A | * | U | U | * | * | * | 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Dining and Entertainment** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Lodging uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hostels | * | * | * | * | * | U | U | * | * | U | A | U | G | U | G | A | * | A | G | G | U | * | U | U | * | * | * | 9-3-2(i) |
| Bed and breakfasts | * | * | * | * | * | U | A | * | * | U | A | A | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | 9-6-5(a) 9-3-2(i) |
| Motels and hotels | * | * | * | * | * | * | * | * | * | * | * | * | A | U | A | A | * | A | A | A | U | * | * | * | * | * | * | 9-3-2(i) |
| **Public and Institutional Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airports and heliports | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | * | 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Daycare center with ≤50 children | U | U | C | U | U | C | C | U | U | A | U | U | U | A | U | A | A | A | U | A | A | U | U | U | U | U | U | 9-6-6(a) 9-3-2(i) |
| Daycare center with >50 children | U | U | U | U | U | U | U | * | * | U | U | U | U | A | U | A | A | A | U | A | A | U | U | U | U | U | U | 9-6-6(a) 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Emergency shelter | U | U | U | U | U | C | C | * | * | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | U | * | 9-6-6(b) 9-3-2(k) |
| Essential municipal and public utility services | U | U | U | U | U | U | U | U | U | U | U | U | A | A | A | A | A | A | A | A | A | A | A | A | A | U | U | 9-3-2(i) |
| Governmental facilities | U | U | U | U | U | U | U | U | U | U | U | U | A | A | A | A | A | A | A | A | A | A | A | A | A | U | * | 9-3-2(i) |

# Council Meeting
# Tuesday, September 17, 2013
# ERRATA SHEET
# ITEM 5A ORDINANCE NO. 7926

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Overnight shelter | * | * | U | * | U | C | C | * | * | U | C | U | C | C | C | C | C | C | C | C | C | C | C | C | C | U | * | 9-6-6(b) 9-3-2(i) |
| Private elementary, junior, and senior high schools | U | U | U | U | U | A | U | * | * | U | U | U | A | A | G | A | A | A | U | A | U | * | * | * | * | * | * | 9-3-2(i) |
| Public elementary, junior, and senior high schools | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | * | 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Office, Medical and Financial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hospitals | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | * | 9-3-2(i) |
| Medical or dental clinics or offices or addiction recovery facilities | * | U | U | U | * | U | U | * | * | M | U | U | C | ~~A~~ | A | A | C | A | G | A | A | * | * | * | * | U | * | 9-6-7 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Commercial, Retail and Industrial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Service Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Broadcasting and recording facilities | * | U | U | U | U | U | U | * | * | M | M | M | A | A | G | A | A | A | A | A | A | A | A | A | A | * | * | 9-3-2(i) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

**A**: Allowed use.
**C**: Conditional use. See Section 9-2-2 for administrative review procedures.
*****: Use prohibited.
**U**: Use review. See Section 9-2-15 for use review procedures.
**G**: Allowed use provided that it is located above or below the ground floor.
**M**: Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.
**N**: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.
**n/a**: Not applicable; more specific use applications apply.

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE**
Second reading and consideration of a motion to adopt Ordinance No. 7936 for the *Intergovernmental Agreement with Boulder County for Hazardous Materials Management.*

**PRESENTER/S**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bret Linenfelser, Water Quality and Environmental Services Manager

## EXECUTIVE SUMMARY

The proposed Ordinance No. 7936 (**Attachment A**) updates the Intergovernmental Agreement (IGA) between the City of Boulder and Boulder County for Hazardous Materials Management (**Attachment B**).

In March 2005, City Council met with Boulder County Commissioners and agreed to contribute $400,000 to the construction of the new Hazardous Materials Management (HMM) facility, in addition to the city's annual operating expense contribution. The new HMM facility was proposed to provide disposal and recycling services focusing on appropriate management and disposal of household hazardous wastes and hazardous wastes generated by businesses that are defined by the State of Colorado as "conditionally-exempt small quantity generators" (CESQG).

Boulder County completed construction of a new HMM facility in 2011, located at 1901 63rd St., in Boulder, replacing the old facility formally located at the Western Disposal transfer station in Boulder. The proposed IGA between the City of Boulder (city) and

Boulder County effective Jan. 1, 2014 through Dec. 31, 2018, replaces the existing IGA for hazardous materials collection and management, which expires Dec. 31, 2013. The new IGA includes a $20,000 per year payment towards the city's $400,000 portion of the new HMM facility construction cost, plus annual operating fees, which are based on facility usage by city residents and businesses. The IGA assures city residents and businesses have a long-term option for the proper disposal of hazardous materials.

The Boulder County HMM IGA also includes the following entities: City and County of Broomfield; cities of Lafayette, Longmont and Louisville; and, the towns of Erie and Superior. A cost breakdown by each entity is provided in the IGA (**Attachment B**).

**FIRST READING QUESTIONS**
No questions were raised by City Council during the first reading.

**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. 7936 for the *Intergovernmental Agreement with Boulder County for Hazardous Materials Management, effective January 1, 2014* (**Attachment A**).

**ATTACHMENTS**

**Attachment A:** ORDINANCE No. 7936
**Attachment B:** INTERGOVERNMENTAL AGREEMENT FOR HAZARDOUS MATERIALS MANAGEMENT

ORDINANCE NO. 7936

AN ORDINANCE ADOPTING AN INTERGOVERNMENTAL AGREEMENT BETWEEN BOULDER COUNTY; THE CITY AND COUNTY OF BROOMFIELD; THE CITIES OF BOULDER, LAFAYETTE, LONGMONT AND LOUISVILLE; AND THE TOWNS OF ERIE AND SUPERIOR, RELATING TO THE MANAGEMENT OF HAZARDOUS MATERIALS.

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

Section 1. The City Council adopts and approves the intergovernmental agreement, entitled, "Multi-year HMM IGA Intergovernmental Agreement for Hazardous Materials Management," effective January 1, 2014 through December 31, 2018, attached as **Exhibit A** and incorporated by this reference.

Section 2. 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 3. The 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 17th day of September, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

Multi-year HMM IGA 2014 to 2018

INTERGOVERNMENTAL AGREEMENT FOR
HAZARDOUS MATERIALS MANAGEMENT

This Intergovernmental Agreement for Hazardous Materials Management (this "Agreement") is made and entered into this _____ day of _____, _____ by and between BOULDER COUNTY, a body politic and corporate (referred to hereinafter as the "County"), the CITY AND COUNTY OF BROOMFIELD and the cities of BOULDER, LAFAYETTE, LONGMONT and LOUISVILLE, and the towns of ERIE and SUPERIOR; each a municipal corporation (each of the above may be referred to hereinafter as a "Party" or collectively as the "Parties.") The City and County of Broomfield and the cities and towns may also be referred to hereinafter individually as a "Municipality" or jointly as the "Municipalities".

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to C.R.S. §29-1-201 *et seq*.; and

WHEREAS, the Parties wish to encourage proper disposal of household hazardous wastes and hazardous wastes generated by businesses that are defined by the State of Colorado as "conditionally-exempt small quantity generators" (hereinafter "CESQGs"), and increase public awareness of the importance of waste avoidance, waste reduction, and sound waste management practices in protecting public health and the environment, particularly water quality; and

WHEREAS, the County has initiated a hazardous materials management program (hereinafter the "HMM Program") to provide a safe, convenient place where residents and businesses of the County can dispose of Hazardous Wastes and, further, to provide for the safe and environmentally sound recycling and disposal of these wastes; and

WHEREAS, significant cost, organizational and promotional efficiencies can be realized if the HMM Program is implemented jointly by the Parties; and

WHEREAS, the Parties have determined it is in the best interest of their residents and businesses, and a recognized common goal, to provide for the conduct of a coordinated HMM Program; and

WHEREAS, the goals of this Agreement are:

1. To protect public health and the environment from the consequences of improper storage and disposal of Hazardous Wastes as defined below;
2. To promote an environmentally knowledgeable and concerned public and business community;
3. To promote a multi-jurisdictional hazardous materials management collection program;
4. To solicit community support; and
5. To encourage the purchase and use of less toxic or harmful products, encourage waste minimization and promote reuse and recycling; and

WHEREAS, the Parties wish to enter into a multi-year intergovernmental agreement for the operation of the hazardous materials management facility (the "HMM Facility") located at 1901 63rd Street, Building C. Boulder, CO 80301, and the HMM Program.

NOW, THEREFORE, in consideration of the mutual covenants and commitments made herein, the Parties agree as follows:

## I. DEFINITIONS

A. For the purposes of this IGA, the "Town of Erie" refers to the entire Town of Erie, and is not limited to the portions of the Town of Erie that are located in Boulder County.

B. CESQG BUSINESS WASTES are hazardous wastes generated by businesses that meet the definition of "Conditionally-Exempt Small Quantity Generators" as defined by State of Colorado Hazardous Waste Regulations, 6CCR-1007-3. Colorado regulations are congruent with Federal Regulations with respect to CESQG status. CESQG businesses generate hazardous waste in amounts below state and federal regulatory thresholds. As of the date of this Agreement, these thresholds are:

1. A monthly hazardous waste generation rate of less than 1 kilogram (approximately 1 quart) of acutely hazardous waste
2. A monthly hazardous waste generation rate of less than 100 kilograms or 220 lbs of hazardous wastes (approximately ½ of a 55 gallon drum or about 27 gallons)
3. A maximum accumulation of less than 1 kilogram hazardous waste (approximately 1 quart) of acutely hazardous waste
4. A maximum accumulation of less than 1000 kilograms or 2,200 pounds of hazardous waste (approximately 5, 55 gallon drums)

C. HAZARDOUS WASTE CONTRACTOR shall mean the entity(s) selected and employed by the County to categorize, package, transport, recycle, treat or dispose of selected Household Hazardous Wastes collected by the HMM Program.

D. HOUSEHOLD HAZARDOUS WASTES are solid and liquid wastes, discarded from homes or similar sources (including single and multiple residences) that are best described by lists of hazardous wastes in federal or state regulations. Household hazardous wastes may also exhibit the characteristics of toxicity, ignitability, corrosivity or reactivity as described in those rules. Household hazardous wastes are not currently regulated by either the federal or state government. Products that may be considered household hazardous wastes include many pesticides and herbicides; drain openers; oven cleaners; paint thinners, strippers and removers; adhesives; wood preservatives; automotive and fuel additives; grease and rust solvents; refrigerants; carburetor cleaners; and other products. Although waste paint and motor oil are not usually considered hazardous wastes under current federal or state regulations, they are included as household hazardous wastes for purposes of the HMM Program because of their ubiquity in the waste stream and the toxicity of some of their constituents.

E. HAZARDOUS WASTES, as used in this Agreement refers collectively to Household Hazardous Wastes and CESQG Business Wastes, and includes Universal Wastes (excluding electronic wastes as these are not accepted by the HMM Facility), Used Oil, Recyclable Wastes, and Non-Hazardous Liquid Wastes.

F. NON-HAZARDOUS LIQUID WASTES as used in this Agreement refers to latex paints, water-based paint products, non-hazardous cleaners, and cooking oil.

G. NON-HAZARDOUS LIQUID WASTE CONTRACTOR shall mean an entity selected and employed by the County to receive and dispose of Non-Hazardous Liquid Wastes collected by the HMM Program.

H. PROGRAM SERVICE AREA, as used in this Agreement refers to the geographic area encompassing Boulder County, Broomfield City and County, and the Town of Erie.

I. RECYCLABLE WASTES as used in this Agreement refers to wastes that may or may not be Universal Wastes that can be recycled, including antifreeze, lead-acid batteries, and used oil.

J. RECYCLING CONTRACTOR shall mean an entity selected and employed by the County to receive and recycle Recyclable Wastes collected by the HMM Program.

K. WASTE CONTRACTOR shall mean an entity selected and employed by the County to receive non-hazardous, solid wastes collected by the HMM Program and transport to a landfill for disposal.

L. UNIVERSAL WASTE is as defined in 6 CCR 1007-3, Part 273 and shall mean waste batteries (except lead acid batteries), certain pesticides, mercury-containing devices, aerosol cans that contain hazardous waste when discarded, lamps or the bulb or tube portion of an electric lighting device, electronic devices and components derived from the disassembly of electronic devices.

M. USED OIL is as defined in 6 CCR 1007-3, section 279.1. and shall mean any oil that has been refined from crude oil, or any synthetic oil that has been used, and as a result of such use, is contaminated by physical or chemical impurities.

## II. HAZARDOUS MATERIALS MANAGEMENT COMMITTEE

A. The membership of the Hazardous Materials Management Committee (the HMM Committee) shall be comprised of one or more designated staff members from each of the Parties.

B. The HMM Committee shall act by consensus to provide guidance to County staff concerning decisions that affect the operations of the HMM Facility, the development and use of educational outreach materials and the operating budget of the HMM Program, including decisions regarding the expenditure of funds for outreach and education, future expansion and replacement of the HMM Facility, hours of operation, the acceptance of new materials, and the assessing of future business surcharges.

## III. PROGRAM DESCRIPTION

A. The Parties enter into this Agreement for the primary purpose of funding the HMM program to collect and recycle and/or appropriately dispose of Hazardous Wastes generated by residents and businesses in the Program Service Area. The County shall employ trained personnel to manage and operate the HMM Facility. Such operation shall include, at a minimum, providing residential drop-off four days per week and business drop-off by appointment.

B. A Hazardous Waste Contractor(s) shall be employed to assist the County HMM Facility staff to categorize and package hazardous wastes and to transport and properly dispose of the Hazardous Wastes collected at the HMM Facility. A Non-Hazardous Liquid Waste Contractor(s) shall be employed by the County to receive and dispose of Non-Hazardous Liquid Wastes collected by the HMM Program. A Recycling Contractor(s) shall be employed by the County to receive and recycle Recyclable Wastes collected by the HMM Program. A Waste Contractor(s) shall be employed by the County to receive and dispose of non-hazardous, solid wastes collected by the HMM Program.

C. Waste from CESQG businesses may be processed at the HMM Facility subject to the business paying for the cost of waste handling, including any additional handling or labor changes if applicable, plus surcharges set by the County for operating costs (30% of waste management costs) and construction

costs (40% of waste management costs), and future equipment and facility replacement or expansion (10% of waste management costs) (collectively "Surcharges").

D. The HMM Program can also assist CESQG Businesses by arranging for the HMM Program's Hazardous Waste Contractor(s), Non-Hazardous Liquid Waste Contractor(s) or Recycling Contractor(s) to pack and ship Hazardous Waste directly from the business location, subject to the business paying for the cost of waste handling, including any additional handling or labor changes if applicable, plus a surcharge for operating costs (30% of waste management costs). Surcharges for construction, and for future equipment and facility replacement or expansion are not applied to direct ship loads.

E. CESQG Business Waste generated by the County or one of the Municipalities may be received at the HMM Facility, or directly shipped from the County or a Municipality to the processing facility if the the County or Municipality pays the cost of processing, including any additional handling or labor changes if applicable. No Surcharges shall be applied to Hazardous Waste generated by the Parties.

F. Future changes to the Surcharges will be determined by written agreement of the Parties.

G. Any Municipality may request that the HMM Program assist with the planning and implementation of special one-day collection events. The HMM Program will provide assistance with events, subject to the Municipality agreeing to reimburse the HMM Program for all costs incurred with the event, including staff time, temporary labor, supplies, Hazardous Waste disposal, etc.

H. Any Municipality wishing to implement a more frequent satellite collection program (periodic or regular events during the year) in its community may contract for satellite collection program services separately with a contractor of its choice, or work with the HMM Program subject to approval by Boulder County. The HMM Program will provide assistance with community satellite collection programs, subject to the Municipality agreeing to reimburse the HMM Program for all costs incurred with the satellite collection, including staff time, temporary labor, supplies, Hazardous Waste disposal, etc.

I. In the event of a man-made or natural disaster occurring within the geographic limits of one or more of the Municipalities, the HMM Program will assist the Municipality(s), as practicable, with the collection and disposal of Hazardous Wastes resulting from the disaster. Such assistance may include setting up temporary collection areas for Hazardous Wastes. The HMM Program will provide disaster-related assistance subject to the Municipality agreeing to reimburse the HMM Program for all costs incurred for such assistance to the Municipality, including staff time, temporary labor, supplies, waste disposal, etc.

## IV. DISPOSAL AND RECYCLING SERVICES

A. The County shall contract with one or more companies for Hazardous Waste collection, recycling or disposal services. Specific responsibilities and performance requirements of these Contractors shall be included in separate contracts with the County. These agreements shall include indemnification of the Municipalities, and are available to the HMM Committee upon request. The County shall provide its Hazardous Waste Contractor(s) with a copy of this Agreement.

B. The Parties understand and agree that the Boulder County Administrative Services Department, Resource Conservation Division, will administer Hazardous Waste disposal and recycling contracts for the HMM Program on behalf of all Parties. The County assumes responsibility for the negligent actions and/or omissions of its agents and its employees in the performance or failure to perform with respect to management and operations affecting the HMM Program and the HMM Facility. Except as set forth in Section II, above, the Parties disclaim the right to be involved in management or operational decisions

affecting the HMM Facility, and rely on the expertise of the County and the County's Hazardous Waste, Waste and Recycling Contractor(s) for such purposes, however, the zoning and land use decisions by a Municipality with jurisdiction over the HMM Facility are not disclaimed.

C. By entering into this Agreement, neither the County nor the Municipalities waive or intend to waive, as to any person not a Party to this Agreement, the monetary limitations or any other rights, immunities, and protections which are provided to the County and the Municipalities under the Colorado Governmental Immunity Act, Section 24-10-101 *et.seq*., C.R.S.

D. Any information or materials developed by the HMM Program, Hazardous Waste, Waste or Recycling Contractors shall be made available to all Parties through the HMM Committee.

## V. RESIDENTIAL OPERATING COSTS

A. The cost of providing residential Household Hazardous Waste collection services at the HMM Facility is estimated each year based upon historic use and growth rates in residential participation and on unit costs per household. Residential costs include labor, operating supplies and packing materials, transportation, recycling and/or disposal and education materials, minus revenues for the sale of recyclable materials (lead-acid batteries, motor oil), CESQG Business Waste handling fees or operational surcharges, collection event reimbursements, donations, and any other deductions. It is the intention of the Parties that each Municipality will fund a pro-rated share of quarterly residential program costs based on the number of residents from each Municipality that use the HMM Facility each quarter.

B. During the term of this Agreement, the County Administrative Services Department, Resource Conservation Division, will provide HMM Committee members with a budget projection for the following year substantially in the form attached hereto as Attachment A. The projection will estimate the amount of each Party’s contribution for the following year. Budget projections for the following year will be provided to each Party on or before May 1 of the preceding year for each year this Agreement is in effect. This budget shall become final unless any Party objects by June 30th of the preceding year.

C. During each year this Agreement is in effect, the County Administrative Services Department, Resource Conservation Division, will supply regular information on participation levels in each community and actual operating costs, and will make best efforts to ensure that operating costs are not incurred above the agreed-upon estimate without prior approval from the affected Municipality.

D. After all program expenses through each quarter of the current year have accrued (or have been estimated for the month of December only), the County shall calculate the share of costs for each Party as follows:

> Each Party’s contribution for the quarter = actual program costs for the quarter, plus estimated program costs for December only if applicable, minus any deductions as described in VI A. above,, for the quarter, multiplied by the actual residential percentage participation for the County or Municipality for the quarter based on the HMM Program’s customer database.

The share of costs for the first quarter of the following year will include an adjustment to reconcile estimated versus actual expenses for the previous December.

E. Each Party pledges to appropriate funds for its pro-rated share of operating expenses as specified in this Section V and annual budget projections, but no Party shall be liable for any such amounts unless and until the governing body of such Party has appropriated funds pursuant to this Agreement. However, each Party shall be liable for payment of monies so appropriated, and any of the remaining Parties may

take any action appropriate to compel payment of appropriated funds. When subsequent year budgets are available for years 2015-2018, each Municipality shall consider the appropriation of funds.

F. If, during any year this Agreement is in effect, either the community participation level in a community is expected to exceed projections, thereby raising the Party's percentage of contribution, or operating costs for the HMM Facility will exceed the original estimates such that a Party's obligation for operating expenses during the calendar year will exceed the amount appropriated for such year, the Party affected by such increase may take either of the following actions or some combination thereof:

1. The Party may appropriate additional funds to support such additional participation by its residents.
2. The Party may choose not to appropriate additional funds and request that the County restrict use by its residents so as not to exceed the funding appropriated.

G. In the event that HMM Program operating costs are expected to be higher than anticipated, the HMM Committee may recommend appropriate action to help reduce the costs of operating of the HMM Facility, such as recommending that Boulder County staff reduce the hours of operation.

H. In the event that one or more of the Parties fails to contribute its share of costs, and in a manner consistent with this Agreement, the Party in default will refrain from further participation in the HMM Program, its residents will not be permitted to bring Hazardous Wastes to the HMM Facility and its rights pursuant to this Agreement shall be suspended, but the terms and obligations of this Agreement will continue for the remaining Parties, and any of the remaining Parties may take appropriate action to enforce this Agreement.

I. In the event that one or more Municipalities fail to ratify this Agreement or initially ratify this Agreement and thereafter default, the remaining Parties reserve the right, following suspension of the Party or Parties in default, to re-estimate the cost of the HMM Program in consultation with the Hazardous Waste, Waste and Recycling Contractors and to adjust each Party's funding allocation on a pro-rated basis to total 100% of the revised cost.

J. If this Agreement is extended beyond 2018, the HMM Committee shall consider past usage of each participating community to evaluate methods of pro-rating costs, and make recommendations to the Parties.

## VI. PAYMENT OF ANNUAL OPERATING EXPENSES

A. The County will be the paying agent for the HMM Program and Facility.

B. The County will request payment of each Party's contribution to HMM Program costs based on the participation by households of each Party, on a quarterly basis. Contributions will be based on the previous quarter's operation. Each Municipality will pay its contribution within 30 days of billing.

C. Each Municipality's payment obligations hereunder are subject to and limited by the appropriation of sufficient funds for each year this Agreement is in effect.

## VII. FUNDING FOR CONSTRUCTION OF THE HAZARDOUS MATERIALS MANAGEMENT FACILITY

A. Boulder County finished construction of the HMM Facility in 2011 on County-owned property located at 1901 63rd Street, Boulder, the same site occupied by the Boulder County Recycling Center. The

original Parties to this Agreement contributed to the construction costs. In addition, funds for construction were allocated from the Boulder County Sales and Use Tax Fund, and the Parties estimated that future business surcharges would help to fund the project. The Parties also agreed to fund equipment and start-up costs over ten years beginning in 2011. The breakdown of contributions was as follows:

| Contributor | Contribution to construction expense | Estimated Contribution to equipment and start-up expense **** | TOTAL |
|---|---|---|---|
| Boulder County | $864,020* | $42,734 | $906,754 |
| City of Boulder | $400,000** | $68,888 | $468,888 |
| City and County of Broomfield | $22,800* | $6,319 | $29,119 |
| Town of Erie | $10,720*** | $3,501 | $14,221 |
| City of Lafayette | $33,200* | $10,494 | $43,694 |
| City of Longmont | $58,880* | $11,780 | 70,660 |
| City of Louisville | $43,920* * | $8,992 | $52,912 |
| Town of Superior | $14,880* | $2,292 | $17,172 |
| County Recycling Sales and Use Tax Fund | $762,500 | NA | $762,500 |
| Future businesses surcharges | $189,080 | NA | $189,080 |
| Total | $2,400,000 | 155,000 | 2,555,000 |

*One-time contribution
** Paid over 20 years, interest free
*** Paid over 5 years, interest free
**** Paid over 10 years, interest free, based on previous year's percentage participation

B. The City of Boulder will pay the County Recycling Sales and Use Tax Fund equal payments of Twenty Thousand Dollars ($20,000) per year for twenty (20) years, beginning by December 31, 2009, and thereafter by December 31st each year through and including 2028. The City of Boulder's payment obligations hereunder are subject to and limited by the appropriation of sufficient funds by the Boulder City Council for each year including but not limited to those years that this Agreement is in effect.

C. The City of Louisville will pay the County Recycling Sales and Use Tax Fund equal payments of Two Thousand One Hundred Ninety-Six Dollars ($2,196) per year for twenty (20) years, beginning December 31, 2009, and thereafter by December 31st each year through and including December 31, 2028. The City of Louisville's payment obligations hereunder are subject to and limited by the appropriation of sufficient funds by the Louisville City Council for each year including but not limited to those years that this Agreement is in effect.

D. In the event that a Party to this Agreement fails to contribute its share of costs, and in a manner consistent with this Agreement, the Party in default will refrain from further participation in the HMM Program, its residents will not be permitted to bring Household Hazardous Wastes to the HMM Facility,

and its rights pursuant to this Agreement shall be suspended, but the terms and obligations of this Agreement will continue as to the remaining Parties, and any of the remaining Parties may take appropriate action to enforce this Agreement.

## VIII. FUTURE FACILITY REPLACEMENT OR EXPANSION

A. The HMM Facility is expected to serve the needs of Boulder County for the next twenty years and beyond. In anticipation of future equipment needs, or facility expansion or replacement needs, the Parties each agree, subject to appropriation of sufficient funds therefor, to pay an additional 5% above actual quarterly operational expenditures for each quarter of each year for the term of this Agreement, which shall be placed by the County into a restricted fund and used only for future equipment needs or facility expansion or replacement. This is expected to generate approximately One Hundred Forty-Four Thousand and Five Hundred Dollars ($144,500) over 5 years. Any expenditures from the restricted fund shall be approved by the Parties in writing.

B. The surcharge for future equipment and facility replacement or expansion, noted in Section III C. above, will ensure that business customers also contribute to future capital expenditures.

C. The Parties also agree that during the term of this Agreement all donations received by the HMM Program, whether the donation is designated for a particular community or not, will be added to the restricted funds as set aside for future equipment needs or facility expansion or replacement.

D. With regard to future facility replacement or expansion, the Parties further agree that:

1. The County will remain the sole owner of the building and property asset represented by the HMM Facility. The Parties anticipate that they will share proportionally in any future replacement or expansion of the HMM Facility. To the extent that such costs are shared proportionally by the Parties, such additional capital contributions by the Municipalities should be recoverable in the event the County is in default of this Agreement.
2. Producers and retailers of hazardous products benefit from the sale of such products, bear significant responsibility for the recycling or proper disposal of unwanted hazardous products or associated wastes, and will be asked to contribute to the capital costs of any expansion or replacement of the facility.
3. Generators of CESQ Business Waste will benefit from any expansion or replacement of the HMM Facility and should also share in the capital cost of any expansion or replacement of this facility.

## IX. DEFAULT

A. The County shall be in default of this Agreement if it uses the HMM Facility for a purpose other than Hazardous Waste management, as specified in this Agreement, or for any other waste reduction purposes not previously approved by the Parties. The 20-year restrictive covenant herein attached as Attachment B (the “Restrictive Covenant’) is hereby incorporated into this Agreement.

B. In the event of the County’s default pursuant to Paragraph A of this Section IX, any Party may give the County written notice of default. If the County has not remedied the complained of default within sixty days of receiving such notice of default, then the complaining Party may demand repayment of its “Adjusted Financial Interest,” defined in Paragraph D, below, as well as its contribution to the

restricted fund as referenced in Section VIII A., excluding its proportionate share of the restricted fund that has been spent or encumbered.

C. The County agrees that upon receipt of such written notice pursuant to Paragraph B above, it will promptly repay the Party requesting such repayment.

D. "Adjusted Financial Interest" shall mean a value determined as follows:

1. An "Initial Party Investment" shall be the amount specified in Section VII~~I~~ A. of this Agreement.
2. Upon the issuance of the certificate of occupancy for the HMM Facility, the County shall provide evidence of the total cost of constructing the HMM Facility. The Parties shall review such evidence and agree on the percentage of the total costs of construction contributed by each Party (the "Investment Percentage").
3. A Party's Adjusted Financial Interest shall equal the then-existing fair market value of the HMM Facility multiplied by the Party's Investment Percentage.

E. If the Parties cannot agree on the fair market value of the HMM Facility, its fair market value will be determined by an appraisal. The appraiser shall be selected jointly by the Parties and shall be a Member of the Appraisal Institute (M.A.I.) or a person with equivalent professional expertise. The cost of the appraisal shall be borne equally by the County and those Parties seeking the return of their Adjusted Financial Interest.

To the greatest extent practicable, the fair market value of the HMM Facility shall not include any sums attributable to Significant Improvements to the HMM Facility made solely by the County after its initial construction. A "Significant Improvement" shall mean a permanent alteration, addition, or enhancement to the HMM Facility that increased its fair market value by ten percent or more as of the time of the valuation required by the Agreement.

Maintenance expenses and expenditures to preserve or strengthen the structural integrity of the HMM Facility, such as, for example, new roofing, siding or windows, or to bring the HMM Facility into compliance with County building, electrical, plumbing, fire and similar codes shall not be considered to be Significant Improvements.

Appraisal of the HMM Facility shall only be of the capital improvements funded by the Parties and shall not include any appreciation or depreciation of the land upon which the HMM Facility is constructed.

The County shall be responsible for maintaining sufficient records to enable an appraiser to determine whether a particular expenditure for the HMM Facility constituted a Significant Improvement. If sufficient contemporaneous records are unavailable to clearly establish that a particular expenditure constituted a Significant Improvement and to establish the amount by which the fair market value of the HMM Facility should be reduced because of that expenditure, then it may not be considered to be a Significant Improvement.

F. If the County defaults before the City of Boulder or the City of Louisville has paid its full Initial Party Investment, its Adjusted Financial Interest shall be recalculated to reflect only its actual payments to the County Recycling Sales and Use Tax Fund and its liability for any future payments pursuant to Section VII A. shall be extinguished.

## X. DURATION AND WITHDRAWAL

A. This Agreement shall automatically renew on January 1st of each year until December 31, 2018; provided, however, that each Party's obligation to pay its required financial contributions hereunder and each other Party's right to take action to compel payment hereunder shall continue until such obligation has been discharged. Any Municipality may withdraw from this Agreement, which withdrawal shall be effective ten (10) days after the Municipality mails by certified mail, return receipt requested, a written notice to Boulder County of the Municipality's intent to withdraw. The withdrawing Municipality will be discharged from its obligations hereunder, provided that it has paid all outstanding financial obligations for which it is liable under this Agreement. The terms and obligations of this Agreement shall continue as to the remaining Parties.

B. In the event that any Municipality withdraws from this Agreement, such Municipality may again become a Party only with the majority consent of the remaining Parties, after satisfying all obligations for which it was liable upon date for withdrawal, and subject to such further conditions as may be required by the Parties.

C. This Agreement may be renewed for future years beyond 2018, subject to written approval by all Parties, and provided the Parties appropriate estimated costs for the future years.

## XI. MISCELLANEOUS PROVISIONS

A. This Agreement shall be effective as to each Party upon ratification by that Party.

B. The waiver by any Party of any breach of any term, covenant or condition of this Agreement by another Party shall not be deemed a waiver of such term, covenant, or condition for any subsequent breach of the same or of any other term, covenant, or condition of this Agreement.

C. Any Party hereto shall have the right to enjoin any substantial breach or threatened breach of this Agreement by any other Party, and, to the extent permitted by law, shall have the right to specific performance of this Agreement.

D. This Agreement is solely for the benefit of the Parties hereto and no third party shall be entitled to claim or enforce any rights hereunder except as specifically provided herein.

E. If any provision of this Agreement or application thereof to any Party or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

F. This Agreement contains the entire agreement between the Parties, and shall not be amended or modified in any manner without such amendment or modification being agreed to and executed in writing by all the Parties.

G. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution Article X, Section 20. Notwithstanding any other provision of this Agreement, the financial obligations of each Party under this Agreement are subject to annual appropriation by the governing body of such Party.

H. This Agreement may be signed in multiple parts by the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BOULDER COUNTY BOARD OF COMMISSIONERS

_____
Cindy Domenico, Chair

Date: _____

ATTEST:

_____
CLERK TO THE BOARD

CITY AND COUNTY OF BROOMFIELD

By: _____

Title: _____

Date: _____

ATTEST:

_____

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager
1777 Broadway
Boulder, CO 80302

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

CITY OF LAFAYETTE

By: _____

Title: _____

Date: _____

ATTEST:

_____

CITY OF LONGMONT

By: _____
Dennis J. Coombs, Mayor

Date: _____

ATTEST:

_____
City Clerk

CITY OF LOUISVILLE

By: _____

Title: _____

Date: _____

ATTEST:

_____

TOWN OF ERIE

By: _____

Title: _____

Date: _____

ATTEST:

_____

TOWN OF SUPERIOR

By: _____

Title: _____

Date: _____

ATTEST:

_____

# ATTACHMENT A

## Boulder County Hazardous Materials Management (HMM) Program

# Projected Budget for the 2014 Calendar Year

*Estimated based on actual households served in 2012 (12,523) plus 5% growth.
** Total projected cost per community is based on number of households to be served multiplied by $44.00.

**In accordance with Section V of the 2014 to 2018 Intergovernmental Agreement for Hazardous**

| Community | Percentage Participation | Number of Households Served | Estimated Contribution Toward **2014** Program Costs |
|---|---|---|---|
| **Boulder County** | 19.73% | 2,594 | $114,149 |
| **Boulder** | 49.35% | 6,489 | $285,517 |
| **Broomfield City and County** | 4.13% | 543 | $23,894 |
| **Erie** | 2.43% | 320 | $14,059 |
| **Lafayette** | 7.20% | 947 | $41,656 |
| **Longmont** | 8.84% | 1162 | $51,144 |
| **Louisville** | 6.44% | 847 | $37,259 |
| **Superior** | 1.88% | 247 | $10,877 |
| | **100.00%** | **13,149** | **$578,556** |

**Materials Management (the "IGA"), member communities, through their representative on the HMM Committee, will be provided with a projected budget for the following year, each year by May 1 of the preceding year. As noted in Section V. D. of the IGA, actual contributions to HMM Program costs will be calculated quarterly, based on actual participation by each community's residents, and actual costs incurred by the County.** The projected budget shall become final unless any community objects by June 30th of year of the preceding year.

# ATTACHMENT B  replace with signed covenant (PDF)

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only ordinances amending Chapters 2-3, 2-6, 4-2, 6-3, and Title 9 of the B.R.C., 1981, to reduce impacts of hospitality establishments on neighboring properties, amend the 500-foot rule, and restructure the Beverage Licensing Authority as part of the broader effort to reduce community impacts from overconsumption of alcohol.

**PRESENTER/S**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Cross-Departmental Staff Team *(see page 15 for list of team members)*

**EXECUTIVE SUMMARY**
At a public hearing on Feb. 19, 2013, City Council directed city staff to move forward with the proposed action plan to reduce community impacts from the overconsumption of alcohol. Three elements of the action plan that require further council input include:

1. Amendments to the land use code for hospitality establishments to differentiate between lower and higher intensity uses,
2. Amendments to the city's 500-foot rule, which governs liquor sales near schools and universities, and
3. Beverage Licensing Authority (BLA) structural changes from a volunteer community board to a hearing officer.

The purpose of this item is to consider ordinances to change the following areas related to reducing community impacts from the overconsumption of alcohol:

Land Use Code Changes – The proposed land use code changes are intended to better distinguish between low-intensity and high-intensity hospitality establishments and their respective compatibility with neighboring land uses. Currently, the land use code regulates restaurants and taverns uniformly and in some cases, restaurants approved as such have converted to tavern-like uses in late hours, which present different impacts. The new definitions and standards are focused on operating characteristics of different types of hospitality establishments to regulate them more appropriately and better mitigate impacts. Staff recommends the proposed changes **(Attachment A)** in order to:

- Better differentiate between hospitality establishments as to anticipate impacts and avoid the conversion of restaurants into taverns or night clubs in late hours;
- Place a higher level of scrutiny on establishments in close proximity to residential areas and incentivize establishments without full-service liquor licenses in such areas; and
- Continue to support Boulder's economic vitality by permitting higher intensity uses in the core of downtown and within the Boulder Valley Regional Center where police and transportation services are already focused to address impacts and promote safety and where impacts to residential areas would be less.

Amend the City's 500-foot Rule – In September 1987, City Council waived the state requirement, thereby allowing establishments located within 500-feet (ft) of the principal campus of the University of Colorado (CU) to obtain Hotel-Restaurant type liquor licenses only. These licenses permit the sale of beer, wine, and hard liquor.

Three options for the existing 500-ft rule are briefly described below.[1] Any changes to the 500-ft rule would only apply to new businesses. Existing businesses would be grandfathered, unless a business was closed for more than one year, and a business could also transfer their liquor licenses to future owners or tenants.

1. ***Revoke the 500-foot liquor license waiver***: No additional liquor licenses would be issued within 500-ft of CU. (**Attachment B-1**)
2. ***Modify the 500-foot liquor license waiver to allow beer and wine licenses only***: This approach would permit additional establishments that wish to serve alcohol within 500-feet of CU, but would prohibit the sale of hard alcohol. (**Attachment B-2**)
3. ***Status Quo***: The existing waiver would remain in place. Existing and new businesses located within 500-ft of CU's principal campus could continue to apply for licenses to sell and serve wine, beer or hard alcohol. (**Attachment B-3**)

Staff has prepared three ordinances for council consideration with each of the options noted above. Staff recommends modifying the existing 500-foot Rule to allow Beer & Wine licenses only (**Attachment B-2**) to:

- Strike a balance between addressing overconsumption of alcohol on the Hill while minimizing the adverse impacts to the economic vitality of the community.
- Allow for more family friendly restaurants while avoiding some of the community impacts that can be associated with the consumption of hard liquor

Beverage Licensing Authority (BLA) Structural Changes – The BLA is a five member volunteer community board that has the responsibility of granting, denying, suspending, and revoking liquor licenses. They are required to apply state law. Suspension or revocation requires what is essentially a trial, with the BLA sitting in the role of a judge.

[1] As a cleanup matter, each option includes removing the 400 foot waiver in section 4-2-4(a)(2) B.R.C., that applies to Boulder High in order to comply with state law. This wavier includes provisions relating to capacity and square footage. Removal of this section will not have an impact to any existing establishments.

There is no other city board placed in this position. Many other cities use a hearing officer model and it seems to work well. The hearing officer could either be hired by contract or be delegated to a municipal judge. Staff has prepared two ordinances for council consideration with each of the options briefly described below.

1. ***Municipal Judge***: Dissolve the BLA and change the structure to a municipal judge model. (**Attachment C-1**)
2. ***Hearing Officer***: Dissolve the BLA and change the structure to a contracted hearing officer. (**Attachment C-2**)

Staff recommends dissolving the BLA and adopting a hearing officer model. While a hearing officer can be a municipal court judge or a licensed attorney under contract with the city, staff recommends using a municipal judge[2] as a hearing officer to handle all liquor licensing matters.[3] Approximate costs and resource impacts for both hearing officer options are included in **Attachment D.** Staff is recommending this option in order to:

- Achieve reliable enforcement through predictability of results
- Achieve maximum efficiency

## STAFF RECOMMENDATION

**Suggested Motion Language**:
Staff requests council consideration of this matter and action as follows:

1. Motion to introduce and order published by title only an ordinance amending Chapter 6-3, "Trash, Recyclables, and Compostables," and Title 9, "Land Use Code," B.R.C., 1981, to reduce impacts of hospitality establishments on neighboring properties and setting forth related details. **Attachment A**
2. Motion to introduce and order published by title only an ordinance amending section 4-2-4, "State Law Procedures Apply," B.R.C., 1981, to modify the 500-foot Rule to allow Beer and Wine licenses only and setting forth related details **Attachment B-2**.
3. Motion to introduce and order published by title only an ordinance removing sections 2-3-3, "Beverage Licensing Authority," and replacing with a new section 4-2-12, "Beverage Licensing Authority," amending 4-2-3, "Authority to Issue City Licenses," 2-6-3, "Creation, Jurisdiction, and Powers of Municipal Court," 2-6-4, "Judges," B.R.C. 1981, and setting forth related details. **Attachment C-1**.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The proposed ordinance changes are an attempt to minimize adverse impacts to the economic vitality of the community by focusing on "problem" establishments and improving the use of existing licensing and enforcement tools.

[2] Judge Cooke is very active in collaborative community issues related to alcohol. While not technically a conflict, it would provide a clearer separation if council decided to take the approach that Judge Cahn be appointed as the hearing officer.
[3] The city clerk would continue to handle administrative matters.

However, prohibition of, or additional restrictions on, establishments in certain areas of the city (e.g., University Hill) could have a negative economic impact to local business, the vitality of the areas and revitalization opportunities.

- Environmental: The proposed ordinance changes leverage resources to improve the application of existing tools that impact the quality of life and the physical environment in the Boulder Community.
- Social: Resolution 960, adopted by council in October 2004, recognizes that the city has a responsibility to provide leadership in addressing the critical issues of health, safety and well-being stemming from alcohol abuse and can influence policies, regulations and enforcement. The proposed ordinance changes further the city's work efforts in the areas of beverage licensing, code enforcement, and land use.

**OTHER IMPACTS**

- Fiscal: If the new land use code definitions are adopted, then the number of development review applications that are submitted for administrative (staff level) review would increase. The revenue associated with the increase in administrative reviews would cover the costs of additional staff time and resources. There would be no fiscal impacts related to modifying or revoking the 500-ft rule. If the BLA is replaced with a hearing officer/judge, then an adjustment to the 2014 budget request would be submitted. It is anticipated that a hearing officer would cost either approximately $16,200/year for an independent contractor or between $1,800 to $10,800/year for a municipal court judge (see **Attachment D** for details).
- Staff Time: As stated above, with additional development review applications, as well as an increase in the number of required neighborhood meetings, additional staff time would be needed if the new land use code definitions are adopted. If the BLA is replaced with a hearing officer/judge, less attorney staff time is needed to support the BLA and efficiencies would increase. Licensing staff would likely require staff time similar to current practice to process applications under the proposed changes.

**BACKGROUND**

The proposed changes to the land use code definitions, 500-ft rule, and BLA structure are a few factors in a broader community effort to reduce the effects of overconsumption of alcohol. As such, the proposed changes are one component of a comprehensive action plan that was approved by City Council in Feb. 2013. Details of the comprehensive action plan, status updates on each action plan item, and the larger community efforts can be found at www.bouldercolorado.gov/city-manager/alcohol.

Three elements of the action plan that need further council input include updating of the land use code to reduce impacts of hospitality establishments on neighboring properties, amending the city's 500-foot rule, and restructuring the BLA. At the June 11, 2013 Study Session on the city work plan, there was City Council consensus to update the land use code, bring options pertaining to the 500-foot rule and BLA restructuring forward for consideration through an ordinance process, and schedule council business meetings, including public hearings, for the proposed changes.

## BOARD, COMMISSION, AND PUBLIC FEEDBACK

As part of developing the comprehensive action plan approved by City Council in Feb. 2013, staff presented the potential land use and licensing code change options to several boards and reconvened the Community Working Group composed of different stakeholders throughout the community. The options being considered at that time included new land use code definitions, as well as other land use code changes, and revoking or modifying the 500-ft rule. A summary of the public, board and commission feedback can be found at www.bouldercolorado.gov/city-manager/alcohol.

More recently, staff drafted the proposed changes related to the land use code, 500-ft rule and BLA structure, and encouraged members of the Community Working Group, business owners, and public to participate directly in the public hearing process at the Planning Board and City Council meetings. In addition, several boards and commissions were notified of the proposed changes including the BLA, University Hill Commercial Area Management Commission (UHCAMC), Downtown Management Commission, Downtown Boulder Inc., Downtown Boulder Business Improvement District, and the City/CU Oversight Committee. An executive summary of the proposed changes was distributed to each of the review bodies and interested parties for consideration. Those that provided a recommendation are included below. Details of the specific board and commission member comments can be found on the website at www.bouldercolorado.gov/city-manager/alcohol. Public comments were also heard at the Aug. 15, 2013 Planning Board meeting, which is discussed below.

### *Planning Board*

Planning Board met on Aug. 15, 2013 and voted unanimously (5-0; May and Young absent**)** to recommend approval of the proposed land use code changes to City Council but with the following modifications and additional recommendations:

- Change the conditional use category for the DT-1, DT-2, DT-3, BMS, and MU-3 zoning districts for neighborhood pub or bistros smaller than 1,500 square feet to the Use Review category;
- Change the prohibition of late night restaurants in the MU-1, MU-2, and MU-4 zoning district to the Use Review category (supported by 4 board members, Gray opposed);
- Make the requirement for serving solid food until closing stricter where proposed to be required;
- Obtain more data before imposing a food sales percentage requirement; and
- Further explore establishing licenses for late-night hospitality establishments.

Staff has also prepared a matrix that lists the board recommendations and staff's rationale to support or not support the proposed changes (see **Attachment E**). Data from establishments is forthcoming and will be provided to City Council once available. Planning Board did not comment specifically on the 500 foot rule.

***Beverage Licensing Authority (BLA)***
BLA met on June 19, 2013 and discussed the proposed structural changes. Three options were considered including transfer all BLA functions to a hearing officer, transfer only revocation/suspension hearings to a hearing officer (i.e., bifurcation of the BLA), and maintaining the status quo. In general, BLA did not believe that there is a consistency problem with status quo but supported transferring functions to a hearing officer. Some members felt that the hearing officer should be an independent, outside hearing officer rather than the municipal judge. A majority stated that bifurcation should not be considered an option.

BLA met on July 17, 2013 and discussed the proposed 500-ft rule changes and new land use code definitions. The board has previously recommended to council on several occasions that council revisit the 500-ft rule. Therefore, the board did not make a motion. Additionally, no motion was made on the new land use code definitions. More detailed comments from the BLA can be accessed at www.bouldercolorado.gov/city-manager/alcohol.

***University Hill Commercial Area Management Commission (UHCAMC)***
UHCAMC met on July 17, 2013 and provided the following motion (4 in favor and Raj abstaining) for City Council consideration regarding the proposed 500-ft rule changes and new land use code definitions:

*UHCAMC does not support the proposed changes to the 500 foot Rule; additionally, we recommend the solutions proposed include more consideration from the working groups and the individuals who presented testimony to us today, addressing education, prevention and enforcement. The proposed changes in the land use code do not appear to us to adequately address the problem given the public testimony we received at our meeting today. Consideration of public input from the working groups and effected parties should be included. Further targeted analysis is needed in the following areas: economic impact to the hill, feedback from the students, impacts on public health, similar university's solutions and proven results, before there are any new definitions created. UHCAMC requests that City Council more carefully define the problem so that tailored solutions can be implemented.*

***Downtown Management Commission (DMC)***
DMC met on Aug. 1, 2013 and all commissioners unanimously approved the motion (4-0).

*DMC supports the concepts in the UHCAMC motion regarding this issue made on July 17; and, that the DMC finds some positives in the staff recommendation regarding the concept of the management plan and the additional options for businesses for different types of liquor licenses. It is critical that the City Council listen to input from all of the stakeholders to understand the potential ramifications of any ordinance or code changes; be mindful of unintended consequences from these changes; and, the DMC believes it is premature for the City Council to approve these changes without a clearer mandate of the problem to be solved.*

## ANALYSIS

***Land Use Changes*** – Currently, the city's land use code does not differentiate between restaurants, bars or taverns and regulates them uniformly. This is problematic as over time, some establishments have functioned more like taverns than restaurants, especially in the evening hours, and had a negative impact on neighboring properties. Proposed changes will create new use categories and update use standards and definitions to help mitigate impacts to residential neighborhoods through appropriate review processes.[4] It is anticipated that the proposed changes will better distinguish between lower intensity and higher intensity[5] hospitality establishments, which would enable more effective control over potential impacts of these establishments upon neighboring properties. For specific definitions and information related to where such uses are proposed to be permitted, please refer to **Attachment F** and **G**.

To avoid situations where restaurants function as taverns in later hours, the proposed changes include updating the definition for restaurants and creating a new 'Late Night Restaurants' definition.

- **Restaurants** – Required closing by 11 p.m.
- **Late Night Restaurants** – Depending on context, late night restaurants would be permitted as follows:

  - ⇨ *Core of downtown, Boulder Valley Regional Center, shopping center*s: Permitted through the Conditional Use Review process to stay open past 11 p.m. in more intense business districts, such as areas of downtown including Pearl Street mall, Twenty Ninth Street, and the 28th Street Corridor.
  - ⇨ *Business areas near residential zones*: Permitted as Conditional Uses in business areas near residential so long as they close at 12 a.m. and do not possess a liquor license. In some business areas (i.e., MU-1, MU-2, MU-4, BMS, DT-1, DT-2 and DT-3) late night restaurants could be permitted through Use Review to operate after 12 a.m. if they do not possess a liquor license.
  - ⇨ *Within High Density Residential zones*: Permitted with Use Review approval to operate so long as they close at 12 a.m., are limited to 1,500 square feet and do not possess a liquor license.

To allow for congenial places for people to socialize that add vitality to existing and planned centers in the community, a definition for 'Neighborhood Pub or Bistro' was

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[4] Establishments go through one of the following approval or review processes in order to operate: (1) By-Right – can begin operation without any discretionary approvals and only with a building permit, if necessary; (2) Conditional Use Review – staff level review to demonstrate meeting specific code criteria with no public call-up requirement; or (3) Use Review – generally a staff level review to demonstrate meeting specific code criteria with potential for Planning Board or public call-up.

[5] Typically, higher intensity establishments create higher impacts to the community and are those that serve a greater amount of alcohol than food, including hard alcohol, generally operate late hours (after 11 pm) and/or have outdoor seating in close proximity to residential zones.

created. Some existing establishments that would operate similar to how the proposed use is envisioned would be the Hungry Toad or Café Aion if they were operating with a beer and wine license. Some examples of establishments that hold Beer and Wine liquor licenses are Larkburger, Rincon Argentino and Laughing Goat.

- **Neighborhood Pub or Bistro** – Permits pubs or bistros in residential interface areas and allows operation until 12 a.m. without Use Review approval, but rather staff level review. Also, the use definition is tied to establishments with a Beer and Wine liquor license. The rationale is that hard alcohol allows for quicker intoxication and the possibility for increased impacts on a surrounding area. This proposed use would not include a full service liquor license and would typically have less impact than establishments with full service licenses.

Currently, taverns or brewpubs are permitted on a limited basis in some residential zones with special approval (i.e., Use Review). The proposed changes would prohibit tavern or brewpub land uses in residential zones.

- **Taverns** and **Brewpubs** – Includes bars and night clubs. Taverns and brewpubs may require Use Review approval depending on location and zoning district. The use definition of "Tavern" includes establishments that have a Tavern liquor license, which has no limitation on types of alcohol sold. The use definition of "Brewpub" is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law. Pursuant to state law, brewpubs are allowed to purchase other alcohol not manufactured at the premises but are limited to a maximum of $2000/year of purchase from retail liquor stores.

The proposed code changes include a new definition for 'Retail Liquor Store.' Currently, liquor stores fall under regular 'Retail sales.'

- **Retail Liquor Store** –Require Use Review for retail liquor stores in mixed use and residential interface zones. They could operate as an allowable use by-right in other business zones.

Another part of the proposed changes is related to management plans. The effectiveness and accessibility of management plans has been an issue raised by the community. For hospitality establishments that are considered residential interface areas, applicants are required to conduct a meeting with neighborhood members to solicit comment and address potential impacts, which is accomplished through a management plan. This process will continue, but the plans will be more accessible, apply to all establishments near residential areas and require more descriptive information.

- **Management Plans** – Require that management plans be accessible on premises of an establishment and easily accessible at the city offices (on-line). The code would be amended to broaden the requirement for management plans to all establishments located close to residential zones (before it was voluntary and

encouraged for some). The code changes also would require more descriptive elements to better understand how a business intends to operate and how they intend to mitigate impacts.

New standards to complement the land use definitions are also proposed and include without limitation, trash and recycling pick up times, bar area limitations and food sale requirements. Staff recommends that council support these land use code changes to:

- Better differentiate between hospitality establishments as to anticipate impacts and avoid the conversion of restaurants into taverns or night clubs in late hours;
- Place a higher level of scrutiny on establishments in close proximity to residential areas and incentivize establishments without full-service liquor licenses in such areas; and
- Continue to support Boulder's economic vitality by permitting higher intensity uses in the core of downtown and within the Boulder Valley Regional Center where police and transportation services are already focused to address impacts and promote safety and where there are less impacts on residential areas.

***500-Foot Rule Changes*** – Colorado liquor law can be accessed at the following web link: **http://www.colorado.gov/revenue/liquor**

The City of Boulder also has an online map that shows the distribution and type of liquor licenses. This can be accessed at the following web link:
**www.bouldercolorado.gov/tax-license**
At the webpage select "Liquor Licensing" and then select "Liquor Licenses Map"

In 1987, state liquor laws changed the minimum drinking age from 18 to 21 for 3.2 percent beer (up until that time persons between 18 to 21 years old could lawfully drink 3.2 percent beer) and prohibited the sale of alcohol within 500-feet (ft) of a school or principal campus of a university unless a local ordinance allowed for elimination or reduction of the 500-ft rule.

In response to concerns from the businesses on the University Hill (Hill), City Council approved Ordinance No. 5069 on September 1, 1987, which waived the state requirement, thereby allowing establishments located within 500-ft of the principal campus of the University of Colorado (CU) to obtain "Hotel-Restaurant" liquor license only. Hotel-Restaurant liquor licenses require at least 25 percent food sales and permit the sale of beer, wine, and hard liquor.

The method for measuring the 500-ft distance restriction is set out in the state regulations. In 1991 and pursuant to state law, the principal campus was further defined to exclude other CU properties. The "principal campus" of CU is defined as the area generally bordered by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north (see map in **Attachment H**). The 500-ft area includes most of the Hill along with a majority of the Basemar Shopping Center at the corner of

Broadway and Baseline, a variety of commercial properties on the south frontage of Baseline Road and a limited number of commercial businesses on the 28th Street frontage road.

At the direction of City Council on Feb. 19, 2013, changes to the 500-ft liquor license rule are being considered. The proposed changes are intended to address perceived concerns about the overconcentration of liquor establishments on the Hill and the service of hard alcohol, which has the potential to exacerbate the problem of overconsumption as it enables quick intoxication as compared to beer and wine. The three options for changing the existing 500-ft rule along with potential impacts are listed below. Any changes to the 500-ft rule would only apply to new businesses. Existing businesses would be grandfathered, unless a business were closed for more than one year, and could transfer their liquor licenses to future owners or tenants.

**(1) Revoke the 500-ft liquor license waiver around CU (Attachment B-1)**: No additional liquor licenses would be issued within 500-ft of CU. If this option were undertaken, existing establishments (i.e., license owners) would likely see an increase in value by virtue of the diminished likelihood of new competition. Similarly, there could be an economic impact to the Hill as it would turn away some businesses that could support revitalization efforts (e.g., new restaurants that want a full-service liquor license may locate elsewhere).

- ***Impacts to new businesses within 500-feet of CU*** – Would not be permitted to sell any liquor including wine, beer or hard alcohol.
- ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments would not be permitted to serve alcohol.
- ***Impacts based on new land use code definitions*** – Neighborhood Pubs or Bistros would not be permitted within 500-ft of CU. Restaurants would be permitted under the zoning code but could not serve alcohol and they would be required to close by 11 p.m. New taverns and brewpubs would not be permitted, as Tavern and Brewpub liquor licenses (no limitation on types of alcohol sold) would not be permitted in the 500-ft area. Pursuant to state law, taverns have no limitation on the types of alcohol sold. Moreover, brewpubs are allowed to purchase other alcohol not manufactured at the premises but are limited to a maximum of $2000/year of purchase from retail liquor stores.

**(2) Modify the 500-ft liquor license waiver to allow beer and wine licenses only (Attachment B-2)**: This approach would permit additional establishments that wish to serve alcohol, but would prohibit the sale of hard alcohol. It is anticipated that this approach would likely be less impactful to the economic vitality of the Hill.

- ***Impacts to new businesses within 500-feet of CU*** – Permitted to sell beer and wine but would not be permitted to sell hard alcohol.

- ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments could only serve alcohol under a Beer and Wine license if within 500-ft of CU's principal campus.
- ***Impacts based on new land use code definitions*** **–** New Neighborhood Pubs or Bistros would be permitted within 500-ft of CU (and could be open to new customers until 12 a.m. without Use Review) and could sell beer and wine. New restaurants would close by 11 p.m. unless they are late night restaurants, which would be permitted as described on page 6. Restaurants, per the proposed definition, would not be able to hold a liquor license by virtue of the revised 500-foot rule, which only permits Beer and Wine licenses. (A very small area within the 500-ft buffer is zoned to support late night restaurants). New taverns or brewpubs would not be permitted, as Tavern and Brewpub liquor licenses (no limitation on types of alcohol sold) would be prohibited in the 500-ft area. Pursuant to state law, taverns have no limitation on the types of alcohol sold whereas brewpubs are allowed to purchase other alcohol not manufactured at the premises but are limited to a maximum of $2000/year of purchase from retail liquor stores.

**(3) Status Quo (Attachment B-3)**: If the current 500-ft waiver for hotel-restaurant liquor licenses remains in effect, then existing and new businesses located within 500-ft of CU's principal campus could continue to apply for licenses to sell and serve any liquor, including wine, beer or hard alcohol. If the new land use code definitions were approved then:

- Neighborhood Pubs or Bistros would not be possible on the Hill because per the new definition, they can only operate with a Beer and Wine license. The current 500-ft waiver only applies to a full service hotel-restaurant liquor license.
- Restaurants could operate with the hotel-restaurant liquor license but would be required to close by 11 p.m.
- Late night restaurants would only be permitted as described on page 6.

The option above results in somewhat of an anomalous outcome as it prohibits a use that is intended to be more encouraged (i.e., Neighborhood Pub or Bistro). Therefore, this informs staff's recommendation that the waiver be revised to be Beer and Wine liquor licenses only.

Alternative to the three options above, City Council could also approve changes to Title 4 that would permit more than one liquor license type around the university if so desired. Options (1) and (2) above would effectively grandfather all of the liquor license holding establishments on University Hill as most establishments hold Hotel and Restaurant liquor licenses as a result of the 1987 changes. A list of liquor license types per establishment on University Hill and a description of hours of operation and food service is provided in **Attachment I**.

To give council a better understanding of the relationship between the 500-foot rule and the proposed land use code changes, the following matrix has been provided as a summary:

| **Different Scenarios assuming proposed Land Use Definitions are adopted** | **Licensing Implications (Title 4)** | **Land Use Implications (Title 9)** |
|---|---|---|
| Scenario A (No action on 500-foot rule,) | Hotel and Restaurant Licenses could continue to be issued on the Hill. | • The option for applicants to request Use Review approval to operate after 11pm for restaurants would not exist as restaurants are required to close at 11pm.<br>• Late Night Restaurants could be permitted through the Use Review process (would not be allowed to have a liquor license).<br>• Taverns and Brewpubs would not be permitted as the new definitions would require a Tavern and Brewpub liquor license respectively, which are currently not permitted within 500-foot of the university.<br>• The proposed Neighborhood Pub or Bistro use would not be permitted as Beer and Wine licenses are currently not permitted within the 500-foot waiver area. |
| Scenario B (Revoke waiver) | Revoking the waiver would not permit any additional liquor licenses on the Hill. Existing license holders would be grandfathered. | • Existing hospitality establishments would be grandfathered.<br>• The option for applicants to request Use Review approval to operate after 11pm for restaurants would not exist as restaurants are required to close at 11pm.<br>• Late Night Restaurants could be permitted through the Use Review process..<br>• No establishment could be established with a new liquor license. |
| Scenario C (Modify waiver to allow beer and wine licenses only) | Would limit liquor licenses within the 500-foot of the University to Beer and Wine Licenses only. Existing license holders would be grandfathered. | • Existing hospitality establishments would be grandfathered.<br>• The option for applicants to request Use Review approval to operate after 11pm for restaurants would not exist as restaurants are required to close at 11pm. |

| | | |
|---|---|---|
| | | • Late Night Restaurants could be permitted through the Use Review process (both restaurants and late night restaurants would not be allowed to have a liquor license under this option).<br>• Taverns and Brewpubs would not be permitted as the new definitions would require a Tavern and Brewpub liquor license respectively, which are currently not permitted within 500-foot of the university.<br>• Neighborhood Pub or Bistros would be permitted as conditional uses. |

***BLA Structural Changes*** – One of the challenges to effective alcohol enforcement is adjudicating violations and revocation proceedings. The BLA is a five member volunteer community board that has the responsibility of granting, denying, suspending, and revoking liquor licenses. Suspension or revocation requires what is essentially a trial, with the BLA sitting in the role of a judge. Under Colorado law, liquor licenses can be issued, renewed, or revoked by a local licensing authority. The local licensing authority is the City Council or any authority designated by city ordinance. In 1991, the City Council delegated this authority to the BLA.
The BLA is in a unique position in that it acts as the adjudicative body for liquor violations. In its quasi-judicial role, the BLA must consider evidence, decide on the legal admissibility of evidence, and rule on legal objections. There is no other city board placed in this position. The Planning Board, Landmarks Board and the Board of Zoning Appeals all hear applications, but none sits as a trial court. Only the BLA is required to conduct hearings on violations of state law.

Based on staff research, there are three typical liquor licensing models. Liquor licensing is either handled by (1) a hearing officer (2) city council/board or (3) bifurcation of responsibilities between a hearing officer and council/board.

Many jurisdictions in Colorado use a hearing officer to administer all aspects of liquor licensing. These include Longmont, Greeley, Loveland, Fort Collins, Golden, Grand Junction, Erie, and Denver. The town of Lone Tree and Rifle have a bifurcated liquor licensing structure in which a hearing officer handles violations and renewals and the city council handles all other matters related to licensing.

Maximum efficiency would be achieved if all of the BLA's functions were transferred to a hearing officer. Other jurisdictions have found that hearings do not last as long when they are conducted by a single legally trained hearing officer. Currently BLA meetings require a significant staff commitment. The licensing clerk prepares the board's packet and provides other staff support before, during, and after all hearings. The city attorney's office provides two attorneys to staff the board. Sandra Llanes, staff attorney, provides legal advice and support to the board, while Michael Whitney acts as the prosecutor with

regard to violations and contested renewals. A hearing officer/judge would require significantly less legal staff support.

There is also the question of fairness. The BLA turns over completely every five years. There is no requirement that board members have any legal training. Results can change from year to year as the board's composition changes. Reliable enforcement requires predictability of results. This is a challenging aspect for a five member board.

1. **Municipal Judge (Attachment C-1):** Dissolve the BLA and change the structure to a municipal judge model.
2. **Hearing Office (Attachment C-2):** Dissolve the BLA and change the structure to a contracted hearing officer.

**ATTACHMENTS**

**A** – Ordinance amending Chapter 6-3, "Trash, Recyclables, Compostables," and Title 9, "Land Use Code," B.R.C., 1981, to reduce impacts of hospitality establishments on neighboring properties and setting forth related details.

**B** – Ordinance amending section 4-2-4, "State Law Procedures Apply," B.R.C., 1981, and setting for the related details either as Option #B-1 (revoke), Option #B-2 (modify), or Option #B-3 (status quo).

**C** – Ordinance amending sections 2-3-3, "Beverage Licensing Authority," 2-6-3, "Creation, Jurisdiction, and Powers of Municipal Court," 4-2-3, "Authority to Issue City Licenses," 4-2-12, "Local Liquor Licensing Authority," B.R.C., 1981, and setting forth related details either as Option #C-1 (municipal judge) or Option #C-2 (hearing officer).

**D** – Cost Estimates for Beverage Licensing Hearing Officer Options

**E** – Staff and Planning Board Recommendations for Changes to Land Use Definitions

**F** – Summary Table of Proposed Land Use Code Definitions

**G** – Map of City of Boulder Zoning Districts

**H** – Map of 500-ft Buffer around CU

**I-** Hospitality establishments and associated liquor licenses on University Hill

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ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 6-3, "TRASH, RECYCLABLES AND COMPOSTABLES," AND TITLE 9, "LAND USE CODE," B.R.C. 1981, REGARDING TRASH REMOVAL AND ZONING STANDARDS FOR HOSPITALITY ESTABLISHMENTS, 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 material*s, *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:

*Person* shall have the meaning set forth in chapter 1-2, "Definitions," B.R.C., and shall also include, without limitation, owner of any property or vacant land; occupant, owner, operator or manager of any single unit dwelling, multi unit dwelling, mobile home, mobile home park, private club or other similar property; or owner, operator, manager or employee of any business or business property.

*Hospitality establishment* shall have the meaning set forth in Section 9-16-1, "General Definitions," B.R.C. 1981.

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

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

(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, private club or similar property; or owner, operator, manager or employee of any commercial or industrial establishment or similar property shall fail to:

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

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

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

(4) Remove or repair broken or damaged windows located on such property. However, it 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 property and who failed to address a particular maintenance issue for that reason;

(5) Remove accumulated newspapers or other periodical publications from such property when such accumulated newspapers or publications are visible to the public and remain so for a period of more than twenty-four hours. It shall be an affirmative defense to any alleged violation of this provision that no more than three such newspapers or periodicals 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; and

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

(b) No owner of any property containing one or more rental dwelling units shall fail to maintain in effect a current and valid contract with a hauler providing for the removal of accumulated trash from the property, which contract shall provide for sufficient trash hauling to accommodate the regular accumulation of trash from the property no less frequently than on a biweekly basis.

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

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

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

(d) <u>No owner, operator, or manager of any hospitality establishment or any other business shall fail to:</u>

<u>(1) Prevent trash from being scattered from the business property onto the public right of way or onto other properties; and</u>

<u>(2) Remove or cause to remove immediately after closing all trash located on an outdoor seating area of the establishment and on the public right of way adjacent to the establishment.</u>

(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 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 3. Section 9-2-1, B.R.C. 1981, is amended to read:

**Section 9-2-1 Types of Reviews.**

(a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in table 2-1 of this section.

(b) Summary Chart:

**TABLE 2-1: REVIEW PROCESSES SUMMARY CHART**

| *I. ADMINISTRATIVE REVIEWS* | *II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES* | *III. DEVELOPMENT REVIEW AND BOARD ACTION* |
|---|---|---|
| • Building permits<br>• Change of address<br>• Change of street name<br>• Demolition, moving and removal of buildings with no historic or architectural significance, per section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981<br>• Easement vacation<br>• Extension of development approval/staff level<br>• Landmark alteration certificates (staff review per section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)<br>• Landscape standards variance<br>• Minor modification<br>• Nonconforming use (extension, | • Accessory Units (Dwelling, Owners, Limited)<br>• Antennas for Wireless Telecommunications Services<br>• Bed and Breakfasts<br>• Cooperative Housing Units<br>• Daycare Centers<br>• Detached Dwelling Units with Two Kitchens<br>• Drive-Thru Uses<br>• Group Home Facilities<br>• Home Occupations<br>• Manufacturing Uses with Off-Site Impacts<br>• Neighborhood Service Centers<br>• Offices, Computer Design and Development, Data | • Annexation/initial zoning<br>• BOZA variances<br>• Concept plans<br>• Demolition, moving, and removal of buildings with potential historic or architectural significance, per section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981<br>• Landmark alteration certificates other than those that may be approved by staff per section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981<br>• Lot line adjustments<br>• Lot line elimination<br>• Minor Subdivisions<br>• Out of City utility permit |

| | | |
|---|---|---|
| change of use (inc. parking))<br>• Parking deferral per subsection 9-9-6(e), B.R.C. 1981<br>• Parking reduction of up to fifty percent per subsection 9-9-6(f), B.R.C. 1981<br>• Parking stall variances<br>• Public utility<br>• Rescission of development approval<br>• Revocable permit<br>• Right of way lease<br>• Setback variance<br>• Site access variance<br>• Solar exception<br>• Zoning verification | Processing, Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts<br>• Recycling Facilities<br>• Religious Assemblies<br>• Residential Care, Custodial Care, and Congregate Care Facilities<br>• Residential Development in Industrial Zoning Districts<br>• ~~Restaurants and Taverns~~ Hospitality Establishments<br>• Sales or Rental of Vehicles on Lots Located Five Hundred Feet or Less from a Residential Zoning District<br>• Service Stations<br>• Shelters (Day, Emergency, Overnight, temporary)<br>• Temporary Sales<br>• Transitional Housing | • Rezoning<br>• Site review<br>• Subdivisions<br>• Use review<br>• Vacations of street, alley or access easement |

Section 4. Section 9-2-4, B.R.C. 1981, is amended to read:

**9-2-4 Good Neighbor Meetings and Management Plans.**

(a) Purpose and Applicability: Good neighbor meetings and management plans are required for some uses, such as shelters and some restaurants and taverns, in order to ensure that applicants, owners and operators of specific uses are informed of the effects of their use upon neighboring properties, and are educated about ways to mitigate, reduce, or eliminate potential impacts upon neighboring properties. The specific use standards of chapter 9-6, "Use Standards," B.R.C. 1981, identify those uses that must complete these procedures.

(b) Good Neighbor Meeting: When required, owners and operators shall conduct a good neighbor meeting that meets the following standards:

(1) Meeting With Surrounding Property Owners Required: Prior to submitting an application, the owner or operator shall be required to organize, host, and participate in a meeting with the surrounding property owners. The time and place of the meeting shall be approved by the city manager. Nothing in this section shall relieve the owner or operator of the responsibility to otherwise comply with all other laws applicable to the property or business.

(2) Purpose of Meeting: The purpose of the meeting described in subsection (a) of this section is to provide interested persons in the surrounding neighborhood an opportunity to inform the facility owner or operator of the concerns of the neighborhood. The facility owner or operator shall also provide interested persons in the surrounding neighborhood an opportunity to comment on its proposed management plan. The issues to be addressed at this meeting may include, without limitation, hours of operation; client and visitor arrival and departure times; coordinated times for deliveries and trash collection; mitigation of noise impacts; security; the facility's drug and alcohol policy; loitering; employee education; the facility's responsibilities as good neighbors; neighborhood outreach and methods for future communication; and dispute resolution with the surrounding neighborhood.

(3) Notice for the Meeting: Notice of the meeting shall be provided as set forth in section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

(4) Waiver of Requirement: The city manager may waive the requirement that the applicant organize, host, and participate in a good neighbor meeting upon finding that the applicant will not require a use review, and that the needs of the facility's clients for anonymity and a safe and secure environment will be compromised by such a meeting.

(c) Management Plan: When required, owners and operators shall develop a management plan that addresses how the applicant will mitigate the potential adverse impacts that a facility may have on the surrounding neighborhood. The approving authority will not approve a management plan unless it adequately addressees such impacts. The following standards apply to the preparation, submission, and approval of a management plan:

(1) Elements of a Management Plan: The management plan shall contain the following components that describe the business operation and address the mitigation of potential adverse impacts the facility may have on the surrounding neighborhood, to the extent necessary, including without limitation:

(A) A description of the food service offered;
(B) ~~h~~Hours of operation;
(C) ~~c~~Client and visitor arrival and departure times;
(D) ~~c~~Coordinated times for deliveries and trash collection;
(E) A description of the type of entertainment provided;
(F) Size, location, and number of electronic amplifiers;
(G) Techniques and strategies to mitigate~~ion of~~ noise impacts;

(H) A description of how the applicant will prevent littering and maintain an orderly appearance of the premises and any adjacent right of way;
(I) A security plan describing security features, including without limitation personnel and equipment;
(J) ~~t~~The facility's drug and alcohol policy;
(K) Strategies to avoid loitering;
(L) ~~e~~Employee education;
(M) ~~t~~The facility's responsibilities as good neighbors;
(N) ~~n~~Neighborhood outreach and methods for future communication; and
(O) ~~d~~Dispute resolution strategies for any conflicts with the surrounding neighborhood.

(2) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan and present it to the surrounding property owners at the good neighbor meeting required by subsection (a) of this section.

(3) Submission of a Management Plan: After the good neighbor meeting, the applicant shall submit a revised management plan with its application.

(4) Approved Management Plan: An approved management plan shall be used to define the operating characteristics of a facility and shall be retained by the applicant and the city manager and readily available to any member of the public at all times during business hours. No person shall operate a facility in violation of an approved management plan.

(5) Amendment of a Management Plan: When the owner or operator changes the operating characteristics in a manner that does not comply with the approved management plan, the owner or operator shall resubmit a management plan. No owner or operator shall fail to resubmit a management plan that meets the requirements of this section. The city manager is authorized to require an owner or operator to organize, host, and participate in a good neighbor meeting if the city manager determines that such a meeting will be of assistance in identifying additional adverse impacts that may have been created by the facility. The amended management plan shall address how the facility will address any additional adverse impacts that have been identified by the city manager. The city manager will approve the amended management plan upon finding that any such additional adverse impacts will be mitigated by amendments to the management plan.

(6) Management Plan as a Condition of a Use Review Approval: A management plan shall be incorporated into the conditions of approval if the applicant is required to complete a use review pursuant to section 9-2-15, "Use Review," B.R.C. 1981.

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

. . .

(d) Use Table:

**TABLE 6-1: USE TABLE**

| **Zoning Districts** | **RR-1, RR-2, RE, RL-1** | **RL-2, RM-2** | **RM-1, RM-3** | **RMX-1** | **RMX-2** | **RH-1, RH-2, RH-4, RH-5** | **RH-3, RH-7** | **RH-6** | **MH** | **MU-1** | **MU-2** | **MU-3** | **MU-4** | **BT-1, BT-2** | **BMS** | **BC-1, BC-2** | **BCS** | **BR-1, BR-2** | **DT-4** | **DT-5** | **DT-1, DT-2, DT-3** | **IS-1, IS-2** | **IG** | **IM** | **IMS** | **P** | **A** | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use Modules** | **R1** | **R2** | **R3** | **R4** | **R5** | **R6** | **R7** | **R8** | **MH** | **M1** | **M2** | **M3** | **M4** | **B1** | **B2** | **B3** | **B4** | **B5** | **D1** | **D2** | **D3** | **I1** | **I2** | **I3** | **I4** | **P** | **A** | **Specific Use Standard** |
| **…** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Dining and Entertainment** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Breweries, distilleries or wineries <15,000 square feet and with a restaurant | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | * | * | 9-6-5(b)(3.5) |
| Breweries, distilleries or wineries <15,000 square feet and without | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | A | A | A | A | * | * | 9-6-5(b)(3.5) |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| a restaurant | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Breweries, distilleries or wineries with or without a restaurant >15,000 square feet | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | U | C | C | * | * | * | 9-6-5(b)(3.5) |
| Brewpubs | * | * | * | * | * | * | * | * | * | U | U | U | U | U | U | C | C | C | C | C | U | * | * | * | * | * | * | 9-6-5(b) |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Neighborhood Pub or Bistro ≤1,500 square feet | * | * | * | * | * | U | U | U | * | C | C | C | C | U | C | C | C | C | C | C | C | n/a | n/a | n/a | n/a | * | * | 9-6-5(b) |
| Neighborhood Pub or Bistro > 1,500 square feet | * | * | * | * | * | * | * | * | * | U | U | U | U | U | U | C | C | C | C | C | U | n/a | n/a | n/a | n/a | * | * | 9-6-5(b) |
| Restaurants ≤1,500 square feet | * | * | * | * | * | U | U | U | * | C | C | C | C | U | C | C | C | C | C | C | C | n/a | n/a | n/a | n/a | * | * | 9-6-5(b) |
| Restaurants > 1,500 square feet | * | * | * | * | * | * | * | * | * | U | U | U | U | U | U | C | C | C | C | C | U | n/a | n/a | n/a | n/a | * | * | 9-6-5(b) |
| Restaurant, late night, without a liquor license and which closes no later than 12 a.m. | * | * | * | * | * | U | U | U | * | C | C | * | C | * | C | C | C | C | C | C | C | * | * | * | * | * | * | 9-6-5(b) |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Restaurant, late night, without a liquor license and which closes after 12 a.m. | * | * | * | * | * | * | * | * | * | U | U | * | U | * | U | C | C | C | C | C | U | * | * | * | * | * | * | 9-6-5(b) |
| Restaurant, late night, with a liquor license and which closes after 11 p.m. | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | C | C | C | C | C | * | * | * | * | * | * | * | 9-6-5(b) |
| ~~Restaurants (general)~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~C~~ | ~~C~~ | ~~C~~ | ~~C~~ | ~~n/a~~ | ~~n/a~~ | ~~9-6-5(b)~~ |
| ~~Restaurants, brewpubs and taverns no larger than 1,000 square feet in floor area, which may have meal service on an outside patio not more than ⅓ the floor area, and which close no later than 11:00 p.m.~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~U~~ | ~~A~~ | ~~*~~ | ~~*~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | - |
| ~~Restaurants, brewpubs and taverns no larger than 1,500~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~n/a~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~A~~ | ~~*~~ | ~~A~~ | ~~U~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~C~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~9-6-5(b)~~ |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ~~square feet in floor area, which may have meal service on an outside patio not morethan ⅓ the floor area, and which close no later than 11:00 p.m.~~ | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ~~Restaurants, brewpubs and taverns over 1,000 square feet in floor area, or which close after 11:00 p.m., or with an outdoor seating area of 300 square feet or more~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~U~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~U~~ | ~~A~~ | ~~U~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | - |
| ~~Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district;~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~*~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~U~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | - |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ~~over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m.~~ | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ~~Restaurants, brewpubs and taverns in the University Hill general improvement district that are greater than 1,500 square feet and do not exceed 4,000 square feet in floor area, and which close no later than 11:00 p.m.~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~C~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~9-6-5(b)~~ |
| ~~Restaurants, brewpubs and taverns with an outdoor seating area of 300 square feet or more within 500~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~U~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | ~~n/a~~ | - |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ~~feet of a residential zoning district~~ | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Taverns ~~(general)~~ | ~~n/a~~ * | ~~n/a~~ * | ~~n/a~~ * | ~~n/a~~* | ~~n/a~~* | ~~n/a~~ * | ~~n/a~~ * | ~~n/a~~ * | ~~n/a~~ * | ~~n/a~~ U | ~~n/a~~ U | ~~n/a~~ U | ~~n/a~~ U | ~~n/a~~ U | ~~n/a~~ U | ~~n/a~~ C | ~~n/a~~ C | ~~n/a~~ C | ~~n/a~~ C | ~~n/a~~ C | ~~n/a~~ U | * | * | * | * | ~~n/a~~ * | ~~n/a~~ * | 9-6-5(b) |
| **…** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Commercial, Retail and Industrial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Retail Sales Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Retail liquor store | * | * | * | * | * | * | * | * | * | * | * | * | U | * | U | A | A | A | A | A | U | * | * | * | * | * | * | |
| … | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

**A**: Allowed use.
**C**: Conditional use. See Section 9-2-2 for administrative review procedures.
*****: Use prohibited.
**U**: Use review. See Section 9-2-15 for use review procedures.
**G**: Allowed use provided that it is located above or below the ground floor.
**M**: Allowed use provided at least 50% of the floor area is for residential use and the nonresidential use is less than 7,000 square feet per building, otherwise use review.
**N**: Allowed use provided at least 50% of the floor area is for nonresidential use, otherwise by use review.
**n/a**: Not applicable; more specific use applications apply.

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

**9-6-5 Temporary Lodging, Dining, Entertainment, and Cultural Uses.**

. . .

(b) ~~Restaurants and Taverns~~Hospitality Establishments: The intent of this subsection is to ensure that ~~restaurant and tavern~~hospitality establishment owners and operators in close proximity to residential districts operate their establishments so as ~~are informed of the effects upon neighboring residential properties of operating a business, and are educated about ways~~ to mitigate, reduce or eliminate potential impacts of ~~a restaurant or tavern operation~~their establishments upon neighboring properties.

The applicant shall include all areas inside the restaurant measured to the inside surface of the outside walls, except for floor area that is used exclusively for storage that is located on another floor of the building, when determining whether the floor area thresholds under section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, necessitate review under this subsection.

(1) General Operating Requirements and Review Processes for Specific Hospitality Establishments:

(A) Brewpub: The following criteria apply to brewpubs:

(i) Snacks shall be provided for consumption on the premises during all operating hours of a brewpub; and

(ii) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(B) Neighborhood Pub or Bistro: The following criteria apply to neighborhood pubs and bistros:

(i) The bar area shall not exceed 35% of the dining area in size;
(ii) A neighborhood pub or bistro shall close no later than 12:00 a.m.;
(iii) A food preparation area shall be in operation on the premises during all business hours, and solid food, prepared in the food preparation area, shall be offered and available for consumption on the premises during all business hours;
(iv) Not less than forty percent of the gross income from the sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price

paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request; and

(v) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(C) Restaurant: The following criteria apply to restaurants:

(i) A restaurant shall close no later than 11:00 p.m.;

(ii) A food preparation area shall be in operation on the premises during all business hours, and solid food, prepared in the food preparation area, shall be offered and available for consumption on the premises during all business hours;

(iii) Not less than fifty percent of the gross income from sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request: and

(iv) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(D) Restaurant, Late Night: The following criteria apply to restaurants, late night:

(i) In residential districts, late night restaurants shall be limited to a maximum size of 1500 square feet;

(ii) A food preparation area shall be in operation on the premises during all business hours, and solid food, prepared in the food preparation area, shall be offered and available for consumption on the premises during all business hours;

(iii) Not less than fifty percent of the gross income from sales of food and drink of the establishment over any 30-day period of time must be from sales of food; receipts of all sources of income showing the name of the establishment, the date of sale, a description of each item sold, and the price paid for each item sold shall be retained for one year and must be provided to the city manager within seven days of request; and

(iv) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(E) Tavern: The following criteria apply to taverns:

(i) Snacks shall be offered and available for consumption on the premises during all operating hours; and

(ii) If the use is located within 500 feet of a residential zoning district, trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m.

(2) ~~Restaurants and Taverns~~Hospitality Establishments in the DT-1, DT-2, ~~and~~ DT-3, BMS, and MU Zoning Districts ~~and Portions of the BMS Zoning District~~: The following criteria apply to hospitality establishments~~Owners and operators of restaurant and tavern uses~~ permitted as a conditional use or pursuant to a use review in the DT-1, DT-2, ~~and~~ DT-3, BMS, and MU zoning districts ~~and those portions of the BMS zoning district that are outside of the University Hill General Improvement District are required to organize and participate in a meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.~~

~~(2) Restaurants and Taverns in the University Hill General Improvement District Within the BMS Zoning District: The following criteria apply to restaurants and tavern uses permitted as a conditional use or pursuant to a use review in the BMS zoning district that is also located within the University Hill General Improvement District~~:

(A) Meeting With Surrounding Property Owners Required: ~~Restaurant and tavern o~~Owners and operators of hospitality establishments shall ~~be required to~~ organize and participate in a good neighbor meeting with the surrounding property owners pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981.

(B) Preparation and Distribution of a Proposed Management Plan: The owner or operator shall prepare a proposed management plan, pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, and present it to the surrounding property owners at the neighbor meeting.

(3) Restaurants in the Industrial Districts: The following criteria will apply to restaurant uses located in an ~~Industrial~~ industrial district except as provided in paragraph (b)(3.5) of this section:

(A) The use is intended generally to serve the industrial area in which it is located;

(B) The use is not located along a major street or higher classification street as shown in appendix A, "Major Streets," of this title;

(C) In the IMS district only, the use shall be limited to a maximum size of two thousand square feet of floor area;

(D) Parking for restaurants in industrial districts shall meet the minimum number of off-street parking spaces per square foot of floor area for nonresidential uses. The indoor and outdoor seating requirements of Section 9-9-6(b), "Off-Street Parking Requirements," B.R.C. 1981, shall not be applied to industrial service centers;

(E) The use may operate daily between the hours of 5:00 a.m. and 11:00 p.m.; and

(F) No person shall operate the use between the hours of 11:00 p.m. and 5:00 a.m., unless the use is:

(i) Approved through a use review process; and

(ii) Located more than ~~five hundred~~500 feet from an adjacent residential use or zone.

(3.5) Restaurants in Breweries, Distilleries and Wineries: The following criteria will apply to any restaurant use located in a brewery, distillery or winery in an industrial district:

(A) The restaurant shall be limited to a maximum size of thirty percent of the total floor area of the facility, or ~~one thousand~~1,000 square feet, whichever is greater, including any outdoor seating or accessory sales areas;

(B) Parking for the restaurant shall meet the parking requirements for ~~restaurants or taverns~~hospitality establishments in section 9-9-6, "Parking Standards," B.R.C. 1981;

(C) The use may operate daily between the hours of 5:00 a.m. and 11:00 p.m.; unless the extended hours are approved through a use review process; and

(D) If the restaurant requires a use review, the applicant shall demonstrate that it meets use review criteria in paragraphs 9-2-15(e)(1), (3), (4) and (5) "Use Review," B.R.C. 1981, as well as the use standards in paragraph (b)(4) for outdoor seating areas within ~~five hundred~~500 feet of a residential ~~use module~~zoning district.

(4) ~~Restaurants and Taverns~~Hospitality Establishments With Outdoor Seating Within ~~Five Hundred~~500 Feet of a Residential ~~Use Module~~Zoning District: The following criteria apply to any outdoor seating area that is within ~~five hundred~~500 feet (measured from the perimeter of the subject property) of a residential ~~use module~~zoning district. Outdoor dining areas that are within the BMS, DT and I zoning districts are also subject to the provisions of subparagraph (b)(4)(A), (b)(4)(B) or (b)(4)(C) of this subsection (b)(4), when applicable.

(A) Size Limitations: Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the ~~restaurant or tavern~~hospitality establishment.

(B) Parking Required: Parking in compliance with section 9-9-6, "Parking Standards," B.R.C. 1981, shall be provided for all outdoor seating areas except those located in general improvement districts.

(C) ~~Music~~Outdoor Entertainment: No outdoor music or other outdoor entertainment shall be provided after 11:00 p.m.

(D) Sound Levels: The outdoor seating area shall not generate noise exceeding the levels permitted in ~~chapter~~ Chapter 5-9, "Noise," B.R.C. 1981.

(E) Trash: All trash located within the outdoor dining area, on the ~~restaurant or tavern~~hospitality establishment property, and adjacent streets, sidewalks

and properties shall be picked up and properly disposed of immediately after closing.

(F) Food service: Any food required to be offered and available for consumption on the premises of the use, shall also be offered and available for consumption on the patio during all operating hours of the establishment.

(G) Use Review: Any hospitality establishment use with an outdoor seating area of 300 square feet or more that is located within 500 feet of a residential zoning district, shall complete a use review and may be approved only if the approving authority finds that the use review criteria of Subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981, and the requirements of this subsection are met.

(5) No owner or operator of any hospitality establishment shall fail to operate the establishment in compliance with the requirements of this Subsection 9-6-5(b), "Hospitality Establishments," B.R.C. 1981, and any approval granted under this title.

. . .

Section 7. Section 9-9-6, B.R.C. 1981, is amended to read:

**9-9-6 Parking Standards.**

. . .

(b) Off-Street Parking Requirements: The number of required off-street parking spaces shall be provided in tables 9-1, 9-2, 9-3, and 9-4 of this section:

…

(4) Supplemental Requirements for Nonresidential Uses:

**TABLE 9-4: SUPPLEMENTAL PARKING REQUIREMENTS FOR NONRESIDENTIAL USES IN ALL ZONES**

| ***Use*** | ***Parking Requirement*** |
|---|---|
| Large daycare (less than 50 children) | Determined through review |
| Nonresidential uses in General Improvement Parking Districts | No parking required |
| ~~Restaurant or tavern~~Hospitality establishment – interior seating | Greater of 1 per 3 seats, or the ratio for the use module |
| ~~Restaurant or tavern~~Hospitality establishment – outdoor seating: | |

| | |
|---|---|
| a. Outside seats for ~~restaurant or tavern~~hospitality establishment with up to and including =50 interior seats if outside seats do not exceed the greater of 6 seats or 25 percent of interior seats or<br><br>b. Outside seats for ~~restaurant or tavern~~hospitality establishment with more than =50 interior seats if outside seats do not exceed the greater of 12 seats or 20 percent of indoor seats | No additional parking spaces required |
| c. Outside seats for ~~restaurant or tavern~~hospitality establishment in excess of requirements of subsection a or b of this use | 1 space per 3 outdoor seats in excess of exempted outdoor seats |
| d. Outside seats for ~~restaurants~~ hospitality establishment that do not meet the parking requirement for their indoor seats | The maximum number of outdoor seats shall be calculated in accordance with the following formula:<br><br>(the number of parking spaces provided on site) x 3 x (the percentage of seats permitted in subsection a or b of this use) = the maximum number of outdoor seats that may be provided without providing additional parking |
| Motels, hotels and bed and breakfasts | 1 space per guest room or unit, plus required spaces for nonresidential uses at 1 space per 300 square feet of floor area |
| Theater | Greater of 1 parking space per 3 seats, or the parking ratio for the zone district |
| Gasoline service station | General ratio for the use zone plus storage of 2 vehicles per service bay |
| Religious assembly: | (See paragraph (f)(8) of this section for permitted parking reductions) |
| a. Religious assemblies created prior to 9/2/1993 | 1:300 |
| b. Religious assemblies created after 9/2/1993 | 1 space per 4 seats, or 1 per 50 square feet of assembly area if there are no fixed seats - assembly area includes the largest room plus any adjacent rooms that could be used as part of the assembly area |
| c. Uses accessory to a religious assembly and created after 9/2/1993 | Uses accessory to the religious assembly shall meet the standards applicable to the use as if the use is a principal use |
| d. Total parking of a religious assembly and accessory uses created after 9/2/1993 | Parking for the religious assembly use and any accessory use shall be for the use which has the greatest parking requirement |
| Small recycling collection facility | 1 space for attendant if needed |
| Large recycling collection facility | General parking ratio for the zone plus 1 space for each commercial vehicle operated by the facility |
| Recycling processing facility | Sufficient parking spaces for a minimum of 10 customers, or the peak load, whichever is greater, plus 1 space for each commercial vehicle operated by the facility |

…

Section 8. Subsection 9-16-1(c), B.R.C. 1981, is amended to read:

**9-16-1 General Definitions.**

. . .

(c) The following terms as used in this title have the following meanings unless the context clearly indicates otherwise:

…

"Bar area" means the cumulative total of indoor and outdoor areas of a hospitality establishment where food or beverages are offered to and consumed by customers seated or standing at a counter rather than tables.

…

"Brewery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where malt liquors are manufactured on the premises, that may include a tap room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

"Brewpub" means an establishment with a brewpub license under § 12-47-415 C.R.S.~~that is primarily a restaurant~~ where malt liquor is manufactured on the premises and food is offered and available for consumption on the premises~~ as an accessory use~~. A brewpub may include some off-site distribution of its malt liquor consistent with state law.

…

"Dining area" means the cumulative total of indoor and outdoor areas of the hospitality establishment where food or beverages are offered to and consumed by customers seated at tables and not including bar, kitchen, service areas, offices, storage, or restrooms.

"Distillery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where spirituous liquors are manufactured that may include a tasting room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

…

"Food" means nourishment in solid form consumed for the purpose of sustenance, but also includes soup, coffee and tea drinks, soft drinks, water, fruit juice and smoothies, milk, and milk and yoghurt products. (Hospitality Establishments)

“Hospitality establishment” means the following: a brewpub, neighborhood pub or bistro, restaurant, late night restaurant, and tavern,

…

"Indoor amusement establishment" means a commercial operation open to the public without membership requirements, including, without limitation, bowling alleys, indoor arcades, theaters, pool halls, skating rinks, ~~dance halls,~~ and reception/banquet facilities.

…

“Neighborhood pub or bistro” means an establishment with a beer and wine license issued under § 12-47-409, C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that closes no later than 12:00 a.m.

…

"Restaurant" means an establishment with no liquor license or with a hotel and restaurant license issued under § 12-47-411, C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that closes no later than 11:00 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.

“Restaurant, late night” means an establishment with no liquor license or with a beer and wine license issued under § 12-47-409, C.R.S., or a hotel and restaurant license issued under § 12-47-411, C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that may operate after 11:00 p.m.

“Retail liquor store” means an establishment with a retail liquor store license issued under § 12-47-407, C.R.S., engaged primarily in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption off the premises and otherwise consistent with the definition of retail liquor store under § 12-47-103, C.R.S.

…

"Small theater or rehearsal space" means an establishment for live dramatic, operatic, or dance performances open to the public, without membership requirements, whose seating capacity does not exceed three hundred seats and seating area does not exceed three thousand square feet, or any area for the rehearsal of such live performances.

…

"Tavern" means an establishment with a tavern license issued under § 12-47-412, C.R.S., serving malt, vinous, and spirituous liquors in which the principal business is the sale of such beverages

at retail for consumption on the premises and where snacks are available for consumption on the premises, including, but not limited to bars, cabarets, cocktail lounges, dance halls, discotheques, and night clubs.

…

"Winery" means a use with a manufacturer or wholesaler license issued under § 12-47-401, et seq., C.R.S., and does not include any retail type liquor license under § 12-47-309, et seq., C.R.S., on the lot or parcel, that is primarily a manufacturing facility, where vinous liquors are manufactured that may include a tasting room that is less than or equal to thirty percent of the total floor area of the facility or one thousand square feet, whichever is greater.

Section 9. 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 10. 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 1st day of October, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ___day of _____, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 4-2-4, "STATE LAW PROCEDURES APPLY" OF THE B.R.C. 1981 TO ELIMINATE THE EXISTING FIVE HUNDRED FOOT DISTANCE WAIVER REGARDING HOTEL AND RESTAURANT LIQUOR LICENSES, AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

**A. Findings.**

1. In 2004, City Council adopted Resolution No. 960 to acknowledge the city's leadership role in addressing overconsumption of alcohol as an important health, safety, and welfare issue in the community.

2. State law mandates that a liquor license cannot be applied for within five hundred feet of a school or principal campus of a university unless there is a local ordinance that allows for elimination or reduction of the five hundred foot rule.

3. On September 1, 1987, the city passed Ordinance No. 5069 which removed the University of Colorado campus from the application of the five hundred foot distance limitation for Hotel-Restaurant liquor licenses only.

4. City Council has determined that eliminating the existing waiver and thereby prohibiting liquor license applications within five hundred feet of a university supports the goals of Resolution No. 960.

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

Section 1. Section 4-2-4, B.R.C. 1981, is amended to read:

**4-2-4 State Law Procedures Apply.**

(a) Provisions of the Colorado Liquor Code and the Colorado Beer Code governing procedures for applications, hearing, and decisions for state liquor or fermented malt beverages apply for city licenses.

~~(1) The principal campus of the University of Colorado is eliminated from the application of the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for hotel-restaurant liquor licenses only. For the purposes of this section, the principal campus is defined as the area generally circumscribed by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north.~~

~~(2) The five hundred-foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as it applies to the principal campus of Boulder High School shall be changed to four hundred feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply to establishments with full kitchen facilities, with a seating capacity not to exceed thirty-five, and with a square footage not to exceed 1,200 square feet.~~

(b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and adopted for application by the Beverage Licensing Authority.

Section 2. 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 3. 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 1st day of October, 2013.

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____ 2013.

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Mayor

Attest:

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City Clerk

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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 4-2-4, "STATE LAW PROCEDURES APPLY" OF THE B.R.C. 1981 BY CHANGING THE CLASS OF LIQUOR LICENSE FROM A HOTEL-RESTAURANT LICENSE TO A BEER AND WINE LICENSE FOR PURPOSES OF THE EXISTING FIVE HUNDRED FOOT DISTANCE WAIVER, AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

**A. Findings.**

1. In 2004, City Council adopted Resolution No. 960 to acknowledge the city's leadership role in addressing overconsumption of alcohol as an important health, safety, and welfare issue in the community.

2. State law mandates that a liquor license cannot be applied for within five hundred feet of a school or principal campus of a university unless there is a local ordinance that allows for elimination or reduction of the five hundred foot rule.

3. On September 1, 1987, the city passed Ordinance No. 5069 which removed the University of Colorado campus from the application of the five hundred foot distance limitation for Hotel-Restaurant liquor licenses only.

4. City Council has determined that amending the existing waiver by changing the class of liquor license from a Hotel-Restaurant liquor license to a Beer and Wine liquor license supports the goals of Resolution No. 960.

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

Section 1. Section 4-2-4, B.R.C. 1981, is amended to read:

**4-2-4 State Law Procedures Apply.**

(a) Provisions of the Colorado Liquor Code and the Colorado Beer Code governing procedures for applications, hearing, and decisions for state liquor or fermented malt beverages apply for city licenses.

~~(1)~~ The principal campus of the University of Colorado is eliminated from the application of the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for ~~hotel-restaurant~~beer and wine ~~liquor~~ licenses as defined by 12-47-409, C.R.S., only. For the purposes of this section, the principal campus is defined as the area generally circumscribed by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north.

~~(2) The five hundred-foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as it applies to the principal campus of Boulder High School shall be changed to four hundred feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply to establishments with full kitchen facilities, with a seating capacity not to exceed thirty-five, and with a square footage not to exceed 1,200 square feet.~~

(b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and adopted for application by the Beverage Licensing Authority.

Section 2. 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 3. 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 1st day of October, 2013

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____ 2013.

_____
Mayor

Attest:

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City Clerk

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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 4-2-4, "STATE LAW PROCEDURES APPLY" OF THE B.R.C. 1981 TO RETAIN THE EXISTING FIVE HUNDRED FOOT DISTANCE WAIVER REGARDING HOTEL AND RESTAURANT LICENSES WITH RESPECT TO THE UNIVERSITY OF COLORADO AND ELIMINATING THE EXISTING FIVE HUNDRED FOOT DISTANCE WAIVER WITH RESPECT TO THE PRINCIPAL CAMPUS OF BOULDER HIGH SCHOOL, AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

**A. Findings.**

1. In 2004, City Council adopted Resolution No. 960 to acknowledge the city's leadership role in addressing overconsumption of alcohol as an important health, safety, and welfare issue in the community.

2. State law mandates that a liquor license cannot be applied for within five hundred feet of a school or principal campus of a university unless there is a local ordinance that allows for elimination or reduction of the five hundred foot rule.

3. On September 1, 1987, the city passed Ordinance No. 5069 that removed the University of Colorado campus from the application of the five hundred foot distance limitation for Hotel-Restaurant liquor licenses only.

4. On May 6, 2003, the city passed Ordinance No. 7276 that removed Boulder High School from the application of the five hundred foot distance limitation by creating an exception which allowed hotel and restaurant liquor licenses within four hundred feet of the school but only to establishments with full kitchen facilities with a seating capacity not to exceed thirty-five, and with a square footage not to exceed 1,200 square feet.

5. City Council has determined that eliminating the existing waiver as it applies to Boulder High School is consistent with state law.

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

Section 1. Section 4-2-4, B.R.C. 1981, is amended to read:

**4-2-4 State Law Procedures Apply.**

(a) Provisions of the Colorado Liquor Code and the Colorado Beer Code governing procedures for applications, hearing, and decisions for state liquor or fermented malt beverages apply for city licenses.

~~(1)~~ The principal campus of the University of Colorado is eliminated from the application of the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for hotel-restaurant liquor licenses only. For the purposes of this section, the principal campus is defined as the area generally circumscribed by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north.

~~(2) The five hundred-foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as it applies to the principal campus of Boulder High School shall be changed to four hundred feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply to establishments with full kitchen facilities, with a seating capacity not to exceed thirty-five, and with a square footage not to exceed 1,200 square feet.~~

(b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and adopted for application by the Beverage Licensing Authority.

Section 2. 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 3. 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 1st day of October, 2013

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____ 2013.

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Mayor

Attest:

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City Clerk

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ORDINANCE NO. _____

AN ORDINANCE TO REMOVE SECTION 2-3-3, "BEVERAGE LICENSING AUTHORITY" AND REPLACE WITH A NEW SECTION 4-2-12, "BEVERAGE LICENSING AUTHORITY" AND AMENDING SECTION 4-2-3, "AUTHORITY TO ISSUE CITY LICENSES"; AND 2-6-3, "CREATION, JURISDICTION, AND POWERS OF MUNICIPAL COURT" B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

**A. Findings.**

1. From1967 to 1982 pursuant to Ordinances 3280 and 3321, the City Council served as the city's Liquor Licensing Authority.

2. From 1982 to 1991 pursuant to Ordinances 4651and 4722, one city council member served as chair and two city residents were appointed by mayor to serve the city's Liquor Licensing Authority.

3. In 1991, the City Council enacted Ordinance No. 5440, which established the Beverage Licensing Authority ("Authority"), consisting of five residents of the city appointed by city council, and set forth the duties and powers of the Authority.

4. In 2004, the City Council adopted Resolution No. 960 to acknowledge the city's leadership role in addressing overconsumption of alcohol as an important health, safety, and welfare issue in the community.

5. The City Council has determined that restructuring the local liquor licensing authority from a board to a municipal court judge supports the goals of Resolution No. 960.

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

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Section 1. Section 2-3-3, B.R.C. 1981, is deleted:

~~**2-3-3 Beverage Licensing Authority.**~~

~~(a) The City of Boulder Beverage Licensing Authority consists of five members serving five year staggered terms, all of whom are city electors. The council shall appoint members at a regular meeting in March of every year. The council shall adjust terms as needed to stagger the terms. Vacancies shall be filled for the remainder of the term.~~

~~(b) The city manager shall serve as secretary to the authority. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.~~

~~(c) The authority's functions are:~~

~~(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and fermented malt beverages;~~

~~(2) To conduct investigations;~~

~~(3) To suspend or revoke such licenses for cause;~~

~~(4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and~~

~~(5) To perform all other responsibilities that the council may delegate to it.~~

~~(d) The city manager shall issue all licenses granted by the authority upon receipt of the license fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.~~

~~(e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the authority.~~

~~(f) The city council shall establish and adopt by resolution rules of procedure for the authority.~~

~~(g) The authority may adopt supplemental rules of procedure provided that the authority's supplemental rules shall not be in conflict with those adopted by the city council.~~

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

**4-2-3 Authority to Issue City Licenses.**

(a) An applicant for a city license under this chapter shall apply therefor to the Beverage Licensing Authority (“Authority”) established by section 4-2-12~~2-3-3~~, "Beverage Licensing Authority," B.R.C. 1981, on forms provided by the A~~a~~uthority.

(b) The A~~a~~uthority may issue the following types of city licenses:

(1) Retail liquor store;

(2) Liquor-licensed drugstore;

(3) Beer and wine;

(4) Hotel and restaurant;

(5) Tavern;

(6) Club;

(7) Arts;

(8) Racetrack;

(9) Brew pub;

(10) Fermented malt beverage on-premises;

(11) Fermented malt beverage off-premises;

(12) Fermented malt beverage on-premises and off-premises;

(13) Hotel and restaurant with optional premises; ~~and~~

(14) Tastings of alcoholic beverages conducted on licensed retail liquor stores and liquor-licensed drugstore premises;

(15) Art gallery permit;

(16) Bed and breakfast permit; and

(17) Special Event Permit.

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(c) In order to qualify for a city license under this chapter, an applicant must meet all conditions for the issuance of the parallel state license prescribed by the Colorado Liquor Code, for malt, vinous, and spirituous liquors, and the Colorado Beer Code, for fermented malt beverages, except that the fees for a city license are those prescribed by section 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," B.R.C. 1981.

Section 3. Section 4-2-12, B.R.C. 1981, is created to read:

**4-2-12 Beverage Licensing Authority.**

(a) The Beverage Licensing Authority ("Authority") shall have all powers and duties granted to local liquor licensing authorities as set forth in Title 12, Articles 46, 47 and 48, C.R.S. The Authority shall have the duty and authority to grant or refuse licenses for the possession, sale and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages as provided by law, to conduct investigations as are required by law and to levy penalties against licensees in the manner provided by law.

(b) The Authority shall consist of a sole Hearing Officer who shall be a judge in the Municipal Court. The term "Hearing Officer" and "Authority" as used in Chapter 4-2, shall be synonymous with "Beverage Licensing Authority".

(c) The city manager shall serve as secretary to the Authority. The secretary may be known as the licensing clerk, and shall serve as the Authority's agent for all functions.

(d) The Authority's functions are:

(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and fermented malt beverages;

(2) To conduct investigations;

(3) To suspend or revoke such licenses for cause;

(4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and

(5) To perform all other responsibilities that the council may delegate to it.

(e) The city manager shall issue all licenses granted by the Authority upon receipt of the license fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.

(f) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the Authority.

(g) The Authority shall adopt the existing rules of procedure established by the city council.

(h) The Authority may adopt supplemental rules of procedure provided that the Authority's supplemental rules shall not be in conflict with those adopted by the City Council.

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

**2-6-3 Creation, Jurisdiction, and Powers of Municipal Court**.

(a) Pursuant to charter section 86 there exists a municipal court in and for the City of Boulder, Colorado.

(b) The municipal court has original jurisdiction of all criminal cases arising under the charter, this code, and other ordinances of the city, with power to punish violations thereof by imposing fines and penalties as authorized by this code or any ordinance.

(c) The municipal court has original jurisdiction of all civil cases arising under the charter, this code, and other ordinances of the city, with power to assess and collect civil penalties, order and enforce by contempt abatement of nuisances, and perform other responsibilities prescribed by the charter, this code, and other ordinances of the city.

(d) The municipal court has the jurisdiction and powers of an administrative hearing officer, where so provided by this code or other ordinance of the city.

(e) Each judge is authorized to issue search warrants for the inspection of premises or property by municipal or city-county officials or inspectors in accordance with the Colorado Municipal Court Rules. Each judge may also issue such inspection warrants for the inspection and examination of any structure or property if it satisfactorily appears that the applicant for the warrant is required to make the inspection by any provision of this code or other ordinance of the city or any regulation or routine policy of inspection and enforcement and that for the purpose of making a complete inspection the applicant is required to go upon privately owned premises or enter a privately owned structure. But nothing in this subsection shall be deemed to require the issuance of a warrant for emergency inspections or in any other case where warrants are not required by law.

(f) The municipal court is a qualified municipal court of record and shall comply with requirements of state law and regulations for courts of record. The municipal court shall furnish the record to any party wishing to appeal from a judgment of the municipal court for transcription at such party's expense.

(g) ~~In all cases~~Except as otherwise provided in this code, when~~re~~ a judge acts as an administrative hearing officer under this code or other ordinance of the city, the judge shall

conduct hearings under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. In all such cases, other than "Beverages License" pursuant to Chapter 4-2, the judge may impose court costs in an amount not exceeding the amount specified in section 4-20-55, "Court and Vehicle Impoundment Costs, Fees and Civil Penalties," B.R.C. 1981.

(h) Except as otherwise provided in this code, the municipal court shall be conducted under the procedures prescribed by the Colorado Municipal Court Rules and title 13 of the Colorado Revised Statutes.

(i) Code and ordinance violations for which imprisonment is not a possible penalty and that are not criminal under counterpart state law are civil, but the judge shall follow the Colorado Municipal Court Rules in all such cases unless the rules are clearly inapplicable.

Section 5. This ordinance shall take effect on January 2, 2014.

Section 6. Upon the effective date of this ordinance, the terms of any previously appointed members of the Authority shall terminate.

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. 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 1st day of October, 2013.

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_____
Mayor

Attest:

_____
City Clerk

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____ 2013.

_____
Mayor

Attest:

_____
City Clerk

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ORDINANCE NO. _____

AN ORDINANCE TO REMOVE SECTION 2-3-3, "BEVERAGE LICENSING AUTHORITY" AND REPLACE WITH A NEW SECTION 4-2-12, "BEVERAGE LICENSING AUTHORITY" AND AMENDING SECTION 4-2-3, "AUTHORITY TO ISSUE CITY LICENSES" OF THE BOULDER REVISED CODE AND SETTING FORTH RELATED DETAILS

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

**A. Findings.**

1. From1967 to 1982 pursuant to Ordinances 3280 and 3321, the City Council served as the city's Liquor Licensing Authority.

2. From 1982 to 1991 pursuant to Ordinances 4651and 4722, one city council member served as chair and two city residents were appointed by mayor to serve the city's Liquor Licensing Authority.

3. In 1991, the City Council enacted Ordinance No. 5440, which established the Beverage Licensing Authority ("Authority"), consisting of five residents of the city appointed by City Council, and set forth the duties and powers of the Authority.

4. In 2004, the City Council adopted Resolution No. 960 to acknowledge the city's leadership role in addressing overconsumption of alcohol as an important health, safety, and welfare issue in the community.

5. The City Council has determined that restructuring the local liquor licensing authority from a board to a sole hearing officer supports the goals of Resolution No. 960.

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

Section 1. Section 2-3-3, B.R.C. 1981, is deleted:

~~**2-3-3 Beverage Licensing Authority.**~~

~~(a) The City of Boulder Beverage Licensing Authority consists of five members serving five year staggered terms, all of whom are city electors. The council shall appoint members at a regular meeting in March of every year. The council shall adjust terms as needed to stagger the terms. Vacancies shall be filled for the remainder of the term.~~

~~(b) The city manager shall serve as secretary to the authority. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.~~

~~(c) The authority's functions are:~~

~~(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and fermented malt beverages;~~

~~(2) To conduct investigations;~~

~~(3) To suspend or revoke such licenses for cause;~~

~~(4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and~~

~~(5) To perform all other responsibilities that the council may delegate to it.~~

~~(d) The city manager shall issue all licenses granted by the authority upon receipt of the license fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.~~

~~(e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the authority.~~

~~(f) The city council shall establish and adopt by resolution rules of procedure for the authority.~~

~~(g) The authority may adopt supplemental rules of procedure provided that the authority's supplemental rules shall not be in conflict with those adopted by the city council.~~

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

**4-2-3 Authority to Issue City Licenses.**

(a) An applicant for a city license under this chapter shall apply therefor to the Beverage Licensing Authority (“Authority”) established by section 4-2-12~~2-3-3~~, "Beverage Licensing Authority," B.R.C. 1981, on forms provided by the A~~a~~uthority.

(b) The A~~a~~uthority may issue the following types of city licenses:

(1) Retail liquor store;

(2) Liquor-licensed drugstore;

(3) Beer and wine;

(4) Hotel and restaurant;

(5) Tavern;

(6) Club;

(7) Arts;

(8) Racetrack;

(9) Brew pub;

(10) Fermented malt beverage on-premises;

(11) Fermented malt beverage off-premises;

(12) Fermented malt beverage on-premises and off-premises;

(13) Hotel and restaurant with optional premises; ~~and~~

(14) Tastings of alcoholic beverages conducted on licensed retail liquor stores and liquor-licensed drugstore premises;

(15) Art gallery permit;

(16) Bed and breakfast permit; and

(17) Special Event Permits.

(c) In order to qualify for a city license under this chapter, an applicant must meet all conditions for the issuance of the parallel state license prescribed by the Colorado Liquor Code, for malt, vinous, and spirituous liquors, and the Colorado Beer Code, for fermented malt beverages, except that the fees for a city license are those prescribed by section 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," B.R.C. 1981.

Section 3. Section 4-2-12, B.R.C. 1981, is created to read:

**4-2-12 Beverage Licensing Authority.**

(a) The Beverage Licensing Authority ("Authority") shall have all powers and duties granted to local liquor licensing authorities as set forth in Title 12, Articles 46, 47 and 48, C.R.S. The Authority shall have the duty and authority to grant or refuse licenses for the possession, sale and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages as provided by law, to conduct investigations as are required by law and to levy penalties against licensees in the manner provided by law.

(b) The Authority shall consist of a sole Hearing Officer who shall serve at the pleasure of City Council. The Hearing Officer shall be appointed by the City Council by resolution and may be removed with or without cause by a majority vote of City Council. City Council may, in its discretion, appoint an Alternate Hearing Officer who may serve in the event that the appointed Hearing Officer is unavailable. City Council shall establish compensation for such Hearing Officer and Alternate Hearing Officer. The term "Hearing Officer" shall be synonymous with "Beverage Licensing Authority".

(c) The Hearing Officer and any Alternate Hearing Officer shall be an individual over the age of twenty-one, an attorney at law admitted to practice in the State of Colorado, and with sufficient knowledge and expertise to apply and enforce the State of Colorado Beer Code, Liquor Code, Special Events Code, and Code of Regulations. The Hearing Officer shall not hold any other city office, appointment or position. Additionally, the Hearing Officer shall not have any financial interest in the operation of any business located or operating in the city that holds a license pursuant to C.R.S. § 12-46-101 *et seq*., or C.R.S. §12-47-101 *et seq*. Before assuming the office, the Hearing Officer shall take and file with the council an oath or affirmation to support the Constitution and laws of the United States and of the State of Colorado and the charter, this code, and other ordinances of the city and faithfully to perform the duties of the office.

(d) The city manager shall serve as secretary to the Authority. The secretary may be known as the licensing clerk, and shall serve as the Authority's agent for all administrative functions.

(e) The Authority's functions are:

(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and fermented malt beverages;

(2) To conduct investigations;

(3) To suspend or revoke such licenses for cause;

(4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and

(5) To perform all other responsibilities that the council may delegate to it.

(f) The city manager shall issue all licenses granted by the Authority upon receipt of the license fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.

(g) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the Authority.

(h) The Authority shall adopt the existing rules of procedure established by the City Council.

(i) The Authority may adopt supplemental rules of procedure provided that the Authority's supplemental rules shall not be in conflict with those adopted by the City Council.

Section 4. This ordinance shall take effect on February 1, 2014.

Section 5. Upon the effective date of this ordinance, the terms of any previously appointed members of the Authority shall terminate.

Section 6. 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 7. 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 1st day of October, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____ 2013.

.

_____
Mayor

Attest:

_____
City Clerk

C I T Y  O F  B O U L D E R,  C O L O R A D O

Office of the City Attorney
Municipal Building
1777 Broadway
Post Office Box 791
Boulder, Colorado 80306
Telephone (303) 441-3020
Facsimile (303) 441-3859

# MEMORANDUM

TO: Mishawn J. Cook, Tax and License Manager

FROM: Sandra Llanes, Assistant City Attorney III

SUBJECT: Cost Estimates for Beverage Licensing Authority (BLA) Hearing Officer

DATE: September 10, 2013

I have compiled some information about the approximate costs and department impacts associated with contracting for an independent hearing officer versus using the existing Associate Municipal Court Judge for Beverage Licensing Board (BLA) liquor hearings. After reviewing the information provided by you, your staff and Lynne Reynolds; Court Administrator, I can offer you the following information.

Breakdown of BLA hearings in 2012:

13 New Applications
16 Transfer of Ownership
9 Permanent Modifications
12 Registered Manager, change of location or class or rulemaking hearing items
23 Renewal Hearings
25 Show Cause Hearing for violations
6 were contested
19 were stipulated to the facts

98 Total Hearings in 2012

**<u>Hearing officer/Judge Estimated Workload:</u>**

Review monthly packet in preparation for hearing: estimated 4 – 6 hours per month
Conduct hearing: 2-3 hours per month
Total Average: 6 – 10 hours per month

Re: Cost Estimates for BLA Hearing Officer

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**Independent Contractor Hearing Officer:**

An RFP process would be used to identify and contract with a potential hearing officer.

Contracted hearing officer rates: between $90 – 150 per hour
Example of City contracted marijuana hearing officer rate: $135
Average rate of $135 x 10 hours/month = $1,350/month or $16,200/year

**Municipal Court judge:**

Based on the information provided by Lynne Reynolds regarding the Municipal Court staff and budgetary impacts, the total annual cost of covering liquor licensing responsibilities would range from $1,800 minimum to $10,800 maximum per year[1]. This range was determined based upon the following assumptions:

- Hearings will be held at the Boulder County Justice Center during regular business hours, one Wednesday a month, beginning at 8:30 AM. This allows for security and will not result in incurring overtime security costs.
- Current courtrooms will be available for all hearings (no expenses for additional courtroom setup or recording equipment is included in these projections).
- Finance department / licensing division will continue to provide administrative support. Additionally, they will attend the Court sessions and perform limited data entry into the Court database.
- Associate Judge Cahn will preside over the liquor licensing sessions.
- Currently, the Court's dockets are full with no open days, and the filing impacts from Minor in Possession of Marijuana and Consumption of Marijuana in Public are largely unknown since the ordinances just went into effect on June 6, 2013. The Court will make every effort to create an available Wednesday, once a month, through increasing the volume of all other dockets. If the Court is unable to create a Wednesday each month for the licensing hearings, then two courtrooms will need to operate simultaneously. Judge Cahn will preside over the licensing hearings and a current contract Relief Judge will preside over the regular Court docket.
- Additionally, the Court will contract with a Relief Judge with appropriate expertise, to be trained as a back-up for Judge Cahn's licensing responsibilities.

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[1] If the court is unable to manage all hearings within the current docket then the higher costs would apply. This is not a likely scenario.

Re: Cost Estimates for BLA Hearing Officer

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**Cost Savings:**

Replacing the BLA with a hearing officer/judge would promote efficiency. Other jurisdictions have found that hearings do not last as long when they are conducted by a legally trained hearing officer. Currently BLA meetings require a significant staff commitment. The licensing clerk prepares the board's packet and provides other staff support before, during, and after all hearings. A change to a hearing officer model would result in an estimated administrative cost savings of $430 a month or $5,160 a year and staff resource savings of 5 hours a month or 60 hours a year.

The city attorney's office provides two attorneys to staff the board. I provide legal advice and support to the board, while Michael Whitney acts as the prosecutor with regard to violations and contested renewals. Mr. Whitney would continue as prosecutor. However, a hearing officer would not require legal staff support resulting in an appropriate CAO attorney resource savings of five to ten hours per month.

**Expected effective date**:

A hearing officer could be hired and in place by February 2014. The Associate Judge could assume the hearing officer responsibilities with six week's notice as the court's dockets are full six weeks into the future. Based on the effective date of the ordinance and court docket, that would translate into starting in January 2014.

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| Land use definitions for Hospitality Establishments- Staff and Planning Board recommendations | | | | |
|---|---|---|---|---|
| **Staff recommendation to Planning Board** | **Planning Board recommendations** | **Intended impact/Benefit** | **Potential consequences/Disadvantage** | **Staff's revised recommendation** |
| *Require snacks or food to be served during all business hours for hospitality establishments* | *Make solid food requirements more strict (i.e., requirement for full service menus)* | Encourage more food consumption at establishments to minimize affects of alcohol | None identified | Require kitchen to be open during all business hours to prepare food for certain hospitality establishments |
| *Allow neighborhood pubs or bistros to operate until 12am without Use Review approval (conditional use; staff level)* | *Revise the Use Table to require Neighborhood Pubs or Bistros to obtain Use Review approval in BMS, MU-3, DT-1, DT-2 and DT-3 instead of just conditional use approval* | Enable greater protections for residential neighborhoods; avoids overconcentration of establishments which may impact residential areas with late hours operations | Removes the incentive of encouraging neighborhood pubs or bistros over other establishments like restaurants, which can serve a full range of alcohol with Hotel and Restaurant licenses. Neighborhood pubs or bistros would not be able to serve hard alcohol with Beer and Wine licenses. | Staff does not support this modification and does not anticipate an overconcentration of such establishments |
| *Prohibit late night restaurants in interface areas like MU zones adjacent to residential zones so as to avoid "morphing" issue* | *Allow Late Night Restaurants in MU-1, MU-2 and MU-4 with Use Review approval (*)* | Would allow more late night food options in mixed use areas through Use Review process | Creates conditions where restaurants could morph into more tavern-like establishments in late hours as is currently experienced | Create subcategories for late night restaurants that would not permit liquor licenses after 11 p.m. in MU & DT zones |
| *Prohibit late night restaurants in interface areas like BMS adjacent to residential zones as to avoid "morphing" issue* | *Allow Late Night Restaurants in BMS with Use Review approval (**)* | Allow more late night food options in mixed use areas and encourage more investment in business areas | Creates conditions where restaurants could morph into more tavern-like establishments in late hours as is currently experienced - particularly in sensitive areas like University Hill | Create subcategories for late night restaurants that would not permit liquor licenses after 11 p.m. in the BMS zone |
| *NA* | *Require Use Review for hospitality establishments in the DT-5 zone within 300 feet of a residential zone (***)* | Avoid or mitigate impacts on nearby residential areas from more intense establishments in Boulder's downtown core | Protections already exist in the code such that outdoor patios in DT-5, areas where there could be noise impacts, already require Use Review. Could also impair economic vitality in an area expected for more intense commercial uses | Staff does not support this modification as protections already exist due to Use Review being required for outdoor patios; DT-5 is intended to be one of the most urban, intense zoning districts |

(*) Four Planning Board members supported this change; one was opposed
(**) Three Planning Board members supported this change; two were opposed
(***) Only two Planning Board members supported this change; no official motion passed

## Summary of Proposed Land Use Code Definitions

**Attachment F**

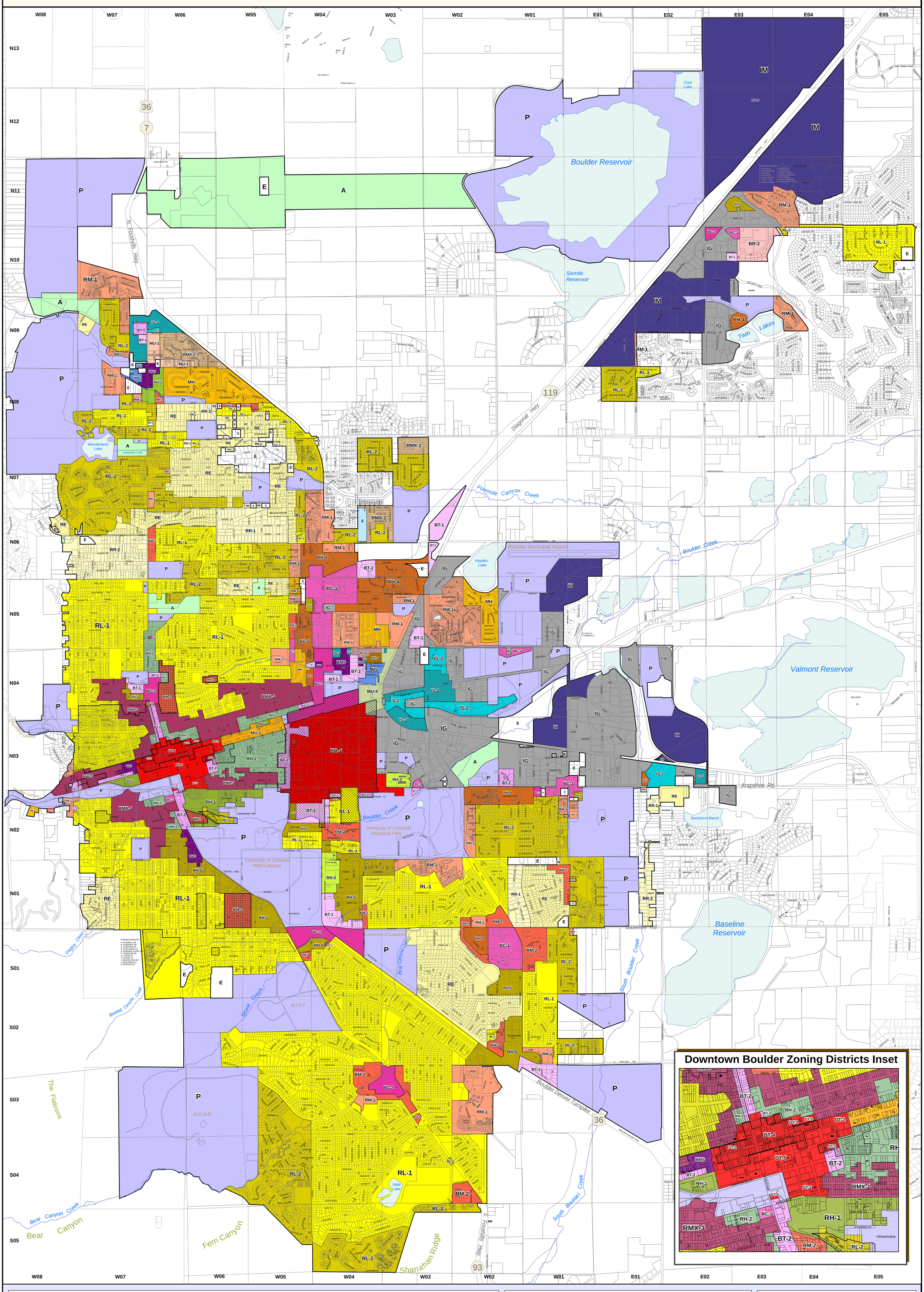
| New Land Use Definitions | Review Process & Allowed Zoning District | Liquor License Types |
|---|---|---|
| **Restaurants < 1500 sf**<br><br>**"Restaurant"** means an establishment with no liquor license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that **must close no later than 11 p.m.** and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens. | **USE REVIEW*:**<br>RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, BT-1, BT-2<br><br>**CONDITIONAL USE**:**<br>MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5 | Beer and Wine License<br>**or**<br>Hotel Restaurant License (full service)<br>**or**<br>No liquor license |
| **Restaurants > 1500 sf**<br><br>**"Restaurant"** means an establishment with no liquor license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that **must close no later than 11 p.m.** and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens. | **USE REVIEW:**<br>MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3<br><br>**CONDITIONAL USE:**<br>BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5 | Beer and Wine License<br>**or**<br>Hotel Restaurant License (full service)<br>**or**<br>No liquor license |
| **Restaurants, Late Night**<br><br>**"Restaurant, late night"** means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that **may operate after 11 p.m .** | **USE REVIEW (NO LIQUOR LICENSE):**<br>RH-1, RH-2, RH-3, RH-4, RH-5, RH-6, RH-7, MU-1, MU-2, MU-4, BMS, DT-1, DT-2, DT-3<br><br>**CONDITIONAL USE:**<br>BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5 | Beer and Wine License<br>**or**<br>Hotel Restaurant License (full service)<br>**or**<br>No liquor license |
| **Neighborhood Pub or Bistro < 1500 sf**<br><br>**"Neighborhood pub or bistro"** means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that **must close no later than 12 a.m.** | **USE REVIEW:**<br>RH-1, RH-2, RH-3, RH-7, RH-6, BT-1, BT-2<br><br>**CONDITIONAL USE:**<br>MU-1, MU-2, MU-3, MU-4, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5 | Beer and Wine Licenses Only |
| **Neighborhood Pub or Bistro > 1500 sf**<br><br>**"Neighborhood pub or bistro"** means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that must **close no later than 12 a.m.** | **USE REVIEW:**<br>RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, MU-1, MU-2. MU-3, MU-4BT-1, BT-2, BMS, DT-1, DT-2, DT-3<br><br>**CONDITIONAL USE:**<br>BC-1, BC-2, BCS, DT-4, DT-5 | Beer and Wine Licenses Only |
| **Tavern**<br><br>**"Tavern"** means an establishment with a tavern license issued under § 12-47-401, et seq., C.R.S., serving fermented malt beverages and/or malt, vinous, and/or spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where snacks are available for consumption on the premises, including, but not limited to bars, cabarets, cocktail lounges, dance halls, discotheques, and night clubs. | **USE REVIEW:**<br>MU-1, MU-2, MU-3, MU-4, BT-2, DT-1, DT-2, DT-3<br><br>**CONDITIONAL USE:**<br>BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5 | Tavern License |
| **Brewpub**<br><br>**"Brewpub"** means an establishment with a brew pub license issued under § 12-47-401, et seq., C.R.S., that is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law. | **USE REVIEW:**<br>MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, DT-3<br><br>**CONDITIONAL USE:**<br>BC-1, BC-2, BCS, BR-1, BR-2 | Brew Pub License |
| **Retail Liquor Store**<br><br>**"Retail liquor store"** means an establishment with a retail liquor store license issued under § 12-47-401, et seq., C.R.S., engaged primarily in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption of the premises and otherwise consistent with the definition of retail liquor store under § 12-47-103, C.R.S. | **USE REVIEW:**<br>MU-4, BMS, DT-1, DT-2<br><br>**APPROVED USE BY-RIGHT:**<br>BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5 | Retail Liquor License |

****Use Review** applications are discretionary and may be called-up by neighbors or the Planning Board. Use Review applications can also be referred to the Planning Board for decision by staff.*

***Conditional Use** applications are reviewed administratively by staff and are not subject to call-up by neighbors or the Planning Board.*

# Zoning District Map of the City of Boulder, Colorado

## Adopted 7/12/2006 (Ordinance 7476)*

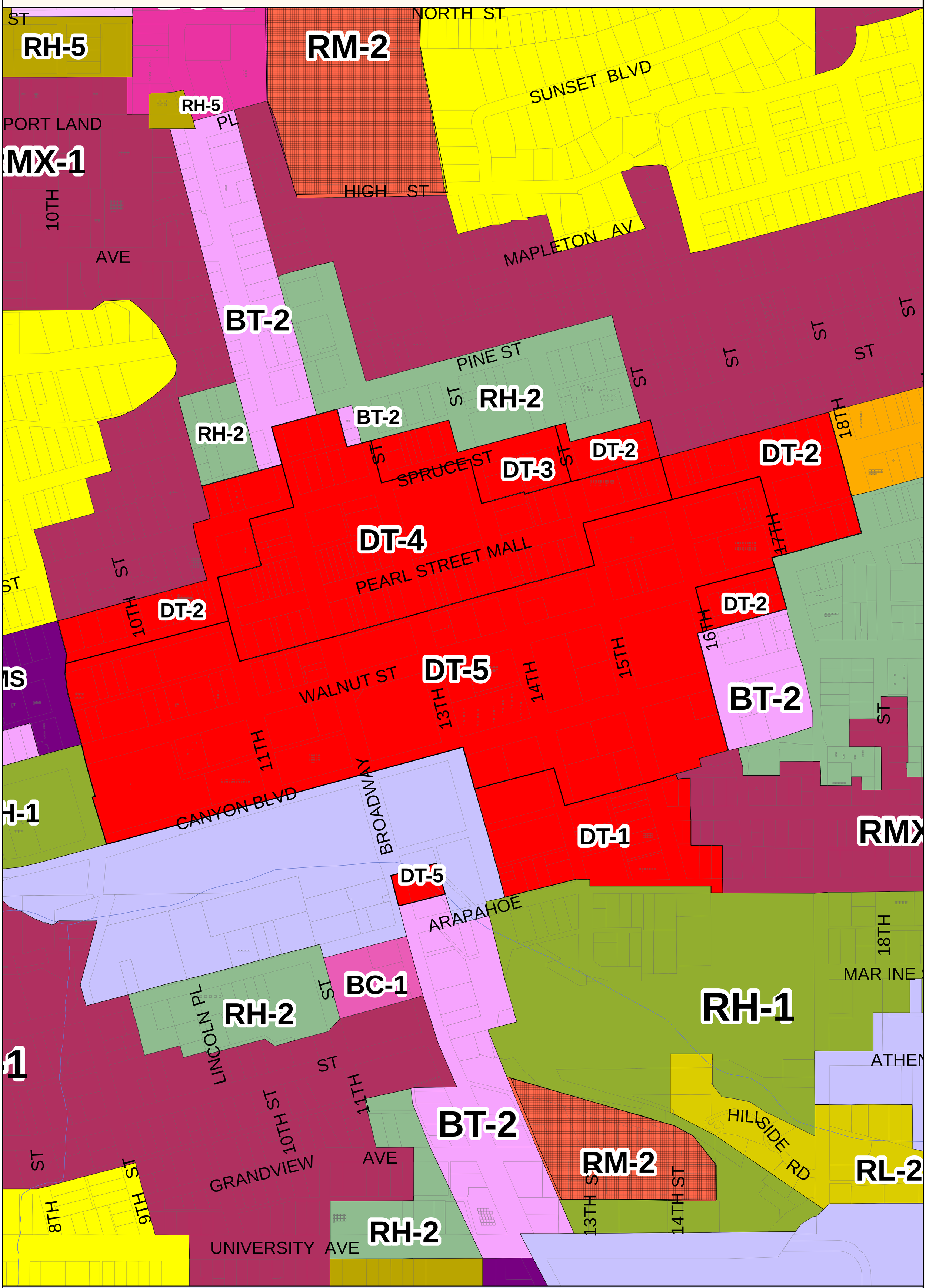



### *Zoning Map Amendments:

| Ordinance # | Date | Ordinance # | Date | Ordinance # | Date |
|---|---|---|---|---|---|
| 7363 | 4/20/2004 | 7665 | 6/4/2009 | 7835 | 3/7/2012 |
| 7369 | 7/20/2004 | 7689 | 10/6/2009 | 7849 | 8/7/2012 |
| 7374 | 8/17/2004 | 7705 | 12/15/2009 | 7882 | 1/22/2013 |
| 7407 | 12/21/2004 | 7739 | 8/17/2010 | 7894 | 5/7/2013 |
| 7425 | 7/5/2005 | 7740 | 8/17/2010 | | |
| 7429 | 9/20/2005 | 7741 | 8/17/2010 | | |
| 7431 | 10/18/2005 | 7742 | 8/17/2010 | | |
| 7446 | 1/17/2006 | 7745 | 8/6/2010 | | |
| 7455 | 3/20/2006 | 7746 | 8/6/2010 | | |
| 7476 | 7/12/2006 | 7749 | 9/24/2010 | | |
| 7490 | 11/17/2006 | 7774 | 1/18/2011 | | |
| 7533 | 8/21/2007 | 7775 | 1/18/2011 | | |
| 7586 | 5/20/2008 | 7776 | 1/18/2011 | | |
| 7587 | 5/23/2008 | 7806 | 10/18/2011 | | |
| 7609 | 9/2/2008 | 7810 | 10/18/2011 | | |
| 7637 | 1/20/2009 | 7811 | 10/18/2011 | | |
| 7655 | 5/5/2009 | 7812 | 10/18/2011 | | |

# Downtown Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*




## Zoning Districts

*(Previous Zoning District Name in Parentheses)*

### Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 *(LR-E)*
- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

### Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
- BT-1 Business - Transitional 1 *(TB-D)*
- BT-2 Business - Transitional 2 *(TB-E)*
- DT-1 Downtown 1 *(RB3-X/E)*
- DT-2 Downtown 2 *(RB2-X)*
- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
- DT-5 Downtown 5 *(RB1-X)*

### Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

### Mixed Use

- MU-1 Mixed Use 1 *(MU-D)*
- MU-2 Mixed Use 2 *(RMS-X)*
- MU-3 Mixed Use 3 *(MU-X)*
- MU-4 Mixed Use 4

### Industrial

- IG Industrial - General *(IG-E/D)*
- IM Industrial - Manufacturing *(IM-E/D)*
- IMS Industrial - Mixed Services *(IMS-X)*
- IS-1 Industrial - Service 1 *(IS-E)*
- IS-2 Industrial - Service 2 *(IS-D)*

### Other

- E Enclave *(E)*
- Flex (F)
- Medium Density District Overlay Zone
- Designated Local Historic Districts
- Boulder Valley Regional Center

## *Zoning Map Amendments:

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| 7490 | 11/17/2006 | 7774 | 1/18/2011 | | |
| 7533 | 8/21/2007 | 7775 | 1/18/2011 | | |
| 7586 | 5/20/2008 | 7776 | 1/18/2011 | | |
| 7587 | 5/23/2008 | 7806 | 10/18/2011 | | |
| 7609 | 9/2/2008 | 7810 | 10/18/2011 | | |
| 7637 | 1/20/2009 | 7811 | 10/18/2011 | | |
| 7655 | 5/5/2009 | 7812 | 10/18/2011 | | |

N
W E
S

1" = 1000'

0 100 200 400 Feet

**Map produced by the City of Boulder, Planning and Development Services GIS**

**For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net**

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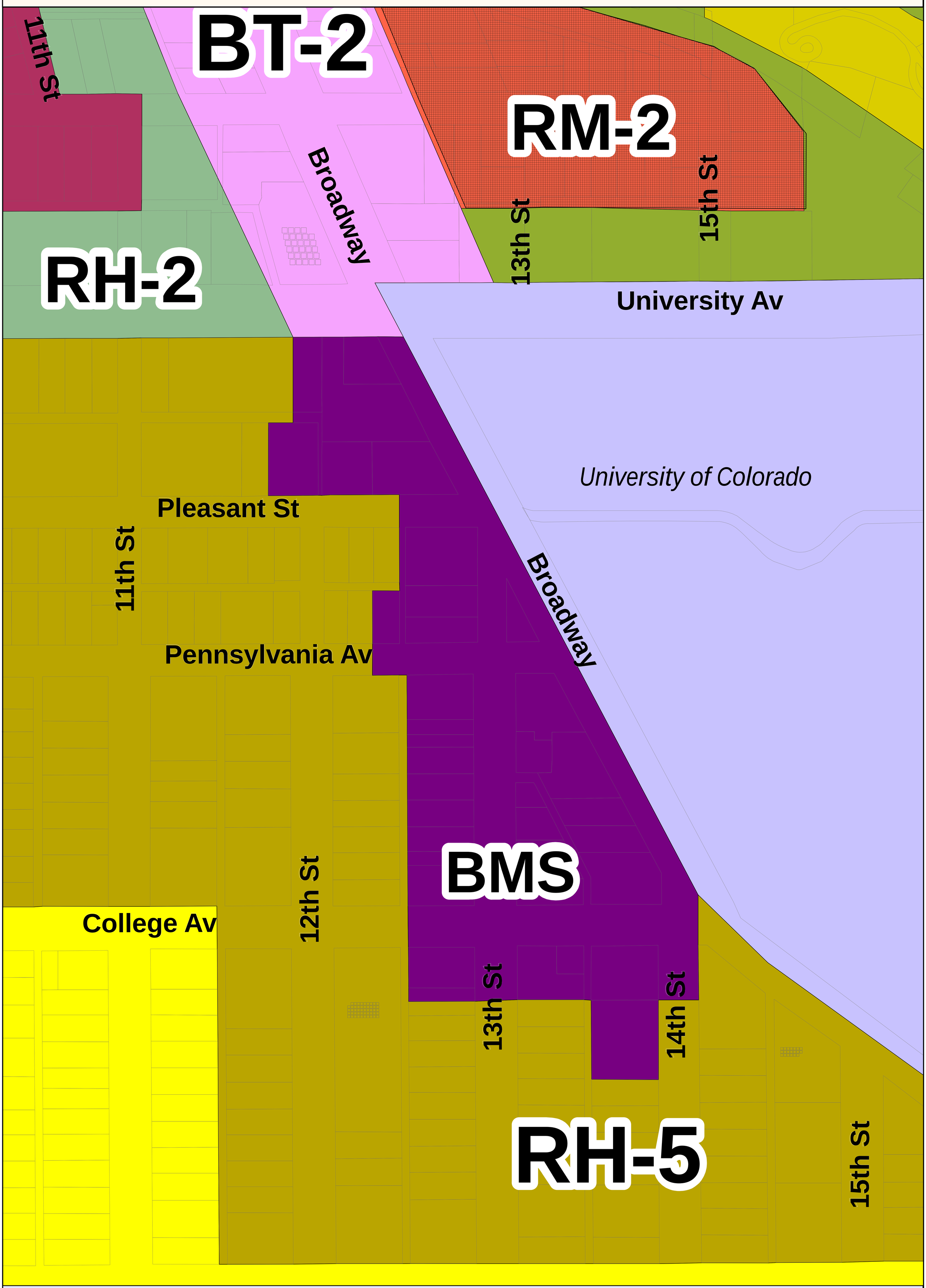
# Uni Hill Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*

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*(Previous Zoning District Name in Parentheses)*

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- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
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### Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

### Mixed Use

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- MU-4 Mixed Use 4

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- IMS Industrial - Mixed Services *(IMS-X)*
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| 7476 | 7/12/2006 | 7749 | 9/24/2010 | | |
| 7490 | 11/17/2006 | 7774 | 1/18/2011 | | |
| 7533 | 8/21/2007 | 7775 | 1/18/2011 | | |
| 7586 | 5/20/2008 | 7776 | 1/18/2011 | | |
| 7587 | 5/23/2008 | 7806 | 10/18/2011 | | |
| 7609 | 9/2/2008 | 7810 | 10/18/2011 | | |
| 7637 | 1/20/2009 | 7811 | 10/18/2011 | | |
| 7655 | 5/5/2009 | 7812 | 10/18/2011 | | |

N
W E
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1" = 1000'

0 45 90 180 Feet

**Map produced by the City of Boulder, Planning and Development Services GIS**

**For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net**

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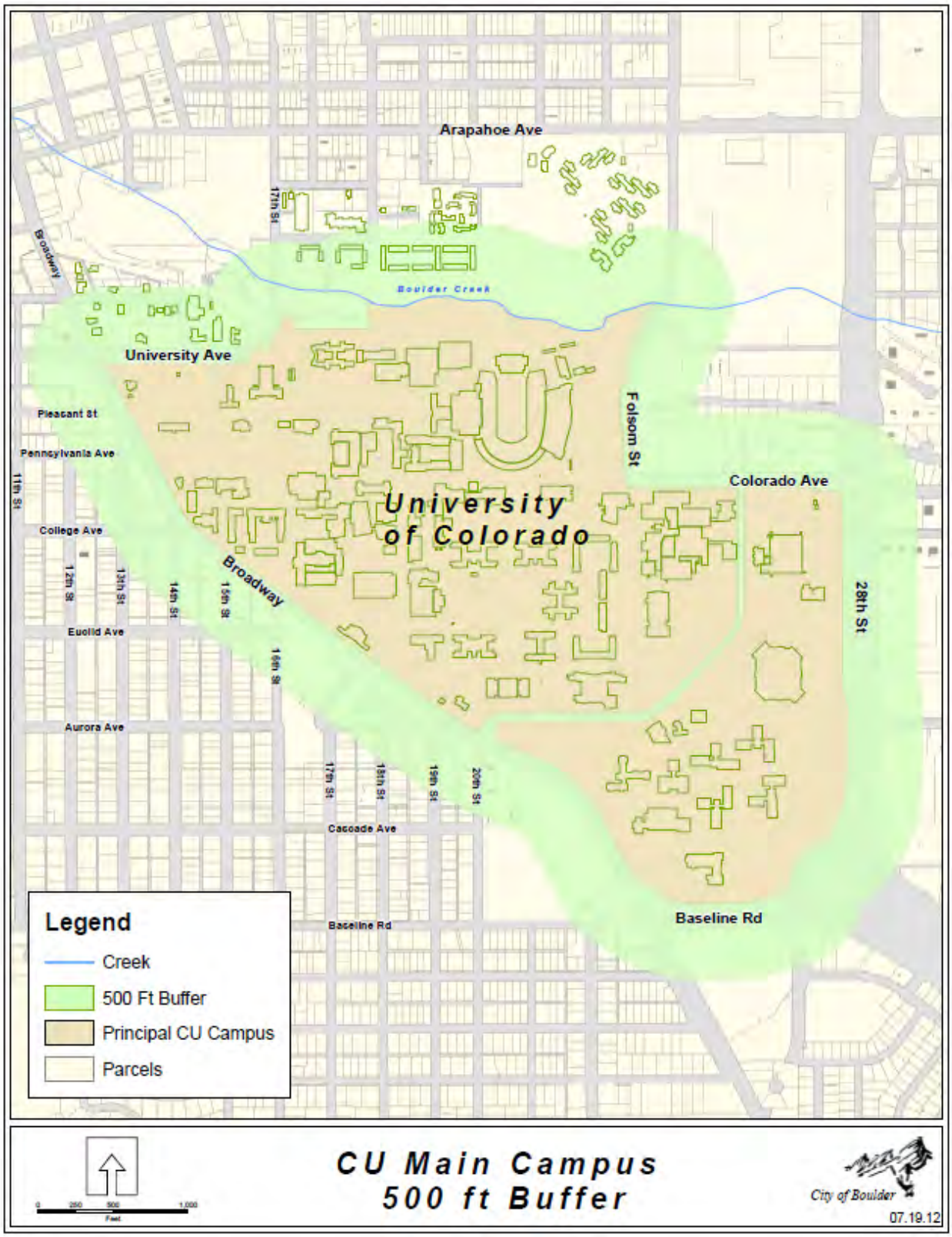
**Attachment H – 500-ft Buffer**



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**Hospitality establishments and associated liquor licenses on University Hill**

| Establishment | Location | Liquor License type | Meal service? | Square footage | Closing time |
|---|---|---|---|---|---|
| The Corner | 1100 13th St. | HR* | Yes | 1,776 sf | 11 pm |
| Cheba Hut | 1315 College | HR | Yes | 1,490 sf | 11 pm |
| Illegal Pete's | 1320 College | HR | Yes | 1,700 sf | 2:30 am |
| Rose Hill Liquor | 1089 13th | Retail liquor | Liquor sales only | 706 sf | 12 am |
| Qdoba | 1119 13th | HR | Yes | 2,763 sf | 12 am |
| Fox Theater | 1135 Broadway | Tavern | No | - | 2 am |
| Geisty's Dogg House | 111413th | HR | Yes | 2,517 sq. ft. | 11 pm |
| Abo's Pizza | 1124 13th | HR | Yes | 3,010 sf | 2 am |
| Mamacita's | 1149 13th | HR | Yes | 1,222 sf | 2 am |
| The Sink | 1165 13th | HR | Yes | 1,900 sf | 2 am |
| Hapa Sushi | 1220 Pennsylvania | HR | Yes | 1,741 sf | 12 am |
| Aion Cafe | 1235 Pennsylvania | HR | Yes | 1,500 sf | 11 pm |
| Half Fast Subs | 1215 13th | HR | Yes | - | 12 am |
| Everyday store | 1275 13th | off premise 3.2% | No | 3,015 sf | 12 am |
| The Goose/Fatty J's | 1301 Broadway | HR | Yes | 1,768 sf | 3 am |
| Cosmo's Pizza | 1325 Broadway | HR | Yes | 2,695 sf | 2:30 am |
| Rib House | 1335 Broadway | HR | Yes | 1,555 sf | 11 pm |
| K's China | 1325 Broadway | HR | Yes | 3,301 sf | 2 am |
| 7-Eleven Store | 1091 13th st | off-premise 3.2% | No | 2,850 sf | 12 am |

- "*" Hotel & Restaurant liquor license
- "-" data not available

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: OCTOBER 1, 2013**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only an ordinance creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

**PRESENTER/S**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Maureen Rait, Executive Director of Public Works
Tracy Winfree, Director of Public Works for Transportation
Michael Gardner-Sweeney, Transportation Planning and Operations Coordinator
Kathleen Bracke, GO Boulder Program Manager
Jeff Haley, Parks Planner, Parks and Recreation Department
Dean Paschall, Communication & Public Process Manager, Open Space and Mountain Parks
Carey Weinheimer, Traffic Commander, Boulder Police Department
Molly Winter, Executive Director of Downtown, University Hill and Parking Services
Marni Ratzel, Senior Transportation Planner

**EXECUTIVE SUMMARY**
Currently city regulations allow electric-assist bicycles (e-bikes) to operate on the road and use bike lanes, but prohibit e-bikes on multi-use paths and sidewalks. As directed by council, the City of Boulder is considering a potential pilot project to test e-bike use on hard-surface, multi-use paths maintained to a transportation standard. The pilot would evaluate behavior of e-bike users to determine whether these vehicles can co-exist with current users on multi-use paths. The proposed ordinance is included as **Attachment A**.

The ordinance enables the City Manager, under rulemaking authority, to regulate the hard-surface paths where a person may activate the motor of an e-bike and establishes a sunset date of Dec. 31, 2014. The pilot project would begin 30 days after council approval of the ordinance. The pilot project duration allows for data collection, evaluation, community input, and quarterly updates to the City Council on the pilot findings.

The pilot would not include use on facilities that are pedestrian-only or intended to preserve the natural environment. Specifically, the proposed ordinance states that e-bike use would continue to be prohibited on sidewalks and the soft-surface trails in the Open Space and Mountain Park (OSMP) system surrounding Boulder. The pilot would be focused in the urban service area where there is a network of hard-surface, off-street multi-use paths.

**Attachment C** shows several hard-surface multi-use paths on OSMP fee-property that are integral to the greenway system within the City of Boulder. E-bikes may be in conflict with the Open Space and Mountain Parks Charter values that serve passive recreation and prohibit motorized vehicles on OSMP land.

On Sept. 25, the Open Space Board of Trustees (OSBT) held a public hearing and made a recommendation on whether OSMP hard-surface multi-use paths are appropriate to include in the e-bikes pilot project. The board's motion indicated that the use of e-bikes on OSMP paths is not appropriate under the Charter. Additionally, the OSBT recommended that staff begin investigating possible disposal of those identified multi-use paths on OSMP land have historically served a transportation function. The motion passed 4 to 1.

**STAFF RECOMMENDATION**

As detailed in the 'options' section of this memo, staff considered several alternatives for defining and regulating e-bikes in the City of Boulder. The staff recommended option for an e-bike definition is Option 2. Accordingly, staff also recommends Option 2 for regulating the use of e-bikes, with the amendment to allow e-bike use on hard surface multi-use paths on OSMP fee-property identified as serving primarily a transportation function. These options propose to amend the definition of an e-bike to be consistent with state law and allow a pilot project to test e-bike use on hard-surface, multi-use paths in the City of Boulder that are maintained to a transportation standard.

Transportation and OSMP staff will work in partnership to identify the paths on OSMP property recommended for disposal as a transfer to transportation. A process and timeline will be outlined to negotiate the disposal of OSMP fee-owned property and future management by the Transportation Division. The e-bike pilot project will begin as planned, in November 2013. E-bike use on OSMP property will be prohibited until the disposal of property process is completed, anticipated by the end of 2013. Paved paths on OSMP fee-property identified to remain as OSMP property will be excluded from the e-bike pilot project.

**Suggested Motion Language**:

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

Motion to introduce and order published by title only an ordinance creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic**: Bicyclists tend to shop local and invest in the local economy. A local survey estimates the direct economic benefit of the bicycling industry in Boulder to be $52 million.

- **Environmental:** E-bikes are an efficient zero emission transportation option, reducing green house gas and vehicle miles traveled. An estimated 40 percent of all car trips are less than two miles away. Reducing the number of trips made by cars reduces congestion and frees up road space for essential motor vehicle trips. E-bikes expand the distance a bicyclist is willing and able to ride, which increases the potential to shift single occupant vehicle trips to e-bike trips.

- **Social:** Testing the use of e-bikes on multi-use paths as a pilot program supports a complete transportation system. E-bikes expand modal choice and helps aging generations stay active and healthy. It is an active transportation mode that addresses health problems related to sedentary behavior.

## OTHER IMPACTS

- Fiscal – The budget impacts associated with implementing and evaluating a pilot program are supported by existing transportation funding in the city's 2013 and 2014 budgets. Any voluntary over time employed to conduct enforcement also would be absorbed by the transportation budget.

- Staff time – Enforcement activities could be scheduled as part of normal shift work. This may limit the Boulder Police Department's capacity for extended enforcement due to the need to respond to emergency calls. Voluntary overtime also could be employed to conduct enforcement. The anticipated cost is $55 per officer hour with a minimum of two officers for at least three hours per scheduled overtime event.

**BOARD AND COMMISSION FEEDBACK**

On Sept. 23, 2013 the Transportation Advisory Board (TAB) held a public hearing to consider the e-bike pilot project. The Board unanimously passed two motions. The first motion was in support of the proposed ordinance. The second motion recommended Option 2 (option details below) for regulating e-bike use on multi-use paths during the pilot with the amendment to allow e-bike use on hard surface multi-use paths on OSMP fee-property.

During the public hearing, TAB members expressed the desire to work in partnership with OSMP staff and the OSBT to allow e-bikes on segments of multi-use paths that are integral to the greenway system and on OSMP-fee property. They also stated that if concerns arise, staff should revisit the scope of the pilot project. Board members also encouraged staff to explore opportunities to redesign segments of the path system impacted by recent flooding to provide better separation between bicyclists and pedestrians.

Other affected boards include the Downtown Management Commission (DMC), OSBT, University Hill Commercial Area Management Commission (UHMC), and Parks and Recreation Advisory Board (PRAB). In early September, these boards received a staff memorandum with information on the options under consideration and the public process forums for the community to provide input. Each board discussed the item at their respective September meetings.

The OSBT first discussed the e-bike pilot at its meeting on Sept. 11, 2013. Conversation focused on safety concerns and conflict with the OSMP Charter values to serve passive recreation and prohibit motorized vehicles on OSMP land. The OSBT also expressed concerns regarding the need to address corridors where there are holdings on OSMP land that function in another way such as hard surface paths serving a transportation purpose. On Sept. 25, the OSBT held a public hearing to consider the e-bike pilot project on hard surface paths on OSMP property. The board's motion indicated that the use of e-bikes on OSMP paths is not appropriate under the Charter. In addition, the OSBT recommended that staff begin investigating possible disposal of those identified multi-use paths on OSMP land have historically served a transportation function. The motion passed 4 to 1.

During the public hearing, the board expressed a general consensus that most of the paved multi-use paths on OMSP land (as identified in Attachment C) serve as a better transportation function than an open space purpose. These paths are typically on the periphery of the OSMP land and connect with other transportation managed paths. Two segments of the South Boulder Creek path were identified as fundamental to directly serving open space trails. These are the Bobolink trail south of Baseline Road and the trail around KOA Lake and extending southward from the lake along South Boulder Creek. The board also tasked OSMP staff with returning at a future meeting with details on how the disposal would be implemented.

On Sept. 23, the PRAB discussed the e-bike pilot and was supportive of the project. The only concerns raised were related to determining a way to keep e-bike speed at a minimum and congestion on the Boulder Creek Path and other popular corridors. Additionally, one board member would prefer to not have e-bikes on any multi-use paths.

The UHMC is scheduled to discuss the e-bike pilot on Oct. 1, 2013. The meeting was postponed from the regular meeting date of Sept. 18, 2013.

On Sept. 9, the DMC made a motion in support of Option 3 (detailed descriptions below) as the Commission does not want to allow e-bikes on the section of the Boulder Creek Path from Scott Carpenter Park to Eben G. Fine Park. The DMC does not support Option 2 because of the potential of pedestrian and bicycle conflicts. The vote was unanimous.

**PUBLIC FEEDBACK**

A summary of public input on the options considered for an e-bike pilot project is included in **Attachment B**. Also detailed is a summary of the public engagement process, which included several forums for community input, including two public meetings, an online survey and social media. An intercept survey of multi-use path users scheduled for the week of Sept. 16 was postponed until further notice. Staff also scheduled opportunities for community members to learn more about and test ride e-bikes, including the city-sponsored Boulder Green Streets event that was scheduled for Sunday, Sept. 22. This event has been postponed. A new date is not yet set.

Seven community members also attended the Transportation Advisory Board public hearing on Sept. 23, 2013, to provide testimony during the public hearing. All but one expressed support for a pilot project to test e-bike use on multi-use paths.

To date, comments from more than 250 community members have been received expressing an opinion on the proposed options for a pilot project to test e-bike use on paths. A majority (approximately two-thirds) are supportive of a pilot project. The most common reasons cited were that e-bikes help aging generations stay active and healthy, make longer commutes viable by bike and are an economic and non-polluting alternative to automobiles. Approximately 40 percent of comments received were opposed to testing e-bike use on paths. The primary concerns raised include congestion on the paths, speed, and safety. The behavior of existing bicyclists and a lack of enforcement were cited as concerns that would be compounded by e-bike users. Some comments suggested that the multi-use path system needs to separate bicyclists from walkers. Increased awareness through an education and outreach campaign followed up with targeted enforcement was expressed as vital components to consider.

In addition to the options being considered by staff, some community members suggested that other options be considered. Most of these were identified at the public meeting held on Sept. 4, 2013. Included were options to define an e-bike based on vehicle weight, vehicle speed or speed/weight based on rider and vehicle. Suggested options to regulate use included allowing e-bikes wherever bikes are allowed (including sidewalks and OSMP trails); allowing e-bikes wherever bikes were allowed except on OSMP natural surface

paths; and restricting e-bike use on some weekends (but, allowing them on other weekends along the Boulder Creek Path to test the difference). A summary of comments from the two public meetings held on Sept. 4 and Aug. 7 also are included in **Attachment B**.

## BACKGROUND

Considering a trial period to test the use of e-bikes on off-street, hard-surface multi-use pathways raised council interest due to community support expressed through a petition and testimony provided to the council. Several community members attended the City Council meeting on Tuesday, May 21 to support changing city policy to allow e-bikes on paths. In response, the Transportation Division spearheaded an internal review of e-bike regulations. An interdepartmental team comprised of Parks and Recreation, Open Space and Mountain Parks, the City Attorney's Office (CAO), Police Department and Transportation as well as Downtown University Hill Management & Parking Services was involved in the review.

The city is in the process of updating the Transportation Master Plan (TMP).
As part of the TMP update, the Transportation Division is introducing a "Complete Streets Bike and Pedestrian Living Laboratory" to test innovative treatments and programs to see if they are appropriate for Boulder. E-bikes are one bicycle innovation under review by the city as part of the living laboratory. For more information regarding the Transportation Master Plan update and the living laboratory, visit www.bouldertmp.net and select "Complete Streets" or "Living Laboratory".

### Current Regulations

Colorado State Law defines an e-bike as a two or three wheeled vehicle with pedals and equipped with an electric motor not exceeding 750 watts of power with a top motor-powered speed of 20 mph. In Colorado, e-bikes may be operated on the road and within bicycle lanes. E-bikes are prohibited from using their motors on bike and pedestrian paths, unless allowed by local ordinance.

The city definition currently differs from state law by further limiting the motor capacity of an e-bike to no more than 400 watts of continuous input power. E-bikes are allowed to use bike lanes. As a motor vehicle, e-bikes are currently prohibited from using multi-use paths and sidewalks, and OSMP trails. A map of multi-use paths that are on OSMP fee property is shown in **Attachment C**. These are maintained to a transportation standard and integrated into the urban fabric of the greenway system.

## ANALYSIS

In developing the staff recommendation, the Transportation Division is considering a variety of factors concerning use of e-bikes on multi-use paths, including compatibility with other users, the speed of e-bikes, alignment with goals in the TMP, experience of other communities, use of OSMP paved trails and public input.

### About e-bikes

An e-bike is essentially a bicycle that can be propelled by both human power and electric-assist power. It is designed for people interested in completing trips by bike but concerned

about their physical ability to ride longer distances or climb steeper hills. The electric range, speed, and cost of an e-bike are moderate. **Attachment D** provides photos and specifications for some e-bikes, an FAQ and a recent article about e-bikes.

As regulated by the Boulder Revised Code, the speed limit on multi-use paths is 15 mph unless posted otherwise (there are sections where the speed limit is 10 mph). The speed of an e-bike is compatible with this established speed limit. Based on Federal regulations, the speed of an e-bike using only the electric motor or a power assisted option has an upper threshold of 20 mph. Factors such as slope, rider's weight and terrain affect the speed of the bicycle. As the terrain or slope of a bicycle facility becomes more difficult or steep, the speed of the electric power assist will decrease, unless pedal power is used in conjunction with the electric power assist. A more powerful motor will help maintain the maximum power assist speed of 20 mph. Under human power alone, riders of e-bikes (and traditional bikes) are capable of exceeding this threshold.

Potential users of an e-bike include commuters and persons who prefer to travel by bicycle but may not be physically able to complete the trip intended without an electric power assist. This travel option could expand the bicycle user base, attract interested but concerned cyclists to ride more and be an opportunity to work toward the goals contained in the TMP.

**Peer City Review**

Staff researched experience in other communities that have allowed or, in some cases, not allowed e-bikes from using off-street, hard surface paths similar to Boulder's off-street pathway/greenways network. **Attachment E** provides a summary of this research. Based on the experience of other communities that have allowed e-bikes, there has not been a resulting increase in conflicts on multi-use paths or other bicycle facilities.

**Paved paths on OSMP property**

**Attachment C** shows in red those hard surfaced trails that are identified as being "owned" by OSMP but are maintained by the Transportation Division. This relationship came about when, over the years, transportation proposed that these OSMP trails be hardened to provide a better bicycling surface. Bicycling was considered an open space purpose so an agreement was made to harden the surface and to have transportation maintain the trails. These paths are typically on the periphery of the OSMP land and connect with other transportation managed paths.

Modifications can be made to temporarily amend ordinances addressing the Visitor Master Plan and Long Range Master Plan. However, the Charter/passive recreation question raises a more difficult hurdle. The paved paths are part of the city's greenway system and are intended to serve both a recreation and transportation purpose. OSBT input and action at the Sept. 25 meeting will help guide a staff recommendation on how to handle e-bike use on these paths.

**Integrating a comprehensive program of the 5 E's**

The City of Boulder's approach to support bicycling and walking is to achieve a comprehensive program that includes Engineering, Encouragement, Education, Enforcement and Evaluation initiatives. As part of the TMP update, staff is refining strategies to address concerns raised by community members for congestion and conflicts on the bicycling system today.

Independent of a pilot project to test e-bike use on paths, staff will be taking action to encourage cyclists to ride at appropriate speeds on the path system. This action will include the installation of 15 mph speed limit signs at key path locations and will be supported by an outreach campaign to raise public awareness on user rights and responsibilities as well as the rules of the path, including 15 mile per hour speed limit and walk right/pass left. Field observations to record unsafe behavior including speeding and other safety concerns along the path system will be conducted. Formal Police enforcement activities may be scheduled as resources allow and based on the findings of the field observations.

If approved by council, the proposed e-bikes pilot project for the off-street multi-use paths (non- OSMP) will be an opportunity to enhance this comprehensive approach, including additional efforts for education and enforcement. Results will be evaluated as part of the living laboratory analysis. This evaluation would include field observations to track user behavior and guide formal police enforcement activities. Based on results and as resources allow, targeted enforcement efforts may be conducted to record time spent and observations of safety concerns by various users including e-bikes, regular bikes, pedestrians as well as issuance of summonses / warning.

## PROPOSED ORDINANCE REVISION

The CAO has drafted a proposed ordinance for City Council consideration to pilot e-bike use on hard-surface, multi-use paths maintained to a transportation standard. This is included as **Attachment A**. The ordinance amends the definition of an e-bike to be consistent with state law. The pilot would evaluate behavior of e-bike users to determine whether these vehicles can co-exist with current users on multi-use paths. The ordinance authorizes the rulemaking authority of the City Manger to offer flexibility in determining the hard-surface multi-use path segments that allow e-bikes. This approach offers the opportunity to adjust to the scope of the pilot project in response to findings of the on-going evaluation. A sunset date of Dec. 31, 2014 would allow data collection, evaluation and quarterly updates to the City Council on the pilot project findings.

## OPTIONS

Below is a list of options considered for defining and regulating e-bikes in the City of Boulder:

**Option 1:** No change to the existing e-bike Definition (BRC 7-1-1 Definitions): "Electric assisted bicycle" means a bicycle with a battery powered electric motor with a capacity of *no more than four hundred watts* continuous input power rating which assists the person pedaling and which is not capable of propelling the bicycle and rider at more than *twenty miles per hour* on level pavement.

**Option 2:** Amend e-bike definition to conform with Colorado State Law* CRS 42-1-102(28.5): "Electrical assisted bicycle" means a vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an electric motor *not exceeding seven hundred fifty watts* of power, and a top motor-powered speed of *twenty miles per hour*.
**Denver and Fort Collins also uses this definition.*

**Options for regulating an e-bike**

**Option 1: Clarify the existing law regulating e-bikes.** E-bikes may operate on the roadway and within designated on-street bike lanes but are prohibited from using the motor on multi-use paths, trails and sidewalks.

**Option 2: Adopt an ordinance to test e-bike use on multi-use paths for a pilot period.** This ordinance would sunset on Dec. 31, 2014. E-bike use on the following would continue to be prohibited:

- OSMP trails, including those that currently allow bikes; and
- Sidewalks, except those designated as multi-use paths.

The above option would allow the city to evaluate the impacts of allowing e-bike riders to operate the motor while bicycling on hard-surface, multi-use paths, with the exception of those on OSMP fee-property. Signs to inform path users of the pilot project and the current 15 mph speed limit would be installed at select locations along the pathway system to educate users. Formal police enforcement activities may be scheduled as resources allow and based on the findings of the field observations. Automatic in-pavement loop detectors will track bike volume. Manual counts would be conducted to collect volume data by user type (pedestrian, bike, e-bike, other). Additionally, an online survey and intercept surveys of multi-use path users would be conducted to gather input on the pilot program and use of e-bikes on multi-use paths.

**Option 3: Adopt an ordinance to test e-bike use on multi-use paths, except for a segment of the Boulder Creek Path, for a demonstration period.** This ordinance would sunset on Dec. 31, 2014. E-bike use on the following would continue to be prohibited:

- OSMP trails, including those that currently allow bikes;
- Sidewalks, except those designated as multi-use paths; and
- The Boulder Creek Path between Eben G. Fine Park and Scott Carpenter Park

Public input on the potential pilot program to test e-bike use on hard-surface, multi-use paths has expressed concern for impacts to the pedestrian experience and safety. This option would restrict the use of the electric-assisted motor on an e-bike along the Boulder Creek Path from the western city limit (west of Eben G. Fine Park) to 30th Street (Scott Carpenter Park). As the spine of the greenway system, this segment of the Boulder Creek

Path is a well-publicized tourist destination and serves as a linear park along the Boulder Creek riparian corridor. In addition to the comprehensive program outlined in Option 2, additional strategies would likely be required to regulate the use of e-bikes as non-motorized vehicles along the prohibited segment of the Boulder Creek path.

**NEXT STEPS**

If the proposed e-bikes pilot project is approved by City Council, staff will proceed with implementation, including on-going community outreach, education, enforcement, and evaluation throughout the year long demonstration project.

Transportation and OSMP staff will work in partnership to identify the paths on OSMP property recommended for disposal as a transfer to transportation. A timeline will be outlined to negotiate the disposal of OSMP fee-owned property and future management by the Transportation Division.

For more information regarding e-bikes, please see the city's webpage and links from www.GOBoulder.net

**ATTACHMENTS**

Attachment A Ordinance XXX
Attachment B Public input summary
Attachment C Paved paths on OSMP property
Attachment D E-bikes FAQ, specifications and information
Attachment E Peer city review

ORDINANCE NO. _____

AN ORDINANCE CREATING A PILOT PROJECT ALLOWING ELECTRIC ASSISTED BICYCLES ON CERTAIN HARD-SURFACED, MULTI-USE PATHS BY AMENDING DEFINITIONS IN SECTIONS 1-2-1 AND 7-1-1; AMENDING SECTIONS 7-4-16, 7-5-5, AND 7-5-9 TO SPECIFY SAFETY STANDARDS THAT WILL APPLY TO ELECTRIC ASSISTED BICYCLES; ADDING A NEW SECTION 7-5-26 AUTHORIZING ELECTRIC ASSISTED BICYCLES WHERE PERMITTED BY A RULE ADOPTED BY THE CITY MANAGER; ESTABLISHING A SUNSET DATE OF DECEMBER 31, 2014; AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The 2013 Transportation Master Plan (TMP) update builds on a strong foundation of success through policy refinement, using a collaborative approach and addressing the current and future transportation needs of the community while integrating with the city's broader sustainability planning initiatives.

B. As part of the TMP update, the Transportation Division is introducing new strategies to increase bicycle and pedestrian mode share. It includes a "Complete Streets Bike and Pedestrian Living Laboratory" that provide test facilities and pilot programs to better understand the community's transportation choices and identify potential opportunities, barriers, and ultimately strategies to encourage more people to walk and bike.

C. The purpose of this ordinance is to establish a one-year electric assisted bicycle demonstration Pilot Project (the "Pilot Project"), which would allow and test use of electric assisted bicycles on off-street, hard-surfaced, multi-use path system within the City of Boulder limits.

D. The Pilot Project is focused on the urban service area where there is a network of hard-surfaced, off-street, multi-use paths maintained to a transportation standard.

E. The Pilot Project would not include use on facilities that are pedestrian only or intended to preserve the natural environment. Specifically, electric assisted bicycle use would continue to be prohibited on sidewalks and the natural surface Open Space and Mountain Park (OSMP) trail system surrounding Boulder.

F. The Pilot Project will evaluate behavior of electric assisted bicycle users to determine whether these vehicles can co-exist with current uses on these multi-use paths.

G. The Pilot Project is part of a Living Laboratory being implemented to introduce new strategies to increase bicycle mode share and encourage more people to complete trips by bicycle.

H. The city's ordinances do not permit any self-propelled vehicle to be driven on any paths.

I. In order to provide assurance that the use of electric assisted bicycles as an alternate mode of transportation contemplated by this program is safe, prudent, and in the best interest of all users of the city's hard-surfaced, multi-use path system, city staff will evaluate the following factors and data on an ongoing basis:

1. The number of reported traffic collisions involving electric assisted bicycles occurring on hard-surfaced, multi-use paths that result in severe injury or fatality;
2. The number of reported close call incidents involving electric assisted bicycles occurring on hard-surfaced, multi-use paths;
3. Reported and observed unsafe behavior including speeding and other safety concerns along the hard-surfaced, multi-use path system by various users including electric assisted bicyclists, regular bicyclists, pedestrians and other users;

4. The time spent by Boulder Police officers conducting enforcement activities along the hard-surfaced, multi-use path system and the number of warnings and citations issued involving electric assisted bicycles.

J. The greater Boulder community and affected Advisory Boards considered options and provided input to guide a staff recommendation on the Pilot Project.

K. On September 23, 2013, the Transportation Advisory Board held a public hearing to consider the staff recommendation on the Pilot Project and make a formal recommendation to City Council.

L. This program will sunset and be of no further force and effect after December 31, 2014, unless extended by affirmative council action.

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

Section 1. Section 1-2-1, B.R.C. 1981, is amended to read:

**1-2-1 Definitions.**

. . .

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 2. Section 7-1-1, B.R.C. 1981, is amended to read:

**7-1-1 Definitions.**

. . .

"Electric assisted bicycle" means a ~~bicycle~~ vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an ~~with a battery powered~~ electric motor not exceeding ~~with a capacity of no more than four~~seven hundred-fifty watts of ~~continuous input~~ power rating, ~~which assists the person pedaling and which is not capable of propelling the bicycle~~ and a top motor-powered speed of ~~rider at more than~~ twenty miles per hour ~~on level pavement~~.

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 3. Section 7-4-16, B.R.C. 1981, is amended to read:

**7-4-16 Yield Required Before Entering or Leaving Street.**

(a) A driver entering a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, to any electric assisted bicycle approaching on a multi-use path where such vehicles are permitted, and to any vehicle approaching on a roadway of the street.

(b) A driver leaving a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, and to any electric assisted bicycle approaching in a multi-use path where such vehicles are permitted.

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

**7-5-5 Use of Crosswalk.**

(a) No person shall immediately approach, enter or traverse a crosswalk which spans a roadway at a speed greater than eight miles per hour.

(b) Persons driving bicycles across a roadway upon and along a crosswalk from a sidewalk or path, and persons driving electric assisted bicycles across a roadway upon and along a crosswalk from a multi-use path where such vehicles are permitted, shall have all the duties applicable to pedestrians under the same circumstances.

(c) Such persons similarly have the rights of a pedestrian, but only if the bicyclist was entitled to use the sidewalk or path, and the approach, entry and traversal of the crosswalk are made at a speed no greater than a reasonable crossing speed so that other drivers may anticipate the necessity to yield when required.

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

**7-5-9 Bicycle Must Yield Right-of-Way and Obey Traffic Control Devices on Sidewalk, Crosswalk, or Path.**

(a) A person driving a bicycle on a sidewalk, a crosswalk, or a path, and any person driving an electric assisted bicycle on a multi-use path, shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

(b) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver of a bicycle or pedestrian, and no driver of an electric assisted bicycle on a multi-use path where such vehicles are permitted, shall fail to obey the requirements of the device.

Section 6. Chapter 7-5, "Pedestrian, Bicycle and Animal Traffic," B.R.C. 1981, is amended by the addition of a new section to read:

**7-5-26 Electric Assisted Bicycles.**

No person shall activate the motor of an electric assisted bicycle on any bike or pedestrian path or on a recreational trail except where permitted by a rule adopted by the city manager in accordance with Chapter 1-4, "Rulemaking."

Section 7. The city manager shall report to the City Council at least quarterly, and shall present a program evaluation after the program concludes.

Section 8. This ordinance shall be effective until December 31, 2014. The City Council suspends the prohibition against operating a motorized vehicle on hard-surfaced, multi-use paths until that time for the limited purpose of implementing the Pilot Project described by this ordinance. For all other purposes, the regulations governing electric assisted bicycles remain in full force and effect.

Section 9. 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 10. 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 ____ day of _____ 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

# Electric Assist Bike Project Public Process

The public process included several forums for community input:

- Project Webpage
- Online survey linked through City of Boulder project webpage
- Inspire Boulder
- Public meetings (Aug. 7 & Sept. 4, 2013)
- Test ride event (Sept. 4)
- Intercept Surveys (Sept 16 – 22) - postponed
- TMP Community Feedback Panel
- Emails and phone calls
- Transportation Advisory Board meetings (Aug. 12 and Sept 23, 2013)
- City Council meetings
  - First reading Oct. 1
  - Second reading/Public Hearing Oct. 22

Details on these community input forums are included below.

E-bike Policy Review Project web page – provides information on this effort and will be updated with information on upcoming public meetings.

Electric-Assist Bike Online Survey – this survey asks questions about pubic opinion on the potential demonstration project and seeks input on suggestions for how to address concerns with testing e-bike use on multi-use paths.

Inspire Boulder (MindMixer) is an idea collaboration website that allows community members to share and discuss ideas about city projects, issues and programs. Click on the **View Topics** link under **Transportation** to interact with others and provide input on the Living Laboratory demonstration projects, including the potential changes to regulations regarding e-bikes.

Public Meetings – Public input is being sought at two public meetings.

- On Wed. August 7, a public meeting was held from 4 to 6 p.m. at the Boulder Public Library, Boulder Creek room located at 1001 Arapahoe Avenue. At this meeting Transportation staff presented the potential e-bike pilot project concept and gather public input.

- On Wednesday, Sept. 4 a public meeting was held from 5 to 7 p.m. at the County Clerk and Recorder Building located at 1750 33rd Street. This purpose of this meeting was to

present an update on the options being considered for the e-bike pilot project and provide community members an opportunity to provide input on these options.

E-bike test ride events - Staff scheduled two opportunities in September for community members to learn more about and test ride e-bikes. Details of these events are:

- On Wednesday, Sept. 4, from 4 to 5 p.m. at the County Clerk and Recorder building located at 1750 33rd Street. A public meeting will follow from 5 to 7 p.m.
- On Sunday, Sept. 22, from 10 a.m. to 4 p.m. at the city-sponsored *Boulder Green Streets* event. Visit the *Connected Mobility Zone* at 13th Street and Alpine. This event was postponed due to the flood event. A new date has not yet been set.

Intercept surveys – Staff planned to conduct a survey of users traveling along multi-use paths during the week of Sept. 16, as part of a national bicycle data collection effort. Users will be stopped and asked to answer questions about their familiarity with e-bikes and opinion of the potential pilot project to test e-bike use on multi-use paths, as well as their other multi-use path related questions. This survey effort was postponed due to the flood event. A new date has not yet been set.

Community members also were encouraged to attend the Transportation Advisory Board (TAB) public hearing on Sept. 23, 2013, as well as the Council meetings where the e-bike policy changes will be considered, on October 1 and October 22.

Sign Up for the TMP Community Feedback Panel - This is an initiative of the TMP and an opportunity to be queried on TMP-related issues, receive updates including meeting announcements, and volunteer for various events associated with the TMP update. By design, most of the inquiries submitted to the TMP Community Feedback Panel will be online. But, Panel members also will be recruited for focus groups and other in-person groups, especially where we need to reach a specific demographic group, like in-commuters and interested but concerned cyclists. Panel members complete a profile with information about themselves and their travel patterns so that outreach and queries to the Panel can reach specific target audiences. Inquiries will be planned throughout the year as the TMP work continues and evolves. Over 400 people have signed up for the Panel as of September.

## Key Findings from the Public Input

### Against testing E-Bikes

Paths are too congested

Speed and Safety

Behavior and enforcement

### Support testing E-Bikes

Makes longer distance commutes more viable by bike

Helps aging generations stay active

Economic & non-polluting alternative to automobiles

## Public Input to date Overview

### Public Input Forums

Inspire Boulder

E-Bike Online Survey

Email/Phone

Public meetings (8/7 & 9/4)

### Over 250 Comments expressing and opinion

About 40% are against testing E-bikes on Multi-use paths

About 55% are supportive of testing E-bikes on Multi-use paths

About 5% are undecided

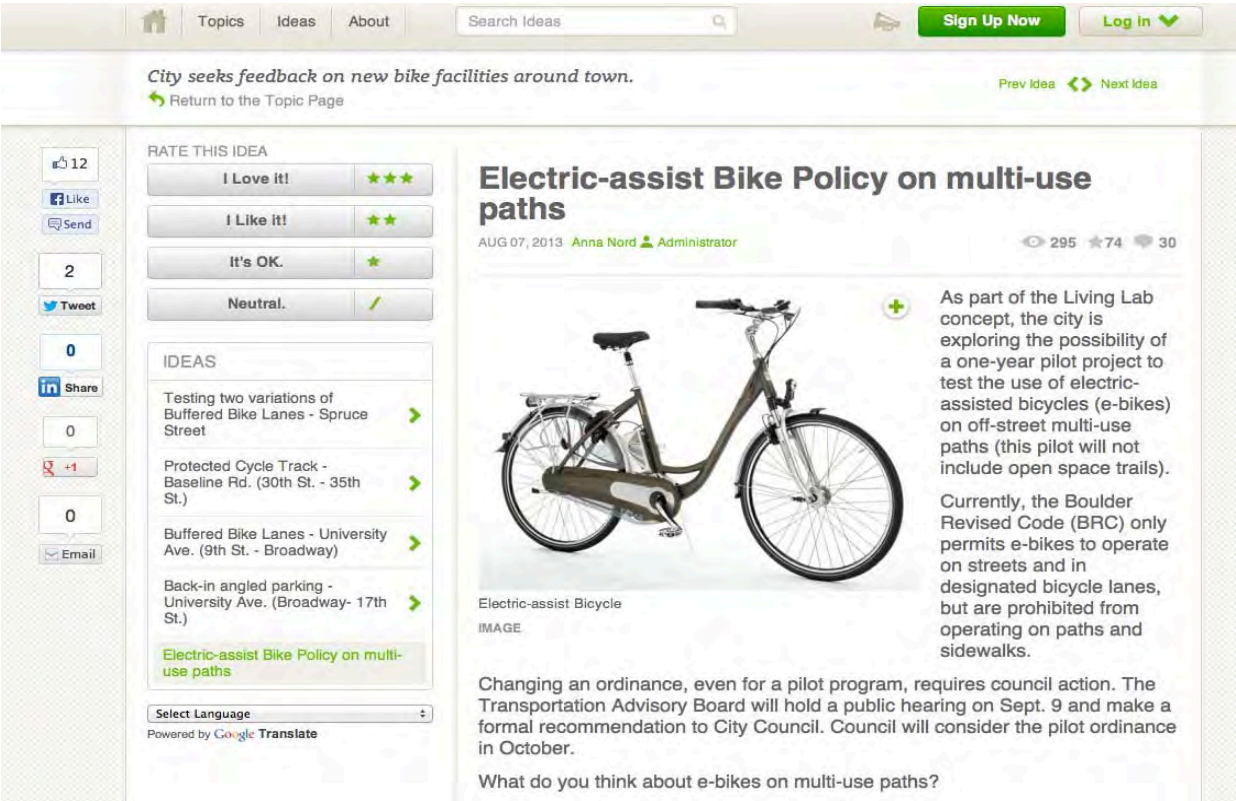
## Inspire Boulder

337 Views

23 People Commented

6 Do not Support testing E-bikes on Multi-Use Paths

17 are Supportive of testing E-Bikes on Multi-Use Paths



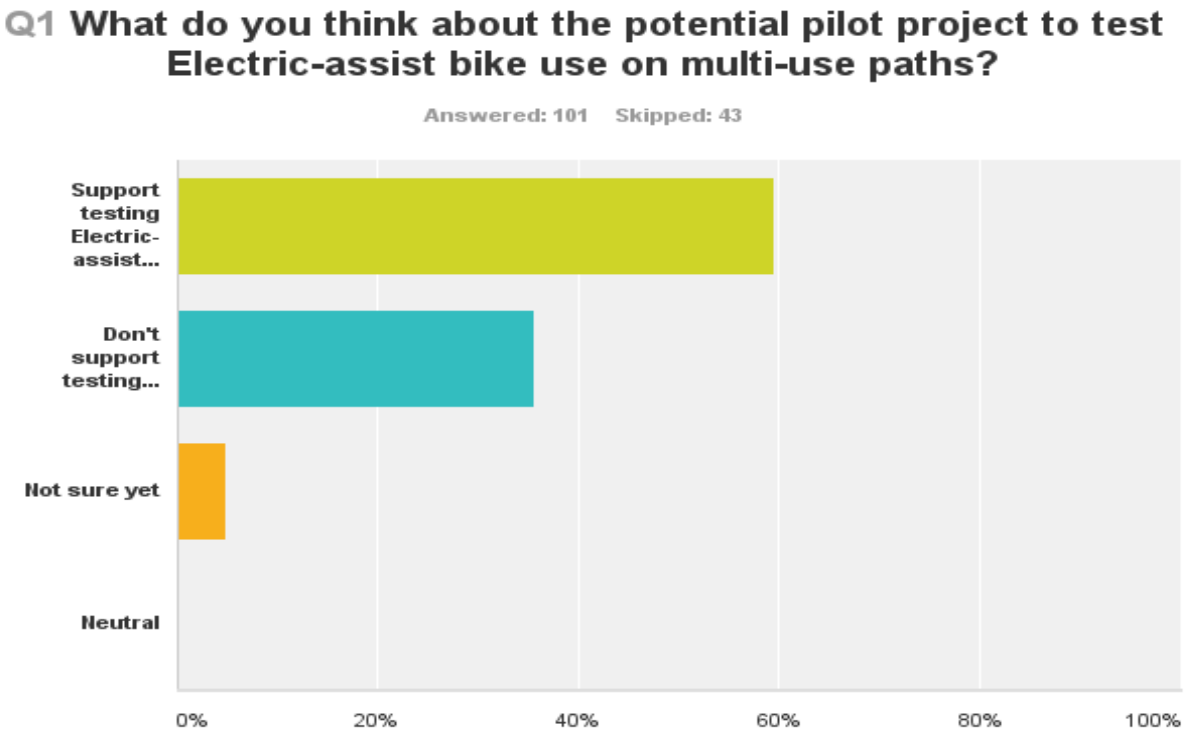
## E-bike Online Survey

144 Participants (of that 101 answered Q1)

36% do not Support testing E-bikes on Multi-Use Paths

60% are Supportive of testing E-Bikes on Multi-Use Paths

4% are unsure




## Emails/Phone

12 do not Support testing E-bikes on Multi-Use Paths

12 are Supportive of testing E-Bikes on Multi-Use Paths

5 are unsure

# Comments from Public Meetings

## September 4, 2013 Public Meeting

**Definition:**

- Clarify the definition of speed – power assist not exceeding 20 mph – motor for 170 lb person be complete.
- Use multiple definitions like in Europe
    - 20 mph – no restrictions
    - Expanded capability for motor assist, might need license/insurance
        - 20 mph not on multi-use path
- No power limit or 1000 watt limit
- CO law excludes tricycles – two wheels in front (tadpole)
- Gross vehicular weight
    - E-bikes under "x" lbs
    - Motorcycles over "x" lbs

**Other Options:**

- Allow e-bikes wherever bikes are allowed
- Allow e-bikes wherever bikes allowed except soft surface/natural surface paths
- Option 3 – on weekends on creek path excluded but test on several weekends
- Reduced speed on Boulder Creek Path – especially in the congested area around downtown. Make speed limit 10-12 mph for all bikes.
- 250 pedal assist only like in Europe – over 250 requires registration of bike

**Long Term options to explore:**

- Segregate electric and non-electric based on speed (China)

**Five E's:**

- Enforce regulations. Keep them simple and easy to enforce
- Education – police may not know the rules, need consistent messaging of rules
- Education and enforcement – especially Boulder Creek of all multi-use users (dog walkers, skateboarders, peds walking abreast, long boarders)
- Engineering – Re-engineer design for the section between Eben Fine and Arapahoe
- Education – teach bike riders of all types to be predictable. Don't be unpredictable.
- Fix acute corners on creek path west of Scott Carpenter
- Engineering – increase the capacity of Boulder Creek Path in the downtown area to help alleviate congestion.

**Option 2:**

- E-bikes be treated like other bikes
    - Also sidewalks and trails
- Test Boulder Creek congested area
- If we don't try it, we won't know.

**Option 3:**

- OSMP might kill pilot to include
- Along Boulder Creek, dismount zones or slow zones for safety – all users

**Bicycling is going to increase. What public information and safety measures are critical regardless of council's actions on E-bikes?**

- Speedometers on bikes or a way to monitor speed
- Govern/control on speed
- Yellow yield sign to show who yields to whom
- Video – welcome to safe cycling in Boulder – transient population (education)
- Speed indicators on paths
- Engineering – E-bikes separate modes of travel.

## August 7, 2013 Public Meeting

1. **Definition – Do you have any comments about the proposed definition of electric-assist bicycles?**
    - Clarify: 20 mph capable without pedaling.
    - Yes, pedals only.
    - Only speed is important. Cars are not limited in power, only speed. Injury is related to the mass and speed, not the power of a motor. No power limit.
    - No matter what legal definition the city decides on, to the average pedestrian e-bikes are motorized vehicles. Just as "60% of cyclists are not comfortable sharing the road with motor vehicles" it is common sense that a majority of pedestrians will be uncomfortable sharing the MUP with motorized e-bikes.
    - 750 watt or less or ≥ 20 mph.

2. **Location – Do you have any comments about the potential demonstration project to allow e-bikes on off-street multi-use paths, not including open space trails?**
    - Speed limit enforcement is critical for both bicycles and e-bikes. Pedestrians are under threat now and more bicycles of any kind will increase the danger.
    - Be equitable: anywhere bikes are allowed.
    - With all bikes – use of cell phones while riding should be outlawed.
    - Throughout Boulder.
    - I am opposed to the demonstration project because I think pedestrians will be put at safety risk, the city will not be able to enforce the e-bikes ok, but not mopeds, segways. The city will not be able to enforce 20 mph speed limit (it doesn't enforce now). E-bikes are motorized vehicles. They are terrific for commuting, pollution, getting disabled out… but they should be separate from pedestrians because they go faster, weigh more, and are more intimidating than regular bikes. Restrict their use to Boulder's roads and designated bike lanes.
    - Anywhere bikes are allowed.

3. **Demonstration Project – What suggestions do you have for conducting an effective Demonstration Project in terms of…**
    - **Evaluation – In how the Demonstration Project is evaluated?**

    - Measure speed with sensors. Volunteer monitors.
    - Observe behavior between bikers and e-bikers
- **Engineering – Through engineering design, including signage and pavement markings?**
    - Sure, make it clear it is a pilot project.
    - None – no need.
- **Enforcement – Through enforcement of regulations, including the existing speed limit of 15 mph?**
    - Paint "15 mph" on paths everywhere.
    - Yes.
- **Education – How community members are informed and involved in the demonstration?**
    - Talk to the ped advocates.
    - Please provide education on how legal e-bikes are no faster than regular bikes and how quiet they are.

**4. What best practices from other cities should Boulder consider?**

- I think the wattage restriction on the bike lanes should be lifted, perhaps to a full 1,000 w.
- Don't allow motorized vehicles on our MUP, like 11 other communities on the list.
- All

**5. Path usage – Do you have any concerns about allowing use-bike on multi-use paths?**

- I am already concerned about lack of speed limit signage and enforcement. E-bikes will raise the average speed that pedestrians encounter bicycles. I'm concerned that I've already seen electric motorcycles on the MUP going well over the speed limit. Once any motors are allowed, it will be much more difficult to keep motorcycles off the MUP.
- Yes – Pedestrian safety enforcement of some motorized vehicles but not others. Enforcement of speed limits, expenditure of nonexistent city funds on a project that upends a working system (e-bikes can already operate on roads – why do they need to have access to MUP?) They don't!!!!
- None

**6. Public Outreach – Please share any comments you have on the proposed outreach to obtain public input during the next month as we draft an ordinance for City Council's consideration.**

- I am left thinking that the deck is stacked in favor of the demonstration project. Staff seems inclined at the outset. I would hope that staff actively solicits pedestrian opinions by surveying pedestrians on the MUPs with an unbiased questionnaire.
- Work with local e-bike retailers to offer 1st hand.

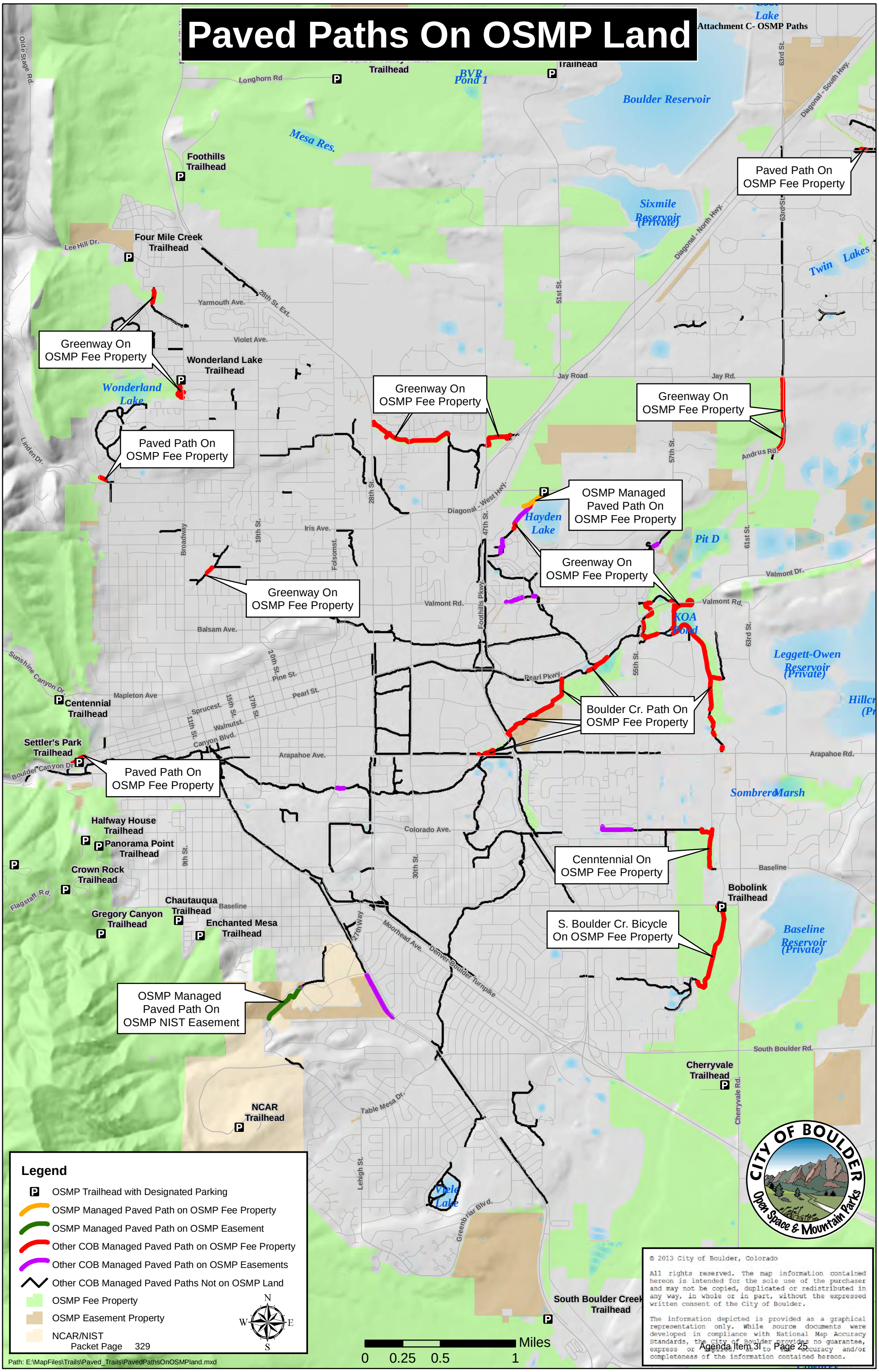
**7. Experience – What is your personal experience with electric-assisted bicycles? Check all that apply.**

- ☐ My business sells e-bikes
- ☐ I own and ride one (2) (Leonard Sitongia, sitongia@onebeam.net is happy to give demos)
- ☐ I have limited experience riding e-bikes (1)
- ☐ I have a friend or family member with an e-bike (3)
- ☐ I have never ridden an e-bike (1)
- ☐ My experience with e-bikes is as a pedestrian (2)
- ☐ Other_____ (1)
    - Want to offer charging station.

8. **General Comments**
    - Don't forget: allow e-bikes on public bike parking.
    - The pedestrian lobby is anti-bikes, they should be educated that this is about e-bikes, not all non-pedestrian transportation. The safety risk is not specific to e-bikes. Please make this clear so that they stop wasting our time.
    - I think e-bikes are nifty and have a role to play for commuting, recreation, congestion reduction etc. I just think they belong on roads or bike only paths as they are motorized and thus intimidating (for good reason) to pedestrians.
    - Enforcement – Would suggest considering cell phone enforcement combined with displayed registered numbers on all bikes travelling on MUPs. Violations can be reported to data center where after xx number of reports a citation is issued. This along with video camera distribution would support safety.

# Paved Paths On OSMP Land





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## About e-bikes

An electric-assisted bicycle is most often powered by a lithium battery and controlled by a console that tracks speed and offers different power options. These power options include a human power only and several ranges of power assist options (Pedelec). Some models also offer a throttle option that does not require the rider to pedal in order to propel the bicycle. The distance a rider can travel on an e-bike before charging the battery is estimated to be 15 to 60 miles, depending on the size of the motor and batter as well as the power option selected by the rider when traveling. An e-bike generally weighs between 35 and 55 lbs. The cost of an e-bike generally ranges from $1,500 to several thousand dollars.

A regular bicycle can be transformed into an e-bike by installing a conversion kit comprised of an electric motor and battery. BionX, a Canadian company reputed to be a leading manufacturer of e-bike conversion systems, sells kits that range in price from $1,100 to $2,100.

**Federal regulations**

Federal regulations govern the safety requirements and standards for e-bikes in the United States. The Consumer Product Safety Commission defines a low-speed electric bicycle as "a two- or three-wheeled" vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.) whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds is less than 20 mph. It further defines a bicycle to include the above definition. States and local jurisdictions regulate the use of e-bikes and may adopt a more restrictive definition of an e-bike. An e-bike is distinguished from other higher powered personal mobility devices vehicles such as a moped or scooter by definition. Specifically, e-bikes are defined as having fully operable pedals, an upper threshold for the power assist of the motor that ranges between 750 and 1000 watts of power and top motor-powered speeds of 20 mph.

## Questions & Answers

Source: http://www.hybrid-cycles.com/faqs.php

### How fast can electric bikes go?

On motor power alone, our electric bikes can travel up to 20 mph, depending on the weight of the rider and the difficulty of the terrain. Downhill and/or with the rider pedaling, higher speeds may be achieved.

### How far can an electric bike go on a single charge?

Different models have different ranges. Hybrid Cycles offers several models that can travel up to 25 miles on a single charge in pedal-assist mode, while others can travel up to 40 miles on a single charge in pedal-assist mode. These ranges assume a 150-pound rider traveling on flat ground and may vary based on rider and terrain.

### How do the different modes work?

Hybrid electric bicycles use batteries to power a quiet, efficient electric motor. In pedal-assist mode (electric-motor-assist mode), the bike senses the torque applied while pedaling, and the motor kicks in as needed to help the rider, making it easier to pedal up hills or on long rides. In throttle mode (electric motor power mode), the motor does all the work and the rider need not pedal at all. In manual mode (traditional mode), the rider shuts off the motor completely and pedals the bike just like a conventional bicycle.

The throttle / electric motor power mode requires the least exertion and provides the most speed on flat terrain, while the pedal-assist / electric-motor-assist mode provides the furthest range on a single charge.

### How do you charge the battery?

Simply plug the charger into any standard wall outlet and insert the battery into the charger.

### How long does it take to charge the battery completely?

Charge times vary depending on the charge depletion, the manufacturer, model, and battery type. The initial charge should take between 6-12 hours. A fully depleted SLA battery takes between 6-8 hours to charge, while NiMH & Li Ion batteries take between 4-6 hours. Electric bikes cost very little to charge.

### What is the battery life?

With normal usage and proper maintenance, the battery should last 800 charge cycles.

### How often should I charge the battery?

For longest life, charge the battery after each ride (or daily, if you ride more than once a day). If your bike is out of use for a long period of time, you should charge the battery at least once every three weeks.

### Does the battery recharge while riding?

On most bikes, no. The Easy Motion Neo bikes employs a regenerative braking system, which recharges the battery while you are coasting or braking. While this does extend the power-assist range somewhat, you will still need to plug in the battery for a full charge.

### Do I always need to pedal?

No. Throttle mode requires no pedaling at all. Pedal-assist mode requires pedaling, but provides more power for climbing.

### What sort of maintenance does an electric bike require?

Care for your hybrid bicycle as you would any other high-end bicycle. Keep it clean and dry, keep your battery charged, and take it into a bike shop periodically for tune-ups.

### Are electric bicycles considered bikes, or are they motor vehicles?

Electric bikes are considered bikes (not motor vehicles), under federal law, unless your state or local entity has passed a law otherwise. Normal bicycle laws apply. Be sure to check your state and local laws for any recent changes.

### Do electric bikes require a license or registration?

The rules vary from state to state. Check with your local DMV for information about electric bikes for your state. Rider age minimums and helmet laws also apply to electric bikes in some states.

## Some models of electric-assisted bicycles

| | |
|---|---|
| | **Emotion Diamond**<br>• 36V / 8Ah battery<br>• 250 Watt mid-drive motor<br>• Range up to 62 miles per charge<br>• 8 Speed<br>• Pedelec<br>• Motor assist up to 20 mph<br>• 46 lbs<br>• Retail: $2950<br>*Source: petesbikes.com* |
| | **Pedego 2013 City Commuter Classic**<br>• 36/10, 36/15 or 48Watt/10Ah<br>• 400/500 Watt rear Hub Motor<br>• Range up to 28 miles per charge<br>• 7 speed<br>• Pedelec/Throttle<br>• Motor assist up to 20 mph<br>• 40 lbs<br>• Retail: $2395+<br>*Source: smallplanetvehicles.com* |
| | **Yukon Navigator**<br>• 24V 10Ah battery<br>• 250 Watt rear Hub Motor<br>• Range up to 28 miles per charge<br>• Single Speed<br>• Pedelec<br>• Motor assist up to 15 mph<br>• 77 lbs<br>• Retail: $500+<br>*Source: bing.com & Amazon.com* |
| | **Currie IZIP E3C**<br>• 36V 11.4Ah lithium icon battery<br>• 500 Watt rear Hub Motor<br>• Range up to 30+ miles per charge<br>• 27 Speed<br>• Pedelec/Throttle<br>• Motor assist up to 20 mph<br>• 50 lbs<br>• Retail: $2499+<br>*Source: bing.com & REI.com* |

# The Coming Battle Over Electric Bicycles

Henry Grabar 9:00 AM ET
source: http://www.theatlanticcities.com/commute/2013/09/coming-battle-over-electric-bicycles/6763/

Around this time last year, Andy Clarke, president of the League of American Bicyclists, was pedaling home when he experienced a quirky moment of convergence.

Just as he passed a fellow cyclist mounted atop a jaunty penny-farthing bicycle, with its comically mismatched wheels, an electric bicycle zipped past them both. Technologically speaking, it was the past, the present, and the future of the bicycle, all riding side by side, if only for a second.

"To the core cyclist, it's cheating."

The electric bicycle has so far remained a novelty item in the United States, but manufacturers, retailers, and analysts say that will soon change. Fueled by soaring numbers of bike commuters and rapidly evolving battery technology, the electric bicycle is poised for a breakthrough, if it can only roll over legal obstacles and cultural prejudices.

The market "has been growing very consistently since about 2008," says Larry Pizzi, the president of Currie Technologies, one of the nation's largest distributors of e-bikes, as they're called. "They haven't become mainstream. But they're getting closer."

Sleeker and cleaner than the clunky rides of yore, the newest wave of commuter e-bikes are nearly indistinguishable from regular bicycles. Many have motors located in the hub of the rear wheel, which on the best models, can sense the pressure on your pedals and contribute assistance accordingly. A full charge at a standard wall outlet can take a rider dozens of miles at the federally mandated speed of 20 mph.

For potential riders, there are two main drawbacks: cost and weight. A nice electric bicycle tends to cost around $2,000, and to weigh roughly 50 pounds, twice as much as a normal bike. Both metrics figure to get smaller as the bikes grow more popular and technology improves.

Because e-bikes are a generic consumer product, like pens or lamps, there's no firm data on how many are sold in the U.S. But Pizzi says Currie's sales have grown around 20 percent each year. Other e-bike companies, like Florida's ProdecoTech, report that their business has doubled over the last year. With a $1.5 million grant from the San Francisco Municipal Transportation Agency, Berkeley and San Francisco will launch a pilot e-bike sharing program next spring. Copenhagen will also debut an electric bike-share program.

The consulting group eCycleElectric estimated that the overall market for e-bikes in the United States doubled between 2012 and 2013. A more conservative analysis, by Navigant Research, has annual sales crossing the 100,000 mark in 2018.

Legally, the electric bicycle landscape is messy. The New York City Council voted in May to ban all electric bicycles (for the second time, no less), which has left owners in the city confused and cautious. Even a local bicycle retailer told me he was unsure about the law's scope.

Across the United States, too, electric cyclists are caught in a web of conflicting ordinances. Few legal codes properly distinguish between "throttle" bikes, which operate like motorcycles, and "pedal assist" bikes, which send power to the wheels only when the cyclist pedals. Access to infrastructure also varies from city to city. E-bikes are for the most part permitted in bike lanes (where they are permitted at all), though banned from multi-use paths in cities like Denver and Boulder.

Looking for lessons abroad, which proved a successful tactic for U.S. cities researching bicycle infrastructure, yields few obvious suggestions. In the bike-mad Netherlands (pop. 17 million), over 100,000 electric bicycles are sold each year, to little controversy. Singapore's boom in electric bike consumption, meanwhile, has activists calling for more regulation.

In China, where some estimate the electric bike count at 120 million, the battle over the "silent killer" — so-called for the e-bike's quiet approach that leaves pedestrians oblivious — has raged for over a decade. Citing pedestrian safety, Beijing banned electric bikes in 2002, only to repeal the prohibition in 2006. In Shenzhen, where e-bikes were reportedly responsible for 15 percent of all traffic accidents and 64 deaths in 2010, banned electric bikes in 2011. Guangzhou banned them in 2007, but police confiscating e-bikes sparked riots this summer.

In the U.S., where e-bike speed and horsepower regulations are tightly enforced, there's no evidence that electric bicycles are more dangerous. Advocates point out that man-powered bikes routinely exceed the 20 mph limit of the e-bike.

While many cycling advocacy groups in the U.S. see e-bikes as a lure for drivers, the elderly, and the sweat-averse, a certain suspicion remains. "To the core cyclist, it's cheating," Loren Mooney, the editor of *Bicycling Magazine*, has said. City governments are wary, and some "regular" cyclists fear that the spread of electric bicycles could stoke pedestrian vitriol, as it did in Chinese cities.

Bias narrows the market, advocates say. "The biggest challenge for the e-bike industry is that distribution points are few and far between," says Larry Pizzi. Out of more than 4,500 bicycle shops in the United States, fewer than one in six sell e-bikes.

That could be a huge missed opportunity for independent outfits. "Bike shops and traditional bike retailers need to get their heads out of the sand and realize that electric bikes are a huge opportunity, and a huge potential market we have struggled to reach," Clarke, of the League of American Bicyclists, says. "I don't think it takes a genius to realize these things are selling like hotcakes in both Denmark and Germany."

Clarke posits that this obstinacy may be due to the unusually self-conscious nature of cycling in the U.S. Even as bicycle commuting is entering the mainstream, its core acolytes have continued to treat the bike as a cult-like object rather than a regular consumer product. How can supporters dispel the sense that, as the *Guardian*'s Steve Caplin wrote in a defense of the mode, the electric bicycle is "masquerading as a bike"?

I asked Clarke if he didn't feel some resentment when his electrically powered comrade sped past in the bike lane.

"For a fleeting second," he conceded. "But I'd rather have someone riding that bicycle than not."

*Top image: Timur Emek/Associated Press*

Henry Grabar is a freelance writer and a former fellow at The Atlantic Cities. He lives in New York.

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# Peer City Review



## Davis, California

**VC Section 406 Motorized Bicycle**

(a) Classifies an e-bike with “motorized bicycle” or “moped”. But distinguishes it from these vehicles as...

(b) A "motorized bicycle" is also a device that has fully operative pedals for propulsion by human power and has an electric motor that meets all of the following requirements:

(1) Has a power output of not more than 1,000 watts.
(2) Is incapable of propelling the device at a speed of more than 20 miles per hour on ground level.

**Electric bicycles are to be operated like conventional bicycles in California, with the following exceptions:**

•A person must be at least 16 years old,
•Anyone riding an electric bicycle must wear a bicycle helmet.
•Motorized bicycles may not be operated on dedicated bicycle paths unless allowed by local government ordinance.[44]
•Additional laws or ordinances may apply to the use of electric bicycles by each city or county

## Seattle, Washington

**RCW 46.04.169**

"Electric-assisted bicycle" means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than one thousand watts, be in capable of propelling the device at a speed of more than twenty miles per hour on level ground, and be incapable of further increasing the speed of the device when human power alone is used to propel the device beyond twenty miles per hour.

**Electric bicycles are to be operated like conventional bicycles, with the following exceptions:**

•A person must be at least 16 years old,
•Anyone riding an electric bicycle must wear a bicycle helmet.
•Motorized bicycles may be operated on dedicated bicycle paths unless restricted by local government ordinance.
•Additional laws or ordinances may apply to the use of electric bicycles by each city or county

## Portland, Oregon

**814.405 - Status of electric assisted bicycle**

•Considered a bicycle, rather than a motor vehicle, for purposes of the Oregon Vehicle Code, except when otherwise speciffically provided by statute
•Has fully operative pedals for human propulsion and an electric motor with power output not more than 1,000 watts.
•Not capable of going faster than 20 mph on level ground.
•Approved lighting must be used when operating under limited visibility

## E-Bikes on Multi Use Paths

| Permitted | Prohibitied |
|---|---|
| Portland, OR | City of Boulder |
| Seattle, WA | Fort Collins |
| | City and County of Denver |
| | Davis, CA* |

*not enforced planning to change local ordinance to allow on paths

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**Agenda Title:** First reading and consideration of a motion to order published by title only, an emergency ordinance, amending the Boulder Revised Code 1981 and extending temporary exceptions to specific city regulations to facilitate clean up and recovery from flood impacts.

**REQUESTING STAFF AND DEPARTMENTS:**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Maureen Rait, Executive Director of Public Works
David Driskell, Executive Director, Community Planning and Sustainability (CP&S)

## EXECUTIVE SUMMARY

The purpose of this item is for City Council to extend emergency orders to facilitate repair and recovery from the impacts of the recent flood. The ordinance addresses:

A. Waiving certain fees for flood recovery.
B. Suspension and modification of contractor licensing requirements.
C. Dumpsters and Temporary Storage Units in the Public Right of Way.
D. Modifications to Camping Requirements and the Establishment of Campgrounds.
E. Modifications to working hours requirements.
F. Allowing the use of mobile homes for limited non-residential purposes

## STAFF RECOMMENDATION

**Suggested Motion Language**:
Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only an emergency ordinance amending specified sections of the Boulder Revised Code to support flood recovery that is attached to this memorandum.

## COMMUNITY SUSTAINABILITY ASSESSMENT AND IMPACTS

- Economic:
  No direct economic impact from these code changes is anticipated. Indirectly, the sooner businesses and residents can remove debris, drain their properties and restore damaged buildings, the sooner they can resume normal business operations and return to their regular job responsibilities. These changes will expedite that process. Waived fees will diminish some revenues, but would not affect the normal revenues for regular projects that would be occurring without the flood and reduces the economic burden on those seeking to obtain permits.

- Environmental:
  The main environmental concern would be potential harm of repair work in wetlands and drainage channels; however, much care is being taken by the city and its contractors to do no more damage than what has already occurred during the flood and to assist with restoration.

- Social:
  Some residents and businesses will experience noise impacts due to trash removal and inconveniences from dumpster parking in the right-of-way. However, these will be temporary, and the ordinances expedite debris removal for health and safety purposes. Those with concerns will be encouraged to report them through InquireBoulder; the appropriate staff person will work to address and help resolve the issue.

## OTHER IMPACTS

- Fiscal: See section on economic impacts above
- Staff time: All work will be completed with existing resources.
- Intergovernmental: None

**PUBLIC FEEDBACK:**

Due to the urgent nature of the flood recovery tasks at hand, public feedback has not been sought for these emergency orders. However, informal comments from members of the public will be catalogued to better understand future similar efforts.

**ANALYSIS:**

The September 2013 flood has had an unprecedented impact on the Boulder community. Efforts to ensure temporary shelter for emergency responders and displaced residents, clean up and repair damage, and restore impacted buildings and land will occur more quickly and efficiently if special, temporary exception is made to some of the city's regulations governing noise, occupancy, right-of-way use and wetland protection. Each of the proposed changes has been reviewed and is supported by the appropriate departments, including the City Attorney's and City Manager's Offices, Public Works, Police, Fire, Finance, and Community Planning and Sustainability.

On September 12, 2013, the city manager declared an emergency under the provisions of Chapter 2-2.5, "Civil Emergencies and Disasters," B.R.C. 1981. At its September 19, 2013 business meeting, the council extended the emergency declaration to October 16, 2013. At that point, the city will be out of the emergency response mode and into disaster recovery mode. The attached ordinance is necessary to provide support for persons and businesses that have been affected by the rains and floods from September 11 to 14. Staff continues to learn more daily as to what will be necessary to continue our efforts in the area of flood recovery. Therefore, it is possible that additional amendments may be proposed for this ordinance at the second reading scheduled for October 15, 2013.

Staff reviewed the emergency rules and orders that have been issued, in addition to considering other potential issues that could arise as part of the flood recovery efforts and recommends that the council adopt the attached ordinance as an emergency measure. The following amendments to the Boulder Revised Code are presented in the attached ordinance.

Suspension and modification of contractor licensing requirements. The purpose of this change is to help the disaster recovery efforts by making it easier for reputable contractors that are licensed in other jurisdictions to work temporarily in Boulder. They are required to get licenses within 30 days after starting work on a project in Boulder.

Dumpsters and Temporary Storage Units in the Public Right-of-Way. This proposed change would modify the requirements related to placing dumpsters or temporary storage units in the public right-of-way. This change is intended to facilitate recovery by allowing dumpsters and temporary storage units on city streets. The dumpsters will allow residents to deal with debris more efficiently. Additionally, in damaged properties, people may need additional places to store personal property. Temporary placement of storage units is intended to assist with this.

Modifications to Camping Requirements and the Establishment of Campgrounds. A modification is proposed to our camping requirements to clarify that camping does not include temporary residence associated with the performance of a governmental service or by emergency responders or relief workers during a disaster emergency. A simple permitting procedure was placed in the code to allow the creation of temporary campgrounds in the city. Presently, under the land use code, campgrounds, as a use of land, is only permitted in industrial and public districts pursuant to a use review. The proposed change permits them in most zoning districts subject to conditions. The temporary land use would extend until April 15, 2014.

Modifications to working hours requirements. A provision was added to permit construction and debris removal necessitated by flooding, from 5 a.m. until midnight , until April 15, 2014.

Waiving certain fees for flood recovery. The ordinance provides for the authority to waive some city permitting fees associated with flood recovery. The waiver will provide some financial relief to persons affected by the flood. Additionally, the city wants to encourage people to obtain building permits, together with prompt plan check and inspection services.

Non-residential use of mobile homes. The ordinance provides for a waiver of zoning restrictions on non-residential use of mobile homes. This will allow flood damaged businesses to use mobile homes parked on private property during the recovery period.

In addition to the proposed changes, staff is seeking feedback regarding occupancy limits. Staff has considered recommending a temporary modification of the city's occupancy limits to accommodate flood victims. Staff would like council to consider three options.

1. No action – Under this alternative, the city would continue with the current system of complaint-based enforcement. Due to staff constraints and resources necessary to investigate and prosecute violations, it is challenging to enforce the city's occupancy restrictions at present. Except in an egregious circumstance, it is unlikely that flood victims would face eviction under our current enforcement regime. Under this option, the city manager would not enforce occupancy limits with respect to flood victims until January 31, 2014.

2. Suspension– Under this alternative, the city could suspend legislatively the application of the occupancy limit for flood victims for a limited period of time by ordinance.

3. Permit or notification – Under this alternative, the city could develop a code amendment that provides for a permitting system to require a permit for those who seek to occupy in excess of the limit. Such permits could be conditioned on compliance with noise and other quality of life standards. A system such as this, although requiring more administration would allow the city to track the use of this provision and know where over-occupancy is occurring for this purpose.

Staff recommends taking no action on the occupancy regulations at this point in time. The city manager in terms of investigation and the city attorney in terms of using prosecution resources will suspend enforcement of the occupancy rules for person directly affected by the flood until January 31, 2013. The city will continue to enforce other quality of life regulations during this period. If there are unforeseen consequences from this course of action, staff will request further guidance from the City Council.

**ATTACHMENTS**

A: Proposed First Reading Emergency Ordinance

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EMERGENCY ORDINANCE NO. _____

AN EMERGENCY ORDINANCE ADDING A NEW SECTION 4-20-67, "FLOOD RELATED FEE WAIVER," B.R.C. 1981, AUTHORIZING THE CITY MANGER TO WAIVE CERTAIN FEES; AMENDING SECTION 4-4-3, "LICENSE REQUIRED," B.R.C. 1981 TO ALLOW FOR CERTAIN UNLICENSED CONTRACTORS TO WORK IN THE CITY OF BOULDER; AMENDING SECTION 4-6-2 "LICENSED REQUIRED," B.R.C 1981 TO ALLOW FOR CERTAIN USES OF THE RIGHT OF WAY; AMENDING SECTION 5-6-10 "CAMPING OR LODGING ON PROPERTY WITHOUT CONSENT," B.R.C. 1981 TO ALLOW FOR CAMPING BY EMERGENCY RESPONDERS OR RELIEF WORKERS AND ADDING A NEW SECTION 5-9-11 "FLOOD DEBRIS REMOVAL," B.R.C 1981 SUSPENDING THE NOISE ORDINANCE FOR TRASH REMOVAL BETWEEN 5 A.M. AND MIDNIGHT, ALL TO FACILITATE FLOOD RESPONSE; AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. Between Monday, September 9, 2013 and Tuesday, September 19, 2103 the City of Boulder received an estimated 17.2 inches of rainfall;

B. The city set daily precipitation records on September 10, 11, 12, 13 and 15. The 9.08 inches received on September 12, was the most rainfall ever received on a single day in Boulder since records have been kept. The rain also set records for the month of September and for annual precipitation;

C. The storm has been characterized as both a 100-year flood and a 1000-year event;

D. The storm inflicted severe damage on many home, businesses, parks, open space and public infrastructure;

E. On September 12, 2013, the city manager issued a Declaration of Disaster Emergency pursuant to the authority granted in Section 2-2.5-3, B.R.C. 1981 and Colo. Rev. Stat. § 24-33.5-709;

F. On September 17, 2013, the City Council approved the Declaration of Disaster Emergency and extended it until October 15, 2013;

G. The city manager has adopted emergency rules pursuant to Section 2-2.5-9, B.R.C. 1981, which will expire upon the expiration of the Declaration of Disaster Emergency;

H. It is necessary to facilitate disaster response for the city to enact certain measures that will assist community recovery.

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

Section 1. A new Section 4-20-67, B.R.C. 1981 is added to read:

**4-20-67 Flood Related Fee Waiver.**

For permits applied for or applications made before December 31, 2013, the city manager may waive any fee required under any of the following sections to facilitate recovery and repair resulting from flooding:

(a) Building Permit fees as required by Subsections 4-20-4(c) and Paragraph 4-20-4(f)(7), Subsection 4-20-8(a), Subsections 4-20-13(c), (d), and Subsection 4-20-15(b), B.R.C. 1981,

(b) Right--of -Way Permit fees as required by Subsection 4-20-6(b), B.R.C. 1981.

(c) Water Permit fees as required by Paragraphs 4-20-23(a)(3), (b)(1) & (b)(2), B.R.C. 1981.

(d) Water Service fees as required by Subsection 4-20-24(g), B.R.C. 1981.

(d) Wastewater Permit fees as required by Paragraphs 4-20-27(a)(1)-(3), (b)(1) & (b)(2), B.R.C. 1981.

(e) Flood Development Permit fees as required by Paragraphs 4-20-44 (a)(2), (a)(4) & (b)(1), B.R.C. 1981.

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

**4-4-3 License Required.**

(a) No person shall perform any work as a contractor in the City without first obtaining a license from the city manager under this chapter.

(b) No permit shall be issued for work to be done by a person who does not have a valid, current license as required by this chapter for the type of work to be performed.

(c) No person other than a Class A or Class B licensed contractor shall perform work requiring the supervision of an architect or structural engineer.

(d) No person other than a Class A, Class B, Class C, or Class D licensed contractor shall wreck any structure.

(e) Notwithstanding the foregoing, until December 15, 2013 contractors, not licensed as contractors in the city of Boulder, as contractors in the city of Boulder for work related to flood recovery and repair provided that such contractors:

(1) Provide proof of licensing in another jurisdiction for the work proposed to be performed;

(2) Provide proof of insurance required by Section 4-1-8, "Insurance Required," B.R.C. 1981;

(3) Obtain a license as required by Subsections (a) through (d) above within 30 days of beginning work or by the end of the term of this subsection, whichever is sooner..

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

**4-6-2 License Required.**

No developer, contractor, or subcontractor shall perform any work affecting public property, rights of way, grounds, any City-owned utility system, or any other utility system or in the street right of way or utility easement, whether or not the work is performed for the City,

without first obtaining a license from the city manager as prescribed by this chapter before commencing any such work. Notwithstanding the foregoing, until April 15, 2014, a contractor or subcontractor may place a dumpster, trash receptacle or temporary storage unit in the right-of- way provided that the dumpster, trash receptacle or temporary storage unit shall be:

(1) as close to the curb as possible;

(2) not impede traffic flow;

(3) not impede emergency response; and

(4) not block drainage, driveways, sidewalks or fire hydrants.

Such dumpster, trash receptacle or temporary storage unit shall be removed or relocated at the direction of any authorized city representative.

Section 4. Subsection 5-6-10(d), B.R.C. 1981 is amended to read:

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

**…**

(d) For purposes of this section "camp" means to reside or dwell temporarily in a place, with shelter, and conduct activities of daily living, such as eating or sleeping, in such place. But the term does not include napping during the day or picnicking. The term "shelter" includes, without limitation, any cover or protection from the elements other than clothing. The phrase "during the day" means from one hour after sunrise until sunset, as those terms are defined in chapter 7-1, "Definitions," B.R.C. 1981. "Camp" does not include temporary residence associated with the performance of a governmental service by emergency responders or relief workers during a Disaster Emergency as defined in Section 2-2.5-2 "Definitions," B.R.C. 1981.

Section 5. A new Section 5-9-11, B.R.C. 1981 is added to read:

**5-9-11 Flood Debris Removal.**

Notwithstanding any other provision of this Chapter, until April 15, 2014, individuals and entities involved in debris removal necessitated by flooding, may engage in operations as necessary from 5 a.m. until midnight.

Section 6. Section 8-6-8, B.R.C. 1981 is amended to add a new subsection (f) to read:

**8-6-8 Exempt Encroachments.**

**…**

(f) Until April 15, 2014, any dumpster, trash receptacle or temporary storage unit, provided that the dumpster, trash receptacle or temporary storage unit shall be;

(1) as close to the curb as possible;

(2) not impede traffic flow;

(3) not impede emergency response; and

(4) not block drainage, driveways, sidewalks or fire hydrants.

Such dumpster, trash receptacle or temporary storage unit shall be removed or relocated at the direction of any authorized city representative.

Section 7. Section 10-12-6, B.R.C. 1981 is amended to add a new subsection (d) to read:

**10-12-6 Nonresidential Use of Mobile Home.**

**…**

(d) Until April 15, 2014, the city manager may waive any zoning requirement, building provision or other provision of this code for the non-residential use of a mobile home as made necessary by flooding.

Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 9. 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 10. 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.

Section 11. The City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health, or property. To facilitate response and recovery from the recent flood this ordinance shall be effective immediately

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of OCTOBER, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of OCTOBER, 2013.

_____
Mayor

Attest:

_____
City Clerk

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE:** Consideration of a motion to authorize an easement allowing Farmers Reservoir and Irrigation Company to use the planned Community Ditch multi-use trail. This is a disposal of Open Space land under City Charter Section 177.

**PRESENTER/S:**

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Michael D. Patton, Director, Open Space and Mountain Parks
James L. Reeder, Land and Visitor Services Division Manager
James S. Schmidt, Property Agent

## EXECUTIVE SUMMARY

Currently, Farmers Reservoir and Irrigation Company (FRICO) has an existing easement to use a maintenance road along and parallel to the Community Ditch canal. This maintenance road is also the Community Ditch Trail both east and west of State Highway (SH) 93. As the maintenance road is presently configured, maintenance equipment can be driven from one side of SH 93 to the other almost straight across the highway with limited exposure to highway traffic. The proposed trail design that incorporates an underpass for trail users would require equipment to travel along the highway for a distance of almost 300 feet and thus be exposed to highway traffic for considerably longer. FRICO is requesting an easement to use the proposed new trail and underpass to move rubber-tired maintenance equipment from one side of the highway to the other.

This easement, along with a license FRICO will get from Colorado Department of Transportation (CDOT), will allow FRICO maintenance staff to move its rubber-tired maintenance equipment from one side of the highway to the other by going under SH 93 avoiding the highway surface entirely.

## STAFF RECOMMENDATION

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

Motion to authorize the disposal of Open Space land described as an easement allowing use of a section approximately 100 feet in length of the planned Community Ditch multi-use trail on Open Space and Mountain Parks' West Rudd property and a section approximately 30 feet in length on Open Space and Mountain Parks' East Rudd property in the area between CDOT's right-of-way and existing FRICO easements on the proposed multi-use trail at the new underpass at State Highway 93, in substantially the form attached as Attachment A.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – This easement will facilitate the construction of the Community Ditch Trail underpass and widening of SH 93 for bicycle use. Both are likely to entice more people to visit and do business in Boulder.
- Environmental – This easement will not result in any additional environmental impacts associated with this project.
- Social – The use of the trail to move ditch cleaning equipment from one side of the highway to the other may cause short, infrequent closures of the trail. However, it will be a much safer way to get FRICO maintenance equipment from one side of the highway to the other.

## OTHER IMPACTS

- Fiscal – This easement will have no fiscal impact on the city.
- Staff time – The only staff time involved is the time needed to create the easement document.

## BOARD AND COMMISSION FEEDBACK

At its Sept. 11, 2013 meeting, the Open Space Board of Trustees unanimously approved, and recommended that City Council approve, this easement allowing FRICO to use sections of the new Community Ditch multi-use trail.

## PUBLIC COMMENT AND PROCESS

This item was heard as part of the Sept. 11, 2013 OSBT public meeting advertised in the *Daily Camera* on Sept. 8, 2013. A Notice of Disposal of Open Space lands was published in the *Daily Camera* on Sept. 1, 2013 pursuant to Section 177 of the City Charter.

This item is being heard as part of this public meeting advertised in the *Daily Camera* on Sept. 29, 2013.

## BACKGROUND

Currently, FRICO has an existing easement to use a maintenance road along and parallel to Community Ditch canal. FRICO also has additional easements granted by previous owners of the East and West Rudd properties in the immediate area of the intersection of the

Community Ditch canal and SH 93. The maintenance road is also the Community Ditch Trail both east and west of SH 93. As the maintenance road is presently configured, maintenance equipment can be driven from one side of SH 93 to the other almost straight across the highway with limited exposure to highway traffic.

The proposed trail alignment that incorporates an underpass for trail users would require that the ingress/egress points for maintenance equipment on both sides of the highway be moved. This would not create any problems for highway-legal vehicles. However, maintenance equipment that is not licensed for highway use would need to travel a significantly longer distance on the highway if they use the new ingress/egress points. Equipment such as backhoes would have to travel along the highway for a distance of almost 300 feet and thus be exposed to highway traffic for considerably longer. FRICO is requesting an easement to use the proposed new trail and underpass to move rubber-tired maintenance equipment from one side of the highway to the other.

CDOT is willing to give a license to FRICO to allow it to use the new underpass and the trail that is on its right-of-way (ROW) for this purpose. Please recall that CDOT will own the new underpass and thus be responsible for capital maintenance of the structure.

FRICO will not be allowed to use the trail and underpass for pickups or other highway-legal maintenance vehicles.

This easement (Attachment A) will consist of two sections of the new trail alignment: a section approximately 100 feet long on the west side of the highway and a section approximately 30 feet long on the east. All other sections of the trail are either on CDOT ROW or FRICO-owned easements. Along with the license FRICO will get from CDOT, this easement will allow FRICO maintenance personnel to take their equipment on the trail and through the underpass thus avoiding the highway surface entirely with this type of maintenance equipment.

CDOT and its contractor have begun initial work to widen the highway including lengthening the box culvert that FRICO currently uses for the Community Ditch canal to create bicycle lanes and hopes to start work on the underpass in the near future.

This agreement with FRICO is in return for FRICO granting CDOT approval to work in the Community Ditch canal during periods of no or very low water levels in the canal. CDOT has no alternative but to work in the canal in order to widen the highway for bicycle lanes.

**ANALYSIS**

Staff believes that it is in the city's interest for the city to grant this easement to FRICO in order to create as safe an intersection as possible. It would be ironic for the construction of the underpass, the purpose of which is to make the crossing of SH 93 at this location much safer for trail users, to cause an accident involving ditch maintenance equipment. FRICO will be required to repair any damage to the trail and/or trail surface caused by any such equipment movement. While the city generally charges for easements, staff feels that use by FRICO will be so infrequent that it would be difficult to accurately estimate the minimal value of this easement. Therefore, staff is suggesting that the city not charge FRICO for this easement.

**ATTACHMENTS:**

A. FRICO Use Easement

**FARMERS RESERVOIR AND IRRIGATION COMPANY EASEMENT**

The undersigned Grantor hereby acknowledges receipt of good and valuable consideration from Farmers Reservoir and Irrigation Company (Grantee), in consideration of which Grantor hereby grants unto said Grantee, its successors and assigns, a non-exclusive easement to use a section approximately 100 feet in length of the planned Community Ditch Multi-Use Trail on Open Space and Mountain Parks' West Rudd property and a section approximately 30 feet in length on Open Space and Mountain Parks' East Rudd Property in the area between CDOT's right-of-way and existing FRICO easement on the proposed multi-use trail at the new underpass on State Highway 93 in real property in the County of Boulder, State of Colorado (the "Premises") described and depicted on Exhibit "A," which is attached hereto and made a part hereof.

This easement allows the grantee the right to enter upon said premises to move rubber-tired ditch maintenance equipment that is not licensed for highway travel from one side of State Highway 93 to the other side via the proposed multi-use trail and underpass. The Grantor reserves the right to use and occupy the easement for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the said Grantee's use thereof. In case of the permanent abandonment of the easement, all rights, privileges, and interests granted shall terminate.

Grantee will restore any damage to the trail and trail surface caused by transporting their ditch maintenance equipment substantially to its original level and condition within 30 days of the date the damage occurred.

Signed this _____ day of _____, 20___.

GRANTOR:

City of Boulder, a Colorado Home Rule City

By:

Jane S. Brautigam, City Manager

STATE OF COLORADO )
) ss.
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Jane Brautigam, as City of Boulder, City Manager.

Witness my hand and official seal.

(SEAL)

_____
Notary Public

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

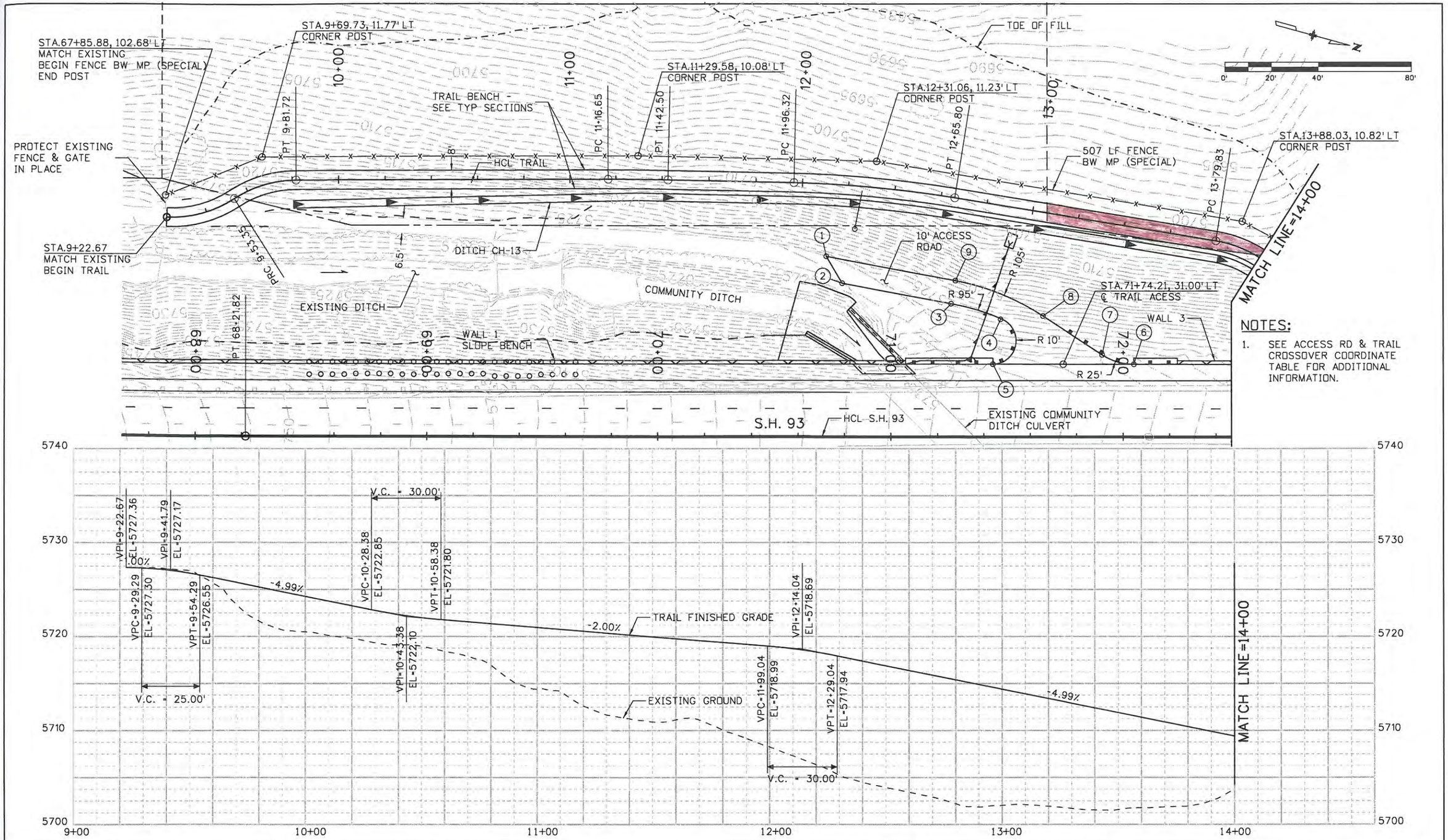
_____
City Attorney's Office

Date: _____

GRANTEE: Farmers Reservoir and Irrigation Company

by: _____

_____

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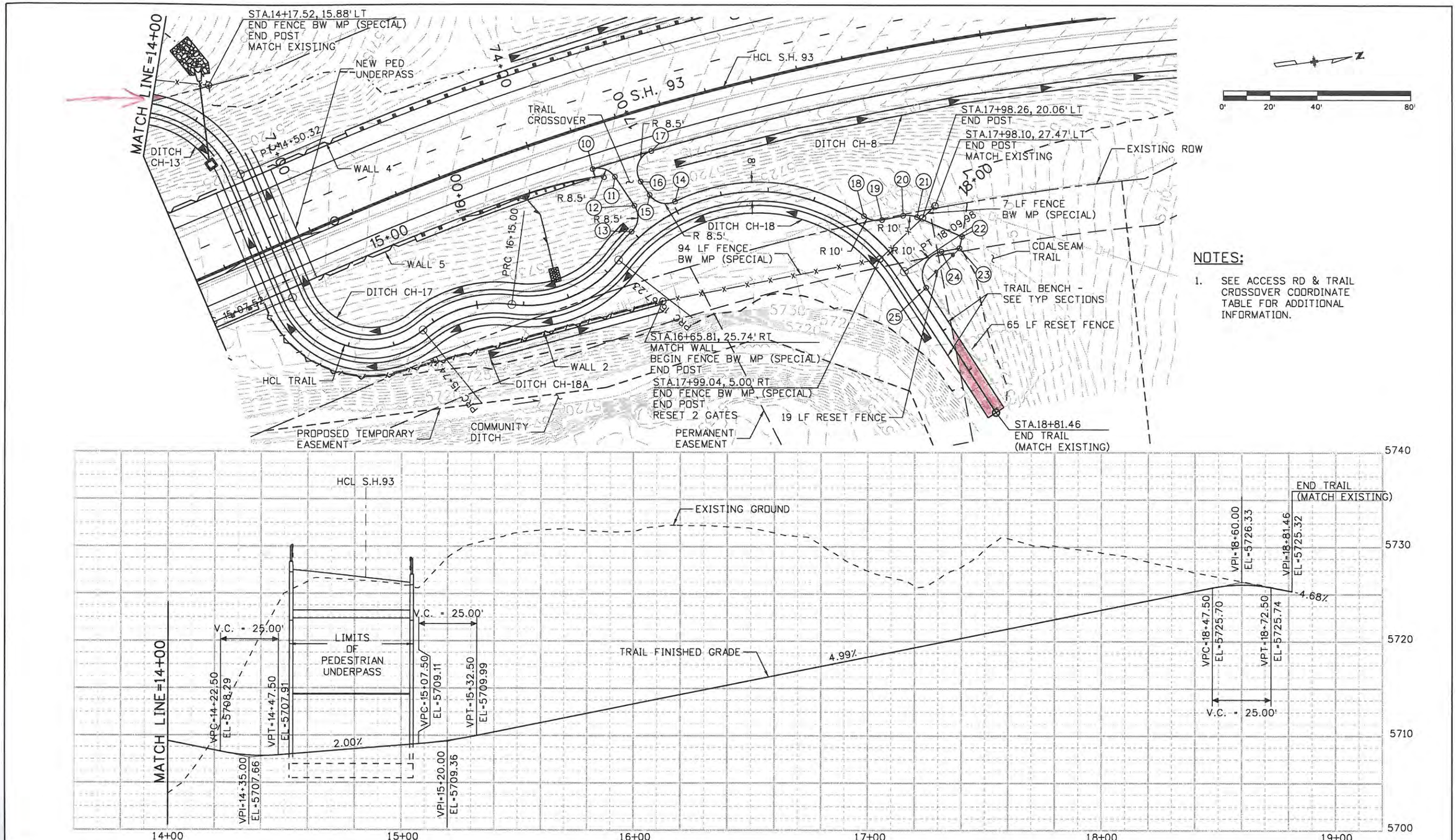
| Print Date: 4/8/2013 | Sheet Revisions | As Constructed | STATE HIGHWAY 93 |
| File Name: 127353_SH93_Trail_PP01.dgn | Date: / Comments / Init. | No Revisions: | TRAIL PLAN AND PROFILE |
| Horiz. Scale: 1"=40' Vert. Scale: As Noted | R-X | Revised: | Designer: RGK / Structure Numbers |
| MICHAEL BAKER JR., INC. 165 S. UNION BLVD., STE. 200 LAKEWOOD, CO 80228 720.514.1100 | | Void: | Detailer: EAV / Subset: ROADWAY / Subset Sheets: 19 of 21 |

Boulder County Colorado
2525 13th Street Suite 204
Boulder, CO 80304

DOT DEPARTMENT OF TRANSPORTATION
RDM

Project No./Code: FSA 0931-031
18465
Sheet Number 46 of 333

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| Print Date: 4/8/2013 | Sheet Revisions | As Constructed | STATE HIGHWAY 93 |
| File Name: 127353_SH93_Trail_PP02.dgn | Date: / Comments / Init. | No Revisions: | TRAIL PLAN AND PROFILE |
| Horiz. Scale: 1"=40' Vert. Scale: As Noted | R-X | Revised: | Designer: RGK / Structure Numbers |
| Baker — MICHAEL BAKER JR., INC. 165 S. UNION BLVD., STE. 200 LAKEWOOD, CO 80228 720.514.1100 | Boulder County Colorado 2525 13th Street Suite 204 Boulder, CO 80304 | Void: | Detailer: EAV / Subset: ROADWAY / Subset Sheets: 20 of 21 |
| | DOT DEPARTMENT OF TRANSPORTATION RDM | | Project No./Code: FSA 0931-031 / 18465 |
| | | | Sheet Number 47 of 333 |

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE:** Consideration of a motion authorizing the City Manager to convey the permanently affordable housing unit at 979 Laramie, Unit E.

**PRESENTER/S:** Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Jeff Yegian, Acting Manager, Division of Housing
Bonnie Logan, Homeownership Program Manager

## EXECUTIVE SUMMARY:

The city, through its Division of Housing, purchased 979 Laramie, Unit E, on June 12, 2012 at a public foreclosure sale. This home is a permanently affordable home in the city's Affordable Homeownership Program which went into foreclosure. Since affordability restrictions terminate upon foreclosure, it is the city's policy to acquire foreclosed affordable homes so they are not lost from the inventory of permanently affordable homes. All homes so acquired are sold to income-qualified households by the city.

## STAFF RECOMMENDATION:

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

Motion to authorize the City Manager to convey the permanently affordable housing unit at 979 Laramie, Unit E to an eligible buyer.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

**Economic:** The availability of affordable housing enhances Boulder's economic vitality by assisting business' recruitment and retention of employees.
**Environmental:** Providing affordable housing makes it possible for employees to live in the community in which they work, helping reduce commuting, traffic congestion and sprawl.
**Social:** Affordable homeownership contributes to the health, livability and diversity of the broad community, provides an opportunity to positively affect the lives of low- and moderate-income residents, and enhances the social fabric of the city.

## OTHER IMPACTS:

- Fiscal: Funds from the Division of Housing risk pool funded by Community Housing Assistance Program funds (CHAP) were used to purchase and rehabilitate this unit. Upon the sale of this unit, funds will be repaid into the risk pool.
- Staff time: This work is part of the normal work plan for the Homeownership Program.

## BACKGROUND:

979 Laramie, Unit E is a permanently affordable three-bedroom, 1.5-bath Dakota Ridge Village condominium in the Wonderland Hills community of Boulder. The Public Trustee included the unit in a public foreclosure sale on June 12, 2013 where the city purchased the unit for an acquisition cost of $140,981.00. The price paid by the city resulted in all debt against the property being paid in full.

The Division of Housing has completed repairs to bring the home back to a safe and livable condition for resale to an eligible buyer. The total holding cost, including repairs and resell costs, is estimated at $169,288. The Division of Housing proposes to sell the unit at an affordable sales price of $172,898, affordable to larger households with incomes up to 80% of the area median income.

All permanently affordable homeownership units have a permanently affordable housing covenant recorded against them to maintain their affordability status in perpetuity. However, lender underwriting requirements necessitate that the city's covenant be partially subordinate to the first mortgage (Deed of Trust). The provisions of the covenant, which include limitations on the incomes of purchasers and the maximum allowable sale price, also provide remedies that allow the city to retain a unit as permanently affordable, should the homeowner default on the mortgage. The city may exercise its right to cure a default on the first mortgage or acquire the owner's interest within a certain timeframe, however, if a home progresses through the foreclosure process and is sold at a Public Trustee foreclosure sale, the restrictions of the covenant terminate, and the home may be acquired by a private investor and sold at a market price.

The Division of Housing, with council's approval through the annual budget process, funds a risk pool for the purpose of retaining permanently affordable units. Accordingly, the city proactively follows a policy of intervention in the event of foreclosure of permanently affordable homeownership units. The foreclosure rate of permanently affordable units remains relatively low. However, staff works diligently with homeowners when the city learns they are in financial distress, helping them weigh their options under the program. Staff also refers them to foreclosure prevention counseling offered by Boulder County's Housing Counseling Program. The Division of Housing continually monitors the permanently affordable homeownership inventory to mitigate the risk of losing homes to foreclosure.

## ANALYSIS:

According to Boulder Revised Code 2-2-8, the Division of Housing must obtain City Council approval in order to resell permanently affordable properties to eligible buyers. The last time the Division of Housing sought council approval for this purpose was in June 2013, to resell a permanently affordable condominium it acquired in the Glenwood Grove community.

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE:**
Second reading and consideration of a motion to adopt Ordinance No. 7932, designating the building and property at 2205 Broadway, to be known as the Boulder Masonic Lodge, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Boulder Historical Society and Boulder History Museum

**PRESENTERS:**
Jane S. Brautigam, City Manager
Paul Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

**EXECUTIVE SUMMARY:**
The purpose of this item is for City Council to determine whether the proposed individual landmark designation of the building at 2205 Broadway meets the purposes and standards of the Historic Preservation Ordinance *(Sections 9-11-1 and 9-11-2, B.R.C. 1981)*. The property owner submitted the landmark application and is in support of the designation.

If approved, this ordinance (see **Attachment A**) would designate the property as an individual landmark. The findings are included in the ordinance. The landmark designation application was submitted by the property owner on June 3, 2013 and was heard by the Landmarks Board on Aug. 7, 2013. The board voted 5-0 to recommend the designation to City Council. Council approved Introduction and First Reading of the ordinance on Sept. 17, 2013. The second reading for this designation will be a quasi-judicial public hearing.

**BACKGROUND:**

On June 3, 2013 the city received an application from the Boulder Historical Society and Boulder History Museum, for individual landmark designation of the property at 2205 Broadway. The property is located within the Mapleton Hill Historic District.

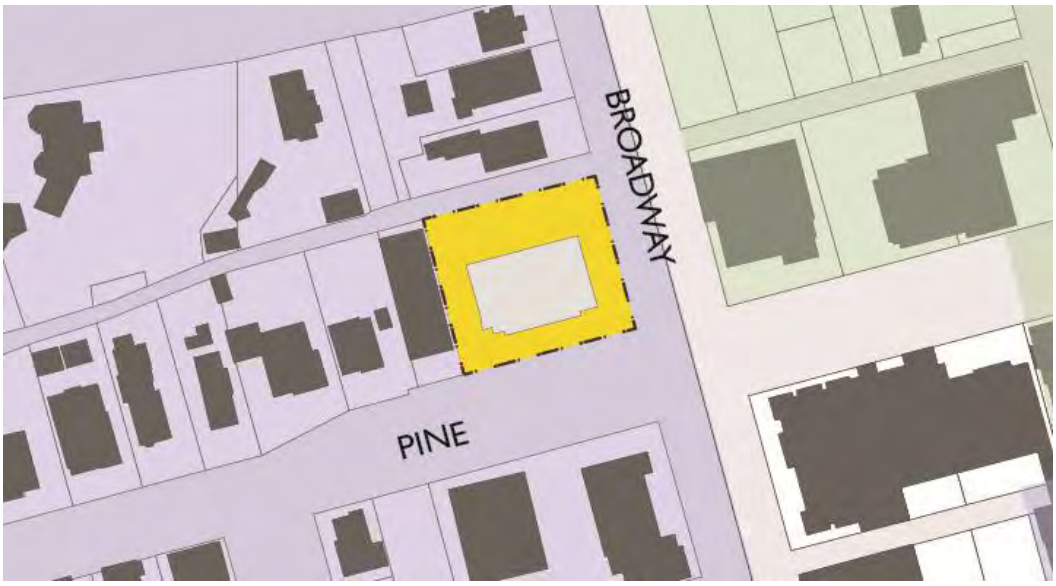


*Figure 1: Location Map,2205 Broadway*

*Figure 2: Masonic Lodge, 2205 Broadway, c.1950.*
*Photograph Courtesy the Carnegie Branch Library for Local History*

The property is located on the northwest corner of Pine Street and Broadway. The building encompasses the majority of the lot, with lawn covering on the south and east sides, and pavement on the north and west sides. A flagpole and time capsule are located on the southeast corner of the lot.

Designed by prominent Boulder architect James M. Hunter for the Boulder Chapter of the Royal Arch Masons, the two-story, flat-roofed building was completed in 1950 and remains largely unchanged from its original construction. The monolithic massing of the building is interrupted by the use of deeply grooved concrete at the foundation, cantilevered concrete overhangs and banding between the first and second levels, and a concrete cap at the roofline of the building. The upper portion of the building is clad in local stone while the east (Broadway facing) elevation is asymmetrical, with a large, unadorned volume at the north portion and a recessed volume on the south portion.

*Figure 3: Masonic Lodge, 2205 Broadway, 2013.*

## 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. 7932, designating the building and the property at 2205 Broadway, to be known as the Boulder Masonic Lodge, as an individual landmark under the City of Boulder's Historic Preservation Ordinance.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

**Economic:** Owners of locally designated landmarked properties are eligible for state and local tax credits for approved rehabilitations and repairs, and studies have found that historic

preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Community Planning and Sustainability Department at no charge. The additional review process for landmarked buildings may, however, add time and design expense to a project.

**Environmental:** The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. City staff can assist architects, contractors and homeowners with design and material selections and sources that are environmentally friendly. Also, the Historic Preservation website provides information on improving the energy efficiency of older buildings.

**Social:** The Historic Preservation Ordinance was adopted to "…enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community's character and history.

## OTHER IMPACTS:

**Fiscal:** The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation program.

**Staff Time:** This designation application is within the staff work plan.

## LANDMARKS BOARD ACTION:

On Aug. 7, 2013, the Landmarks Board voted 5-0 to recommend to City Council that the building at 2205 Broadway be designated as a local historic landmark, finding that it meets the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981 and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

## PUBLIC FEEDBACK:

**Abby Daniels**, Historic Boulder, 1123 Spruce St., spoke in support of the landmark designation.

## ANALYSIS:

### Criteria for Review

Section 9-11-6(b), B.R.C. 1981, specifies that during the review for an application for local landmark designation, the council must consider "whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, "*City Council May Designate or Amend Landmarks and Historic Districts*," B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan" and provides that the City Council "shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation."

Historic, Architectural, and Environmental Significance
Staff and the Landmarks Board find that the proposed designation of the building at 2205 Broadway maintain an appropriate setting and environment for the building, to enhance property value, stabilize the neighborhood, promote tourist trade and interest, and foster knowledge of the city's living heritage" (Section 9-11-1, B.R.C. 1981) (**Attachment B**). Staff considers that the application meets the historic, architectural, and environmental criteria for individual landmarks (**Attachment C**) as outlined below:

**HISTORIC SIGNIFICANCE:**
**Summary:** The building located at 2205 Broadway has historic significance under criteria 1, 2, 3 and 4.

1. **Date of Construction:** 1950

2. **Association with Persons or Events**: Boulder Masonic Association, Inc.
   **Elaboration:** On May 16, 1875, 22 Royal Arch Masons living in the vicinity of Boulder, Colorado Territory, petitioned the Most Excellent Grand High Priest of the Grand Royal Arch Chapter of Colorado to organize the Boulder Chapter of the Royal Arch Masons. The Grand High Priest, William N. Byers, granted a dispensation on May 21, 1875 and four months later a Charter was granted Sept. 23, 1875.

   The original meeting location of the fraternal lodge was located on the upper floor of the building at 1206 Pearl Street. In 1895, the Boulder Chapter of the Royal Arch Masons moved to their newly erected temple at 1344 Pearl Street. At this time records indicate that in addition to the 22 original petitioners, 519 members had been admitted to this chapter since its Charter. This grand Masonic Temple at 1344 Pearl Street remained the meeting location for the chapter until a fire destroyed much of the original building in 1945.

   In 1948, the Masons commissioned Boulder architect James M. Hunter to design plans for a new building to be located at 2205 Broadway. The majority of the construction labor for this building was donated by members of the lodge, as was the electrical work, initial clearing of the site and much of the actual construction materials. When the building was completed in 1950, the estimated cost for the building and furnishing was $160,000 and it was described by many members as being one of the finest temples in the Rocky Mountain region.

3. **Development of the Community:**
   **Elaboration:** This building demonstrates the development of the Modern Architectural Movement in the Post-World War II era and promotes community awareness of our cultural, economic and social heritage.

4. **Recognition by Authorities:** Survey of Modern Architecture, 2000.

**ARCHITECTURAL SIGNIFICANCE:**
**Summary:** Staff and the Landmarks Board consider that the building at 2205 Broadway has architectural significance under criteria 1, 2, 3 and 5.

1. **Recognized Period or Style:** Modern Architecture
   **Elaboration:** The Masonic Lodge was built in 1950 using the design of locally prominent architect, James M. Hunter, in a Modern Architectural style. Its horizontal and concrete construction is characteristic of a number of notable buildings built during the post-World War II period in Boulder.

2. **Architect or Builder of Prominence:** James M. Hunter
   **Elaboration:** Some of Hunter's key architectural designs in Boulder include the Boulder Municipal Building, the Nelson House, the original Boulder Public Library, and Boulder Medical Center. During his illustrious career, Hunter served as planner and architect for Colorado State University and Fort Lewis College in Durango. He also held similar posts with Regis College in Denver and Tarkio College in Missouri.

3. **Artistic Merit:** Embodies the characteristics of the International Style.
   **Elaboration:** This building is an excellent example of the International Style influenced regional design, as reflected in its asymmetrical façade, flat roof, horizontal orientation, vertical windows and use of concrete throughout. Lacking in ornamentation, Hunter felt that the structural qualities of the building's form and materials were key artistic elements.

4. **Example of the Uncommon:** None observed

5. **Indigenous Qualities:** Yes
   **Elaboration:** This building is significant for the high quality of stone work which reflects masonry found throughout Boulder. Although buildings of the Modern Architecture period often utilized simple, smooth surface materials, architects in Boulder successfully adapted the native stone into these modern applications.

**ENVIRONMENTAL SIGNIFICANCE:**
**Summary:** Staff and the Landmarks Board consider the building at 2205 Broadway has environmental significance under criterion 3 and 5.

1. **Site Characteristics:** None observed

2. **Compatibility with Site:** None observed

3. **Geographic Importance:** Downtown Boulder
   **Elaboration:** The building is significant for its location on a prominent corner in Boulder. It is situated on the northwest corner of Pine and Broadway, forming a readily recognizable landmark in the surrounding landscape.

4. **Environmental Appropriateness:** None observed

5. **Area Integrity:** The property is located on the eastern edge of the Mapleton Hill Historic District. The intersection of Broadway and Pine Street features many large,

historically significant buildings including First Congregational Church, Trinity Lutheran Church, and Hotel Boulderado. The Carnegie Branch for Local History is located directly west of the Masonic Lodge.

**OPTIONS:**

City Council may approve, modify or not approve the second reading ordinance.

Approved By:

_____
Jane S. Brautigam,
City Manager

**ATTACHMENTS:**
A: Ordinance No. 7932
B: Sections 9-11-1 and 9-11-2, "*Purposes and Intent*," B.R.C., 1981
C: Significance Criteria for Individual Landmarks

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ORDINANCE NO. 7932

AN ORDINANCE DESIGNATING THE BUILDING AND THE A PORTION OF THE PROPERTY AT 2205 BROADWAY, CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE BOULDER MASONIC LODGE, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION" B.R.C. 1981, AND SETTING FORTH DETAILS IN RELATION THERETO.

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

Section l. The council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The council finds that: 1) on or about June 3, 2013, property owner Boulder History Museum and Boulder Historical Society, applied to the City of Boulder to designate the building and property at said property as a landmark; 2) the Landmarks Board held a public hearing on the proposed designation on August 7, 2013; and 3) on August 7, 2013, the board recommended that the council approve the proposed designation.

Section 3. The council also finds that upon public notice required by law, the council held a public hearing on the proposed designation on Oct. 1, 2013 and upon the basis of the presentations at that hearing finds that the building and a portion of the property at 2205 Broadway does possess a special character and special historic, architectural, or aesthetic interest or value warranting its designation as a landmark.

Section 4. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance is relevant to its construction in 1950 by local architect James M. Hunter, its association with the Boulder Chapter of the Royal Arch Masons, and its connection

with the development of the Modern Architectural Movement in the Post-World War II era that was significant to the Development of Boulder; and 2) its architectural significance indicative of the International Style, and is significant for its cubic massing, flat roof, lack of ornamentation, horizontal concrete banding, articulated windows, high quality stone work and its association with prominent architect James M. Hunter and 3) its environmental significance for its geographic importance as an existing visual landmark at the corner of Pine Street and Broadway, and for its location within the Mapleton Hill Historic District, which maintains a high level of historic integrity.

Section 5. The council further finds that the foregoing landmark designation is necessary to promote the public health, safety, and welfare of the residents of the city.

Section 6. There is hereby created as a landmark the building and property located at 2205 Broadway, also known as the Boulder Masonic Lodge, whose legal landmark boundary is identical to the boundary of the legal lots upon which it sits:

LOTS 10-11-12 BLK 150 BOULDER O T, BOULDER COUNTY, COLORADO
as depicted in the proposed landmark boundary map, attached hereto as Exhibit A.

Section 7. The council directs that the department of Community Planning and Sustainability give prompt notice of this designation to the property owner and cause a copy of this ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

Section 8. The 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 17TH DAY OF SEPTEMBER, 2013.

_____

Mayor

Attest:

_____

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of OCTOBER, 2013.

_____

Mayor

Attest:

_____

City Clerk

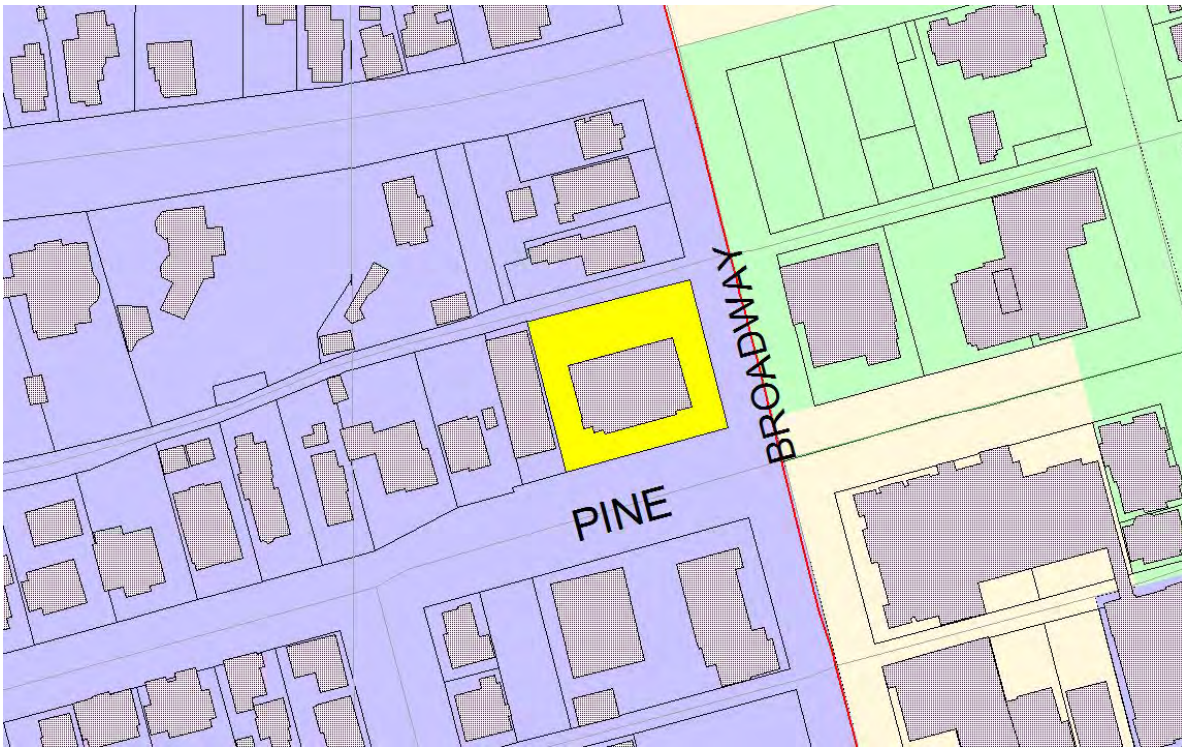


**Exhibit A – Landmark Boundary Map for 2205 Broadway**

LOTS 10-11-12 BLK 150 BOULDER O T

**9-11-1 & 9-11-2 Purposes and Intent**
**Boulder Revised Code, 1981**

**9-11-1**: *Purpose and Legislative Intent* states:

**(a)** The purpose of this chapter is to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

**(b)** The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

**(c)** The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled and creative approaches to renovation.

**9-11-2:** *City Council may Designate or Amend Landmarks and Historic Districts* states:

**(a)** Pursuant to the procedures in this chapter the City Council may by ordinance:

**(1)** Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;

**(2)** Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

**(3)** Designate as a discontiguous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and

**(4)** Amend designations to add features or property to or from the site or district.

**(b)** Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

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# SIGNIFICANCE CRITERIA
## Individual Landmark
## September 1975

On September 6, 1975, the City Council adopted Ordinance #4000 providing procedures for the designation of Landmarks and Historic Districts in the City of Boulder. The purpose of the ordinance is the preservation of the City's permitted cultural, historic, and architectural heritage. The Landmarks Board is permitted by the ordinance to adopt rules and regulations as it deems necessary for its own organization and procedures. The following Significance Criteria have been adopted by the board to help evaluate each potential designation in a consistent and equitable manner.

### Historic Significance

The place (building, site, area) should show character, interest or value as part of the development, heritage, or cultural characteristics of the community, state or nation; be the site of a historic, or prehistoric event that had an effect upon society; or exemplify the cultural, political, economic, or social heritage of the community.

Date of Construction: This area of consideration places particular importance on the age of the structure.

Association with Historical Persons or Events: This association could be national, state, or local.

Distinction in the Development of the Community of Boulder: This is most applicable to an institution (religious, educational, civic, etc) or business structure, though in some cases residences might qualify. It stresses the importance of preserving those places which demonstrate the growth during different time spans in the history of Boulder, in order to maintain an awareness of our cultural, economic, social or political heritage.

Recognition by Authorities: If it is recognized by Historic Boulder, Inc. the Boulder Historical Society, local historians (Barker, Crossen, Frink, Gladden, Paddock, Schooland, etc), State Historical Society, The Improvement of Boulder, Colorado by F.L. Olmsted, or others in published form as having historic interest and value.

Other, if applicable.

### Architectural Significance

The place should embody those distinguishing characteristics of an architectural type specimen, a good example of the common; be the work of an architect or master builder, known nationally, state-wide, or locally, and perhaps whose work has influenced later

development; contain elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or be a fine example of the uncommon.

Recognized Period/Style: It should exemplify specific elements of an architectural period/style, i.e.: Victorian, Revival styles, such as described by *Historic American Building Survey Criteria*, Gingerbread Age (Maass), 76 Boulder Homes (Barkar), The History of Architectural Style (Marcus/Wiffin), Architecture in San Francisco (Gebhard et al), History of Architecture (Fletcher), Architecture/Colorado, and any other published source of universal or local analysis of a style.

Architect or Builder of Prominence: A good example of the work of an architect or builder who is recognized for expertise in his field nationally, state-wide, or locally.

Artistic Merit: A skillful integration of design, material, and color which is of excellent visual quality and/or demonstrates superior craftsmanship.

Example of the Uncommon: Elements of architectural design, details, or craftsmanship that are representative of a significant innovation.

Indigenous Qualities: A style or material that is particularly associated with the Boulder area.

Other, if applicable.

**Environmental Significance**

The place should enhance the variety, interest, and sense of identity of the community by the protection of the unique natural and man-made environment.

Site Characteristics: It should be of high quality in terms of planned or natural vegetation.

Compatibility with Site: Consideration will be given to scale, massing placement, or other qualities of design with respect to its site.

Geographic Importance: Due to its unique location or singular physical characteristics, it represents an established and familiar visual feature of the community.

Environmental Appropriateness: The surroundings are complementary and/or it is situated in a manner particularly suited to its function.

Area Integrity: Places which provide historical, architectural, or environmental importance and continuity of an existing condition, although taken singularly or out of context might not qualify under other criteria.

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE**: Second reading and consideration of the following ordinances related to the purchase of the ERTL property located at 8323 Valmont Road:

1) Ordinance No. 7933 approving and authorizing the issuance of Boulder Municipal Property Authority Lease Purchase Revenue Note, Series, 2013A, in the aggregate principal amount of $5,000,000 and approving and authorizing a Lease Purchase Agreement for the purchase of 685 acres of land, oil and gas mineral estate interests and water rights for the ERTL property located at 8323 Valmont Road, Boulder, CO from Energy Resources Technology Land, Inc. for Open Space and Mountain Parks purposes.

2) Ordinance No. 7934 approving the addition of the ERTL property as part of the Lower Boulder Creek Habitat Conservation Area.

**PRESENTER/S**
Jane S. Brautigam, City Manager
Paul Fetherston, Deputy City Manager
Michael D. Patton, Director, Open Space and Mountain Parks
Jim Schmidt, Property Agent
Heather Swanson, Wildlife Ecologist

**EXECUTIVE SUMMARY**
Acquisition considerations: The Energy Resource Technology Land, Inc. (ERTL) property is a large holding in eastern Boulder County on which the city acquired conservation easements/developments rights in 1982 and 1984. These agreements essentially stripped the land of its former development potential and sought to preserve and protect the natural resources found on the property, but did not prohibit the drilling of new oil and gas wells. The ERTL property borders four other Open Space lands and its acquisition would give the city fee ownership of the entire two and a half mile reach of Boulder Creek between 75th Street and 95th Street, forming a land assemblage of over 2,700 contiguous acres.

Staff had the ERTL holdings (land, water rights and oil and gas mineral estate) appraised to assist both parties in negotiations for a possible acquisition by Open Space. The subsequent appraisal indicated that the land value, exclusive of the water rights, is $1,113,000; the water rights are valued at $4,693,500; and the oil and gas mineral estate (seller's royalty interest) at $2,164,000, for a total valuation of $7,970,500. The negotiated purchase price, based upon this appraisal information, became $7,575,000. A down payment of $2,575,000 dollars will be made at the closing by the City Open Space Fund. For this down payment, the city will be deeded 464 acres of land north of the old railroad tracks (the most environmentally sensitive and important habitat on the property), the oil and gas mineral estate on the entire property and a minor portion of the water rights being acquired. The $5,000,000 balance of the purchase price will be paid by a Boulder Municipal Property Authority (BMPA) note with BMPA receiving title to the remaining 221acres lying south of the railroad tracks and the majority portion of the water rights. The land and water being conveyed to BMPA will be encumbered by the BMPA deed of trust as security for the note.

If this purchase is approved by council, the city will thus be:
1) Acquiring approximately 685 acres on which it currently holds either a conservation easement or a development rights agreement;
2) Extinguishing ERTL's leasehold interest on the city's 325 acres acquired back in1984;
3) Acquiring all water rights used to irrigate the land being acquired in this transaction; and
4) Acquiring all the oil and gas mineral estate owned by ERTL (on both the land acquired in 1984 and the new 685 acres being proposed for purchase herein) except for the royalty interest in the five currently producing wells which ERTL will continue to own.

<u>HCA designation considerations:</u> With the purchase of the ERTL parcel, located east of the Weiser property and west of Hartnagle and Culver Open Space properties along Boulder Creek (Attachment B), Open Space and Mountain Parks (OSMP) has a contiguous ownership and the opportunity for consistent management of the Boulder Creek Floodplain and White Rocks ecosystems. The property has never been open for public access and will remain closed until a management plan is developed. This memo describes the rationale for designating ERTL as a Habitat Conservation Area (HCA) to provide guidance for future management of the property.

The location, topography and geology of the ERTL property create a variety of different habitats that support an exceptionally diverse suite of wildlife and plant communities including rare and protected species. Many of these features are shared with the adjoining Windhover Ranch property immediately to the west. Restoration potential and ecological value is very high in this area.

Two of the rarest species OSMP manages breed on or near the ERTL property. A pair of bald eagles has nested just west of ERTL since 2002 and northern leopard frogs have bred on the property for at least the last several years. Bald eagles are very sensitive to disturbance during the nesting season and will rarely initiate nesting in an area where they experience disturbance. The extensive riparian and wetland complexes on ERTL

provide ideal breeding, foraging and over-wintering habitat for northern leopard frogs, a species in decline in Colorado and throughout the western U.S. Crevices on the cliff face of the White Rocks harbor the black spleenwort fern which is one of the rarest ferns in North America, and wet meadows provide habitat for the federally-listed Ute ladies'-tresses orchid. In recognition of these and other significant resource values, staff is proposing the ERTL property be managed similar to the Windhover Ranch property.

**STAFF RECOMMENDATION**

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

1. Motion to approve the purchase of 685 acres of land, the oil and gas mineral estate and water rights for the ERTL property located at 8323 Valmont Road, Boulder, CO from ERTL, Inc. for $7,575,000 for Open Space and Mountain Parks purposes.

2. Motion to approve the attached BMPA Ordinance No. 7933, and further order said ordinance be published by title only.

3. Motion to approve the attached Habitat Conservation Area Ordinance No. 7934, and further order said ordinance to be published by title only.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Environmental: Open Space and Mountain Parks is a significant community-supported program that is recognized worldwide as a leader in preservation of open space lands contributing to the environmental sustainability goal of the City Council. The department's land acquisition, land and resource management and visitor service programs help preserve and protect the Open Space values of the surrounding publicly-owned lands.
- Economic: Open Space and Mountain Parks contributes to the economic vitality goal of the city as it provides the context for the diverse and vibrant economic system that sustains services for residents. The land system and the quality of life it represents attract visitors and help businesses to recruit and retain quality employees.
- Social: Because Open Space and Mountain Parks lands, facilities and programs are equally accessible to all members of the community, they help to support the city's community sustainability goal because all residents "who live in Boulder can feel a part of and thrive in" this aspect of their community.

**OTHER IMPACTS**

- Fiscal: The purchase price for the ERTL property interests being acquired is $7,575,000 payable as follows: $2,575,000 down payment at the time of closing (scheduled for Oct. 31, 2013) and the balance of the purchase price shall be paid by BMPA executing a note and deed of trust in the principal amount of $5,000,000, with a 3.25 percent interest rate, payable over 10 years with yearly

payments of $593,655.37. There are sufficient monies in the Open Space Fund for this acquisition; a Cash Flow Projection is included as Attachment C.

- Staff time – This acquisition is part of the normal work plan for the OSMP real estate property agents.

**BOARD AND COMMISSION FEEDBACK**

At its July 10 and Sept. 11, 2013 meetings, the Open Space Board of Trustees (OSBT) unanimously recommended that City Council approve this purchase. At its Aug. 14, 2013 meeting, the OSBT unanimously approved the HCA boundary adjustment to incorporate the ERTL property and further recommended that City Council pass an ordinance designating the ERTL property as an addition to the Lower Boulder Creek HCA.

**PUBLIC COMMENT AND PROCESS**

Ordinances # 7933 and # 7934 were introduced to City Council on Sept. 17, 2013 and were ordered to be published by title only. This item is being heard as part of this public meeting advertised in the *Daily Camera* on Sept. 29, 2013.This item was also heard at the Open Space Board of Trustees meetings held on July 10, Aug. 14 and Sept. 11, 2013.

**ANALYSIS**

The ERTL property is a large holding in eastern Boulder County along Boulder Creek bordered roughly by Valmont Road on the south, the Boulder Valley Farm Open Space on the east, Heatherwood subdivision on the north and the Weiser (Windhover Ranch) Open Space property on the west. In the early 1980s, the OSMP Department acquired interests in this property to preserve its unique ecological habitats and the rare species of flora and fauna found thereon. A series of acquisitions resulted in Open Space acquiring a conservation easement on the northerly 195.5 acres (which included the White Rocks area) in 1982 along with a fee purchase of 325 acres (which fee land was leased back to the Ertls for the life of Mrs. Ertl plus 20 years); another conservation easement was acquired in 1984 on the 230 acres in the lakes area; and also in 1984 a "Development Rights Agreement" was placed on the 221 acres lying south of the railroad right-of-way. The total purchase price for the three acquisitions came to $1,488,000 (in today's dollars that would equate to $3,378,000).

These agreements reserved for ERTL the right to explore, drill and produce oil and gas on the property; there are 16 more potential and yet undeveloped well sites on the property. These agreements were drafted at the dawn of the conservation easement era and the language employed in these documents leave much to be desired when viewed from a 2013 perspective, e.g. the agreements do not acknowledge or enumerate the existence of water rights being appurtenant to the property. During the years immediately succeeding this series of acquisitions, a number of informal "side-agreements" (for lack of a better phrase) were entered into between the city Open Space Department and the ERTL representatives which modified, interpreted and/or elaborated on how different issues that had arisen concerning usage of the property would be handled. Some of these side agreements were reduced to written correspondence – usually unilaterally by only one of the parties – but many of these were simply verbal "understandings." As the years went by and the people who actually made and knew of

all these “side agreements” were no longer present or involved in the day to day operations of their respective organizations, the context of the agreements began to take on an “oral history” flavor.

The Open Space Real Estate group approached the ERTL management team in 2010 to attempt to consolidate all of the old agreements – the conservation easements, the development rights agreement, and the written and verbal “side agreements” into one all-encompassing conservation easement using a modern-era format that would be readily understandable by future staff for both organizations. This consolidation attempt proved ultimately futile as the two sides could not reach agreement on the current status of a number of very substantive issues, each believing that the other was seeking to change the agreements to benefit their organization and to the detriment of the other side. The ERTL organization ultimately proposed that the city buy its interests out but for a price which the city found to be out of line with the property’s actual market value. When the city rejected the price demanded, the ERTL organization listed the property for sale with a local realtor and sold off some of its extensive water rights on the land (entering into a dry-up covenant on some 29 acres of its irrigated fields along Valmont Road). Open Space staff realized that the existing agreements and arrangements vis-à-vis the city and the ERTL organization (or a new purchaser) were not sustainable into the future and had ERTL holdings (land, water rights and oil and gas mineral estate) appraised to assist both parties in negotiations for acquisition by Open Space.

The appraisal of the property being acquired indicated that the land value, exclusive of the water rights, is $1,113,000; the water rights are appraised at $4,693,500; and the oil and gas mineral estate (royalty interest only) is $2,164,000, for a total valuation of $7,970,500. The negotiated purchase price, based upon this appraisal information, is $7,575,000.

In this transaction, the city will be acquiring: 1) approximately 685 acres on which it already holds either a conservation easement or a development rights agreement; 2) all water rights used to irrigate the land being acquired in this transaction; 3) all the oil and gas mineral estate owned by ERTL except for the royalty interest in the five currently producing wells on the property (which ERTL will continue to own); and extinguishing ERTL’s leasehold interest on the city’s 325 acres acquired back in 1984.

There is a farmstead on the property consisting of a two-story home, a smaller auxiliary home, a mobile home, an equipment shed, corrals, loafing sheds and workshop which are occupied by the extended family of Drake and Brene Sullivan pursuant to a life estate which ERTL had given to the Sullivans (their predecessor in title). This life estate runs for the life of Brene Sullivan, who is in her mid-eighties.

**Ecological Significance**

Staff has carefully reviewed the unique characteristics of the ERTL property and believes it fulfills the characteristics, goals and criteria for HCA designation established in the Visitor Master Plan. In recognition of the significant resource values, staff is proposing

the ERTL property be managed similar to adjoining properties and be included as part of the Lower Boulder Creek HCA.

The ERTL property contains an unusual outcropping of Fox Hills Sandstone, a unique geologic formation known locally as the White Rocks. It is a continuation of the formation found on the Windhover Ranch property to the west. In addition, one of the largest relatively undeveloped remnants of the Boulder Creek floodplain sets the stage for the extremely rich diversity of plant and animal life found there. This property is one of the last remaining private parcels in the Boulder Creek floodplain and its acquisition will create nearly seven miles of publicly-owned and protected riparian habitat from 75th Street to the confluence of Boulder and Coal Creeks.

Rare Plants and Plant Communities

Sandstone cliffs: At the top of the White Rocks cliffs where soil has collected between rocks, habitat for the forktip three-awn grass (listed by the Colorado Natural Heritage Program as critically imperiled in Colorado) occurs along with an unusual mix of tallgrass prairie and sand prairie plant species. Crevices on the cliff face harbor the black spleenwort fern which is one of the rarest ferns in North America. Seeps in the White Rocks cliff face provide habitat for moisture-loving Great Plains species including great blue lobelia and American groundnut, as well as an uncommon liverwort (*Phaeoceros laevis*). Sandy soils at the base of the cliffs support some of the farthest western occurrences in Colorado of sand prairie species like sand sage, narrowleaf four o'clock, silky sophora, lemon scurfpea and the plains black nightshade. Native shrub stands and a large grove of western hackberry add to the plant diversity and provide important structure and food for birds and other wildlife species.

Floodplain wet meadows and agricultural vegetation: The Boulder Creek floodplain portion of the property is a mosaic of riparian forest, native wet meadow vegetation in old stream channels, artificial lakes and fields dominated by European pasture grasses. The plains cottonwood was historically the dominant canopy species along plains streams in the Boulder Valley and still occurs in remnant stands along Boulder Creek. Nonnative Russian olive and crack willow trees now occupy much of the floodplain. The Ute ladies'-tresses orchid, a federally protected wetland species, occurs on the ERTL property in an area that has not been gravel mined. Additional habitat for the rare orchid and other native wetland species could be restored on the ERTL property through prescriptive cattle grazing, irrigation water management and nonnative tree removal. Gravel mining has created artificial aquatic habitat in two large lakes and approximately seven smaller ponds in the floodplain. While these are not natural features in the landscape, they provide open water habitat with aquatic vegetation and marsh-like wetland habitat along their shorelines.

Wetland communities dominated by native species support the prairie gentian, an uncommon species in Colorado with declining habitat across the Great Plains. The prairie gentian habitat is concentrated in wet meadows south of the railroad tracks. The Weiser and ERTL prairie gentian population represents the farthest western occurrence of this species in Colorado.

Wildlife Resources

Bald eagles have nested on the adjacent Weiser property since 2002. Because the currently-occupied eastern nest is very close to the ERTL/Windhover Ranch property line, a large portion of the area directly surrounding the nest lies on ERTL. The eagles have experienced nest failures twice during the last nine years, making it important to manage the property in a way most likely to support successful nesting.

The cliffs of the White Rocks support multiple uncommon species including four rare ants, one of which (*Aphaenogaster huachucana*) is considered globally imperiled; a species of solitary bee that burrows into the soft sandstone of the rocks and feeds on prickly pear pollen; tiny fairy shrimp and crawling water beetles both of which live in ephemeral pools in depressions on top of the cliffs; and six-lined racerunner lizards, found locally only on the White Rocks, that live in the saltbush at the base of the cliffs. The White Rocks cliffs on ERTL have also provided one of the county's only natural nesting sites for barn owls and have been the center of recent prairie falcon activity during the nesting season. The extensive wetland and aquatic habitat on ERTL provide ideal breeding, foraging and over-wintering habitat for northern leopard frogs, a species in decline in Colorado and throughout the western U.S. Boulder Creek provides habitat for uncommon species like the American dipper and wood duck and may support extremely rare species like the northern river otter. The artificial lakes and ponds on the property provide open water habitat for waterfowl and shorebirds and shoreline emergent marshes for wading birds such as little blue and great blue herons and great egrets.

The diversity of habitats on the property supports a wide variety of bird communities during summer and winter. According to the annual Boulder Christmas Bird Count, one of the highest species richness and total bird counts is consistently recorded on the survey route that includes ERTL. In the summer, American bitterns, Virginia rails, marsh wrens and yellow-headed blackbirds are some of the rare/uncommon species that have been seen on the property. Because of this, the Colorado Office of the National Audubon Society is in the process of officially designating the lower Boulder Creek area, including ERTL, as an "Important Bird Area."

The exact location and extent of prairie dogs on the property, although known to be limited, is not certain. If acquired, prairie dog colonies will be mapped and assigned a management designation according to the criteria in the OSMP Grassland Ecosystem Management Plan.

Threats and Sensitivity

Previous intensive grazing on the property has likely had a negative impact on grassland- and shrub-nesting birds. Habitat for these species can be improved through initiating prescriptive grazing techniques and removing nonnative species. Improving habitat conditions, along with minimizing human disturbance, can increase bird community diversity and lead to higher nesting success. Organisms such as the boring bees, fairy shrimp and six-lined racerunner occupy small, restricted and fragile habitats that could be impacted by extensive use of the area. In addition, the presence of New Zealand

mudsnails in Boulder Creek requires restricted access to the creek in an effort to avoid further spread of the snails to other waterways.

Bald eagles can be very sensitive to disturbance during nesting. The pair nesting at Weiser has been accustomed to an area with minimal human presence, making them more likely to respond negatively to even low levels of disturbance. Protection under the Federal Eagle Protection Act prohibits disturbance to birds that could result in nest abandonment or negative impact to their reproductive success. U.S. Fish and Wildlife Service recommendations to protect nesting eagles in open landscapes such as those on the ERTL property are based on Colorado Parks and Wildlife buffers for protecting nesting raptors. These recommendations include no surface occupation within ¼ mile of nest sites at any time and no human presence within ½ mile of the nest seasonally during the nesting season (November - July).

White Rocks in the Grassland Ecosystem Management Plan

In recognition of the unique ecological importance of the White Rocks cliffs, staff included the White Rocks (on both the ERTL conservation easement and the Windhover Ranch property to the west) as one of eight conservation targets in the Grassland Ecosystem Management Plan approved by OSBT and City Council. Within the Grassland Plan framework, issues, threats, management considerations and strategies were identified for each conservation target.

**Agricultural Values**

There is a long history of agricultural activity on the ERTL property. The Sullivan family farmed and ranched the property for more than 60 years before the current agricultural tenants began farming the property. The Sullivans generally operated a traditional family farming and ranching operation. They grew various grain crops, hay and forage crops and had a small cow herd to utilize the grazing land. The Schwartz family has been leasing the irrigated agricultural land on the ERTL property for approximately 10 years and has recently taken over the grazing land as well. The Schwartz family also leases the OSMP Manchester and King Hodgson properties located in the same vicinity as the ERTL property. Their agricultural operation primarily focuses on grass and alfalfa hay production, although they have recently added cattle to their operation.

The soils underlying the irrigated land of the ERTL property are primarily sandy loam in texture with gentle slopes and are well suited for agricultural production. The irrigated lands are considered to be of high quality when evaluating the soil texture and the water rights associated with the property. OSMP will be acquiring water rights from the Green, Jones and Donnelly, Cottonwood No. 2 and the Andrews-Farwell ditches. The Jones and Donnelly Ditch has the longest average operational season of 174 days. The Andrews-Farwell Ditch has the shortest operational season of 52 days. OSMP will be acquiring 199 acres of irrigated land, much of which will be most suited to livestock grazing because of previous mining activities. There are about 65 acres of productive cropland suitable for a wide variety of agricultural activities including the production of organic vegetables for local sale.

**Restoration and Weed Management**
Historic land management, including disturbance related to mining, site hydrology and presence of invasive species on adjacent lands, lead to known and likely populations of various invasive species on the ERTL property. Russian olive currently occupies over 60 acres of the property. Purple loosestrife, a Colorado List – A noxious weed, occupies 15 acres of the property, but was managed by the landowner in 2010 and 2011. Eurasian watermilfoil is common in Boulder Creek, the Green Ditch and likely some of the ponds that receive water from the Green Ditch. Other species likely present on the property include common teasel, perennial pepperweed, perennial sowthistle, whitetop, crack willow, Canada thistle, musk thistle, yellow toadflax (mandatory eradication), garlic mustard, diffuse knapweed, houndstongue, reed canarygrass, yellow iris and tamarisk. Additional mapping and monitoring of the property to obtain estimates of cover and occupied area for the above and other invasive species is required. Given past mining operations, it is likely that planting and seeding of native plants species is needed in areas following invasive species management.

**Cultural Resources**
While no professional cultural resource inventories have been conducted on this property, it is adjacent to the White Rocks/Weiser property where numerous Native American and historical archaeological sites are located. It is expected that similar resources would be located on the ERTL property.

**Visitor Use**
As with all OSMP property acquisitions not previously open to the public, the ERTL property will be closed until a property inventory and site management plan are developed. This plan will recommend how to provide appropriate visitor infrastructure and services while protecting the natural and cultural resources on the site. OSMP intends to complete this plan over the next 12 months, and the acquisition budget will fund the development of this plan. Given what staff knows about the property, actions to protect resources will be especially important. Staff is recommending that the property be designated as an HCA. This designation recognizes the known resource values of the property and is consistent with the HCA designation of the surrounding and nearby lands in the Boulder Creek floodplain. Given the seasonality of nesting bald eagles, the property has been, and will be recommended to be closed to the public and most staff from Nov. 1 to July 31. However, with OSMP's purchase of this property, a new opportunity for the public would exist in the seasonal window of August to October, when staff would lead scheduled, guided hikes on subjects ranging from wildflowers to geology. These visits would be carefully arranged to protect vulnerable biological and cultural resources on the property. The East Boulder-White Rocks Trail is located on the eastern edge of the property. There are no plans for further trail development.

**Open Space Charter Purposes**
This acquisition meets all of the following Charter purposes:

- Preservation of natural areas characterized by or including terrain, geologic formations, flora, and fauna that are unusual, spectacular, historically important, scientifically valuable, or unique.

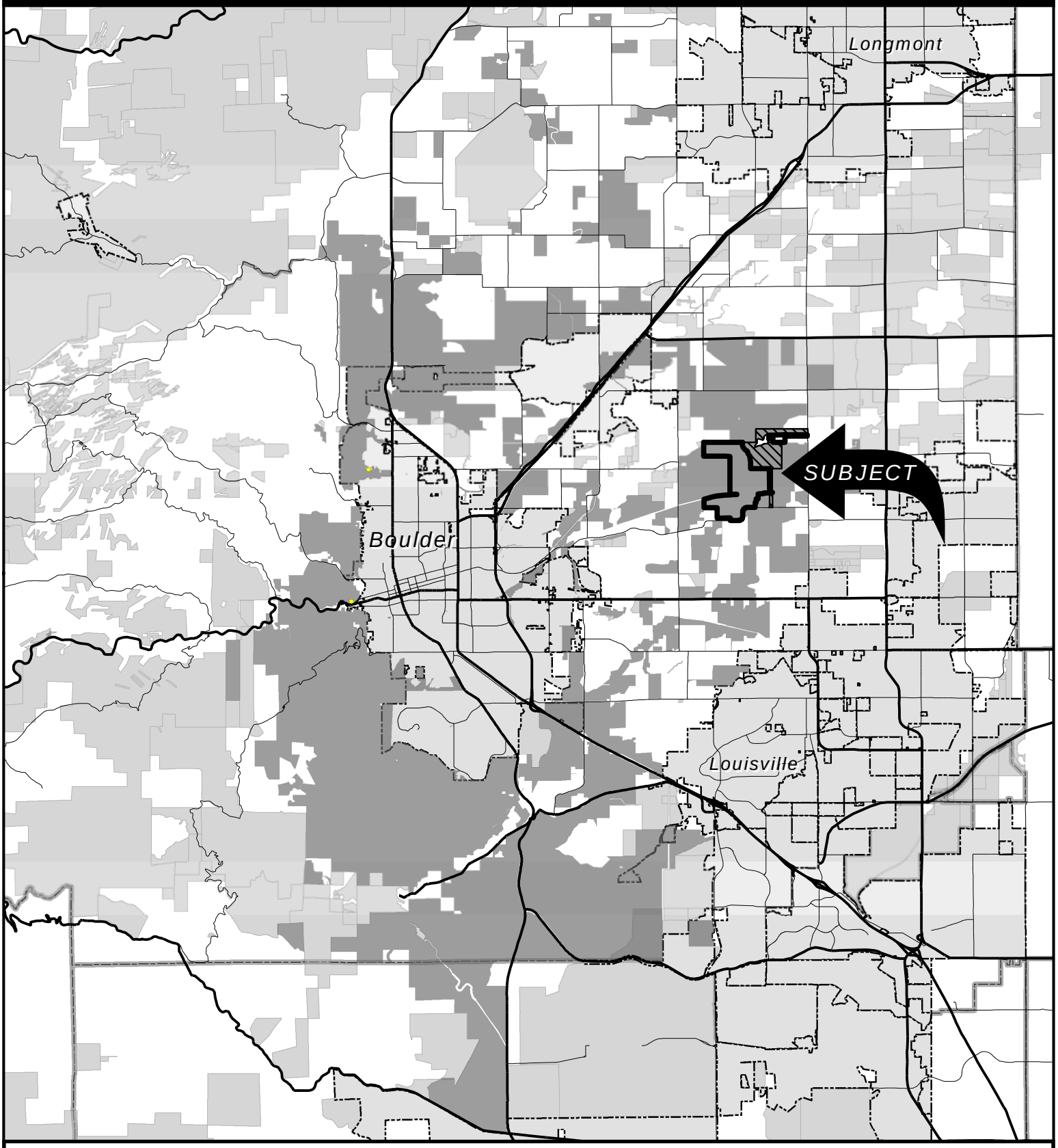
- Preservation of agricultural uses and land suitable for agricultural production.
- Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, and fragile ecosystems.
- Preservation of land for its aesthetic and passive recreational value and its contribution to the quality of life of the community.

**ATTACHMENTS:**

**A. Vicinity Map**
**B. Location Map**
**C. Cash Flow Projection**
**D. Map of Proposed Habitat Conservation Area**
**E. Ordinance No. 7934 (HCA)**
**F. Ordinance No. 7933 (BMPA Note)**
**G. Lease Purchase Agreement**
**H. Lease Purchase Revenue Note, Series 2013A**
**I. Visitor Master Plan HCA Designation**
**J. Location Map – ERTL Mineral Estate (oil & gas ownership interests)**

# ATTACHMENT A - City of Boulder Open Space & Mountain Parks

# VICINITY MAP - ERTL Property

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E:\Mapfiles\Property\ \vicinity- .mxd

Proposed Purchase

Leasehold Termination Area

City of Boulder OSMP

0 0.5 1 2 3 4 5 Miles

Approximate property boundaries from Boulder County Assessor's data.

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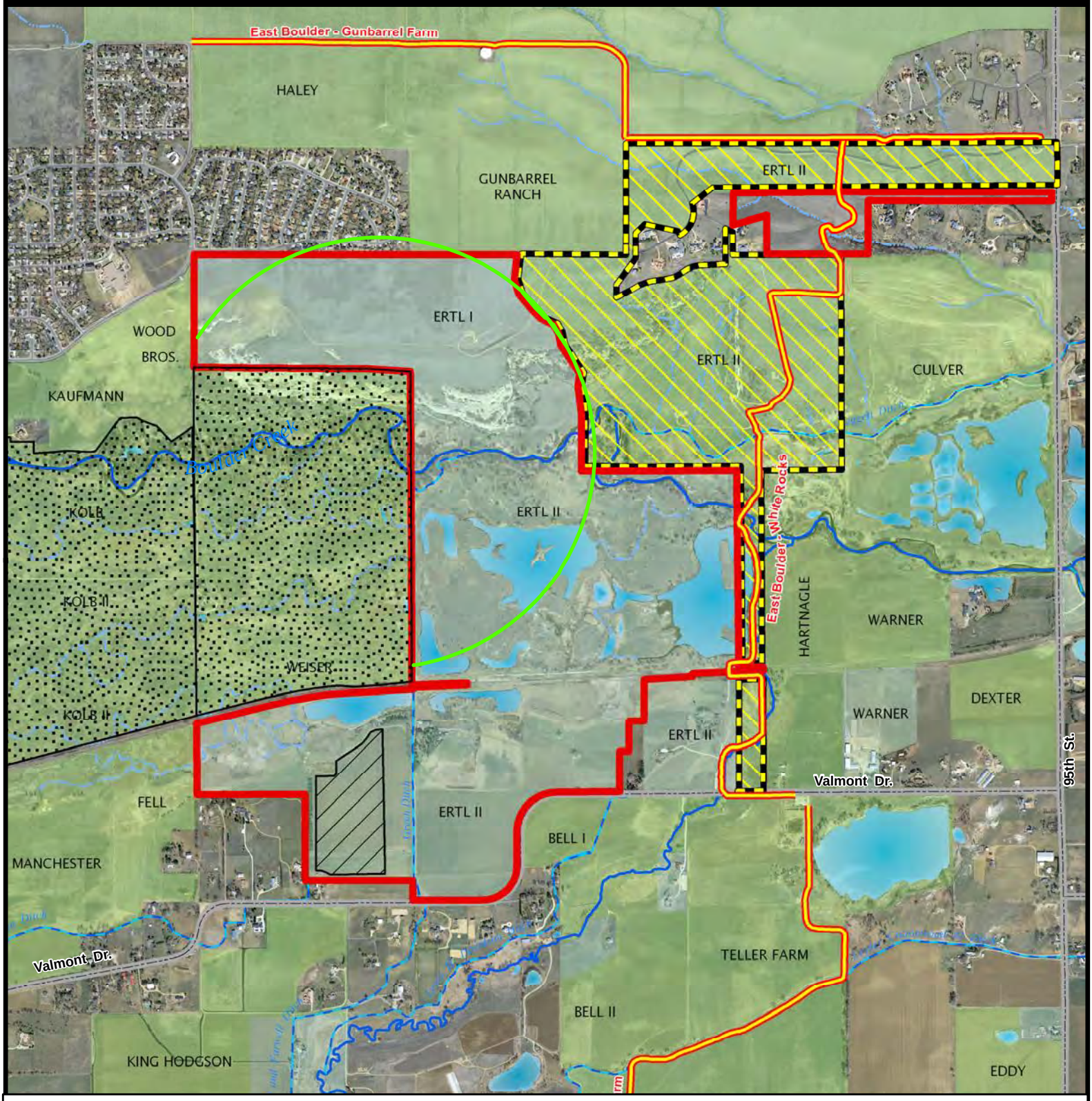
# ATTACHMENT B - City of Boulder Open Space & Mountain Parks

## LOCATION MAP - ERTL Property

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- ERTL Purposed Purchase
- ERTL Leasehold Termination Area
- ERTL Irrigation Dry-Up Area
- Seasonal Bald Eagle Closure - Nov 1 - July 31
- Bald Eagle Nest 1/2 Mile Buffer
- OSMP Managed Multi-Use Trail
- OSMP Fee Property
- OSMP Conservation Easement

0 0.125 0.25 0.5 Miles

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| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|---|---|---|---|---|---|---|---|
| | **PROJECTED SALES TAX GROWTH** | | | | | | | |
| 1 | 2010-2017 Sales Tax forecast 06/06/2011 | **4.22%** | **3.42%** | **3.30%** | **3.30%** | **3.14%** | | |
| 2 | 2011-2018 Sales Tax forecast 05/08/2012 | **3.90%** | **3.48%** | **3.28%** | **3.29%** | **3.20%** | **3.15%** | **3.15%** |
| 3 | 2013-2019 Sales Tax forecast 04/05/2013 | **2.27%** | **3.50%** | **3.35%** | **3.35%** | **3.25%** | **3.20%** | **3.20%** |
| 4 | **BEGINNING CASH BALANCE** | $18,917,725 | $13,034,089 | $13,244,713 | $15,971,741 | $17,565,600 | $22,061,257 | $27,187,569 |
| | **SOURCES OF FUNDS** | | | | | | | |
| 5 | OS Sales Tax Revenue | $25,406,420 | $26,295,672 | $27,176,894 | $28,088,010 | $29,000,132 | $29,928,588 | $30,887,634 |
| 6 | OS Fund - Investments/Leases/Misc. | $810,909 | $810,909 | $810,909 | $810,909 | $650,000 | $650,000 | $650,000 |
| 7 | Proceeds from RE sale | | | | | | | |
| 8 | Funds from CDOT for Granite acquisition | $1,300,000 | | | | | | |
| 9 | General Fund Transfer for Mountain Parks: | $1,072,174 | $1,103,480 | $1,114,515 | $1,125,660 | $1,136,917 | $1,148,286 | $1,159,769 |
| 10 | General Fund Appropriation for Real Estate Services: | $152,346 | $156,062 | $157,623 | $159,199 | $160,791 | $162,399 | $164,023 |
| 11 | Lottery Fund Appropriation for CIP Purposes: | $343,000 | $343,000 | $355,300 | $355,300 | $355,300 | $355,300 | $355,300 |
| 12 | Unexpended Lottery Funds Carried Over from Previous Year | $144,094 | | | | | | |
| 13 | Grants | $25,500 | | | | | | |
| 14 | Total Annual Sources of Funds: | $29,254,443 | $28,709,123 | $29,615,241 | $30,539,078 | $31,303,139 | $32,244,573 | $33,216,725 |
| 15 | Total Sources of Funds Available: | **$48,172,168** | **$41,743,212** | **$42,859,953** | **$46,510,819** | **$48,868,739** | **$54,305,829** | **$60,404,295** |
| | **USES OF FUNDS** | | | | | | | |
| 16 | Total Debt Service for Bonds & Notes: | $8,667,232 | $6,722,082 | $4,907,955 | $4,786,103 | $4,188,804 | $3,975,045 | $2,094,597 |
| **17** | **BMPA Payment ERTL (2014-2023)** | | **$593,655** | **$593,655** | **$593,655** | **$593,655** | **$593,655** | **$593,655** |
| 18 | Capital Available for Land Acquisitions & Preservation | $3,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 |
| 19 | Unexpended Acquisition Funds Carried Over from Previous Year | $5,571,422 | $0 | $0 | $0 | $0 | $0 | $0 |
| 20 | Capital Available for Land Acquisitions & Preservation: | $8,971,422 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 |
| 21 | RE Acquisition 2013 | $6,825,000 | | | | | | |
| **22** | **ERTL** | **$2,500,000** | | | | | | |
| 23 | Dagle property and water acquisition by 8/14/2014 | $525,000 | | | | | | |
| 24 | Remaining Land Acquisition Capital Available: | ($878,578) | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 | $5,400,000 |
| 25 | Capital for Visitor Infrastructure: | $850,000 | $1,210,000 | $900,000 | $900,000 | $900,000 | $950,000 | $800,000 |
| 26 | Unexpended Visitor Infrastructure Funds Carried Over from Previous Year | $803,712 | | | | | | |
| 27 | Highway 93 Underpass | $1,100,000 | | | | | | |
| 28 | Capital for Water Rights Acquisition: | $200,000 | $200,000 | $200,000 | $200,000 | $200,000 | $200,000 | $200,000 |
| 29 | Unexpended Water Rights Funds Carried Over from Previous Year | $187,817 | | | | | | |
| 30 | South Boulder Creek Flow In Stream Flow: | $100,000 | $100,000 | $150,000 | $2,000,000 | | | |
| 31 | Capital for Mineral Rights Acquistion: | $100,000 | $100,000 | $100,000 | $100,000 | $100,000 | $100,000 | $100,000 |
| 32 | Unexpended Mineral Rights Funds Carried Over from Previous Year | $261,184 | | | | | | |
| 33 | Lottery Capital for MP Restoration: | $343,000 | $343,000 | $355,300 | $355,300 | $355,300 | $355,300 | $355,300 |
| 34 | Unexpended Lottery Funds Carried Over from Previous Year | $144,094 | | | | | | |
| 35 | Total CIP Expenditures: | $13,061,229 | $7,353,000 | $7,105,300 | $8,955,300 | $6,955,300 | $7,005,300 | $6,855,300 |
| 36 | Management Operating Expenditures - OSMP Program: | $11,930,231 | $12,565,300 | $12,959,859 | $13,228,951 | $13,625,820 | $14,034,594 | $14,455,632 |
| 37 | Operating Supplemental and Carryover | $260,087 | | | | | | |
| 38 | Management Operating Expenditures - RE Services: | $152,346 | $156,062 | $157,623 | $159,199 | $160,791 | $162,399 | $164,023 |
| 39 | Sub Total Management Operating Expenditures: | $12,342,664 | $12,721,362 | $13,117,482 | $13,388,150 | $13,786,611 | $14,196,993 | $14,619,655 |
| 40 | Administrative Budget Transfer - Cost Allocation: | $1,066,954 | $1,108,400 | $1,163,820 | $1,222,011 | $1,283,112 | $1,347,267 | $1,414,630 |
| 41 | Total Management Operating Expenditures: | $13,409,618 | $13,829,762 | $14,281,302 | $14,610,161 | $15,069,723 | $15,544,260 | $16,034,285 |
| 42 | Total Uses of Funds: | **$35,138,079** | **$28,498,499** | **$26,888,212** | **$28,945,219** | **$26,807,482** | **$27,118,260** | **$25,577,837** |
| 43 | **ENDING CASH BALANCE:** | $13,034,089 | $13,244,713 | $15,971,741 | $17,565,600 | $22,061,257 | $27,187,569 | $34,826,457 |
| 44 | Less Reserves: | $5,475,000 | $3,500,000 | $2,500,000 | $2,400,000 | $2,000,000 | $2,000,000 | $1,100,000 |
| 45 | Less Reserve for 27th Pay Period | $0 | $45,000 | $95,000 | $145,000 | $195,000 | $0 | $0 |
| 46 | Sick/Vacation/Bonus Reserve | $490,000 | $490,000 | $490,000 | $490,000 | $490,000 | $490,000 | $490,000 |
| 47 | Property and Casualty Reserve | $400,000 | $400,000 | $400,000 | $400,000 | $400,000 | $400,000 | $400,000 |
| 48 | South Boulder Creek Flow Reserve | $1,450,000 | $1,750,000 | $2,000,000 | $0 | $0 | $0 | $0 |
| **49** | **ERTL BMPA Post Sales Taxes Sunsetting Reserve** | | | | **$593,655** | **$1,187,310** | **$1,780,965** | **$2,374,620** |
| 50 | Vehicle Acquisition Reserve | | $150,000 | $300,000 | $300,000 | $300,000 | $300,000 | $300,000 |
| 51 | Facility Maintenance Reserve | | $100,000 | $200,000 | $300,000 | $400,000 | $500,000 | $600,000 |
| 52 | **UNRESTRICTED CASH BALANCE AFTER RESERVES:** | **$5,219,089** | **$6,809,713** | **$9,986,741** | **$12,936,945** | **$17,088,947** | **$21,716,604** | **$29,561,837** |

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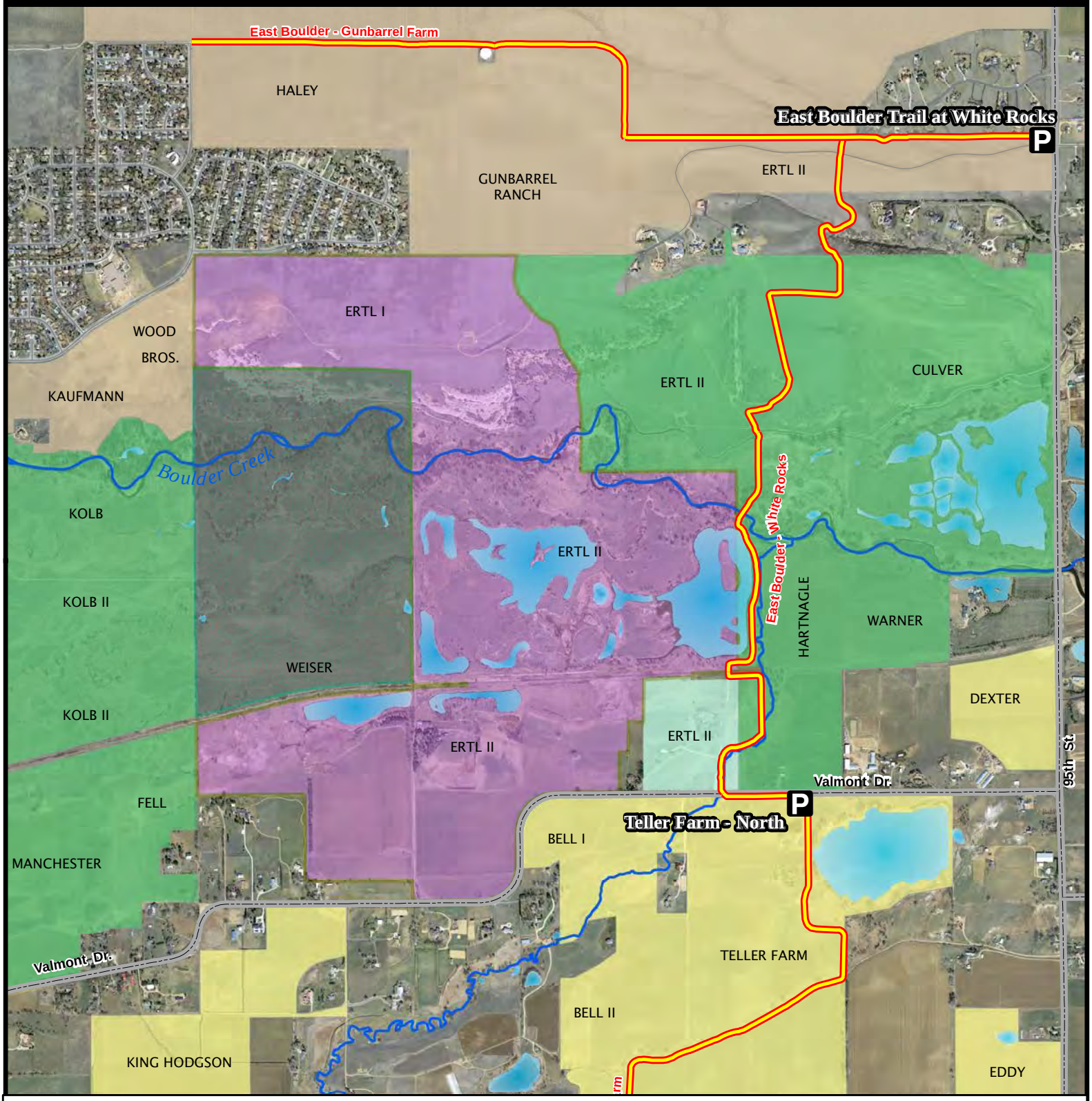
# ATTACHMENT D - City of Boulder Open Space & Mountain Parks

## Proposed Habitat Conservation Area - ERTL

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- Proposed HCA
- OSMP Trailhead with Designated Parking
- OSMP Managed Multi-Use Trail
- OSMP Conservation Easement
- Habitat Conservation Area
- Habitat Conservation Area - Conditional
- Passive Recreation Area
- Agricultural Area

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ORDINANCE NO. 7934

AN ORDINANCE ORDERING THE DESIGNATION AND ADDITION OF APPROXIMATELY 655 ACRES TO THE LOWER BOULDER CREEK HABITAT CONSERVATION AREA UNDER SECTION 8-8-2, “HABITAT CONSERVATION AREA DESIGNATION,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Purpose and Findings.

(A) The purpose of this ordinance is to implement the policies and recommendations approved by the City Council on April 12, 2005 in the Open Space and Mountain Parks Visitor Master Plan. This ordinance is subject to referendum as provided in the City Charter.

(B) Pursuant to Section 8-8-2, “Habitat Conservation Area Designation,” B.R.C. 1981, the city manager has identified and proposed the areas described in this ordinance for restricted public use because those areas would appropriately constitute habitat conservation areas within the city’s open space and mountain parks system based upon the criteria set forth in the Open Space and Mountain Parks Visitor Master Plan.

(C) The city manager has sought and received advice and comments from the Open Space Board of Trustees /on the areas included in this ordinance.

Section 2. Under section 8-8-2, B.R.C. 1981, the property described as ERTL -- Proposed HCA on Exhibit "A" to this ordinance is designated as an addition to the Lower Boulder Creek HCA, as described on Exhibit “B” to this ordinance.

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of September, 2013.

_____
Mayor

Attest:

_____
City Clerk

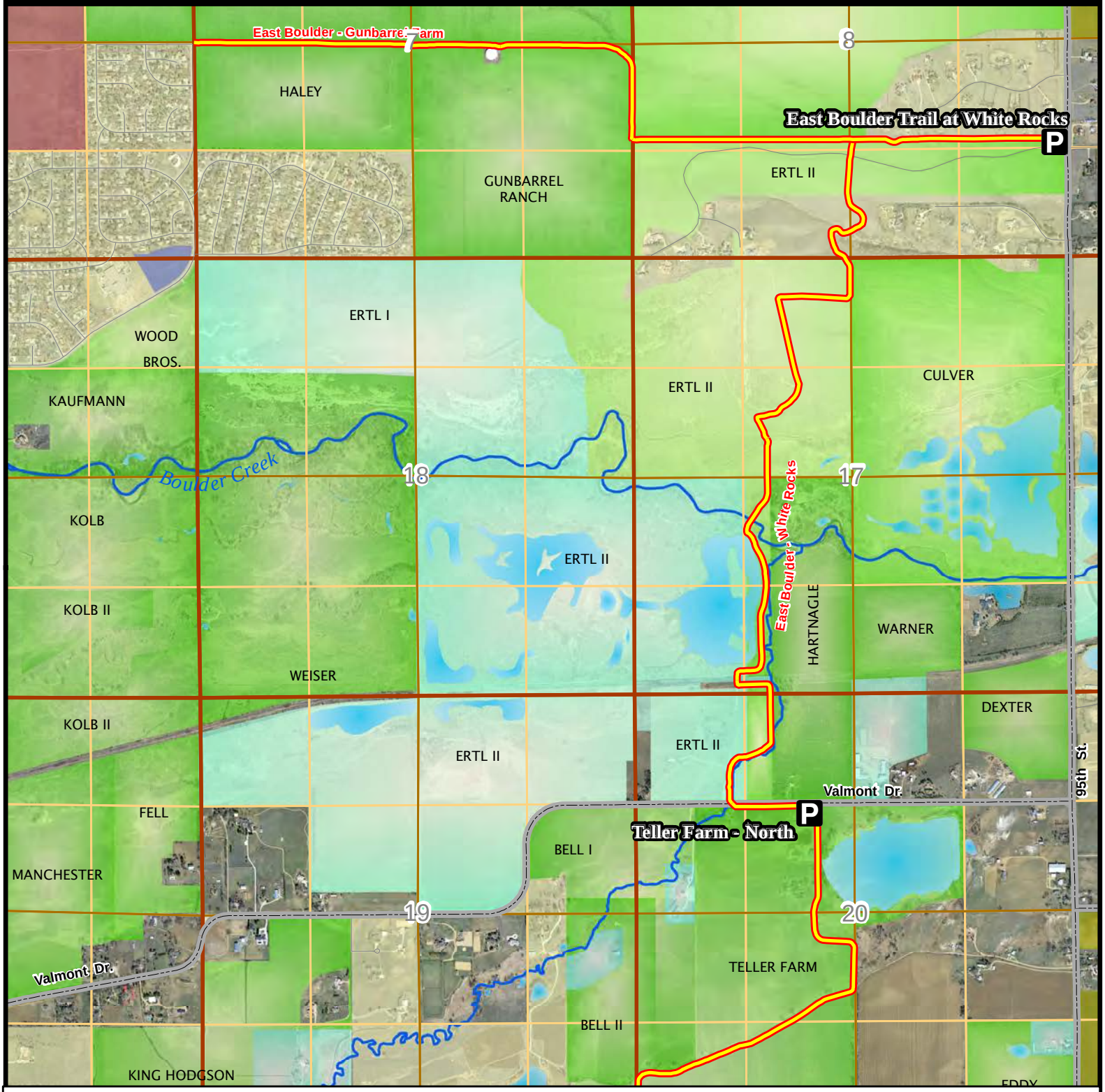
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

# EXHIBIT A - City of Boulder Open Space & Mountain Parks
## Proposed Habitat Conservation Area - ERTL

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The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon.

0 0.125 0.25 0.5 Miles

- P OSMP Trailhead with Designated Parking
- OSMP Managed Multi-Use Trail
- OSMP Ownership
- OSMP Conservation Easement
- City of Boulder Parks/Recreation
- Gunbarrel Open Space
- Boulder County Open Space
- County Zoning
- PLSS Quarter Quarter Sections (~40acres)
- PLSS Quarter Sections (~160 acres)
- PLSS Sections (~640 acres)

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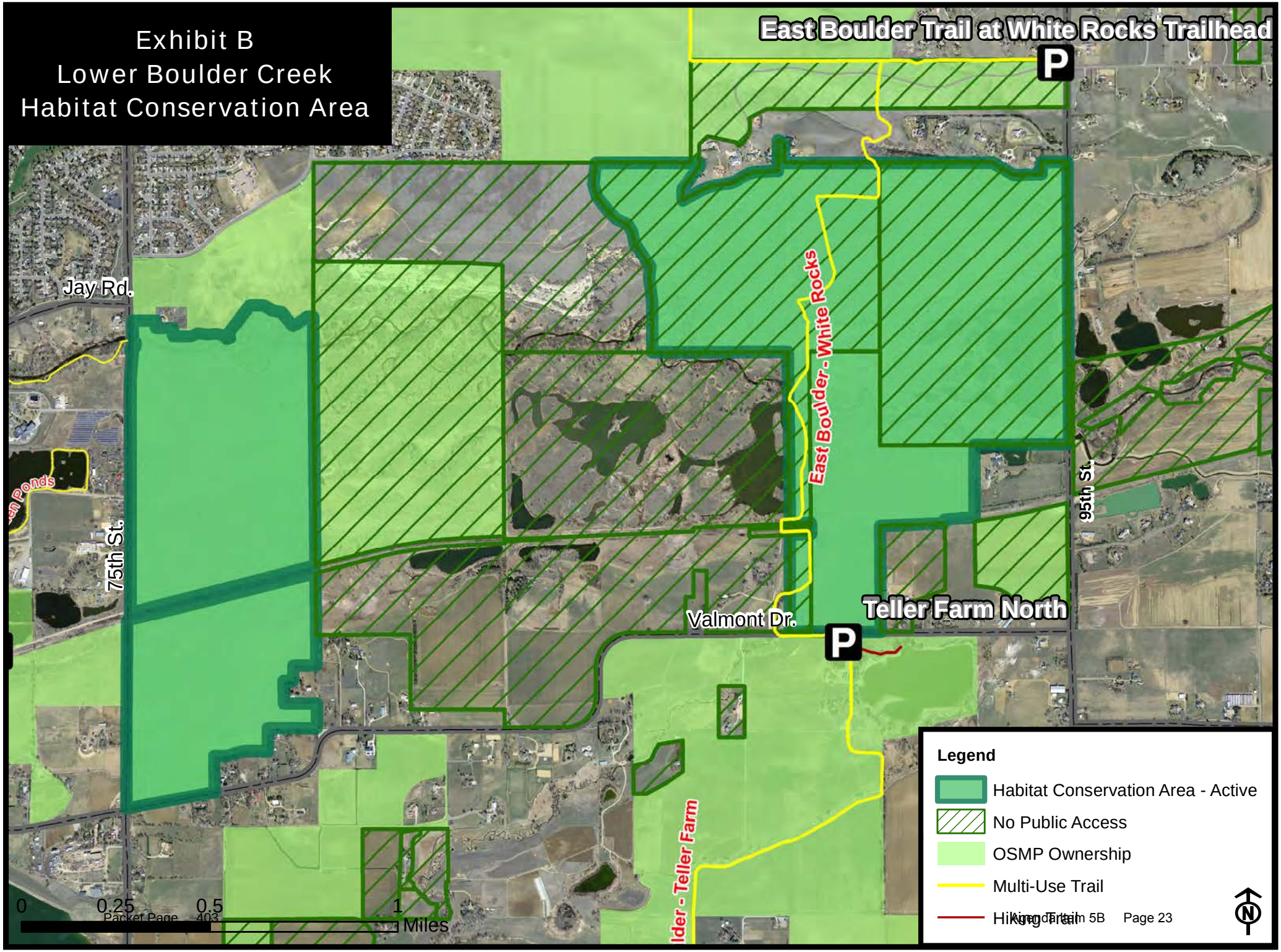
Exhibit B
Lower Boulder Creek
Habitat Conservation Area
East Boulder Trail at White Rocks Trailhead
P
Jay Rd.
75th St.
95th St.
East Boulder - White Rocks
Valmont Dr.
Teller Farm North
P
ldder - Teller Farm
0
0.25
0.5
1
Miles
Legend
Habitat Conservation Area - Active
No Public Access
OSMP Ownership
Multi-Use Trail
Hiking Trail
N

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# ORDINANCE NO. 7933

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, APPROVING AND AUTHORIZING THE ISSUANCE OF A $5,000,000.00 BOULDER MUNICIPAL PROPERTY AUTHORITY'S LEASE PURCHASE REVENUE NOTE, SERIES 2013A, AND APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE PURCHASE AGREEMENT IN CONNECTION THEREWITH, AND SETTING FORTH RELATED DETAILS.

WHEREAS, the City of Boulder, Colorado (the "City"), has been duly organized and is validly existing as a home rule city under the Colorado Constitution and the home rule charter of the City (the "Charter"); and

WHEREAS, the City has previously authorized the creation of a nonprofit corporation as an instrumentality of the City for certain purposes, which corporation is known as "The Boulder Municipal Property Authority" (the "Authority"); and

WHEREAS, the Authority is established for the purpose of facilitating the acquisition of real property, and the construction, installation, and acquisition of public improvements thereon, if any, or maintaining such property as Open Space, and the acquisition of personal property, as may from time to time be determined by the City to be in the best interests of the residents of the City; and

WHEREAS, contingent on the passage of this Ordinance, the Authority intends to issue its $5,000,000.00 Lease Purchase Revenue Note, Series 2013A (the "Note") for the purpose of acquiring certain property described in Exhibit A hereto to be maintained as Open Space (the "Property"); and

WHEREAS, that portion of the Property described in Exhibit A to the Agreement is to be leased by the Authority to the City pursuant to a Lease Purchase Agreement (the "Agreement"), the form of which has been presented to the City Council; and

WHEREAS, it is in the best interest of the City that the Note be issued and that the City enter into the Agreement; and

WHEREAS, the rental payments required to be made by the City under the Agreement are subject to appropriation each year by the City Council, and neither the Note, the Agreement, nor any deed of trust of the Authority in connection with the Note constitute an indebtedness of the City within the meaning of any constitutional, statutory, or home rule charter provision or limitation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, AS FOLLOWS:

Section 1. It is hereby found and determined by the City Council of the City that the issuance of the Note by the Authority and the execution and delivery of the Agreement by the City, for the purpose of acquiring the Property, is necessary and appropriate for the furtherance of the general welfare, order, and security of the City and its residents and property owners.

Section 2. The issuance of the Note by the Authority to acquire the Property is hereby authorized and approved.

Section 3. The Agreement, in substantially the form presented to the City Council, is in all respects hereby authorized and approved by the City Council of the City, and the findings and determinations made therein are hereby incorporated in this Ordinance as findings and determinations of the City Council.

Section 4. The mayor of the City is hereby authorized and directed to execute and deliver the Agreement in substantially the form approved, and the city clerk is hereby authorized to attest and affix the seal of the City on the same.

Section 5. The Note, the Agreement, and any deed of trust of the Authority shall never constitute the debt or indebtedness of the City within the meaning of any constitutional, statutory, or Charter provision or limitation, and shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers, nor may the City ever be called upon to pay any of the principal of or interest on the Note.

Section 6. The approval of the Note and the Agreement and the execution and delivery of the Agreement are hereby found to be a matter exclusively of local concern, and the adoption of this Ordinance and the provisions hereof are in furtherance of the City's powers as a home rule city under Colorado law.

Section 7. All actions not inconsistent with the provisions of this Ordinance heretofore taken by the City Council or officers of the City in furtherance of the undertakings herein described are hereby ratified, approved, and confirmed.

Section 8. All prior acts, orders, or resolutions, or parts thereof, by the City in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

Section 9. If any section, paragraph, clause, or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

Section 10. The council finds that 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 11. The 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 17th day of September, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, AND ORDERED PUBLISHED BY TITLE ONLY THIS _____DAY OF _____, 2013.

_____
Mayor

Attest:

_____
City Clerk

# EXHIBIT A TO ORDINANCE NO. 7933

## LEGAL DESCRIPTION

Outlots: N, ERTL Farm N.U.P.U.D., and Revised Outlot Q1, Replat A ERTL Farm N.U.P.U.D. and the following water rights: 13.0 shares of Jones & Donnelly, 8.0 shares of Green Ditch, .22 shares of Cottonwood No. 2, 6.75 shares of Butte Mill, and 19.5 shares of Andrews-Farwell.

[Attach proofs of publication regarding public hearing prior to Ordinance and adoption of Ordinance afterwards.]

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THE BOULDER MUNICIPAL PROPERTY AUTHORITY,
AS LESSOR

A Colorado Nonprofit Corporation

and

CITY OF BOULDER, COLORADO,
AS LESSEE

A Political Subdivision Duly Organized and Existing
Under the Constitution and Laws
of the State of Colorado
and Its Home Rule Charter

---

# LEASE PURCHASE AGREEMENT

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October 31, 2013

# LEASE PURCHASE AGREEMENT

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# LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT, dated October 31, 2013, together with any amendments hereto made in accordance herewith (this "Lease"), entered into by and between THE BOULDER MUNICIPAL PROPERTY AUTHORITY (the "Lessor"), as the lessor hereunder, a non-profit corporation duly organized, existing, and in good standing under the laws of the State of Colorado, and the CITY OF BOULDER, COLORADO (the "City"), as lessee hereunder, a political subdivision duly organized and existing under the Constitution and laws of the State of Colorado and the home rule charter of the City;

WITNESSETH:

WHEREAS, the City is a duly and regularly created, organized, and existing political subdivision of the State of Colorado, existing as such under and by virtue of the Constitution and laws of the State of Colorado and the home rule charter of the City; and

WHEREAS, the City has determined, and hereby determines, that it is necessary and in the best interests of the City that certain property be acquired by the City and used for open space purposes (the "Leased Property"); and

WHEREAS, for purposes of financing the acquisition of the Leased Property, the City has determined and hereby determines that it is in the best interests of the City that the City and the Lessor enter into this Lease to provide for the acquisition of the Leased Property; and

WHEREAS, the Lessor is a non-profit corporation, duly organized, existing, and in good standing under the laws of the State of Colorado, and is duly qualified to do business in the State of Colorado; and under its articles and bylaws, the Lessor is authorized to own and hold real and personal property and to lease the same as lessor and to act in the manner contemplated herein; and

WHEREAS, the Lessor will issue a note in the principal amount of $5,000,000.00 (the "Note"), payable from payments made under this Lease; and

WHEREAS, the obligation of the City to pay Base Rentals hereunder (as hereinafter defined) shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness of the City within the meaning of any constitutional, statutory, or home rule limitation or requirement concerning the creation of indebtedness, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which this Lease shall be in effect; and

WHEREAS, neither this Lease nor the issuance of the Note shall directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which this Lease shall be in effect; and

WHEREAS, the Lessor desires to lease the Leased Property to the City, and the City desires to lease the Leased Property from the Lessor, pursuant to the terms and conditions and for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

## ARTICLE I

## DEFINITIONS

The following terms will have the meanings specified below unless the context clearly requires otherwise:

"Base Rentals" means the payments payable by the City pursuant to Section 6.2 of this Lease and Exhibit B hereto, during the Original Term and any Renewal Term, which constitute the payments payable by the City for and in consideration of the right to use the Leased Property during such Original Term or Renewal Term.

"City" means the City of Boulder, Colorado, or any successor to its functions.

"City Representative" means the City Manager or any other person at the time designated to act on behalf of the City for the purpose of performing any act under this Lease by a written certificate furnished to the Lessor containing the specimen signature of such person or persons and signed on behalf of the City by the Mayor.

"Event of Default" means one or more events of default as defined in Section 14.1 of this Lease.

"Event of Nonappropriation" means a nonrenewal of this Lease by the City, determined by the failure of the City, for any reason, to budget and appropriate, specifically with respect to this Lease, monies sufficient to pay all Base Rentals, as provided in Section 6.6 of this Lease.

"Force Majeure" means, without limitation, the following: Acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; orders of restraints of any kind of the government of the United States of America, or of the State, or any of their departments, agencies, or officials, or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accidents to machinery, transmission pipes, or canals; or any other cause or event not within the control of the Lessor or the City.

"Independent Counsel" means an attorney duly admitted to the practice of law before the highest court in the State and who is not an employee of the Lessor, the Public Trustee or the City.

"Lease" means this Lease Purchase Agreement and any amendments or supplements hereto, including the Exhibits attached hereto.

"Lease Term" means the Original Term and any Renewal Terms as to which the City may exercise its option to renew this Lease, as further provided under Section 4.1 of this Lease; subject to the terms and provisions of Sections 4.2, 6.1, and 6.6 of this Lease. "Lease Term" refers to the time during which the City is the Lessee under this Lease; provided, however, certain provisions of this Lease survive the termination of the Lease Term, as further provided in Section 4.2 of this Lease.

"Leased Property" means the land to be acquired for open space described in Exhibit A hereto.

"Lessor" means The Boulder Municipal Property Authority, a Colorado nonprofit corporation, acting as Lessor under this Lease or any successor thereto.

"Lessor Representative" means any of the following: (i) the President of the Lessor; (ii) any Vice-President of the Lessor; (iii) the Secretary-Treasurer of the Lessor; or (iv) any other person or persons at the time designated to act on behalf of the Lessor for purposes of performing any act on behalf of the Lessor under this Lease by a written certificate furnished to the City containing the specimen signature of such person or persons and signed on behalf of the Lessor by the President of the Lessor.

"Note Resolution" means the resolution of the Board of Directors of the Lessor authorizing the issuance of the Note.

"Note Holder" means the registered owner of the Note.

"Note" means the $5,000,000.00 Lease Purchase Revenue Note, Series 2013A, issued by the Lessor.

"Original Term" means the portion of the Lease Term which terminates on December 31, 2013.

"Permitted Encumbrances" means, as of any particular time: (i) liens for taxes and assessments not then delinquent, or liens which may remain unpaid pursuant to the provisions of Article VIII and Article IX of this Lease; (ii) this Lease and the Deed of Trust; (iii) utility, access, and other easements and rights of way, restrictions and exceptions other than those set forth in (vi) below which do not, in the opinion of the City Representative, interfere with or impair the Leased Property; (iv) any financing statements filed to perfect security interests pursuant to this Lease or the Deed of Trust; (v) such minor defects, irregularities, encumbrances, and clouds on title as normally exist with respect to property of the general character of the Leased Property and as do not, in the opinion of the City Representative, materially impair title to the Leased Property; and (vi) those encumbrances and exceptions to title set forth in Exhibit C to this Lease.

"Purchase Option Price" means the amount payable, at the option of the City, for the purpose of terminating this Lease and purchasing the Leased Property, which amount shall be equal to such amount as shall be necessary to discharge the Note in the manner provided in the Note Resolution.

"Renewal Term" means any optional Renewal Term of the Lease Term as provided in Article IV of this Lease.

"Revenues" means (i) the Base Rentals and (ii) all other revenues derived from this Lease, if any.

"State" means the State of Colorado.

## ARTICLE II

## REPRESENTATIONS, COVENANTS, AND WARRANTIES

Section 2.1. Representations, Covenants, and Warranties of the City. The City represents, covenants, and warrants for the benefit of the Lessor as follows:

(a) The City is a political subdivision duly organized and existing within the State under the Constitution of the State and the home rule charter of the City. The City is authorized by law to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. The City has duly authorized and approved the execution and delivery of this Lease and other documents related to this transaction.

(b) During the Lease Term, the Leased Property will at all times be used by the City for the purpose of performing its lawful governmental functions (except to the extent that subleasing the Leased Property by the City is permitted by Section 13.2 of this Lease).

(c) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby conflicts with or results in a breach of the terms, conditions, or provisions of any restriction, or any agreement, or instruments to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien or encumbrance whatsoever upon any of the property or assets of the City.

Section 2.2. Representations, Covenants, and Warranties of Lessor. The Lessor represents, covenants, and warrants for the benefit of the City as follows:

(a) The Lessor is a corporation duly organized, existing, and in good standing under the laws of the State, is duly qualified to do business in the State, has all necessary power and authority to purchase the Leased Property and to enter into and perform and observe the covenants and agreements on its part contained in this Lease, is possessed of full power and authority to own and hold real and personal property, and to lease the same as Lessor,

and by proper action has duly authorized the execution and delivery of this Lease.

(b) The Lessor will not pledge or assign the Revenues or any of its other rights under this Lease except to secure the Note, and the Lessor will not mortgage or encumber the Leased Property except for Permitted Encumbrances.

(c) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby conflicts with or results in a breach of the terms, conditions, and provisions of any restriction, or any agreement, or instrument to which the Lessor is now a party or by which the Lessor is bound, or constitutes a default under any of the foregoing and will not conflict with or constitute a violation of any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government, or governmental authority having jurisdiction over the Lessor or its property, and which conflict or violation will have a material adverse effect on the Lessor, the Leased Property, or its operation.

(d) The Lessor acknowledges and recognizes that this Lease will be terminated at the end of the Original Term or any Renewal Term in the event that sufficient funds are not budgeted and appropriated by the City, specifically with respect to this Lease, to continue paying all Base Rentals during the next occurring Renewal Term, and that the acts of budgeting and appropriating funds are legislative acts and, as such, are solely within the discretion of the City.

(e) The Lessor agrees that so long as the Note is outstanding, it will maintain its existence, will continue in good standing in the State, will maintain its principal place of business in the State, will not dissolve, and will not consolidate with or merge into another legal entity or permit one or more other legal entities to consolidate with or merge into it, provided that Lessor may, without violating the agreement contained in this subparagraph, consolidate with or merge into another legal entity, or permit one or more legal entities to consolidate with or merge into it, provided that: (i) the surviving, resulting, or transferee legal entity, as the case may be, shall be a legal entity organized and existing under the laws of one of the states of the United States of America, shall be qualified to do business in the State, shall be a non-profit or proprietary entity then permitted to own and hold real and personal property such as the Leased Property and to lease the same as Lessor, and shall assume in writing all of the obligations of the Lessor under this Lease, in which event the City shall release the Lessor in writing, concurrently with and contingent upon such assumption, from all obligations hereunder; (ii) prior to such consolidation, merger, or transfer, the City will be furnished with the

opinion of nationally recognized municipal bond counsel acceptable to the City to the effect that such transaction will not affect the tax-exempt status of the Note; and (iii) prior to such consolidation, merger, or transfer, the City shall be furnished certificates from the chief executive officer of the Lessor and of the surviving, resulting, or transferee legal entity stating that in the opinion of such officers none of the covenants contained in this Lease or the Note will be violated as a result of such consolidation, merger, or transfer.

(f) There is no litigation or proceeding pending or, to the knowledge of the Lessor, threatened against the Lessor or any other person affecting the right of the Lessor to execute or deliver this Lease, or the Note, or to comply with its obligations under this Lease or the Note. Neither the execution and delivery of this Lease and the Note by the Lessor, nor compliance by the Lessor with its obligations under this Lease and the Note require the approval of any regulatory body, any parent company, or any other entity, which approval has not been obtained.

(g) This Lease constitutes a legal, valid, and binding obligation of the Lessor enforceable in accordance with its terms.

## ARTICLE III

## DEMISING CLAUSE

The Lessor demises and leases the Leased Property to the City, and the City leases the Leased Property from the Lessor, in accordance with the provisions of this Lease, subject only to Permitted Encumbrances, to have and to hold for the Original Term and the Renewal Terms, if any.

## ARTICLE IV

## LEASE TERM

Section 4.1. Commencement of Lease Term; Renewals. The Lease Term shall commence as of October 31, 2013. The Original Term shall terminate on December 31, 2013. The Lease Term may be continued, solely at the option of the City, to the first Renewal Term for an additional year and for each of the additional Renewal Terms thereafter, each of one year in duration, except that the final Renewal Term, if any, shall commence on January 1, 2023, and shall terminate on October 31, 2023.

In the event that the City shall determine, for any reason, not to renew this Lease, the City shall give written notice to such effect to the Lessor not less than 30 days

prior to the end of the then current Original or Renewal Term; provided, however, that a failure to give such notice shall not constitute an Event of Default, nor prevent the City from declining to renew this Lease, nor result in any liability on the part of the City.

The option of the City to renew or not to renew this Lease shall be conclusively determined by whether or not the City Council has, on or before the December 31, immediately preceding the commencement of any Renewal Term, budgeted and appropriated, specifically with respect to this Lease, monies sufficient to pay all the Base Rentals for such ensuing Renewal Term, all as further provided in Section 6.6 of this Lease.

It is the intention of the parties hereto that the decision to renew or not to renew this Lease shall be made solely by the City Council and not by any other City officer, and the City Manager of the City (or any other officer at any time charged with the responsibility of formulating budget proposals) is hereby directed to include in the budget proposals submitted to the City Council, in any year in which this Lease shall be in effect, items for all payments required for the ensuing Renewal Term under this Lease. The City shall in any event, whether or not this Lease is to be renewed, furnish the Lessor with copies of its annual budget promptly after the budget is adopted.

The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Base Rentals shall be as provided in Exhibit B to this Lease.

Section 4.2. Termination of Lease Term. The Lease Term shall terminate upon the earliest of any of the following events:

(a) The expiration of the Original Term or any Renewal Term during which there occurs an Event of Nonappropriation (which is not thereafter waived) pursuant to Article VI of this Lease;

(b) The purchase by the City of the Leased Property as provided in Article XII of this Lease;

(c) Payment in full of the Note;

(d) An Event of Default and termination of the Lease Term under Article XIV of this Lease; or

(e) October 31, 2023, which date constitutes the last day of the final Renewal Term of this Lease, or such later date as all Base Rentals required hereunder shall be paid.

Termination of the Lease Term shall terminate all obligations of the City under this Lease and shall terminate the rights of the City to possession of the Leased Property under this Lease (except to the extent of any conveyance pursuant to Article XII of this Lease).

## ARTICLE V

## ENJOYMENT OF LEASED PROPERTY

The Lessor hereby covenants that the City shall during the Lease Term peaceably and quietly have and hold and enjoy the Leased Property without suit, trouble, or hindrance from the Lessor, except as expressly required or permitted by this Lease or the Indenture. The Lessor shall not interfere with the quiet use and enjoyment of the Leased Property by the City during the Lease Term, so long as the Lease Term shall be in effect. The Lessor shall, at the request of the City and at the cost of the City, join and cooperate fully in any legal action in which the City asserts its right to such possession and enjoyment, or which involves the imposition of any taxes or other governmental charges on or in connection with the Leased Property. In addition, the City may, at its own expense, join in any legal action affecting its possession and enjoyment of the Leased Property and shall be joined (to the extent legally possible and at the expense of the City) in any action affecting its liabilities hereunder.

Equitable title to the Leased Property shall be deemed to vest in the City, subject to the rights of the Lessor under this Lease and the Note Holder under the Deed of Trust, and the City's interest created hereby in the Leased Property shall be prior to any other interest granted or deemed granted by law by the Lessor.

## ARTICLE VI

## PAYMENTS BY THE CITY

Section 6.1. Payments to Constitute Currently Budgeted Expenditures of the City. The City and the Lessor acknowledge and agree that the Base Rentals hereunder shall constitute currently budgeted expenditures of the City. The obligations of the City under this Lease shall be from year to year only (as further provided in Sections 4.1, 4.2, 6.2, and 6.6 hereof) and shall not constitute a mandatory payment obligation of the City in any fiscal year beyond a fiscal year during which this Lease shall be in effect.

No provision of this Lease shall be construed or interpreted as creating a general obligation or other indebtedness of the City within the meaning of any constitutional, statutory, or home rule debt limitation. No provision of this Lease shall be construed or interpreted as creating a delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Section 1 or 2 of Article XI of the Constitution of the State. Neither this Lease

nor the issuance of the Note shall directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year in which this Lease shall be in effect. The City shall be under no obligation to exercise its option to purchase the Leased Property. No provision of this Lease shall be construed to pledge or to create a lien on any class or source of City monies, nor shall any provision of this Lease restrict the future issuance of any City bonds or obligations payable from any class or source of City monies.

Section 6.2. Base Rentals. The City shall pay Base Rentals directly to the Lessor during the Original Term and any Renewal Terms, on the due dates set forth in Exhibit B to this Lease. The Base Rentals during the Original Term and any Renewal Terms shall be in the amounts in the "Total Base Rentals" columns, as set forth in Exhibit B to this Lease. The initial Base Rentals, if any, plus other good and valuable consideration to be paid by the City on the date hereof, shall be in consideration for the use of the Leased Property by the City from the time of delivery of this Lease until December 31, 2013. Thereafter, Base Rentals due on any October 31 shall be in consideration for the use of the Leased Property by the City from the immediately preceding January 1 to the immediately following December 31.

Section 6.3. Disposition of Base Rentals. Upon receipt by the Lessor of each payment of Base Rentals, the Lessor shall apply the amount of such Base Rentals to payment of the Note.

Section 6.4. Manner of Payment. The Base Rentals and, if paid, the Purchase Option Price, shall be paid in lawful monies of the United States of America to the Lessor at its principal office. The obligation of the City to pay the Base Rentals required under this Article and other sections hereof, during the Lease Term, shall be absolute and unconditional, and payment of the Base Rentals shall not be abated through accident or unforeseen circumstances. Notwithstanding any dispute between the City and the Lessor, the City shall, during the Lease Term, make all payments of Base Rentals when due and shall not withhold any Base Rentals pending final resolution of such dispute, nor shall the City assert any right of set-off or counterclaim against its obligation to make such payments required hereunder. No action or inaction on the part of the Lessor shall affect the City's obligation to pay all Base Rentals during the Lease Term.

Section 6.5. Expression of the City's Need for the Leased Property: Determinations as to Fair Market Value and Fair Purchase Price. The City hereby declares its current need for the Leased Property. It is hereby declared to be the present intention and expectation of the City that this Lease will be renewed annually until title to the Leased Property is acquired by the City pursuant to this Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the City. The City and the Lessor hereby agree and determine that based upon recent appraisals of the Leased Property, the price to be paid for the Leased Property represents the fair market value of the Leased Property; that the Base

Rentals hereunder during the Original Term and any Renewal Term represent the fair value of the use of the Leased Property; and that the Purchase Option Price represents the fair purchase price of the Leased Property. The City hereby determines that the Base Rentals do not exceed a reasonable amount so as to place the City under an economic or practical compulsion to renew this Lease or to exercise its option to purchase the Leased Property hereunder. In making such determinations, the City and the Lessor have given consideration to the current appraised value of the Leased Property, the uses and purposes for which the Leased Property will be employed by the City, the benefit to the City by reason of the acquisition of the Leased Property, and the use and occupancy of the Leased Property pursuant to the terms and provisions of this Lease, the option of the City to purchase the Leased Property, and the expected eventual vesting of title to the Leased Property in the City. The City hereby determines and declares that the acquisition of the Leased Property and the leasing of the Leased Property pursuant to this Lease will result in a Leased Property of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition of the Leased Property were performed by the City other than pursuant to this Lease. The City hereby determines and declares that the period during which the City has an option to purchase the Leased Property (i.e., the maximum term of this Lease, including all Renewal Terms) does not exceed the useful life of the Leased Property.

Section 6.6. Nonappropriation. In the event that the City Council shall not budget and appropriate, specifically with respect to this Lease, on or before December 31 of each year, monies sufficient to pay all Base Rentals coming due for the next ensuing Renewal Term, an Event of Nonappropriation shall be deemed to have occurred.

If an Event of Nonappropriation occurs, the City shall not be obligated to make payment of the Base Rentals or any other payments provided for herein which accrue after the last day of the Original or Renewal Term during which such Event of Nonappropriation occurs; provided, however, that, subject to the limitations of Section 14.3 hereof, the City shall continue to be liable for Base Rentals allocable to any period during which the City shall continue to occupy the Leased Property.

The City shall in all events vacate the Leased Property by the expiration of the Original or Renewal Term during which an Event of Nonappropriation occurs.

## ARTICLE VII

## ACQUISITION OF THE LEASED PROPERTY

The Lessor shall acquire the Leased Property as of the date of this Lease. Title to the Leased Property shall be held by the Lessor, subject only to Permitted Encumbrances and as otherwise provided in Article V hereof.

## ARTICLE VIII

## TITLE TO THE LEASED PROPERTY
## LIMITATIONS ON ENCUMBRANCES

Section 8.1. Title to the Leased Property. Title to the Leased Property and any and all permanent additions and modifications to or replacements of any portion of the Leased Property shall be held in the name of the Lessor, subject only to Permitted Encumbrances and as otherwise provided in Article V hereof, until foreclosed on or conveyed as provided in Article XII of this Lease, notwithstanding: (i) the occurrence of an Event of Nonappropriation as provided in Section 6.6 of this Lease or one or more Events of Default as defined in Section 14.1 of this Lease; (ii) the occurrence of any event of condemnation as provided in Article X of this Lease; or (iii) the violation by the Lessor of any provision of this Lease.

The City shall have no right, title, or interest in the Leased Property or any additions and modifications to or replacements of any portion of the Leased Property, except as expressly set forth in this Lease.

Section 8.2. No Encumbrance, Mortgage, or Pledge of Leased Property. The City shall not permit any lien to be perfected or remain against the Leased Property. Neither the Lessor nor the City shall directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Leased Property, except Permitted Encumbrances. The City shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, or claim not excepted above which it shall have created, incurred, or suffered to exist. The Lessor shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, or claim not excepted above which it shall have created or incurred.

# ARTICLE IX

## MAINTENANCE, TAXES, INSURANCE, AND OTHER CHARGES

Section 9.1. Maintenance of the Leased Property by the City. The City agrees that, at all times during the Lease Term, the City will maintain, preserve, and keep the Leased Property or cause the Leased Property to be maintained, preserved, and kept, with the appurtenances and every part and parcel thereof, in good repair, working order, and condition. The Lessor shall have no responsibility in any of these matters.

Section 9.2. Taxes, Other Governmental Charges, and Utility Charges. In the event that the Leased Property or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body, the City shall, during the Lease Term, pay the amount of all such taxes, assessments, and governmental charges. With respect to special assessments or other governmental charges which may be lawfully paid in installments over a period of years, the City shall be obligated to provide only for such installments as are required to be paid during the Original or any Renewal Term. The City shall not allow any liens for taxes, assessments, or governmental charges to exist with respect to the Leased Property or any portion thereof (including, without limitation, any taxes levied upon the Leased Property or any portion thereof which, if not paid, will become a charge on the rentals and receipts from the Leased Property or any portion thereof or any interest therein, including the interest of the Lessor), or the rentals and revenues derived therefrom or hereunder.

The City may, at the expense and in the name of the City, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Lessor shall notify the City that, in the opinion of Independent Counsel, by nonpayment of any such items, the security afforded pursuant to the Deed of Trust of the Lessor will be materially endangered or the Leased Property or any portion thereof will be subject to loss or forfeiture, or the Lessor will be subject to liability, in which event such taxes, assessments, utility or other charges shall be paid forthwith (provided, however, that such payment shall not constitute a waiver of the right to continue to contest such taxes, assessments, utility or other charges).

Section 9.3. Provisions Regarding Casualty, Public Liability, and Property Damage Insurance. The City shall cause casualty and property damage insurance to be carried and maintained with respect to the Leased Property in an amount deemed necessary and reasonable by the City.

## ARTICLE X

## CONDEMNATION

If the Leased Property shall be taken by the exercise of the power of eminent domain, the City shall be obligated to continue to pay Base Rentals hereunder for the then current term of this Lease (i.e., the Original Term or Renewal Term, as the case may be). Any condemnation award shall be applied first to Base Rentals when due, and any balance shall be paid to the Lessor to the extent that this Lease has been terminated.

## ARTICLE XI

## DISCLAIMER OF WARRANTIES; OTHER COVENANTS

Section 11.1. Disclaimer of Warranties. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY. The City hereby acknowledges and declares that the City is solely responsible for the Leased Property and for the operation and maintenance of the Leased Property during the Lease Term, and that the Lessor has no responsibility therefor. In no event shall the Lessor be liable for any direct or indirect, incidental, special, or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning, or use by the City of any item, product or service provided for herein.

Section 11.2. Further Assurances and Corrective Instruments. The Lessor and the City agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be, or for otherwise carrying out the intention hereof.

Section 11.3. Lessor and City Representatives. Whenever under the provisions hereof the approval of the Lessor or the City is required to take some action at the request of the other, unless otherwise provided, such approval or such request shall be given for the Lessor by the Lessor Representative, and for the City by the City Representative, and the Lessor and the City shall be authorized to act on any such approval or request.

Section 11.4. Compliance with Requirements. During the Lease Term, the City and the Lessor shall observe and comply promptly with all current and future orders of all courts having jurisdiction over the Leased Property or any portion thereof, and all

current and future requirements of all insurance companies writing policies covering the Leased Property or any portion thereof.

Section 11.5. City Acknowledgment of Note. The City approves, acknowledges, directs, and agrees to the issuance and sale of the Note.

Section 11.6. Tax Covenants. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary or desirable in order to assure that interest paid by the Authority on the Note shall, for purposes of federal income taxation, not be includable in gross income under the Internal Revenue Code of 1986, as amended (the "Code"), or any other valid provision of law. In particular, but without limitation, the City further represents, warrants, and covenants that the Leased Property will not be used in a manner which will cause the Note to be considered a "private activity bond" within the meaning of the Code.

## ARTICLE XII

## CONVEYANCE OF THE LEASED PROPERTY

Section 12.1. Conveyance of the Leased Property. The Lessor shall transfer and convey to the City the Leased Property in the manner provided for in Section 12.2 of this Lease; provided, however, that prior to such transfer and conveyance, either:

(a) The City shall have paid the then applicable Purchase Option Price; or

(b) The City shall have paid all Base Rentals set forth in Exhibit B hereto, for the Original Term and all Renewal Terms; or

(c) The Note shall have been paid in full.

The City is hereby granted the option to terminate the Lease Term and to purchase the Leased Property upon payment by the City of the then applicable Purchase Option Price.

Section 12.2. Manner of Conveyance. At the closing of any purchase or other conveyance of the Leased Property pursuant to Section 12.1 of this Lease, the Lessor shall execute and deliver to the City all necessary documents assigning, transferring, and conveying good and marketable title to the Leased Property, as the Leased Property then exists, subject to the following: (i) Permitted Encumbrances, other than this Lease and the Deed of Trust and any Financing Statements, indicating the City or the Lessor as the debtor and the Lessor or the Public Trustee as secured party, filed to perfect any security interests granted under the Lease or the Deed of Trust; (ii) all liens, encumbrances, and restrictions created or suffered to exist by the Lessor as required or permitted by this Lease, or the Deed of Trust, or

arising as a result of any action taken, or omitted to be taken, by the Lessor as required or permitted by this Lease or the Deed of Trust; (iii) any lien or encumbrance created by action of the City; and
(iv) those liens and encumbrances (if any) to which title to the Leased Property was subject when conveyed to the Lessor.

## ARTICLE XIII

## PLEDGE, SUBLEASING, INDEMNIFICATION, MORTGAGING, AND SELLING

Section 13.1. Pledge. The parties hereto agree that the Lessor shall be entitled to pledge the Base Rentals and its remedies hereunder as security for the Note.

Section 13.2. Assignment and Subleasing by the City. This Lease may not be assigned by the City for any reason. However, the Leased Property may be subleased, as a whole or in part, by the City without the necessity of obtaining the consent of the Lessor, subject, however, to each of the following conditions:

(a) The Leased Property may be subleased, (i) in whole or in part, only to an agency, or department, or political subdivision of the State, or (ii) to another entity or entities, if, in the opinion of nationally recognized bond counsel acceptable to the Lessor, such sublease will not impair the exemption from federal income taxation of the interest on the Note;

(b) This Lease and the obligations of the City hereunder shall, at all times during the Original and any Renewal Terms, remain obligations of the City, and the City shall maintain its direct relationships with the Lessor, notwithstanding any sublease;

(c) The City shall furnish or cause to be furnished to the Lessor a copy of any sublease agreement; and

(d) No sublease by the City shall cause the Leased Property to be used for any purpose which would adversely affect the exemption from federal income taxation of any interest on the Note, or which would violate the Constitution, statutes, or laws of the State, or the home rule charter of the City.

Section 13.3. No Negligence. The City hereby covenants not to act negligently in connection with the Leased Property.

Section 13.4. Restriction on Mortgage or Sale of Leased Property. The City and the Lessor agree that, except for: (i) the pledge by the Lessor of this Lease as security for the Note and mortgaging of the Leased Property pursuant to the Deed of Trust, which

are hereby authorized and acknowledged; (ii) any exercise by the Public Trustee or the Lessor of the remedies afforded by this Lease; (iii) the right of the City to sublease all or a portion of the Leased Property pursuant to Section 13.2 of this Lease; and
(iv) any conveyance to the City pursuant to Article XII of this Lease; neither the Lessor nor the City will mortgage, sell, assign, transfer, or convey the Leased Property or any portion thereof during the Lease Term.

## ARTICLE XIV

## EVENTS OF DEFAULT AND REMEDIES

Section 14.1. Events of Default Defined. Any one of the following shall be "Events of Default" under this Lease:

(a) Failure by the City to pay any Base Rentals during the Lease Term for a period of 25 days after written notice specifying such failure and requesting that it be remedied, shall be received by the City from the Lessor; or

(b) Failure by the City to vacate the Leased Property by the expiration of the Original or Renewal Term during which an Event of Nonappropriation occurs; or

(c) Failure by the City to observe and perform any covenant, condition, or agreement on its part to be observed or performed, other than as referred to in (a) or (b), for a period of 45 days after written notice, specifying such failure and requesting that it be remedied, shall be given to the City by the Lessor, unless the Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the Lessor shall not withhold its consent to an extension of such time, if corrective action shall be instituted by the City within the applicable period and diligently pursued until the default is corrected.

The foregoing provisions of this Section are subject to the following limitations: (i) the City shall be obligated to pay the Base Rentals only during the Lease Term, except as otherwise expressly provided in this Lease; and (ii) if, by reason of Force Majeure, the City shall be unable, in whole or in part, to carry out any agreement on its part herein contained, other than the obligations on the part of the City contained in Article VI of this Lease, the City shall not be deemed in default during the continuance of such inability. The City agrees, however, to remedy, as promptly as legally and reasonably possible, the cause or causes preventing the City from carrying out its agreement; provided that the settlement

of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of the City.

Section 14.2. Remedies on Default. Whenever any Event of Default referred to in Section 14.1 of this Lease shall have happened and be continuing, the Lessor may terminate the Lease Term and may give notice to the City to vacate the Leased Property within 15 days from the date of such notice. After the occurrence of an Event of Default, the Lessor shall be entitled to take one or any combination of the following additional remedial steps:

(a) Temporarily lease the Leased Property or any portion thereof, pending sale of the Leased Property.

(b) Recover from the City:

(i) the portion of Base Rentals which would otherwise have been payable hereunder, allocable to any period in which the City continues to occupy the Leased Property; and

(ii) Base Rentals which would otherwise have been payable by the City hereunder during the remainder, after the City vacates the Leased Property, of the Original or Renewal Term in which such Event of Default occurs; provided, however, that the Lessor shall be obligated to the City to use its best efforts to lease or sublease the Leased Property for the remainder of such Original or Renewal Term, as provided in paragraph (a) of this Section and the Net Proceeds of such leasing shall be offset against the amount recoverable from the City under this paragraph (ii).

(c) Take whatever action at law or in equity may appear necessary or desirable to enforce its right in and to the Leased Property under this Lease.

Section 14.3. Limitations on Remedies. A judgment requiring a payment of money may be entered against the City by reason of an Event of Default only as to the City's liabilities described in paragraph (b) of Section 14.2 of this Lease. A judgment requiring a payment of money may be entered against the City by reason of an Event of Nonappropriation only to the extent that the City fails to vacate the Leased Property as required by Section 6.6 of this Lease, and only as to the liabilities described in paragraph (b) (i) of Section 14.2 of this Lease. Notwithstanding paragraph (b)(ii) of Section 14.2 of this Lease, any Event of Default consisting of failure by the City to vacate the Leased Property by the expiration of the Original or Renewal Term during which an Event of Nonappropriation occurs shall not result in any liability for Base Rentals allocable to any period other than the period in which the City continues to occupy the Leased Property.

Section 14.4. No Remedy Exclusive. Subject to Section 14.3 hereof, no remedy herein conferred upon or reserved to the Lessor is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, and the same may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 14.5. Waivers. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 14.6. Agreement to Pay Attorneys' Fees and Expenses. In the event that either party hereto shall default under any of the provisions hereof and the nondefaulting party shall employ attorneys or incur other expenses for the collection of Base Rentals, or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it shall pay on demand therefor to the nondefaulting party the fees of such attorneys and such other expenses so incurred by the nondefaulting party, to the extent that such attorneys' fees and expenses may be determined to be reasonable by a court of competent jurisdiction.

Section 14.7. Waiver of Appraisement, Valuation, Stay, Extension, and Redemption Laws. The Lessor and the City agree, to the extent permitted by law, that in the case of a termination of the Lease Term by reason of an Event of Nonappropriation or an Event of Default, neither the Lessor, nor the City, nor any one claiming through or under either of them shall or will set up claim or seek to take advantage of any appraisement, valuation, stay, extension, or redemption laws now or hereafter in force in order to prevent or hinder the enforcement of this Lease, the Note or the Deed of Trust; and the Lessor and the City, for themselves and all who may at any time claim through or under either of them, each hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws.

## ARTICLE XV

## MISCELLANEOUS

Section 15.1. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, as follows: If to the City: Municipal Building, 1777 Broadway, Boulder, CO 80302, Attention: City Attorney; and if to the Lessor: Municipal Building, 1777 Broadway, Boulder, CO 80302,

Attention: City Attorney. The City and the Lessor may, by written notice, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent.

Section 15.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Lessor and the City and their respective successors and assigns, subject, however, to the limitations contained in Article XIII of this Lease.

Section 15.3. Amendments, Changes, and Modifications. Except as otherwise provided in this Lease, subsequent to the delivery of the Note and prior to their payment in full, this Lease may not be effectively amended, changed, modified, or altered without the written consent of the Note Holder.

Section 15.4. Net Lease. This Lease shall be deemed and construed to be a "net lease", and the City shall pay absolutely net during the Lease Term, the Base Rentals and all other payments required hereunder, free of any deductions, and without abatement, deduction, or setoff (other than credits against Base Rentals expressly provided for in this Lease).

Section 15.5. Payments Due on Holidays. If the date for making any payment, or the last day for performance of any act, or the exercising of any right, as provided in this Lease, shall be a legal holiday or a day on which banking institutions in the city in which the principal office of the Lessor is located are authorized by law to remain closed, such payment may be made, or act performed, or right exercised on the next succeeding day that is not a legal holiday or a day on which such banking institutions are not authorized by law to remain closed with the same force and effect as if done on the nominal date provided in this Lease.

Section 15.6. Severability. In the event that any provision of this Lease, other than the requirement of the City to pay Base Rentals and the requirement of the Lessor to provide quiet enjoyment of the Leased Property and to convey the Leased Property to the City under the conditions set forth in Article XII of this Lease, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 15.7. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15.8. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 15.9. Captions. The captions of headings herein are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of the Lease.

IN WITNESS WHEREOF, the Lessor has executed this Lease in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers; and the City has caused this Lease to be executed in its name and the seal of the City affixed and attested by duly authorized officers thereof. All of the above are effective as of the date first above written.

[SEAL]

THE BOULDER MUNICIPAL PROPERTY AUTHORITY, a Colorado non-profit corporation, as the Lessor

By: _____
Matt Appelbaum, President

ATTEST:

By: _____
Bob Eichem, Secretary-Treasurer

[SEAL]

CITY OF BOULDER, COLORADO, a political subdivision, as Lessee

By: _____
Matt Appelbaum, Mayor

ATTEST:

By: _____
City Clerk on behalf of
Director of Finance and Record

## EXHIBIT A to Lease Purchase Agreement

## LEGAL DESCRIPTION

Outlots: N, ERTL Farm N.U.P.U.D., and Revised Outlot Q1, Replat A ERTL Farm N.U.P.U.D. and the following water rights: 13.0 shares of Jones & Donnelly, 8.0 shares of Green Ditch, .22 shares of Cottonwood No. 2, 6.75 shares of Butte Mill, and 19.5 shares of Andrews-Farwell.

# EXHIBIT B to Lease Purchase Agreement

## SCHEDULE OF BASE RENTALS

| October 31st Year | Total Base Rental |
|---|---|
| 2014 | 593,655.37 |
| 2015 | 593,655.37 |
| 2016 | 593,655.37 |
| 2017 | 593,655.37 |
| 2018 | 593,655.37 |
| 2019 | 593,655.37 |
| 2020 | 593,655.37 |
| 2021 | 593,655.37 |
| 2022 | 593,655.37 |
| 2023 | 593,655.37 |

# EXHIBIT C to Lease Purchase Agreement

1. Rights and claims of parties in possession not shown in the public records.

2. Easements or claims of easements not shown by the public records.

3. Discrepancies, conflicts and boundary lines, shortage in area, encroachments, and any facts in which a correct survey and inspection of the premises would disclose and which are not shown by public records.

4. Any lien or right to a lien, for services, labor or material hereto or hereafter furnished, imposed by law and not shown by the public records.

5. Defects, liens, encumbrances, adverse claims or other matters, if any, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

   Note: If Guardian Title Agency, LLC conducts the closing, this item will be deleted from the final policy

6. Water rights, claims or title to water, together with all rights, privileges, and immunities relating thereto, whether or not they are shown by the Public Records.

7. TAXES FOR THE 2013, AND SUBSEQUENT YEARS, A LIEN NOT YET DUE AND PAYABLE

8. RESERVATION BY THE UNION PACIFIC RAILROAD COMPANY, AND ITS ASSIGNS, ALL COAL THAT MAY BE UNDERNEATH THE SURFACE OF THE LAND HEREIN DESCRIBED; ALSO SUCH RIGHT OF WAY AND OTHER GROUNDS AS MAY BE NECESSARY FOR THE PROPER WORKING OF ANY COAL MINES THAT MAY BE DEVELOPED UPON SAID PREMISES AND FOR THE TRANSPIRATION OF THE COAL FROM THE SAME AS DESCRIBED IN DEED RECORDED AUGUST 10, 1903 IN BOOK 251 AT PAGE 397 AND ANY INTERESTS THEREIN, OR ASSIGNMENTS THEREOF.

9. UNDIVIDED 100% INTEREST IN ALL SAND AND GRAVEL AS RESERVED IN THE DEED RECORDED APRIL 24, 1974 AT RECEPTION NO. 100684 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTERESTS THEREIN.

10. AN OIL AND GAS LEASE, DATED APRIL 21, 1975 AND RECORDED APRIL 29, 1975 AT RECEPTION NO. 136084, AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN.

11. UNDIVIDED ONE HALF% INTEREST IN ALL SAND AND GRAVEL AS RESERVED IN THE DEED RECORDED JANUARY 11, 1977 AT RECEPTION NO. 205358 AND 205359 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTERESTS THEREIN.

12. AN OIL AND GAS LEASE, DATED MARCH 23, 1977 AND RECORDED APRIL 22, 1977 AT RECEPTION NO. 1717142, AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN.

13. UNDIVIDED 100% INTEREST IN ALL SAND AND GRAVEL AS RESERVED IN THE DEED RECORDED JANUARY 3, 1978 AT RECEPTION NO. 258892 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTERESTS THEREIN.

14. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRAVEL MINING LEASE RECORDED SEPTEMBER 28, 1984 AT RECEPTION NO. 649329.

15. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE CONSERVATION EASEMENT RECORDED OCTOBER 29, 1984 AT RECEPTION NO. 654331 AND AMENDMENT RECORDED MARCH 9, 1999 AT RECEPTION NO. 1914607.

CONTINUED

16. COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, RESERVATIONS AND LIEN RIGHTS (IF ANY) WHICH DO NOT INCLUDE A FORFEITURE OR REVERTER CLAUSE, DELETING RESTRICTIONS, IF ANY, BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILY STATUS OR NATIONAL ORIGIN SET FORTH IN THE DECLARATION RECORDED OCTOBER 29, 1984 AT RECEPTION NO. 654336; AMENDMENTS RECORDED MAY 13, 1985 AT RECEPTION NO. 8787 AND OCTOBER 9, 1986 AT RECEPTION NO. 795899; SUPPLEMENT RECORDED MARCH 9, 1999 AT RECEPTION NO. 1914611 AND ANY AND ALL AMENDMENTS, SUPPLEMENTS AND ANNEXATIONS THERETO.

17. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE CONSERVATION EASEMENT RECORDED NOVEMBER 7, 1984 AT RECEPTION NO. 656284.

18. EASEMENTS, NOTES, TERMS, CONDITIONS, PROVISIONS, RESTRICTIONS, COVENANTS, AGREEMENTS AND OBLIGATIONS AS SHOWN ON THE PLAT OF ERTL FARM N.U.P.U.D. RECORDED OCTOBER 29, 1984 AT RECEPTION NO. 00654328 AND ON THE PLAT OF REPLAT A, ERTL FARM N.U.P.U.D. RECORDED MARCH 9, 1999 AT RECEPTION NO. 1914604.

19. RIGHT OF WAY FOR RAILROAD OVER AND ACROSS SUBJECT PROPERTY AS EVIDENCED IN INSTRUMENT RECORDED MAY 31, 1985 AT RECEPTION NO. 691445.

20. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE INSTRUMENT RECORDED MAY 31, 1985 AT RECEPTION NO. 691445.

21. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF DEVELOPMENT RIGHTS RECORDED NOVEMBER 7, 1984 AT RECEPTION NO. 00656285 AND AMENDMENT RECORDED APRIL 23, 1986 AT RECEPTION NO. 754591.

22. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE EASEMENT RECORDED OCTOBER 29, 1984 AT RECEPTION NO. 00654332 AND 00654333.

23. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE AGREEMENT RECORDED NOVEMBER 7, 1984 AT RECEPTION NO. 00656289.

24. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE EASEMENT AGREEMENT RECORDED NOVEMBER 7, 1984 AT RECEPTION NO. 656290.

25. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE CONSERVATION EASEMENT RECORDED OCTOBER 29, 1982 AT RECEPTION NO. 517818 AND AMENDMENT RECORDED NOVEMBER 7, 1984 AT RECEPTION NO. 656291.

26. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF EASEMENT RECORDED AUGUST 14, 1985 AT RECEPTION NO. 706331.

27. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE SUBDIVISION AGREEMENT RECORDED MARCH 9, 1999 AT RECEPTION NO. 1914605.

28. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE EASEMENT AGREEMENT RECORDED MARCH 9, 1999 AT RECEPTION NO. 1914613.

29. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE ADDENDUM TO FARM LEASE RECORDED NOVEMBER 3, 1999 AT RECEPTION NO. 1996613.

30. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF EASEMENT RECORDED OCTOBER 15, 2002 AT RECEPTION NO. 2343804.

31. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF EASEMENT RECORDED DECEMBER 30, 2002 AT RECEPTION NO. 2378109.

32. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF EASEMENT RECORDED DECEMBER 30, 2002 AT RECEPTION NO. 2378115.

33. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE GRANT OF EASEMENT RECORDED MARCH 3, 2003 AT RECEPTION NO. 2405058.

CONTINUED

34. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE ROAD MAINTENANCE AGREEMENT RECORDED JULY 30, 2009 AT RECEPTION NO. 3020063.

35. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE DRAINAGE EASEMENT RECORDED NOVEMBER 15, 2010 AT RECEPTION NO. 3112867.

36. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, EASEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE OPTION AGREEMENT RECORDED NOVEMBER 13, 1981 AT RECEPTION NO. 472531.

37. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS AS CONTAINED IN THE RIGHT-OF-WAY GRANTED TO PANHANDLE EASTERN PIPELINE RECORDED APRIL 28, 1980 ON FILM 1114 AT RECEPTION NO. 393443 AS SHOWN ON THE RECORDED PLAT OF ERTL FARM N.U.P.U.D.

38. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS AS CONTAINED IN THE RIGHT-OF-WAY GRANTED TO PANHANDLE EASTERN PIPELINE RECORDED APRIL 28, 1980 ON FILM 1114 AT RECEPTION NO. 393446 AS SHOWN ON THE RECORDED PLAT OF ERTL FARM N.U.P.U.D.

39. EASEMENTS, RIGHTS-OF-WAY, OBLIGATIONS, CONDITIONS, AND PROVISIONS CREATED BY QUIT CLAIM DEED FROM ERTL FARM HOMEOWNERS ASSOCIATION, INC. TO LEFT HAND WATER SUPPLY COMPANY, RECORDED SEPTEMBER 9, 1986 AT RECEPTION NO. 787666.

40. EASEMENTS, RIGHTS-OF-WAY, OBLIGATIONS, CONDITIONS, AND PROVISIONS CREATED BY WARRANTY DEED FROM ERTL FARM HOMEOWNERS ASSOCIATION, INC. TO LEFT HAND WATER SUPPLY COMPANY, RECORDED SEPTEMBER 9, 1986 AT RECEPTION NO. 787667.

41. EASEMENTS, RIGHTS-OF-WAY, OBLIGATIONS, CONDITIONS, AND PROVISIONS CREATED BY BILL OF SALE DEED FROM ERTL FARM HOMEOWNERS ASSOCIATION, INC. TO LEFT HAND WATER SUPPLY COMPANY, RECORDED SEPTEMBER 9, 1986 AT RECEPTION NO. 787668.

42. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS AS CONTAINED IN THE DEED OF RIGHT-OF-WAY BY AND BETWEEN ENERGY RESOURCES LAND, INC. AS GRANTOR AND ERTL FARM HOMEOWNERS ASSOCIATION, INC. DATED APRIL 13, 1985, RECORDED MAY 13, 1985 ON FILM NO. 1353 AT RECEPTION NO. 687898 AND 687900.

43. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE CORRECTIVE DRY-UP COVENANT RECORDED FEBRUARY 5, 2013 AT RECEPTION NO. 03287120.

44. TERMS, CONDITIONS, PROVISIONS, AGREEMENTS, AND OBLIGATIONS SPECIFIED UNDER THE CORRECTIVE DRY-UP COVENANT RECORDED FEBRUARY 5, 2013 AT RECEPTION NO. 03287121.

45. EASEMENTS, NOTES, TERMS, CONDITIONS, PROVISIONS, RESTRICTIONS, COVENANTS, AGREEMENTS AND OBLIGATIONS AS SHOWN ON THE PLAT OF ERTL FARM, SECOND FILING RECORDED MAY 13, 1985 AT RECEPTION NO. 687894.

46. TERMS CONDITIONS AND PROVISIONS OF LEASE PURCHASE AGREEMENT **(TO BE RECORDED)**

47. DEED OF TRUST FROM BOULDER MUNICIPAL PROPERTY AUTHORITY TO THE PUBLIC TRUSTEE OF BOULDER COUNTY FOR THE USE OF ENERGY RESOURCES TECHNOLOGY LAND INC TO SECURE A PRINCIPAL SUM OF $5,000.,000.00, DATED TBD AND RECORDED TO **BE RECORDED**, AND ANY ASSIGNMENTS THEREOF.

THIS NOTE HAS BEEN PRIVATELY PLACED BY THE BOULDER MUNICIPAL PROPERTY AUTHORITY; ANY REGISTERED OWNER HEREOF, INCLUDING ANY TRANSFEREE, IS RESPONSIBLE FOR MAKING ITS OWN INVESTMENT DECISION, AND ANY SUCH REGISTERED OWNER IS NOT ENTITLED TO RELY ON THE AUTHORITY OR THE CITY OF BOULDER, COLORADO, FOR PURPOSES OF DISCLOSURE WITH RESPECT TO SAID REGISTERED OWNER'S DECISION IN PURCHASING THIS NOTE. BY ITS OWNERSHIP OF THIS NOTE, THE REGISTERED OWNER HEREOF ACCEPTS THE FOREGOING PROVISIONS.

Lease Purchase Revenue Note, Series 2013A

For value received, The Boulder Municipal Property Authority (the "Authority") promises to pay to Energy Resources Technology Land, Inc., a Colorado Corporation, in the manner and only from the sources hereinafter provided, the principal sum of $5,000,000, together with interest on unpaid principal from the date hereof until paid, at the rate of 3.25% per annum, said principal and interest to be payable pursuant to the following schedule (said schedule to be conclusive with respect to the interest payments hereon notwithstanding the foregoing provisions of this Note), provided however, that should any payment date set forth below not be a business day on which the Authority's Paying Agent, which shall initially be U.S. Bank National Association (the "Paying Agent"), shall be open for business, then such payment shall be made on the succeeding business day that the Paying Agent is open for business. Such monthly payments shall first be applied to interest payable on this Note with the remainder applied to the payment of the outstanding principal.

PAYMENT SCHEDULE

| October 31 Year | Principal Payment | Interest Payment | Total Payment |
|---|---|---|---|
| 2014 | 431,155.37 | 162,500.00 | 593,655.37 |
| 2015 | 445,167.91 | 148,487.46 | 593,655.37 |
| 2016 | 459,635.87 | 134,019.50 | 593,655.37 |
| 2017 | 474,574.04 | 119,081.33 | 593,655.37 |
| 2018 | 489,997.69 | 103,657.68 | 593,655.37 |
| 2019 | 505,922.62 | 87,732.75 | 593,655.37 |
| 2020 | 522,365.10 | 71,290.27 | 593,655.37 |
| 2021 | 539,341.97 | 54,313.40 | 593,655.37 |
| 2022 | 556,870.58 | 36,784.79 | 593,655.37 |
| 2023 | 574,968.88 | 18,686.49 | 593,655.37 |

The principal of and interest on this Note are payable in lawful monies of the United States of America without deduction for collection charges. The principal of and interest on this Note are payable to the registered owner hereof by wire transfer according to the instructions provided by the person in whose name the Note is registered, or, if requested by the Authority, by wire transfer according to the instructions provided by the person in whose name this Note is registered, on the registration books of the Authority at the close of business on the day preceding such principal and interest payment date, whether or not a business day (the "Record Date"); provided, however, that the final payment of the principal of and interest hereon shall be made solely upon presentation and surrender of this Note at the office of the Authority, 1777 Broadway, Boulder, Colorado 80302.

If the wiring instructions for the registered owner change during the course of the payment of this Note, it is the responsibility of the registered owner hereof to notify the Paying Agent and provide the Paying Agent with new wiring instructions. If such wire transfer is rejected, the Paying Agent shall hold such payment (without accruing additional interest) until it has been provided with new wire instructions from the registered owner hereof. If, due to the registered owner's failure to provide the Paying Agent with proper wiring instructions, payment is received by a party other than the registered owner hereof, neither the Authority nor the Paying Agent shall be held responsible for such payment(s) to the registered owner hereof.

This Note is a note of the Authority denominated as "Lease Purchase Revenue Note, Series 2013A " issued in the aggregate principal amount of $5,000,000 (the "Note"). As provided in the resolution of the Authority authorizing this Note (the "Resolution"), this Note is issuable solely in the form of one fully registered note without coupons and in the denomination of $5,000,000. The Note is issued to acquire certain open space property (the "Property"), to be leased to the City of Boulder, Colorado (the "City"). The Property so leased (the "Leased Property") shall be leased pursuant to a Lease Purchase Agreement (the "Agreement") dated October 31, 2013.

This Note may be prepaid by the Authority at any time without penalty.

The Authority may deem and treat the registered owner of this Note as the absolute owner hereof for all purposes (whether or not this Note shall be overdue), and any notice to the contrary shall not be binding upon the Authority.

This Note is transferable by the registered owner hereof in person or by his attorney, duly authorized in writing, at the principal office of the Paying Agent designated above, but only in the manner, subject to the limitations and upon payment of the charges, provided in the Resolution. This Note may be transferred upon the registration books by delivery of this Note to the Paying Agent together with a written instrument or instruments of transfer in form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the registered owner of this Note or his or her attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of the Note, along with the social security number or federal employer identification number of such transferee and wire instructions, if applicable, for principal and interest payments on the Note to such transferee executed by the transferee. In the event of the transfer of this Note, the Paying Agent shall enter the transfer of ownership in the registration books. The Authority and the Paying Agent shall charge the registered owner of this

Note for every such transfer an amount sufficient to reimburse the Authority and the Paying Agent for their reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer. The Authority may replace a lost, stolen or destroyed Note upon receiving indemnity satisfactory to the Authority from the registered owner thereof.

EXCEPT TO THE EXTENT PAYABLE FROM NET PROCEEDS OF FORECLOSURE AND SALE OF THE LEASED PROPERTY PURSUANT TO A DEED OF TRUST DATED OCTOBER 31, 2013 (THE "DEED OF TRUST") FROM THE AUTHORITY TO THE PUBLIC TRUSTEE OF BOULDER COUNTY, COLORADO, FOR THE BENEFIT OF THE REGISTERED OWNER HEREOF, THIS NOTE SHALL BE PAYABLE SOLELY FROM RENTALS TO BE PAID BY THE CITY UNDER THE AGREEMENT. ALL PAYMENT OBLIGATIONS OF THE CITY UNDER THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE OBLIGATION OF THE CITY TO PAY RENTALS, SHALL ONLY BE MADE FROM THE CITY'S OPEN SPACE AND STREET FUND MAINTAINED UNDER SECTION 3-2-39, BOULDER REVISED CODE 1981, ARE FROM YEAR TO YEAR ONLY, AND DO NOT CONSTITUTE A MANDATORY PAYMENT OBLIGATION OF THE CITY IN ANY FISCAL YEAR BEYOND A FISCAL YEAR IN WHICH THE AGREEMENT SHALL THEN BE IN EFFECT. THE AGREEMENT IS SUBJECT TO ANNUAL RENEWAL AT THE OPTION OF THE CITY AND SHALL BE TERMINATED UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION. IN SUCH EVENT, ALL PAYMENTS FROM THE CITY UNDER THE AGREEMENT SHALL TERMINATE, AND THIS NOTE, AND THE INTEREST THEREON SHALL BE PAYABLE SOLELY FROM MONIES AVAILABLE, IF ANY, FROM FORECLOSURE ON THE LEASED PROPERTY PURSUANT TO THE DEED OF TRUST.

None of the Agreement, this Note, or the Deed of Trust constitute a general obligation or other indebtedness of the City within the meaning of any constitutional, statutory, or home rule charter debt provision or limitation. None of the Agreement, this Note, or the Deed of Trust of the Authority have directly or indirectly obligated the City to make any payments beyond those appropriated for any fiscal year in which the Agreement shall then be in effect.

The obligations of the Authority under the Resolution and the Deed of Trust shall be discharged as and to the extent provided in the Resolution upon deposit of cash and/or United States government securities with an escrow agent, in which case the registered owners of this Note, shall promptly release the lien of the Deed of Trust and shall be secured solely as provided in the Resolution.

Upon receiving written notice of a default from the registered owner hereof, the Authority shall have 30 days to cure such default, whereupon if such default is not cured, then the entire principal amount hereof, together with interest hereon, shall, at the election of the registered owner hereof, become due and payable, but only from the sources hereinabove described. Failure to exercise this election or any other remedies upon a default shall not constitute a waiver of that right in the event of a subsequent or continuing default.

The rights or remedies of the registered owner hereof as provided in this Note and the Deed of Trust shall be cumulative and concurrent and may be pursued singly, successively, or together

against the Leased Property at the sole discretion of the registered owners hereof. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release of said rights or remedies, or of the rights to exercise them at any later time.

This Note may not be amended, modified, or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

It is hereby certified and recited that all the requirements of law have been fully complied with by the proper Authority officers in the issuance of this Note, and that this Note was duly and lawfully authorized by the Resolution duly adopted and approved by the Board of Directors of the Authority prior to the issuance hereof.

The registered owner of this Note, by acceptance hereof, acknowledges and agrees to be bound by all provisions of the Resolution relating hereto.

This Note shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose until the Paying Agent, as registrar, shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the Board of Directors of the Authority has caused this Note to be executed with the signature of the President of the Authority and attested by the signature of its Secretary-Treasurer and has caused the seal of the Authority to be impressed or imprinted hereon.

Date: October 31, 2013

[SEAL]

THE BOULDER MUNICIPAL PROPERTY AUTHORITY, a Colorado non-profit corporation

By: _____
Matt Appelbaum, President

ATTEST:

By: _____
Bob Eichem, Secretary-Treasurer

# CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes described in the within mentioned Resolution of the Authority.

Date of Authentication: _____

US BANK NATIONAL ASSOCIATION, as Registrar

By: _____
Authorized Officer

# FORM OF ASSIGNMENT OF NOTE

## ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto_____
(please print or type name and address of transferee) (Tax Identification or Social Security No. _____) the within Note and all rights and title hereunder, and hereby irrevocably constitutes and appoints

_____

attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____
Signature

Assignor must attach notarized acknowledgment.

_____
Signature must be guaranteed by a
member of a Medallion Signature Program.

**NOTE: PLEASE RETURN ORIGINAL NOTE WITH THIS ASSIGNMENT. The signature on this assignment must correspond with the name as it appears on the face of this original note.**

# Visitor Master Plan: Habitat Conservation Area Designation

***Characteristics***

Tend to be located in more remote areas.
Typically represent the largest blocks of an ecosystem type with few, if any, trails or roads.
Lower level of visitor use; no or few trials and trailheads.
Naturally functioning ecosystems (but may contain areas with evidence of human use and impacts).

***Goals***

Maintain, enhance and/or restore naturally functioning ecological systems.
Maintain, enhance and restore habitat for species of concern indentified in the Boulder County and Boulder Valley Comprehensive Plans.
Provide pubic access and passive recreational opportunities that foster appreciation and understanding of ecological systems and have minimal impacts on native plant communities and wildlife habitats or other resources.
Eliminate all undesignated trails, unless they are made part of the designated trails system or provide specialized access to appropriate low-use destinations.
Where sustainable infrastructure exists, continue to allow public access to appropriate destinations.

***Criteria for Inclusion of Management Areas in the Habitat Conservation Area Designation***

Large habitat blocks with a low density of trails, roads or development.
High potential for restoration of natural ecosystems (including areas= with restoration underway).
Plant communities that are rare or unique on Open space and Mountain Parks lands.
Habitat for species of concern such as threatened, endangered, rare and other species.
Areas with high biodiversity such as wetlands and riparian areas (especially un-trailed riparian reaches).
Comparatively lower visitation levels.
Compatibility with adjacent land (i.e., opportunities for coordinating habitat protection and connections and recreational activities/trail linkages).

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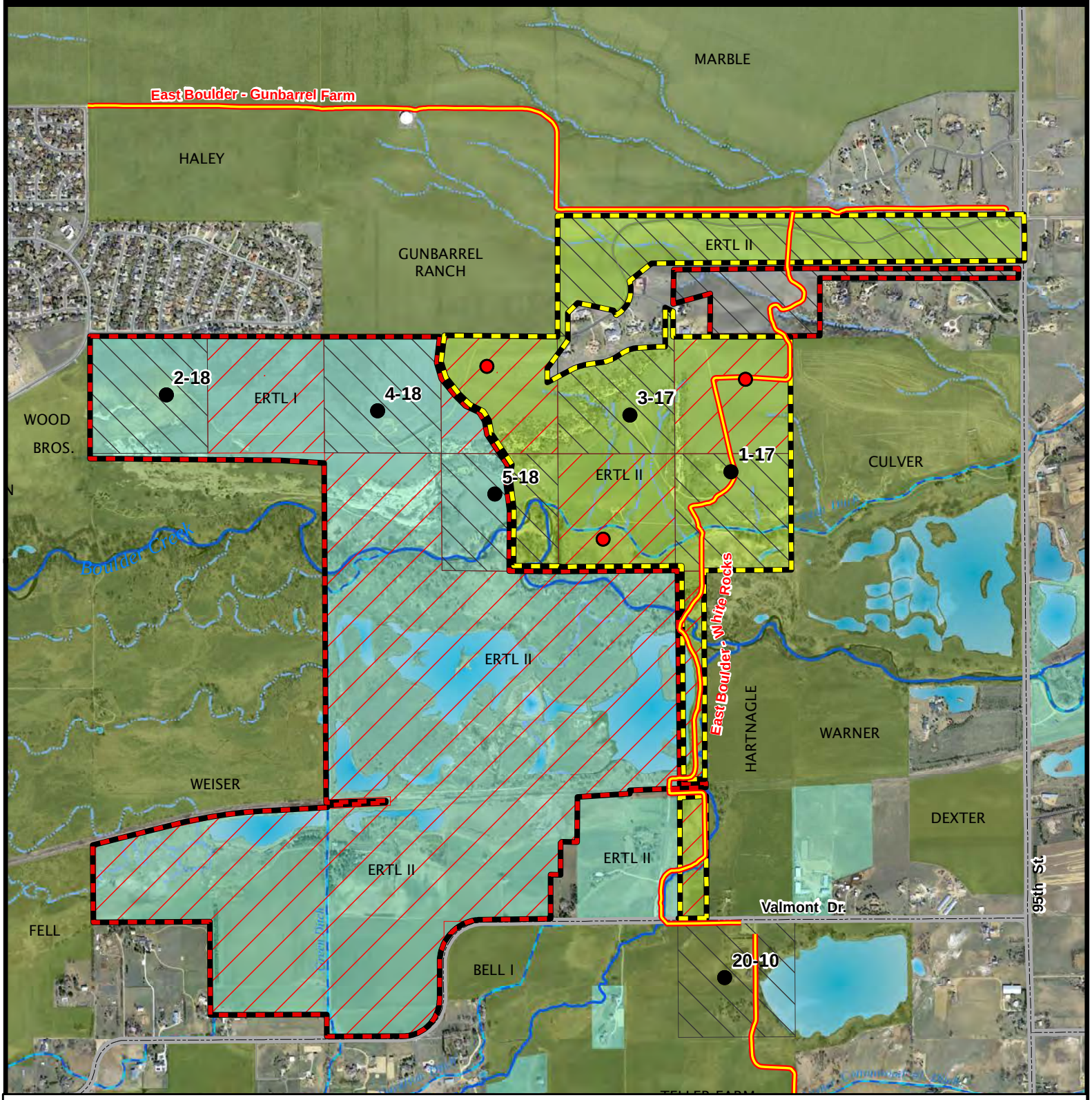
# ATTACHMENT J - City of Boulder Open Space & Mountain Parks

# LOCATION MAP - ERTL MINERAL ESTATE




© 2013 City of Boulder, Colorado

All rights reserved. The map information contained hereon is intended for the sole use of the purchaser and may not be copied, duplicated or redistributed in any way, in whole or in part, without the expressed written consent of the City of Boulder.

The information depicted is provided as a graphical representation only. While source documents were developed in compliance with national map accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy and/or completeness of the information contained hereon.

- ERTL New Purchase
- ERTL Leasehold Termination Area
- Minerals Being Acquired
- Minerals Not Being Acquired
- 1984 Fee Purchase Area
- Producing Oil Well
- Additional 120 Acres of Mineral Rights
- OSMP Managed Multi-Use Trail
- OSMP Fee Property
- OSMP Conservation Easement

Miles: 0 0.125 0.25 0.5

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 1, 2013**

**AGENDA TITLE:** Consideration of the following items relating to the 2014 Budget:

1. Public hearing on the proposed 2014 City of Boulder Budget; and
2. Introduction, first reading, and consideration of a motion to order published by title only an ordinance that adopts a budget for the City of Boulder, Colorado, for the fiscal year commencing on the first day of January 2014 and ending on the last day of December 2014, and setting forth details in relation thereto; and
3. Introduction, first reading and consideration of a motion to order published by title only an ordinance that establishes the 2013 City of Boulder property tax mill levies which are to be collected by the County of Boulder, State of Colorado, within the City of Boulder in 2014 for payment of expenditures by the City of Boulder, County of Boulder, State of Colorado, and setting forth details in relation thereto; and
4. Introduction, first reading and consideration of a motion to order published by title only an ordinance that appropriates money to defray expenses and liabilities of the City of Boulder, Colorado, for the 2014 fiscal year of the City of Boulder, commencing on the first day of January 2014, and ending on the last day of December 2014, and setting forth details in relation thereto; and
5. Introduction, first reading and consideration of a motion to order published by title only an ordinance, that amends Chapters 3-8, 3-9, 3-13 and 4-20 of the B.R.C. 1981 changing certain fees, and setting forth details in relation thereto.

**PRESENTERS**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Peggy Bunzli, Budget Manager

## EXECUTIVE SUMMARY

The purpose of this item is the adoption of the 2014 budget and other related ordinances to appropriate city funds as presented in the 2014 Recommended Budget, for the 2014 fiscal year.

At the Sept. 17, 2013 City Council meeting, City Manager Jane Brautigam addressed the issue of the 2014 Recommended Budget, in light of the major flooding event that occurred in Boulder starting Sept. 11, 2013. The City Manager acknowledged that the financial impacts associated with the event are still being determined. She noted that the assessment of individual and public infrastructure impacts, as well as an analysis of available resources and funding options, including FEMA reimbursement, is underway. The City Manager noted that it is premature to present changes to the Recommended Budget for 2014. Staff will be coming to council in the near future to address the impact and review budget options and solutions. This may include proposed budget adjustments.

The 2014-2019 Draft Capital Improvements Program (CIP) was reviewed with City Council during the study session on Aug. 13, 2013. A summary of the CIP study session is included in the materials for the Oct. 1 City Council meeting (consent agenda). See **Attachment A** for additional information related to the CIP study session. The 2014 Recommended Budget was reviewed with City Council during the study session on Sept. 10, 2013. A summary of the 2014 Recommended Budget study session is included in the materials for the Oct. 1 City Council meeting (consent agenda). See below for additional information related to the 2014 Recommended Budget study session. To facilitate council review of the 2014 Recommended Budget, staff has also prepared a single list of each change proposed for the budget that occurred after council received the 2014 Recommended Budget document (see **Attachment B**). **Attachment C** provides a summary of all city funds and shows the impact to fund balance of the proposed budget.

Adoption of the ordinance that establishes the 2013 mill levy for the city and the ordinance that changes certain codified fees is also requested.

The Downtown Commercial District (formerly known as the Central Area General Improvement District), the University Hill Commercial District (formerly known as University Hill General Improvement District), the Boulder Municipal Property Authority (BMPA), the Forest Glen Transit Pass General Improvement District, the Boulder Junction General Improvement District for Parking, and the Boulder Junction Improvement District for Transportation Demand Management (TDM) budgets are not included with these ordinances. They will be appropriated by resolution under a separate agenda item on Oct. 15, 2013, coinciding with the second reading of the city budget.

## STAFF RECOMMENDATION

Staff recommends adoption of the following four ordinances:

- **Budget Adoption Ordinance (Attachment D)**
  The Charter of the City of Boulder requires that, before the city establishes the property tax mill levy, the annual budget that summarizes sources and uses must

be approved. The ordinance included in this packet incorporates the 2014 Recommended Budget.

- **Mill Levy Ordinance (Attachment E)**
  As a result of the passage of Ballot Issue 201, "Retention of Property Tax Funds" approved by voters on Nov. 4, 2008, the remaining restrictions on property tax collected by the City of Boulder have been eliminated. Ballot Issue 201 had the effect of reducing the mill levy credit by 0.50 mill each year until the credit was completely eliminated. The mill levy credit was completely eliminated in the 2011 mill levy calculation (for 2012 property tax collections).
  The ordinance included in this packet sets the 2013 mill levy for collection in 2014. The following is the mill levy for 2013 (this is unchanged from 2012):

  | | |
  |---|---|
  | Mill Levy | 11.981 |

- **Appropriation Ordinance (Attachment F)**
  This ordinance appropriates funds as stated in the budget ordinance for 2014.

- **Fees Ordinance (Attachment G)**
  City fees are adjusted based on costs of providing city services and depend on calculations of inflation, pricing guidelines, or service-specific cost analysis. The annual budget process also provides an opportunity to review and clarify the Boulder Revised Code language related to fees and rates.

**Suggested Motion Language**

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

- Motion to introduce and order published by title only an ordinance adopting the 2014 budget;
- Motion to introduce and order published by title only an ordinance establishing the property tax mill levy for 2013 to be collected in 2014;
- Motion to introduce and order published by title only an ordinance appropriating the 2014 budget; and
- Motion to introduce and order published by title only an ordinance changing certain fees.

## OTHER IMPACTS

- **Fiscal** - This item will appropriate funds to implement the City of Boulder's 2014 budget. This budget is based on the City Manager's 2014 Recommended Budget and in accordance with City Council's feedback provided during the study session. In addition to the budget ordinances, the property tax mill levy and fees

ordinance are also included. These ordinances are necessary to fund the annual budget in full.

- **Staff time** - Staff time for this process is allocated in the Budget Division's regular annual work plan.

**BACKGROUND**
A City Council study session on the 2014 Recommended Budget was held on Sept. 10, 2013. The following provides information on some of the items discussed at that study session or relevant to the attached ordinances. A study session summary is included in the consent agenda of this meeting. Please see the executive summary above for comments regarding the major flood event and the 2014 Recommended Budget.

*Boulder's Energy Future*
The December 6, 2011 ordinance extending and increasing the Utility Occupation Tax (UOT), states that the tax may be increased by the lesser of 3 percent or the average amount of rate increases made by public utility companies delivering natural gas or electricity in the city. Rate analysis has been completed for the prior year and indicates that electric and gas rates have increased by over 3 percent. The 2014 budget includes the maximum allowable rate increase of 3 percent to the UOT.

Pursuant to Chapter 3-13-19 of the Boulder Revised Code, any increase in the UOT revenue, related to the 2011 ballot measure dedicating $1.9 million for the "purposes of exploration and planning for the creation of a municipal electric utility and acquiring an existing electric distribution system", must be used for the same purposes. Therefore, the 2014 Energy Strategy and Electric Utility Development Department budget includes funding of $1,957,000 from the UOT.

The 2014 budget also provides one-time funding from the General Fund, as was the case in 2013, to backfill staffing allocated to the project in the following areas:

- City Attorney's Office
- Communications
- P&DS Admin. Services
- Project Coordination.

The 2013 budget request of $303,000 for these services was based on an estimate, using the best information at the time. The 2014 proposed budget of $355,000 takes into account actual cost information now known related to the backfill.

*Human Services*
Through the City of Boulder's collaborative approach to budgeting and service delivery, city departments have come together to identify funds that could be applied to greater community needs. The 2014 Recommended Budget balances the use of new revenues along with proposed reallocations to address these priorities and to achieve the highest community outcomes. One example is a proposed reallocation of $75,000 from human services funding to other priority General Fund needs. The recommended Human Services Fund budget includes $2,562,086 (after reallocation) for funding human services

agencies in the community. The allocation of Human Service Fund dollars will remain focused on programs that have the most impact in the community and will maximize use of other available sources of new funding, such as the Affordable Care Act.

A number of line items in the Human Services Department Detail page of the 2014 Recommended Budget show a reduction in 2014 budget from 2013. There are several reasons for this:

- A 27th pay period in 2013 increased costs for personnel across the city in that year. Even with some projected cost increase in salaries and benefits, personnel heavy programs may show a decrease in cost from 2013 to 2014, as 2014 returns to the normal 26 pay periods for the year.
- There is a projected reduction in grant funding from the City of Longmont for the child care subsidy program. These are dollars used to serve Longmont clients.
- The Qualistar grant (for child care subsidies) is also projected to decrease by a small amount. To note, grant budget numbers are projected amounts and the budget is later adjusted based on the actual award.
- The reduction to the Prevention & Intervention program will be offset by increased contribution to this program from Boulder County.
- The reduction to the Senior Centers program is a result of moving the budget and management of East Center custodial and utility costs from Human Services to Parks & Recreation, with a net zero affect on the overall city budget.
- The reduction to the Human Service Fund is explained above.

*Museum of Boulder*

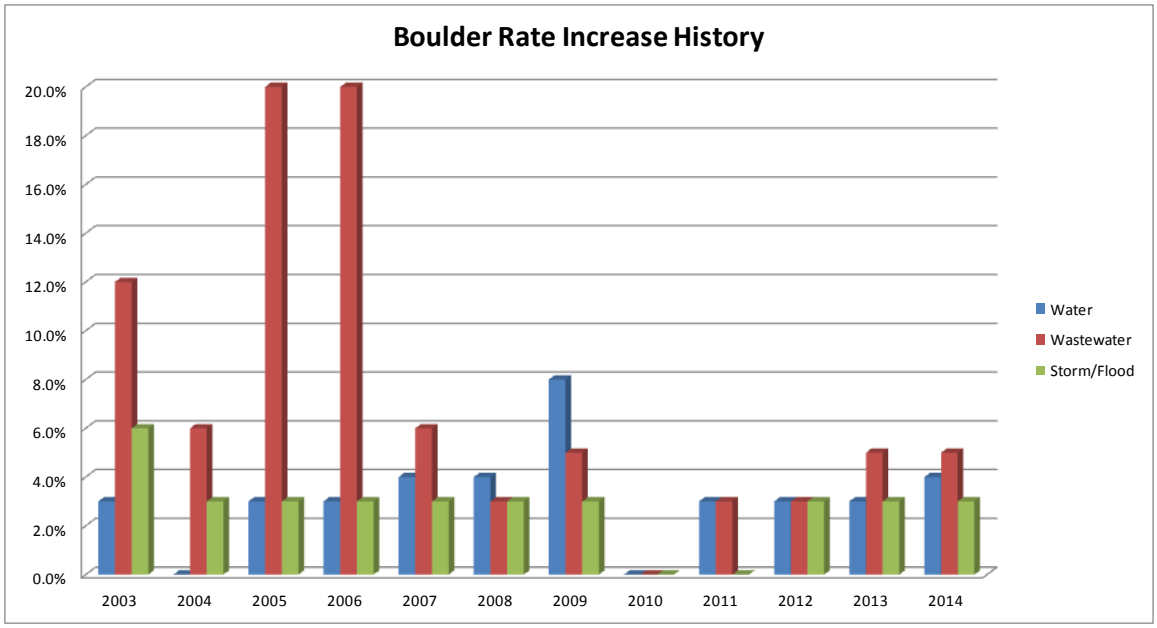
At the Sept.10 study session, council asked whether the Boulder Convention and Visitors Bureau (BCVB) might be interested in partnering with the city on a proposed economic impact study of the Museum of Boulder. Staff has had ongoing conversations with the BCVB regarding this possibility. The BCVB is open to the idea of sharing in the cost of the study but wishes to have additional conversations before committing any funds. Staff will follow-up with the BCVB to discuss the costs and details of the study.

Council also asked about options for purchasing the Masonic Lodge, identified as the new location for the Museum of Boulder, with proceeds from the sale of the Harbeck-Bergheim house. In 1970, the city entered into a ten year lease and purchase option agreement for the Harbeck-Bergheim building located at 1206 Euclid Avenue. The city leased the building for 19 years for $8,250 per year and the purchase option was exercised in 1989. The $82,500 purchase price was funded by the Permanent Parks and Recreation Fund. By charter (Article XI, Section 161), any proceeds from the sale of any park or recreation property must be returned to the Permanent Parks and Recreation Fund. Expenditures from this fund cannot be used for any purpose other than the acquisition of park land or the permanent improvement of park and recreation facilities and therefore the purchase of the Masonic Building for the purpose of a museum facility would seem inconsistent with this intent.

*Cyber Café*
The Dushanbe Teahouse and Cyber Café financing was set up in multiple levels. First, 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 gradually "reimbursed" from the lease revenue of the Teahouse. Second, the Boulder-Dushanbe Sister Cities organization, backed by the city, issued $150,000 in promissory notes to 8 individuals in the community. These notes were issued from 2004 through 2007. Third, 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 2014 Recommended budget proposes paying off the $150,000 privately-held notes all at once. The financing agreement for the Teahouse stated that the promissory notes would not have to be paid off until the city had fully reimbursed itself for the original construction funding of $700,000. As mentioned before, the source of this reimbursement is revenue from the Teahouse lease. Maintenance charges of the building are covered first from this revenue, before the city's reimbursement to itself is accounted for. Because of the drastically increasing maintenance charges, the $700,000 investment from the city has not yet been fully reimbursed, and this is not expected in the next few years. In the meantime, the privately held promissory notes accrue an annual interest of 6%. The city recommends repaying these notes in 2014 from the General Fund, in order to avoid future interest accumulation. The current balance on these notes is $267,853.

*Fees and Rates*
At the Sept. 10 study session, Council Member Becker requested to see the history of Utility rate increases. The following chart shows the rate changes since 2003, including the proposed 2014 increases. The years with large increases for the Wastewater charge in 2003 through 2006 correspond to major improvements at the Wastewater Treatment Facility. There was a no rate increase in 2010 due to budget constraints related to the recession. The aim for rates going forward is to avoid large increases in any given year by building sufficient fund balance and rate base for when future large projects are anticipated.




The 2014 Recommended Budget includes a section on fees, rates and charges that provides summary information on changes between 2013 and 2014. An ordinance amending the Boulder Revised Code (BRC) to reflect the codified changes is included as Attachment H to this memo.

The fees section of the budget does not include any Parks and Recreation fees, as the Parks and Recreation Department is not proposing any fee or rate changes for 2014. However, Parks and Recreation admission fees are proposed to be removed from the BRC, as reflected in the proposed ordinance. The city manager has the authority to set fees and include proposed fee increases in the annual budget process. Currently, daily admission fees and annual/seasonal passes for the three recreation centers, outdoor pools, Boulder Reservoir and Flatirons Golf Course are included in the BRC. The department has many facility-related fees that are not included in the BRC such as room rentals, swimming pool rentals, boat permits, sports field rentals, etc. These fees include resident and non-resident rates. Current practice is to propose fee increases and discuss with affected user groups, the community at large and the Parks and Recreation Advisory Board (PRAB). The city is proposing that all Parks and Recreation admission fees be removed from the BRC for the future, in order to harmonize fee setting practice across the Parks and Recreation Department. The department would continue to solicit input from the community and discuss proposed increases with PRAB as part of the budget process each year.

**QUESTIONS**

Council members may contact the Budget Division (Peggy Bunzli at bunzlip@bouldercolorado.gov or ext. 1848) for any questions they have on the contents of this agenda item, including clarification of any budget program or fund status.

**BUDGET MATERIALS ONLINE**

Budget materials can be found at the following links:

2014 Recommended Budget;
2014-2019 CIP;
Sept. 10 study session memo;
Additional materials for Sept. 10 Budget Study Session;
Past budgets.

**PUBLIC FEEDBACK**
There will be a public hearing at both first and second readings of these ordinances.

**NEXT STEPS**
- Tuesday, Oct. 15 - Public hearing and second reading of the 2014 City of Boulder budget ordinances; General Improvement District budget resolutions.
- Tuesday, Oct. 29 - Public hearing and third reading of the 2014 City of Boulder budget ordinances (if needed).

**ATTACHMENTS**

| | |
|---|---|
| **Attachment A** | Responses to questions raised at the Aug. 13, 2013 CIP Budget Study Session. |
| **Attachment B** | Budget Changes document, logging changes proposed to the 2014 Recommended Budget since its publication |
| **Attachment C** | The Fund Activity Summary that reflects the impact of 2014 estimated revenues and appropriations on the fund balance for each fund in the city. |
| **Attachment D** | A proposed ordinance adopting the Budget for the City of Boulder for 2014. |
| **Attachment E** | A proposed ordinance establishing 2013 City of Boulder property tax mill levies. |
| **Attachment F** | A proposed ordinance appropriating the 2014 budget. |
| **Attachment G** | A proposed ordinance amending Chapters 3-8, 3-9, 3-13 and 4-20 of the B.R.C. 1981, changing certain fees. |

*Question:*
What impact will Capital Improvement Program (CIP) projects have on reducing greenhouse gas (GHG) emissions?

*Response:*
Reducing the environmental impact is an important part of many of the city's capital projects. Departments consider the impact to energy use, water use, and GHG emissions as a part of project development. Environmental impact is also evaluated in the Community and Environmental Assessment Process (CEAP). For the 2015-2020 CIP, staff will work to bring this information together in a meaningful way and include any available information on each project's contribution to reducing the city's environmental impact. Currently, Public Works - Utilities is commissioning a GHG study of the WWTP's treatment alternatives, scheduled to be completed later this year or early next year. The city is also in the process of developing tools for better GHG impact measurement. As work progresses on these tools, it will become more apparent whether they will be able to provide information relevant to the CIP process.

*Question:*
How much electricity would a hydroelectric generator produce at the Barker Reservoir?

*Response:*
Preliminary analysis on the Barker Reservoir Hydroelectric estimates a nameplate rating of 1.2 megawatts, but the capacity factor is such that the actual output is likely to be about 400 kilowatts on average. At this point, numbers are preliminary and additional, more detailed analysis will be completed prior to making a final determination.

Additional information can be found in the July 15, 2013 WRAB packet.

*Question:*
Please provide information on the purpose of Carter Lake pipeline.

*Response:*
The City of Boulder is currently participating in a collaborative effort with Left Hand Water District, Longs Peak Water District and the Northern Colorado Water Conservancy District (Northern) to complete permitting, preliminary design and right-of-way acquisition for the Carter Lake Pipeline. The Carter Lake Pipeline would deliver Colorado-Big Thompson (CBT) and Windy Gap water supplies from Carter Lake to the Boulder Reservoir Water Treatment Facility (BRWTF) for treatment and distribution as municipal water supply. The existing, open Boulder Feeder Canal would continue to transport agricultural water supplies and water returned to Boulder Creek by the city for exchange purposes. A new pipeline would allow year-round delivery of CBT and Windy Gap water to BRWTF, prevent contaminants from entering the water supply during transport and may provide a feasible hydroelectric power opportunity. The recent flood event has highlighted the vulnerabilities of the Boulder Feeder Canal and Boulder Reservoir water sources. The feeder canal was severely impacted by flooding and is not expected to return to operation until next spring. Boulder Reservoir was impacted by runoff and experienced a degradation of water quality beyond the treatment capabilities of the BRWTF. The city's Betasso Water Treatment Facility was able to maintain operations throughout the flood event, but was impacted by power outages and an inability to receive generator fuel and chemical deliveries due to road closures.

In 2012, Northern completed project permitting through the Boulder County Areas and Activities of State Interest (1041) review and the Larimer County location and extent review processes. A final pipeline alignment has now been approved. Staff continues to recommend the ultimate construction of the pipeline to protect source water quality and enhance the flexibility and reliability of the city's source water system. Although a final decision on pipeline construction has not yet been made, partial funding of additional ROW acquisition is recommended in the 2014 budget to secure and preserve the permitted alignment as an option for future construction of the pipeline.

As the next step, staff intends to work with Northern and the other project participants to acquire the necessary ROW and easements. Staff will complete a Community and Environmental Assessment Process (CEAP) prior to seeking approval for construction funding which is currently planned in 2017.

Additional information can be found in the November 2012 Information Item.

# Attachment B: 2014 Recommended Budget Document Changes

| Item | Budget Document Change Description | Document | Section(s) | Page(s) |
|---|---|---|---|---|
| 1 | Tax Increment Financing (TIF) – The 2014 Recommended Budget includes setting aside funds for a transfer to CAGID to help cover debt related to the construction of the parking garage at 10th and Walnut. With the expiration of the TIF, a funding gap exists as of 2015. The Recommended Budget shows the use of accommodations tax revenues, beginning in 2015, to cover this gap. As the distribution of accommodations tax revenue to the Boulder Convention and Visitors Bureau (BCVB) is based on prior year collections, the city recommends aligning the use of accommodation tax revenues for debt coverage with this timing. The result is that accommodations tax revenues would be set aside, starting in the first year after the TIF expiration (2014 rather than 2015) to cover the CAGID debt gap. The impact to the BCVB is a smaller revenue increase in 2015 and a larger increase in 2024. Total revenues to the BCVB would remain essentially the same. | Recommended Budget | Fund Financials | 226-230 |
| 2 | Utility Occupation Tax (UOT) – The December 6, 2011 ordinance extending and increasing the Utility Occupation Tax, states that the tax may be increased by the lesser of 3 percent or the average amount of rate increases made by public utility companies delivering natural gas or electricity in the city. At the time of preparing the 2014 Recommended Budget, analysis on electric and gas utility rate increases had not yet been completed, so the budget was prepared using a conservative estimate of a 2 percent increase. Since that time the rate analysis has been completed and indicates that electric and gas rates have increased by over 3 percent. Therefore, the 2014 budget has been adjusted to include the maximum allowable rate increase of 3 percent to the Utility Occupation Tax. See attached updated General Fund Financial | Recommended Budget | City Manager's Budget Message, Sources and Uses, Department Sections, Fund Financials | 2, 3, 11, 18, 79-84, 89-91, 97-98, 101-103, 143-145, 226-230 |
| 3 | CIP Pool Replastering Project – In the CIP document, the Pool Replastering project was noted as having $100,000 in funding from the .25 Cent Sales Tax fund in error. This has been removed. There is no impact to the Recommended Budget. | Draft Capital Improvements Program | Funding Summaries, Parks and Recreation | 14-15, 28-30, 42, 156, 170 |

# Attachment B: 2014 Recommended Budget Document Changes

| Item | Budget Document Change Description | Document | Section(s) | Page(s) |
|---|---|---|---|---|
| 4 | CIP ADA Compliance Improvements Project – In the CIP document, the ADA Compliance Improvements project was noted as having $100,000 for 2014 and 2015 from the Permanent Parks and Recreation fund in error. This has been removed. The project is funded for $100,000 in 2014 and 2015 in the .25 Cent Sales Tax Fund . There is no impact to the Recommended Budget. | Draft Capital Improvements Program | Funding Summaries, Parks and Recreation | 14–15, 28–30, 42, 49, 156, 158 |
| 5 | CIP Flatirons Golf Course Irrigation System Replacement Project – In the CIP document, the Flatirons Golf Course Irrigation System Replacement project was noted has having $1,200,000 for 2014 in the Permanent Parks and Recreation fund in error. This project funding is split with $600,000 funded each from the Permanent Parks and Recreation fund, and the .25 Cent Sales Tax fund. | Draft Capital Improvements Program | Introduction, Funding Summaries, Parks and Recreation | 14–15, 28–30, 42, 49, 156, 165 |

## GENERAL

| | 2012 Actual | 2013 Revised | 2014 Recommended | 2015 Projected | 2016 Projected | 2017 Projected | 2018 Projected | 2019 Projected |
|---|---|---|---|---|---|---|---|---|
| **Beginning Fund Balance** | $ 33,344 | $ 38,530 | 29,992 | $ 29,354 | $ 29,999 | $ 30,254 | $ 30,607 | $ 31,712 |
| **Sources of Funds** | | | | | | | | |
| Current Revenue- | | | | | | | | |
| Sales/Use Tax | $ 46,206 | $ 47,777 | $ 49,512 | $ 51,171 | $ 52,885 | $ 54,604 | $ 56,351 | $ 58,154 |
| Tax Increment (10th & Walnut) surplus | 1,242 | 1,284 | 530 | - | - | - | - | - |
| Food Service Tax | 660 | 680 | 704 | 728 | 752 | 777 | 803 | 829 |
| Property Tax | 19,519 | 19,677 | 20,120 | 20,647 | 21,267 | 21,905 | 22,562 | 23,239 |
| Public Safety Property Tax | 4,917 | 4,951 | 5,062 | 5,176 | 5,332 | 5,492 | 5,656 | 5,826 |
| Cable TV Franchise & PEG Fees | 1,339 | 1,339 | 1,339 | 1,352 | 1,366 | 1,380 | 1,393 | 1,407 |
| Liquor Occupation Tax | 633 | 652 | 672 | 692 | 712 | 734 | 756 | 779 |
| Telephone Occupation Tax | 774 | 774 | 774 | 774 | 774 | 774 | 774 | 774 |
| Utility Occupation Tax[1] | 6,000 | 6,000 | 6,180 | 6,365 | 6,556 | 6,753 | 6,956 | 7,164 |
| Accommodation Tax | 4,267 | 4,395 | 5,356 | 5,517 | 5,682 | 5,852 | 6,028 | 6,209 |
| Admission Tax | 623 | 639 | 655 | 671 | 688 | 705 | 722 | 741 |
| Xcel Franchise Fee | - | - | - | - | - | - | - | - |
| Specific Ownership Tax | 1,431 | 1,284 | 1,310 | 1,336 | 1,362 | 1,390 | 1,417 | 1,446 |
| Tobacco Tax | 357 | 357 | 357 | 357 | 357 | 357 | 357 | 357 |
| NPP and Other Parking Revenue | 174 | 174 | 157 | 157 | 157 | 157 | 157 | 157 |
| Meters-Out of Parking Districts | 555 | 555 | 545 | 545 | 545 | 545 | 545 | 545 |
| Sale of Other Services | 516 | 526 | 537 | 548 | 559 | 570 | 581 | 593 |
| Sale of Goods | 84 | 87 | 89 | 92 | 95 | 97 | 100 | 103 |
| Licenses | 554 | 400 | 412 | 424 | 437 | 450 | 464 | 478 |
| Court Fees and Charges | 2,299 | 2,200 | 2,200 | 2,200 | 2,200 | 2,200 | 2,200 | 2,200 |
| Parking Violations | 2,056 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 | 2,100 |
| Other Fines & Penalties | 25 | 26 | 27 | 27 | 28 | 29 | 30 | 31 |
| Court Awards-DUI, No Ins. & Seized Property | 146 | 150 | 155 | 160 | 164 | 169 | 174 | 180 |
| Photo Enforcement Revenue | 1,331 | 1,445 | 1,445 | 1,445 | 1,445 | 1,445 | 1,445 | 1,445 |
| Other Governmental | 689 | 350 | 361 | 371 | 382 | 394 | 406 | 418 |
| Interest Income | 341 | 300 | 303 | 309 | 315 | 322 | 328 | 335 |
| Rental Income | 127 | 131 | 135 | 139 | 143 | 147 | 152 | 156 |
| Other Revenue | 324 | 350 | 350 | 350 | 350 | 350 | 350 | 350 |
| Housing/Human Services Fees | 338 | 300 | 148 | 151 | 154 | 157 | 160 | 163 |
| Parks Fees (see Other Revenue) | 189 | 190 | 271 | 272 | 274 | 275 | 276 | 278 |
| **Sub-Total Revenue** | $ 97,716 | $ 99,092 | $ 101,803 | $ 104,076 | $ 107,082 | $ 110,129 | $ 113,244 | $ 116,456 |
| Other Revenue- | | | | | | | | |
| Grants | $ 1,086 | $ 756 | $ 798 | $ 605 | $ 561 | $ 560 | $ 560 | $ 562 |
| Carryovers and Supplementals from Add'l Revenue | | 574 | - | - | - | - | - | - |
| Meters-Within Parking Districts | 2,917 | 2,800 | 2,825 | 2,825 | 2,825 | 2,825 | 2,825 | 2,825 |
| Trash Hauler Occupation Tax | 1,713 | 1,656 | 1,663 | 1,670 | 1,681 | 1,697 | 1,707 | 1,707 |

## GENERAL

| | 2012 Actual | 2013 Revised | 2014 Recommended | 2015 Projected | 2016 Projected | 2017 Projected | 2018 Projected | 2019 Projected |
|---|---|---|---|---|---|---|---|---|
| Education Excise Tax (to Fund Balance Reserves) | 227 | - | - | - | - | - | - | - |
| **Sub-Total Other Revenue** | $ 5,943 | $ 5,786 | $ 5,286 | $ 5,100 | $ 5,067 | $ 5,082 | $ 5,092 | $ 5,094 |
| Transfers In- | | | | | | | | |
| Cost Allocation - Current Opr Costs-All Funds | $ 7,546 | $ 7,557 | $ 7,841 | $ 8,233 | $ 8,480 | $ 8,734 | $ 8,996 | $ 9,266 |
| Other Transfers | 1,315 | 81 | 116 | 120 | 123 | 127 | 131 | 135 |
| Mall Reimbursement from CAGID (see Revenue) | - | - | - | - | - | - | - | - |
| **Sub-Total Transfers In** | $ 8,861 | $ 7,638 | $ 7,957 | $ 8,353 | $ 8,603 | $ 8,861 | $ 9,127 | $ 9,401 |
| **Total Annual Sources** | **$ 112,520** | **$ 112,516** | **$ 115,046** | **$ 117,528** | **$ 120,752** | **$ 124,073** | **$ 127,464** | **$ 130,951** |
| **Total Sources (Including Beginning Fund Balance)** | **$ 145,864** | **$ 151,046** | **$ 145,038** | **$ 146,883** | **$ 150,751** | **$ 154,326** | **$ 158,070** | **$ 162,664** |
| **Uses of Funds** | | | | | | | | |
| Allocations (excluding debt and transfers) - | | | | | | | | |
| City Council | $ 180 | $ 203 | $ 220 | $ 227 | $ 233 | $ 240 | $ 248 | $ 255 |
| Municipal Court | 1,822 | 2,078 | 2,047 | 2,096 | 2,159 | 2,227 | 2,296 | 2,368 |
| City Attorney | 2,116 | 2,282 | 2,340 | 2,412 | 2,485 | 2,563 | 2,643 | 2,726 |
| City Clerk's Office | 634 | 637 | 633 | 653 | 672 | 693 | 715 | 737 |
| City Manager | 1,008 | 1,087 | 1,136 | 1,171 | 1,207 | 1,244 | 1,283 | 1,323 |
| West Nile Virus Program | 241 | 250 | 250 | 250 | 250 | 250 | 250 | 250 |
| Energy Strategy[1, 2] | 1,033 | 2,203 | 2,312 | 2,016 | 2,076 | 2,138 | 2,203 | 2,269 |
| Conference and Visitors Bureau | 1,365 | 1,389 | 1,559 | 1,701 | 1,760 | 1,816 | 1,878 | 1,937 |
| Non-departmental | 152 | 114 | 448 | 208 | 233 | 133 | 133 | 133 |
| Cyber Café Loan Repayments | - | - | 269 | - | - | - | - | - |
| Citywide Memberships | 118 | 139 | 142 | 142 | 142 | 142 | 142 | 142 |
| Contingency | 196 | 159 | 159 | 159 | 159 | 159 | 159 | 159 |
| Fuel Contingency | 6 | 190 | 190 | 190 | 190 | 190 | 190 | 190 |
| Extraordinary Personnel Expense | 52 | 120 | 120 | 120 | 120 | 120 | 120 | 120 |
| Waste Reduction Project (6400 Arapahoe) | 1,222 | - | - | - | - | - | - | - |
| DUHMD/Parking Svcs | 1,204 | 1,292 | 1,214 | 1,246 | 1,284 | 1,324 | 1,366 | 1,408 |
| Communications | 757 | 827 | 877 | 904 | 932 | 961 | 991 | 1,021 |
| Unemployment & Volunteer Ins | 125 | 107 | 107 | 110 | 114 | 117 | 121 | 125 |
| Property & Casualty Ins. | 1,510 | 1,510 | 1,610 | 1,610 | 1,610 | 1,610 | 1,610 | 1,610 |
| Compensated Absences | 784 | 844 | 730 | 753 | 775 | 800 | 825 | 850 |
| Worker's Compensation (Refund) | 115 | - | - | - | - | - | - | - |
| Information Technology | 4,212 | 4,550 | 4,650 | 4,794 | 4,939 | 5,093 | 5,252 | 5,416 |
| IT/Technology Funding | - | 404 | 404 | 404 | 404 | 404 | 404 | 404 |
| IT/Telecommunications Funding | 48 | 48 | 48 | 48 | 48 | 48 | 48 | 48 |
| Human Resources | 1,614 | 1,734 | 2,204 | 2,212 | 2,279 | 2,351 | 2,424 | 2,500 |
| Finance | 3,168 | 3,233 | 3,533 | 3,560 | 3,668 | 3,782 | 3,900 | 4,022 |
| Campaign Financing | - | 46 | - | 46 | - | 46 | - | 46 |

## GENERAL

| | 2012 Actual | 2013 Revised | 2014 Recommended | 2015 Projected | 2016 Projected | 2017 Projected | 2018 Projected | 2019 Projected |
|---|---|---|---|---|---|---|---|---|
| Police | 30,368 | 31,747 | 32,041 | 33,031 | 34,032 | 35,095 | 36,190 | 37,320 |
| Fire | 16,470 | 16,546 | 17,480 | 17,728 | 18,265 | 18,835 | 19,423 | 20,029 |
| Public Works | 4,229 | 1,878 | 1,974 | 2,035 | 2,097 | 2,163 | 2,230 | 2,300 |
| Municipal Facilities Fund | - | 880 | 880 | 880 | 880 | 880 | 880 | 880 |
| Equipment Replacement | - | 26 | 26 | 26 | 26 | 26 | 26 | 26 |
| Facilities Renovation & Replacement | - | 1,550 | 2,619 | 1,669 | 1,669 | 1,669 | 1,669 | 1,669 |
| Parks | 4,419 | 4,616 | 4,544 | 4,684 | 4,826 | 4,977 | 5,132 | 5,293 |
| Arts | 528 | 559 | 518 | 534 | 550 | 567 | 585 | 603 |
| Real Estate (Open Space) | 146 | 152 | 153 | 158 | 163 | 168 | 173 | 178 |
| Human Services | 6,776 | 6,714 | 6,586 | 6,690 | 6,892 | 7,107 | 7,329 | 7,558 |
| Housing | 132 | 173 | 158 | 163 | 168 | 173 | 178 | 184 |
| Humane Society Bldg Loan | 60 | 94 | 94 | 94 | 94 | 94 | 94 | 94 |
| Community Sustainability | 2,313 | 2,735 | 1,974 | 1,990 | 2,601 | 2,648 | 2,696 | 2,745 |
| Police/Fire Old Hire Contribution | 376 | 376 | 626 | 628 | 629 | 630 | 628 | 627 |
| Boulder Junction Phase I | - | - | - | - | - | - | - | - |
| Carryovers and Supplementals from Add'l Revenue | - | 574 | - | - | - | - | - | - |
| Education Excise Tax Programs | - | - | - | - | - | - | - | - |
| Adjustment to balance Pay Period 27 Reserve | - | (2,044) | - | - | - | - | - | - |
| **Sub-Total Uses of Funds** | $ 89,499 | $ 92,022 | $ 96,876 | $ 97,341 | $ 100,632 | $ 103,483 | $ 106,434 | $ 109,564 |
| Debt- | | | | | | | | |
| Existing Debt | $ 601 | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| Pension Obligation Bonds | 688 | 686 | 689 | 687 | 686 | 685 | 687 | 688 |
| CIS Bonds | 2,755 | 3,995 | 3,995 | 3,995 | 3,994 | 3,995 | 3,334 | 3,331 |
| Waste Reduction Project (6400 Arapahoe) | 438 | 698 | 428 | 423 | 421 | 424 | 421 | 423 |
| **Sub-Total Debt** | $ 4,482 | $ 5,379 | $ 5,112 | $ 5,105 | $ 5,101 | $ 5,104 | $ 4,442 | $ 4,442 |
| Transfers Out- | | | | | | | | |
| Recreation Activity Fund | $ 1,548 | $ 1,594 | $ 1,453 | $ 1,498 | $ 1,543 | $ 1,591 | $ 1,641 | $ 1,692 |
| Planning and Development Services Fund | 1,971 | 2,130 | 2,125 | 2,191 | 2,257 | 2,328 | 2,400 | 2,475 |
| Affordable Housing Fund | 325 | 325 | 240 | 240 | 240 | 240 | 240 | 240 |
| Library Fund | 6,298 | 6,511 | 6,587 | 6,698 | 6,901 | 7,116 | 7,338 | 7,567 |
| Open Space Fund (Mountain Parks) | 1,026 | 1,072 | 1,103 | 1,137 | 1,172 | 1,208 | 1,246 | 1,285 |
| CAGID and UHGID Funds (Parking Meter Revenue) | 1,800 | 1,875 | 1,950 | 1,950 | 1,950 | 1,950 | 1,950 | 1,950 |
| CAGID 10th & Walnut debt/costs | - | - | - | 371 | 356 | 365 | 349 | 359 |
| Utilities Fund (Fire Training Center property) | 93 | 93 | 93 | 93 | 93 | 93 | 93 | 93 |
| Prop and Casualty Fund | 41 | - | - | - | - | - | - | - |
| Transportation Fund (excess Photo Enforcement Rev) | 106 | - | - | - | - | - | - | - |
| Fleet Fund (interfund loan for Valmont Butte) | 145 | 145 | 145 | 145 | 145 | 145 | 145 | 145 |
| Boulder Junction GID - Parking (interfund loan) | - | - | - | 115 | 107 | 96 | 80 | 80 |

## GENERAL

| | 2012 Actual | 2013 Revised | 2014 Recommended | 2015 Projected | 2016 Projected | 2017 Projected | 2018 Projected | 2019 Projected |
|---|---|---|---|---|---|---|---|---|
| Adjustment to balance Pay Period 27 Reserve | - | (290) | - | - | - | - | - | - |
| **Sub-Total Transfers Out** | $ 13,353 | $ 13,455 | $ 13,696 | $ 14,438 | $ 14,764 | $ 15,132 | $ 15,482 | $ 15,887 |
| .15% Sales Tax Expenditures- Fund 117 | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| **Sub-Total .15 Sales Tax** | $ - | $ - | $ - | $ - | $ - | $ - | $ - | $ - |
| **Total Uses of Funds** | **$ 107,334** | **$ 110,856** | **$ 115,684** | **$ 116,884** | **$ 120,497** | **$ 123,720** | **$ 126,358** | **$ 129,893** |
| **Current Surplus (Deficit)** | $ 5,186 | $ 1,660 | $ (637) | $ 645 | $ 255 | $ 353 | $ 1,106 | $ 1,058 |
| **Less One-Time Expenditures** | $ - | $ (1,170) | $ - | $ - | $ - | $ - | $ - | $ - |
| **Annual Surplus (Deficit)** [2] | $ 5,186 | $ 2,830 | $ (637) | $ 645 | $ 255 | $ 353 | $ 1,106 | $ 1,058 |
| Carryovers and Supplementals from Fund Balance | $ - | $ 6,440 | $ - | $ - | $ - | $ - | $ - | $ - |
| Encumbrance Carryovers from Fund Balance | - | 1,424 | - | - | - | - | - | - |
| **Total Carryovers** | $ - | $ 7,864 | $ - | $ - | $ - | $ - | $ - | $ - |
| Use of Pay Period 27 Reserve | $ - | $ 2,334 | $ - | $ - | $ - | $ - | $ - | $ - |
| **Ending Fund Balance Before Reserves** | **$ 38,530** | **$ 29,992** | **$ 29,354** | **$ 29,999** | **$ 30,254** | **$ 30,607** | **$ 31,712** | **$ 32,771** |
| **Reserves** | | | | | | | | |
| Reserved per 10% -15% reserve policy | $ 10,625 | $ 16,865 | $ 17,233 | $ 17,442 | $ 17,990 | $ 18,474 | $ 18,870 | $ 19,400 |
| Legally restricted fund balance | 1,414 | 1,414 | 1,414 | 1,414 | 1,414 | 1,414 | 1,414 | 1,414 |
| Restricted by Management | 3,008 | 3,008 | 3,008 | 3,008 | 3,008 | 3,008 | 3,008 | 3,008 |
| Wage Accrual Reserve (PP27) | 2,943 | 1,101 | 1,557 | 2,013 | 2,469 | 2,925 | 3,381 | 3,837 |
| **Total Designations** | $ 17,990 | $ 22,388 | $ 23,212 | $ 23,877 | $ 24,881 | $ 25,821 | $ 26,673 | $ 27,659 |
| **Ending Fund Balance After Designations** | **$ 20,540** | **$ 7,604** | **$ 6,142** | **$ 6,122** | **$ 5,372** | **$ 4,786** | **$ 5,040** | **$ 5,112** |

[1] The Utilities Occupation Tax expires at the end of 2017. Starting in 2018, if funding were not continued, either through tax renewal or other means, adjustments to expenditure would be made. For the purposes of current fund balance analysis, we have included ongoing revenue and corresponding expenditure in these years.

[2] Previously titled Clean Energy Study.

| Fund Title | Projected Fund Balance 1/1/2014 | Estimated Revenues Including Transfers In | Appropriations Including Transfers Out | Projected Fund Balance 12/31/2014 | Projected Changes in Fund Balance |
|---|---|---|---|---|---|
| General | $ 29,992 | $ 115,046 | $ 115,684 | 29,354 | $ (637) |
| .25 Cent Sales Tax | 809 | 7,637 | 7,575 | 871 | 62 |
| Affordable Housing | 18 | 1,430 | 1,417 | 31 | 13 |
| Airport | 760 | 1,948 | 2,015 | 693 | (67) |
| Boulder Junction Access GID TDM | 30 | 131 | 50 | 111 | 80 |
| Boulder Junction GID Parking | 21 | 27 | 13 | 36 | 14 |
| Boulder Junction Improvement | 784 | 1,794 | 1,544 | 1,034 | 250 |
| Capital Development | 6,530 | 605 | 373 | 6,762 | 232 |
| Capital Improvement Fund | 22,371 | 132 | 22,108 | 394 | (21,976) |
| Climate Action Plan | 102 | 1,846 | 1,846 | 102 | 0 |
| Community Development Block Grant (CDBG) | - | 684 | 684 | - | - |
| Community Housing Assistance Program | 20 | 2,315 | 2,306 | 29 | 9 |
| Compensated Absences | 1,826 | 742 | 754 | 1,814 | (12) |
| Computer Replacement | 6,127 | 1,816 | 1,891 | 6,052 | (75) |
| Downtown Commercial District | 3,860 | 8,080 | 7,028 | 4,912 | 1,052 |
| Equipment Replacement | 4,918 | 802 | 1,953 | 3,767 | (1,151) |
| Facility Renovation and Replacement | 2,476 | 3,894 | 3,545 | 2,825 | 349 |
| Fleet Operations | 598 | 3,816 | 3,814 | 600 | 2 |
| Fleet Replacement | 6,143 | 6,220 | 7,345 | 5,018 | (1,125) |
| HOME Investment Partnership Grant | - | 811 | 811 | - | - |
| Library | 1,359 | 7,629 | 7,629 | 1,359 | - |
| Lottery | 212 | 837 | 836 | 214 | 1 |
| Open Space and Mountain Parks | 13,214 | 28,210 | 27,319 | 14,105 | 891 |
| Permanent Parks and Recreation | 694 | 2,514 | 2,783 | 425 | (269) |
| Planning and Development Services | 5,022 | 9,176 | 10,518 | 3,680 | (1,341) |
| Property and Casualty Insurance | 5,048 | 1,640 | 1,988 | 4,700 | (348) |
| Recreation Activity | 1,371 | 9,946 | 10,270 | 1,047 | (323) |
| Stormwater/Flood Management Utility | 8,663 | 8,362 | 13,925 | 3,100 | (5,564) |
| Telecommunications | 1,137 | 723 | 730 | 1,130 | (7) |
| Transit Pass GID | 6 | 14 | 15 | 5 | (1) |
| Transportation | 4,499 | 28,729 | 31,422 | 1,806 | (2,693) |
| Transportation Development | 609 | 677 | 917 | 368 | (241) |
| University Hill Commercial District | 739 | 576 | 569 | 746 | 6 |
| Wastewater Utility | 9,512 | 15,120 | 16,039 | 8,593 | (919) |
| Water Utility | 30,960 | 27,803 | 26,503 | 32,260 | 1,300 |
| Worker's Compensation Insurance | 3,165 | 1,534 | 1,817 | 2,882 | (283) |
| **Totals** | **$ 173,595** | **$ 303,268** | **$ 336,039** | **$ 140,823** | **$ (32,772)** |

**Note:**
The table above reflects the impact of the 2014 budget, including estimated revenues (with transfers in) and appropriations (with transfers out), on projected unreserved fund balance.

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# ORDINANCE NO. XXXX

**AN ORDINANCE ADOPTING A BUDGET FOR THE CITY OF BOULDER, COLORADO, FOR THE FISCAL YEAR COMMENCING ON THE FIRST DAY OF JANUARY 2014 AND ENDING ON THE LAST DAY OF DECEMBER 2014 AND SETTING FORTH DETAILS IN RELATION THERETO.**

WHEREAS, the City Manager has submitted a recommended budget for fiscal year 2014 to the City Council as required by Charter; and,

WHEREAS, upon due and proper notice, numerous study sessions and public hearings have been held on said recommended budget;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO THAT THE FOLLOWING FISCAL YEAR 2014 BUDGET IS HEREBY ADOPTED:

Section 1. That estimated expenditures for fiscal year 2014 are as follows (excludes carryover and the General Improvement Districts):

| | |
|---|---|
| General Operating Fund | $115,683,987 |
| Capital Development Fund | 373,105 |
| Lottery Fund | 836,000 |
| Planning and Development Services Fund | 10,517,645 |
| Affordable Housing Fund | 1,417,349 |
| Community Housing Assistance Program Fund | 2,306,005 |
| .25 Cent Sales Tax Fund | 7,575,343 |
| Library Fund | 7,629,002 |
| Recreation Activity Fund | 10,269,708 |
| Climate Action Plan Fund | 1,845,600 |

| | |
|---|---|
| Open Space Fund | 27,319,312 |
| Airport Fund | 2,015,389 |
| Transportation Fund | 31,421,772 |
| Transportation Development Fund | 917,489 |
| Community Development Block Grant (CDBG) Fund | 684,180 |
| HOME Investment Partnership Grant Fund | 811,331 |
| Permanent Parks and Recreation Fund | 2,783,289 |
| Boulder Junction Improvement Fund | 1,543,944 |
| Water Utility Fund | 26,503,491 |
| Wastewater Utility Fund | 16,039,376 |
| Stormwater/Flood Management Utility Fund | 13,925,314 |
| Telecommunications Fund | 730,326 |
| Property and Casualty Insurance Fund | 1,988,025 |
| Worker's Compensation Insurance Fund | 1,817,293 |
| Compensated Absences Fund | 753,698 |
| Fleet Operations Fund | 3,814,121 |
| Fleet Replacement Fund | 7,345,203 |
| Computer Replacement Fund | 1,891,092 |
| Equipment Replacement Fund | 1,953,147 |
| Facility Renovation and Replacement Fund | 3,544,616 |
| Less: Interfund Transfers | 22,721,072 |
| Less: Internal Service Fund Charges | 22,211,773 |
| TOTAL (Including Debt Service) | $ 261,323,309 |

Section 2. That estimated carryover funds from fiscal year 2013 are as follows (excludes General Improvement Districts):

| | |
|---|---|
| General Operating Fund | $3,000,000 |
| Capital Development Fund | 90,000 |
| Lottery Fund | 670,000 |
| Planning & Development Services Fund | 1,000,000 |
| Affordable Housing Fund | 11,000,000 |
| CHAP Fund | 2,000,000 |
| .25 Cent Sales Tax Fund | 400,000 |
| Climate Action Plan Fund | 700,000 |
| Airport Fund | 250,000 |
| Transportation Fund | 9,500,000 |
| Transportation Development Fund | 1,900,000 |
| Community Development Block Grant (CDBG) Fund | 800,000 |
| HOME Investment Partnership Grant Fund | 700,000 |
| Permanent Parks and Recreation Fund | 1,000,000 |
| Boulder Junction Improvement Fund | 600,000 |
| 2011 Capital Improvement Bond Fund | 21,473,419 |
| Water Utility Fund | 3,500,000 |
| Wastewater Utility Fund | 1,500,000 |
| Stormwater/Flood Management Fund | 9,600,000 |
| Fleet Replacement Fund (Internal Service Fund) | 5,000,000 |
| Equipment Replacement Fund (Internal Service Fund) | 700,000 |
| Facility Renovation and Replacement Fund (Internal Service Fund) | 7,000,000 |
| TOTAL | $ 82,383,419 |

Section 3. That estimated revenues and fund balances available for fiscal year 2014 to fund the above expenditures are as follows (excludes carryover and General Improvement Districts):

| | |
|---|---|
| Taxes | $ 154,364,902 |
| Charges for Services | 56,171,690 |
| Internal Service Fund Charges | 20,251,135 |
| Sale of Goods and Capital Assets | 723,535 |
| License Fees and Fines | 17,718,314 |
| Intergovernmental and Grants | 18,110,754 |
| Interest/Lease/Rent | 4,864,597 |
| Other Revenues | 1,646,482 |
| Transfers In | 21,214,901 |
| Less: Transfers | 21,214,901 |
| Less: Internal Service Fund Charges | 20,251,135 |
| Plus: Fund Balance | 11,189,844 |
| TOTAL | $ 264,790,117 |

Section 4. That the proposed budget as submitted and hereinabove summarized be adopted as the budget of the City of Boulder, Colorado, for the 2014 fiscal year.

Section 5. The City Council finds that the budget must be adopted before the mill levy can be certified, and said levy must be certified to the County Assessor of the County of Boulder, State of Colorado, by December 16, 2013.

Section 6. 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 7. The 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 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

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# ORDINANCE NO. XXXX

**AN ORDINANCE ESTABLISHING THE 2013 CITY OF BOULDER PROPERTY TAX MILL LEVIES WHICH ARE TO BE COLLECTED BY THE COUNTY OF BOULDER, STATE OF COLORADO, WITHIN THE CITY OF BOULDER IN 2014 FOR PAYMENT OF EXPENDITURES BY THE CITY OF BOULDER DURING THE FISCAL YEAR 2014 PROVIDING THAT SAID LEVY BE CERTIFIED TO THE COUNTY ASSESSOR OF THE COUNTY OF BOULDER, STATE OF COLORADO, SETTING FORTH DETAILS IN RELATION THERETO.**

WHEREAS, Section 94 of the Charter of the City of Boulder, Colorado requires the City Council to make by ordinance the proper levy in mills on each dollar of the assessed valuation of all taxable property within the City, such levy representing the amount of taxes for City purposes necessary to provide for payment during the ensuing fiscal year of the properly authorized demands upon the Treasury, and to cause said total levy to be certified to the County Assessor of the County of Boulder, State of Colorado; and

WHEREAS, after reviewing the requirements for anticipated expenditures as well as anticipated revenues from other sources for 2014, the City Council has determined that for the year of 2013, the proper mill levy, which shall be collected in 2014 by the Treasurer of the County of Boulder, State of Colorado, upon each dollar of the assessed valuation of all taxable property within the city, shall be 11.981 mills; and

WHEREAS, Boulder residents approved Ballot Issue 201 on November 4, 2008, which has the effect of allowing the retention of property tax monies collected above the limits imposed by Article X, Section 20, of the Colorado Constitution, commonly referred to as “TABOR,” and reducing the mill levy credit by 0.50 mill each year until the credit is completely eliminated; and

WHEREAS, in line with those guidelines, no mill levy credit remains, and a total of 11.981 mills is to be assessed upon each dollar of assessed valuation of all taxable property with the City.

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

Section 1. For the purpose of maintaining funds to defray the general expenses of the City of Boulder, Colorado, during the fiscal year of the City commencing at 12:00 Midnight at the end of December 31, 2013, and ending at 12:00 Midnight at the end of December 31, 2014, there is hereby levied for the year of 2013 to be collected in 2014 a tax of 11.981 mills upon each dollar of the total assessed valuation of all taxable property within the City of Boulder, Colorado. The levy includes the following components:

| | |
|---|---|
| GENERAL CITY OPERATIONS | 8.748 |
| PERMANENT PARKS FUND (Charter Sec. 161) | .900 |
| LIBRARY FUND (Charter Sec. 165) | .333 |
| TOTAL | 9.981 |
| GENERAL CITY OPERATIONS (PUBLIC SAFETY) | 2.000 |
| NET MILL LEVY | 11.981 |

Section 2. 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 3. The 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.

Section 4. Pursuant to Section 18 of the Charter of the City of Boulder, this ordinance shall take effect immediately upon publication after final passage.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

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# ORDINANCE NO. XXXX

**AN ORDINANCE APPROPRIATING MONEY TO DEFRAY EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, COLORADO, FOR THE 2014 FISCAL YEAR OF THE CITY OF BOULDER, COMMENCING ON THE FIRST DAY OF JANUARY 2014, AND ENDING ON THE LAST DAY OF DECEMBER 2014, AND SETTING FORTH DETAILS IN RELATION THERETO.**

WHEREAS, the City Council has approved a motion to adopt the budget for 2014; and,

WHEREAS, the City Council has by ordinance made the property tax levy in mills upon each dollar of the total assessed valuation of all taxable property within the City, such levy representing the amount of taxes for City purposes necessary to provide for payment in part during the City's said fiscal year of the properly authorized demands upon the Treasury; and,

WHEREAS, the City Council is now desirous of making appropriations for the ensuing fiscal year as required by Section 95 of the Charter of the City of Boulder;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that;

Section 1. The following appropriations are hereby made for the City of Boulder's fiscal year commencing at 12:00 Midnight at the end of December 31, 2013 and ending at 12:00 Midnight at the end of December 31, 2014, for payment of 2014 City operating expenses, capital improvements, and general obligation and interest payments:

| | |
|---|---|
| General Operating Fund | $115,683,987 |
| Capital Development Fund | 373,105 |
| Lottery Fund | 836,000 |

| | |
|---|---|
| Planning and Development Services Fund | 10,517,645 |
| Affordable Housing Fund | 1,417,349 |
| Community Housing Assistance Program Fund | 2,306,005 |
| .25 Cent Sales Tax Fund | 7,575,343 |
| Library Fund | 7,629,002 |
| Recreation Activity Fund | 10,269,708 |
| Climate Action Plan Fund | 1,845,600 |
| Open Space Fund | 27,319,312 |
| Airport Fund | 2,015,389 |
| Transportation Fund | 31,421,772 |
| Transportation Development Fund | 917,489 |
| Community Development Block Grant (CDBG) Fund | 684,180 |
| HOME Investment Partnership Grant Fund | 811,331 |
| Permanent Parks and Recreation Fund | 2,783,289 |
| Boulder Junction Improvement Fund | 1,543,944 |
| Water Utility Fund | 26,503,491 |
| Wastewater Utility Fund | 16,039,376 |
| Stormwater/Flood Management Utility Fund | 13,925,314 |
| Telecommunications Fund | 730,326 |
| Property and Casualty Insurance Fund | 1,988,025 |
| Worker's Compensation Insurance Fund | 1,817,293 |
| Compensated Absences Fund | 753,698 |
| Fleet Operations Fund | 3,814,121 |
| Fleet Replacement Fund | 7,345,203 |
| Computer Replacement Fund | 1,891,092 |

| | |
|---|---|
| Equipment Replacement Fund | 1,953,147 |
| Facility Renovation and Replacement Fund | 3,544,616 |
| Less: Interfund Transfers | 22,721,072 |
| Less: Internal Service Fund Charges | 22,211,773 |
| TOTAL (Including Debt Service) | $ 261,323,309 |

Section 2. The following appropriations are hereby made for the City of Boulder's fiscal year commencing January 1, 2014 and ending December 31, 2014 for estimated carryover expenditures:

| | |
|---|---|
| General Operating Fund | $3,000,000 |
| Capital Development Fund | 90,000 |
| Lottery Fund | 670,000 |
| Planning & Development Services Fund | 1,000,000 |
| Affordable Housing Fund | 11,000,000 |
| CHAP Fund | 2,000,000 |
| .25 Cent Sales Tax Fund | 400,000 |
| Climate Action Plan Fund | 700,000 |
| Airport Fund | 250,000 |
| Transportation Fund | 9,500,000 |
| Transportation Development Fund | 1,900,000 |
| Community Development Block Grant (CDBG) Fund | 800,000 |
| HOME Investment Partnership Grant Fund | 700,000 |
| Permanent Parks and Recreation Fund | 1,000,000 |
| Boulder Junction Improvement Fund | 600,000 |
| 2011 Capital Improvement Bond Fund | 21,473,419 |

| | |
|---|---|
| Water Utility Fund | 3,500,000 |
| Wastewater Utility Fund | 1,500,000 |
| Stormwater/Flood Management Fund | 9,600,000 |
| Fleet Replacement Fund (Internal Service Fund) | 5,000,000 |
| Equipment Replacement Fund (Internal Service Fund) | 700,000 |
| Facility Renovation and Replacement Fund (Internal Service Fund) | 7,000,000 |
| TOTAL | 82,383,419 |

Section 3. The following appropriations are hereby made for the City of Boulder's fiscal year commencing January 1, 2014, and ending December 31, 2014, for Fund Balances:

| | |
|---|---|
| General Operating Fund | $29,354,000 |
| Capital Development Fund | 6,762,198 |
| Lottery Fund | 213,750 |
| Planning and Development Services Fund | 3,680,481 |
| Affordable Housing Fund | 30,763 |
| Community Housing Assistance Program Fund | 28,653 |
| .25 Cent Sales Tax Fund | 871,108 |
| Library Fund | 1,358,591 |
| Recreation Activity Fund | 1,047,281 |
| Climate Action Plan Fund | 101,867 |
| Open Space Fund | 14,104,894 |
| Airport Fund | 692,724 |
| Transportation Fund | 1,806,016 |
| Transportation Development Fund | 367,884 |
| Permanent Parks and Recreation Fund | 424,658 |

| | |
|---|---|
| Boulder Junction Improvement Fund | 1,034,280 |
| 2011 Capital Improvement Bond Fund | 394,322 |
| Water Utility Fund | 32,360,110 |
| Wastewater Utility Fund | 8,667,898 |
| Stormwater/Flood Management Utility Fund | 3,149,506 |
| Telecommunications Fund | 1,129,912 |
| Property and Casualty Insurance Fund | 4,700,219 |
| Worker's Compensation Insurance Fund | 2,881,783 |
| Compensated Absences Fund | 1,814,069 |
| Fleet Operations Fund | 599,920 |
| Fleet Replacement Fund | 5,017,715 |
| Computer Replacement Fund | 6,052,084 |
| Equipment Replacement Fund | 3,767,347 |
| Facility Renovation and Replacement Fund | 2,824,881 |
| TOTAL FUND BALANCES | $135,238,914 |

Section 4. The City Council hereby appropriates as revenues all 2013 year end cash balances not previously reserved for insurance or bond purposes for all purposes not designated as "emergencies", including without limitation subsequent years' expenditures, capital improvements, adverse economic conditions and revenue shortfalls, pursuant to Article X, Section 20 to the Colorado Constitution, approved by the electorate on November 3, 1992; and

Section 5. The sums of money as appropriated for the purposes defined in this ordinance shall not be over expended, and that transfers between the various appropriations defined in this ordinance shall not be made except upon supplemental appropriations by ordinance authorizing such transfer duly adopted by City Council of

the City of Boulder, Colorado. It is expressly provided hereby that at any time after the passage of this ordinance and after at least one week's public notice, the Council may transfer unused balances appropriated for one purpose to another purpose, and may appropriate available revenues not included in the annual budget and appropriations ordinance.

Section 6. The City Council is of the opinion that the provisions of the within ordinance are necessary for the protection of the public peace, property, and welfare of the residents of the city, and covers matters of local concern.

Section 7. Pursuant to Section 95 of the Boulder City Charter, the annual appropriation ordinance must be adopted by December 1 and to Section 18 of the Charter, this ordinance shall take effect immediately upon publication after final passage.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 3-8, 3-13, 4-20, AND 8-3 B.R.C. 1981, CHANGING CERTAIN FEES, AND SETTING FORTH RELATED DETAILS.

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

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

**3-8-3 Tax Imposed on Nonresidential and Residential Development.**

(a) Tax Rate: No person engaged in nonresidential or residential development in the city shall fail to pay a development excise tax thereon according to the following rates:

(1) For new or additional floor area for nonresidential development per square foot of floor area:

| | |
|---|---|
| Transportation | $2.48 |
| Total: | $2.48 |

(2) For new detached dwelling unit:

| | |
|---|---|
| Park land | $1,115.83~~1,090.74~~ |
| Transportation | $2,170.50~~2,121.70~~ |
| Total: | $3,286.33~~3,212.44~~ |

(3) For new attached dwelling unit or mobile home:

| | |
|---|---|
| Park land | $775.81~~758.37~~ |
| Transportation | $1,608.47~~1,572.31~~ |
| Total: | $2,384.28~~2,330.68~~ |

(b) Waiver of Tax Imposed on Annexation of Developed Residential Land: For property annexed with existing residential development, the tax imposed by this chapter is prorated in accordance with the following formula: one twenty-sixth of the applicable tax is waived for each full year the residence existed prior to July 17, 1988. The date on which residential development existed for determination of the waiver is the date of the issuance by Boulder County of a certificate of occupancy for the structure.

Section 2. Chapter 3-13, B.R.C. 1981, is amended to read:

**3-13-1 Legislative Purpose, Findings, and Intent.**

(a) Purpose. It is the purpose of this chapter to implement the City's utility occupation tax.

(1) Passed by the voters on November 2, 2010, as a replacement for a fee paid under franchise agreement with a utility provider;

(2) Amended by the voters on November 1, 2011, to increase the amount of the tax and extend the tax to December 31, 2017.

…

**3-13-2 Imposition of Occupation Tax.**

(a) Payment of Tax Required. No utility delivering electricity and gas to residential, commercial or industrial customers shall fail to pay to the city manager the utility occupation tax, prescribed by subsection (c) of this section, unless such person is obligated to pay a comparable fee under a franchise agreement or other license or permit agreement with the City.

(b) Original Tax Effective Date and Expiration Date. The utility occupation tax of $4,100,000 was effective January 1, 2011.

(c) Extension and Increase Dates. The increase in the amount of the utility occupation tax shall be effective January 1, 2012, and expire on the earlier of: (1) December 31, 2017; (2) when the City decides not to create a municipal utility; or (3) when the City commences delivery of municipal electric utility services.

(d) Tax Rate. The utility occupation tax effective January 1, 2014~~2012~~, shall be $6,180,000~~6,000,000~~, and adjusted annually as provided in section 3-13-3 of this chapter.

**3-13-3 Adjustments.**

(a) Limitations on Tax Increases. Beginning January 1, 2012, the maximum annual tax rate increase shall be the lesser of three percent or the average amount of rate increases made by public utility companies delivering natural gas or electricity in the City in the previous year as calculated pursuant to subsections (b) through (d) of this section.

(b) Annual Utility Rate Study. The city manager shall review the rate tariffs filed by all investor-owned public utility companies delivering gas or electricity in the City.

(1) The city manager shall list all electrical rates in the electrical tariff expressed in terms of cents per kilowatt hour from lowest to highest and select from that list the median electric rate. If there is more than one investor-owned electric utility company delivering electricity in the City, the city manager shall ascertain the median electrical rate for each such company and then produce an average median rate charge for electricity in the City.

(2) The city manager shall ascertain the standard rate per decatherm charged by each public utility company delivering gas in the City. If there is more than one investor-owned

gas utility company delivering gas in the City, the city manager will average the standard rate per decatherm for each such company to produce an average standard rate per decatherm charged for delivering gas in the City.

(c) Annually, the city manager shall calculate an average increase by comparing the rates determined in subsection (b) above with comparable rates charged in the previous calendar year to produce a percentage average increase for each such rate. The city manager shall then average those rate increases and compare that average to determine whether it is greater than or less than three percent. The utility occupation tax shall then be increased by the lesser of the two percentages. The city manager will recommend any such tax increase, subject to the limitations of this section, to the city council concurrent with the annual budget process.

(d) Tax Increase Date. The effective amount of tax due shall be increased as of January 1 of each year.

**….**

Section 3. Section 4-20-3, B.R.C. 1981, is amended to read:

**4-20-3. Auctioneer License Fees.**

An applicant for an auctioneer license shall pay an annual fee of $77.00~~75.00~~ and $7.00 per person submitted for background check review.

Section 4. Section 4-20-5, B.R.C. 1981, is amended to read:

**4-20-5. Circus, Carnival, and Menagerie License Fees.**

An applicant for a circus, carnival, and menagerie license shall pay $405.00~~395.00~~ per day of operation.

Section 5. Section 4-20-7, B.R.C. 1981, is amended to read:

**4-20-7. Dog License Fee.**

(a) An applicant for a dog license shall pay the following fees per year:

(1) For dogs less than one year old or for altered dogs upon presentation of a veterinary certificate showing alteration: One-year license: $15.00.

(2) For unaltered dogs one year or more old: One-year license: $30.00.

(3) Additional fee for licenses renewed later than February~~April~~ 1 of the calendar year in which renewal is due: $5.00.

(b) An applicant to transfer a dog license shall pay the fees specified for a new license, subject to the proration provisions of this section.

(c) The holder of a dog license shall pay $2.00 for a replacement dog tag.

(d) The fees prescribed in subsection (a) of this section shall be reduced for the last quarter of the annual license term, for all licenses except renewals.

Section 6. Section 4-20-10, B.R.C. 1981, is amended to read:

**4-20-10. Itinerant Merchant License Fee.**

An applicant for an itinerant merchant license shall pay $53.00~~52.00~~ per year plus $7.00 per person submitted for background check review.

Section 7. Section 4-20-11, B.R.C. 1981, is amended to read:

**4-20-11. Mall License and Permit Fees.**

The following fees shall be paid before issuance of a mall building extension, kiosk, mobile vending cart, ambulatory vendor, entertainment vending, personal services vending, animal, or special activity permit and rental of advertising space on informational kiosks:

(a) For building extension permits, an annual fee of $15.50~~15.00~~ per square foot of occupied space;

(b) For kiosk permits, an annual fee to be negotiated by contract with the city manager;

(c) For mobile vending carts, $2,075.00~~2,025.00~~ per year, payable in two equal payments by April 1 and August 1, or, for substitution or other permits which begin later in the year and are prorated, within thirty days of permit approval;

(d) For ambulatory vendor permits, $103.50~~101.00~~ per month from May through September and $51.00~~49.50~~ per month from October through April;

(e) For any permits requiring use of utilities to be provided by the city, up to a maximum of $18.00~~17.50~~ per day;

(f) For rental of advertising space on informational kiosks, $975.00~~1,950.00~~ per quarter section per year;

(g) For animal permits, $0.00 per permit;

(h) For entertainment vending permits, $14.50~~14.00~~ per month;

(i) For personal services vending permits, $103.50~~101.00~~ per month from May through September and $51.00~~49.50~~ from October through April; and

(j) For a newspaper vending machine permit, $66.50~~65.00~~ per year.

Section 8. Section 4-20-17, B.R.C. 1981, is amended to read:

**4-20-17. Secondhand Dealer and Pawnbroker License Fee.**

(a) An applicant for a secondhand dealer license shall pay $108.00 ~~105.00~~ per year plus $7.00 per person submitted for background check review.

(b) An applicant for a pawnbroker license shall pay $2,029.00~~1,980.00~~ per year plus $7.00 per person submitted for background check review.

(c) The fees for a new license prescribed in subsections (a) and (b) of this section shall be prorated on a monthly basis.

Section 9. Section 4-20-20, B.R.C. 1981, is amended to read:

**4-20-20. Revocable Right of Way Permit/Lease Application Fee.**

(a) An applicant for a revocable right of way permit shall pay:

(1) Initial application: $650.00.

(2) Resubmittal within four weeks of initial application: $325.00.

(3) Renewal: $113.00.

(b) An applicant for a revocable right of way lease shall pay:

(1) Initial application: $750.00.

(2) Resubmittal within four weeks of initial application: $375.00.

(3) Renewal: $150.00.

(c) An applicant for an encroachment investigation shall pay the following fees:

(1) Residential encroachment: $708.00.

(2) Commercial encroachment: $1,415.00.

(d) An applicant for an encroachment off the Pearl Street Mall shall pay an annual fee of $10.85~~10.50~~ per square foot of leased area.

(e) An applicant for a monitoring well encroachment shall pay $530.00 per well per year.

(f) Applications for any other encroachments not covered by this section will be reviewed and assessed a fee designed to recover city costs associated with the review and inspection.

Section 10. Section 4-20-23, B.R.C. 1981, is amended to read:

**4-20-23. Water Permit Fees.**

An applicant for a water permit under section 11-1-14, “Permit to Make Water Main Connections,” 11-1-15, “Out-of-City Water Service,” or 11-1-16, “Permit to Sell Water,” B.R.C. 1981, or for water meter installation under section 11-1-36, “Location and Installation of Meters; Maintenance of Access to Meters,” B.R.C. 1981, or for testing or inspection of backflow prevention assemblies under section 11-1-25, “Duty to Maintain Backflow Prevention Assembly and Prevent Cross-Connection,” B.R.C. 1981, and for inspection for cross-connections under

section 11-1-25, "Duty to Maintain Backflow Prevention Assembly and Prevent Cross-Connection," B.R.C. 1981, shall pay the following fees:

....

(b) Inspection fee (stub, connection, enlargement, renewal, abandonment):

| | |
|---|---|
| (1) Water residential (first two inspections inclusive) | $169.00 |
| (2) Water nonresidential (first two inspections inclusive) | 211.00 |
| (3) Irrigation residential (first two inspections inclusive) | 169.00 |
| (4) Irrigation nonresidential (first two inspections inclusive) | 211.00 |
| (5) Fire line residential (first two inspections inclusive) | 169.00 |
| (6) Fire line nonresidential (first two inspections inclusive) | 211.00 |
| (7) Each inspection after the first two inspections | 94.00 |
| (8) Clear water testing fee | 243.00~~143.00~~ |

....

(d) Water meter installation fee:

| | | |
|---|---|---|
| (1) | 3/4" meter | $ 544.00~~523.00~~ |
| (2) | 1" meter | 764.00~~723.00~~ |
| (3) | 1 1/2" meter (domestic) | 2,351.00~~1,978.00~~ |
| (4) | 1 1/2" meter (sprinkler) | 2,460.00~~2,241.00~~ |
| (5) | 2" meter (domestic) | 2,866.00~~2,435.00~~ |
| (6) | 2" meter (sprinkler) | 2,591.00~~2,436.00~~ |
| (7) | 3" meter | 3,172.00~~3,034.00~~ |
| (8) | 4" meter | 4,062.00~~3,924.00~~ |
| (9) | Install 3/4" meter transponder | 225.00~~226.00~~ |
| (10) | Install 1" meter transponder | 262.00 |

| | | |
|---|---|---|
| (11) | Install 1 1/2" meter transponder | 322.00~~324.00~~ |
| (12) | Install 2" meter transponder (domestic) | 341.00~~343.00~~ |
| (13) | 3" to 8" meter transponder (domestic) | 820.00~~822.00~~ |
| (14) | 2" to 8" meter transponder (sprinkler) | 820.00~~822.00~~ |
| (15) | Call back for 3/4" and 1" | 53.00 |
| (16) | Call back for 1 1/2" and 2" | 95.00~~97.00~~ |

Sales tax is due on materials portion of installation.

(e) Tap fee:

| | | |
|---|---|---|
| (1) | 3/4" in DIP or CIP | $111.00~~117.00~~ |
| (2) | 3/4" in AC or PVC | 206.00~~211.00~~ |
| (3) | 1" in DIP or CIP | 118.00~~124.00~~ |
| (4) | 1" in AC or PVC | 210.00~~216.00~~ |
| (5) | 1 1/2" | 354.00~~367.00~~ |
| (6) | 2" | 452.00~~465.00~~ |
| (7) | 4" | 363.00~~383.00~~ |
| (8) | 6" | 420.00~~440.00~~ |
| (9) | 8" | 502.00~~522.00~~ |
| (10) | 12" | 658.00~~678.00~~ |
| (11) | Call back for installing a water tap | 114.00~~129.00~~ |

Sales tax is due on materials portion of installation.

(f) The emergency water conservation special permit fee is $75.00.

(g) Tests and inspections for backflow prevention assemblies:

| | | |
|---|---|---|
| (1) | To test or inspect first backflow prevention assembly | $115.00 |
| (2) | Each additional assembly at same location | 75.00 |
| (3) | For cross-connection inspection first hour | 115.00 |
| (4) | For each additional hour at same location | 75.00 |

Section 11. Section 4-20-24, B.R.C. 1981, is amended to read:

**4-20-24. Water Service Fees.**

A person shall pay the following charges for water services:

| | | |
|---|---|---|
| (a) | To terminate water service | $32.00~~33.00~~ |
| (b) | To deliver water service termination notice | 14.00 |
| (c) | To remove water meter | 60.00~~62.00~~ |
| (d) | To reset water meter | 53.00~~54.00~~ |
| (e) | To resume water service | 30.00~~31.00~~ |
| (f) | To resume water service after 3:00 p.m. weekends or holidays | 57.00~~58.00~~ |
| (g) | Special meter read | 38.00~~39.00~~ |
| (h) | To test meter and meter tests accurate | 50.00 |
| (i) | Water monitors | 110.00 |

Section 12. Section 4-20-25, B.R.C. 1981, is amended as follows:

**4-20-25. Monthly Water User Charges.**

(a) Treated water monthly service charges:

| Meter Size | Inside City | Outside City |
|---|---|---|
| ¾" | $ 9.40~~9.16~~ | $ 14.10~~13.74~~ |
| 1" | 15.81~~15.42~~ | 23.7~~23.13~~ |
| 1½" | 34.08~~33.23~~ | 51.12~~49.85~~ |
| 2" | 59.70~~58.21~~ | 89.56~~87.32~~ |
| 3" | 132.81~~129.50~~ | 199.22~~194.25~~ |
| 4" | 235.17~~229.31~~ | 352.75~~343.96~~ |
| 6" | 527.75~~514.60~~ | 791.63~~771.89~~ |
| 8" | 937.34~~913.97~~ | 1,406.00~~1,370.95~~ |

(b) Treated water quantity charges:

(1) Block Rate Structure:

| | *Block Rates (per thousand* | *Block Size* |
|---|---|---|

| | *gallons of water)* | *(% of monthly water budget)* |
|---|---|---|
| Block 1 | $ 2.42~~2.32~~ | 0 – 60% |
| Block 2 | 3.23~~3.09~~ | 61 – 100% |
| Block 3 | 6.46~~6.18~~ | 101 – 150% |
| Block 4 | 9.69~~9.27~~ | 151 – 200% |
| Block 5 | 16.15~~15.45~~ | Greater than 200% |

(2) Definitions:

(A) "Block Rate Structure" is the water budget rate structure which includes Blocks 1-5. These blocks represent an increasing block rate structure such that the price of water increases as more water is used, particularly when the amount of water used exceeds the customer's water budget. This rate structure is intended to:

- promote water conservation and the efficient use of water;
- support community goals;
- reflect the value of water;
- send a price signal to customers who waste water;
- recover needed revenues for administration, operations, maintenance, capital projects, debt payments and reserves for the water utility;
- avoid additional costs of new water development; and
- avoid additional costs of new and expanded water treatment.

The rate structure provides an individualized water budget to each customer that is expected to meet the customer's specific water needs. The revenues generated from the block rate structure will be used to satisfy the quantity charge portion of the basic revenue requirements of the water utility.

(B) "Monthly water budget" means the amount of water allocated to the water utility customers to meet their anticipated watering needs for the month. The monthly water budget shall be the indoor and/or outdoor allocation for each water utility customer. The allocation shall be based on reasonable and necessary indoor and/or outdoor use, water conservation, and other relevant factors associated with water use in the City. The allocations shall be defined by rules and guidelines issued by the city manager.

(c) Bulk water and metered hydrant rate: $8.00 per thousand gallons of water used. (Service charges do not apply.)

(d) ~~Irrigation water~~Water leased on an annual basis: Colorado Big Thompson $30.00 ~~29.00~~ per acre foot; all other based on cost of assessment plus ten percent administrative fee or $30.00~~29.00~~ per acre foot, whichever is greater.

Section 13. Section 4-20-26, B.R.C. 1981, is amended to read:

**4-20-26. Water Plant Investment Fees.**

(a) Water utility customers shall pay the following plant investment fees:

The number of bedrooms, type of units, number of units, irrigated area and AWC Usage** are used to determine water budgets as well as calculate the Plant Investment Fee. Any changes to these characteristics may require payment of an additional Plant Investment Fee before any water budget adjustments are made.

| Customer Description | PIF Amount |
|---|---|

(1) Single Unit Dwelling:

| Type | Amount of Square Feet of Irrigable Area | Application Rate | |
|---|---|---|---|
| Outdoor [per S.F. of irrigated area (2,000 S.F. minimum)] | First 5,000 square feet of irrigable area | 15 gallons per square feet (gpsf) | $ 2.67~~2.57~~ |
| | Next 9,000 square feet of irrigable area | 12 gpsf | 2.14~~2.06~~ |
| | Irrigable area in excess of 14,000 square feet | 10 gpsf | 1.79~~1.72~~ |
| Indoor | | | 11,467.00~~11,026.00~~ |

(2) Multi Unit Dwelling:

Outdoor (Separate irrigation service under paragraph (4) of this section).

| Indoor | |
|---|---|
| 1 or 2 bedroom unit (per unit) | $ 6,554.00~~6,302.00~~ |
| 3 bedroom unit (per unit) | 8,192.00~~7,877.00~~ |
| 4 bedroom unit (per unit) | 9,830.00~~9,452.00~~ |
| 5 or more bedroom unit (per unit) | 11,467.00~~11,026.00~~ |

(3) Nonresidential:

Outdoor (Separate irrigation service under paragraph (4) of this section).

Indoor:

| | AWC Usage (Gallons)** | | |
|---|---|---|---|
| Meter size* | 25% | 50% | 85% |
| ¾" | N/A | 30,000 | 165,000 |
| 1" | 42,000 | 108,000 | 503,000 |
| 1½" | 99,000 | 228,000 | 924,000 |
| 2" | 183,000 | 483,000 | 1,941,000 |
| | PIF Amount | | |
| Meter size* | 25% | 50% | 85% |
| ¾" | N/A | 4,096~~3,938~~ | 21,941~~21,097~~ |
| 1" | 5,734~~5,513~~ | 14,744~~14,177~~ | 68,669~~66,028~~ |
| 1½" | 13,516~~12,996~~ | 31,126~~29,929~~ | 126,144~~121,292~~ |
| 2" | 24,983~~24,022~~ | 65,939~~63,403~~ | 264,983~~254,791~~ |

Water usage other than that listed above may be evaluated and assessed a proportional PIF on a case by case basis.

* Nonresidential meters larger than 2 inches require a special agreement described under paragraph (5) of this section. The efficiency standard option with a corresponding special agreement is available to all nonresidential customers.

** Average Winter Consumption Usage, (AWC Usage), is based on a usage distribution of all nonresidential accounts with a given meter size.

“N/A” means this option is not available for purchase.

(4) Irrigation service:

| Usage | Application Rate | PIF Amount |
|---|---|---|
| Per S.F. of irrigated area (2,000 S.F. minimum) | 15 gallons per square feet (gpsf) | $2.67~~2.57~~ |

(5) The PIF for a customer whose total water demand exceeds the water use demand described in subsection 11-1-52(j), B.R.C. 1981, is as follows:

(A) Raw Water: [(AYWA/30,650 acre feet) x A] plus

(B) Water Delivery Infrastructure: [(PDWD/53,000,000 gallons per day) x B] = Total PIF

Where:

AYWA = customer's average year water demand in acre feet

30,650 acre feet = City's usable water rights capacity

A = value of City's raw water

PDWD = customer's peak day water demand in million gallons per day

53,000,000 gallons per day = City's current treated water delivery capacity

B = value of City's water delivery infrastructure

| | **Water Asset Valuations** |
|---|---|
| | |
| A | $418,072,046.00 |
| B | 834,411,978.00~~802,319,210.00~~ |

Section 14. Section 4-20-27, B.R.C. 1981, is amended to read:

**4-20-27. Wastewater Permit Fees.**

An applicant for a wastewater tap or permit under section 11-2-8, "When Connections With Sanitary Sewer Mains Required," or 11-2-9, "Permit to Make Sanitary Sewer Connection," B.R.C. 1981, shall pay the following fees:

(a) Permit fee (stub, connection, enlargement, renewal, abandonment):

| | |
|---|---|
| (1) Wastewater residential | $127.00 |
| (2) Wastewater nonresidential | 169.00 |
| (3) Wastewater private property repair | 42.00 |
| (4) Sewer main extension permit | 326.00 |

(b) Inspection fee (stub, connection, enlargement, abandonment):

| | |
|---|---|
| (1) Wastewater residential (first two inspections inclusive) | $169.00 |
| (2) Wastewater nonresidential (first two inspections inclusive) | 211.00 |
| (3) Each inspection after the first two inspections | 94.00 |

(c) Sewer tap fee:

| | |
|---|---|
| (1) 4" PVC and VCP | $127.00~~133.00~~ |
| (2) 4" RCP | 194.00~~206.00~~ |
| (3) 6" PVC and VCP | 158.00~~164.00~~ |

(4) 6" RCP 222.00~~235.00~~

(5) Manhole tap 560.00~~613.00~~

(6) Call back for installing a sewer tap 80.00~~86.00~~

Sales tax is due on materials portion of installation.

Section 15. Section 4-20-28, B.R.C. 1981, is amended as follows:

**4-20-28. Monthly Wastewater User Charges.**

(a) Monthly service charge:

| Meter Size | Inside City | Outside City |
|---|---|---|
| ¾" | $ 1.10~~1.05~~ | $ 1.66~~1.58~~ |
| 1" | 1.93~~1.84~~ | 2.92~~2.78~~ |
| 1½" | 4.41~~4.20~~ | 6.56~~6.25~~ |
| 2" | 7.77~~7.40~~ | 11.69~~11.13~~ |
| 3" | 17.47~~16.64~~ | 26.24~~24.99~~ |
| 4" | 31.09~~29.61~~ | 46.64~~44.42~~ |
| 6" | 69.95~~66.62~~ | 104.91~~99.91~~ |
| 8" | 124.36~~118.44~~ | 186.49~~177.61~~ |

(b) Quantity charge:

(1) Average strength sewage (up to and including two hundred twenty mg/l TSS, twenty-five mg/l NH3-N, or two hundred thirty mg/l BOD):

| Quantity | Inside City | Outside City |
|---|---|---|
| Per 1,000 gallons of billable usage | $4.43~~4.22~~ | $6.61~~6.30~~ |

(2) Consumers with sewage strengths exceeding two hundred twenty mg/l TSS, or twenty-five mg/l NH3-N, or two hundred thirty mg/l BOD, shall pay the quantity charge for average strength sewage and, additionally, $368.00~~360.00~~ per one thousand pounds of sewage which exceeds such sewage strengths for TSS, $2,613.00~~2,500.00~~ per one thousand pounds of sewage which exceeds such sewage strengths for NH3-N, and $553.00~~530.00~~ per one thousand pounds of sewage which exceeds such sewage strengths for BOD.

(3) The quantity charge for all residential accounts with average strength sewage will be based on each property's Average Winter Consumption ("AWC") from the last AWC

computation period or the number of thousand gallons of water actually consumed during the month, whichever is lower. "AWC" means the average number of thousand gallons of water use per month reflected on an account's utility bill for the most recent consecutive months of December, January, February and March. For accounts registering no water use in one or more monthly billing periods, an average will be established based on those months in which there was usage, historical records or other available relevant data. The average for billing purposes will be recalculated in April of each year.

**....**

Section 16. Section 4-20-29, B.R.C. 1981, is amended to read:

**4-20-29. Wastewater Plant Investment Fees.**

(a) Sanitary sewer utility customers shall pay the following plant investment fees:

| Customer Description | PIF Amount |
|---|---|
| (1) Single Unit Dwelling: | $4,473.00~~4,301.00~~ |

(2) Multi Unit Dwelling:

| Description | |
|---|---|
| 1 or 2 bedroom unit (per unit) | $2,556.00~~2,458.00~~ |
| 3 bedroom unit (per unit) | 3,195.00~~3,072.00~~ |
| 4 bedroom unit (per unit) | 3,834.00~~3,687.00~~ |
| 5 or more bedroom unit (per unit) | 4,473.00~~4,301.00~~ |

(3) Nonresidential:

| | AWC Usage (Gallons)** | | |
|---|---|---|---|
| Meter size* | 25% | 50% | 85% |
| ¾" | N/A | 30,000 gallons | 165,000 gallons |
| 1" | 42,000 gallons | 108,000 | 503,000 |
| 1½" | 99,000 | 228,000 | 924,000 |
| 2" | 183,000 | 483,000 | 1,941,000 |
| | PIF Amount ($) | | |
| Meter size* | 25% | 50% | 85% |
| ¾" | N/A | $ 1,597.00~~1,536.00~~ | $ 8,786.00~~8,448.00~~ |
| 1" | $2,237.00~~2,151.00~~ | 5,751.00~~5,530.00~~ | 26,785.00~~25,755.00~~ |
| 1½" | 5,272.00~~5,069.00~~ | 12,141.00~~11,674.00~~ | 49,204.00~~47,312.00~~ |

| | | | |
|---|---|---|---|
| 2” | 9,745.00~~9,370.00~~ | 25,720.00~~24,731.00~~ | 103,359.00~~99,384.00~~ |

* Nonresidential meters larger than 2 inches require a special agreement described under paragraph (4) of this section. The efficiency standard option with a corresponding special agreement is available to all nonresidential customers.

** Average Winter Consumption Usage, (AWC Usage), is based on a usage distribution of all nonresidential accounts with a given meter size.

“N/A” means this option is not available for purchase.

(4) The PIF for a customer who exceeds the wastewater discharge described in subsection 11-2-33(j), B.R.C. 1981, is calculated as follows:

[(PDH/25,000,000 gallons per day) x A] plus

[(ABOD/36,000 lbs. per day) x B] plus

[(ATSS/39,000 lbs. per day) x C] plus

[(ANH3/4,060 lbs. per day) x D] = Total PIF

Where:

PDH = customer's peak day hydraulic loading in million gallons per day

25,000,000 gallons per day = City's current hydraulic and collection capacity

A = value of City's hydraulic and collection capacity

ABOD = thirty-day average BOD5 loading removal in lbs. per day where BOD5 is the amount of dissolved oxygen consumed in five days by biological processes breaking down organic matter

36,000 lbs. per day = City's current BOD5 removal capacity

B = value of City's BOD5 removal capacity

ATSS = customer's thirty-day average total suspended solids (TSS) loading requiring removal in lbs. per day

39,000 lbs. per day = City's current TSS removal capacity

C = value of City's TSS removal capacity

ANH3 = customer's thirty-day average ammonia nitrogen as N (NH3-N) loading requiring removal in lbs. per day

4,060 lbs. per day = City's current NH3-N removal capacity

D = value of City's NH3-N removal capacity

| Wastewater Asset Valuations | |
|---|---|
| A | $257,006,963.00~~247,122,080.00~~ |
| B | 28,303.584.00~~27,214,985.00~~ |
| C | 4,982,469.00~~4,790,836.00~~ |

| | |
|---|---|
| D | 11,416,503.00~~10,977,407.00~~ |

Section 17. Section 4-20-31, B.R.C. 1981, is amended to read:

**4-20-31. Wastewater Classification Survey Filing Fee and Industrial and Groundwater Discharge Permit Fees and Charges.**

(a) Applicants for an industrial discharge permit shall pay the following permit fees:

(1) Flow:

| Gallons per Day | Annual Fee |
|---|---|
| 0 – 100 | $ 500.00 |
| 101 – 10,000 | 3,959.00~~3,770.00~~ |
| 10,001 – 25,000 | 5,590.00~~5,324.00~~ |
| Over 25,000 | 7,046.00~~6,710.00~~ |

(2) Industries that are issued more than one permit will be charged an annual fee based on the total gallons per day from all their permit discharges.

(3) Fee to review a wastewater classification survey is $100.00.

(b) An applicant for a groundwater discharge permit shall pay the following permit fees:

(1) The fee to review a groundwater discharge permit application shall be $100.00.

(2) For an applicant that will have a continuous, ongoing discharge, the annual fee shall be $450.00 per year. The first year permit fee shall be payable upon the issuance of the permit and shall be paid every year thereafter on the anniversary of such issuance for the duration of the permit. Annual fees are not applied to construction de-watering discharges occurring over a period of no more than one hundred eighty days.

(c) The fee for dumping domestic septic wastes at the septage receiving station at the wastewater treatment plant in accordance with section 11-3-10, "Septage Tank Waste," B.R.C. 1981, shall be $70.00 per thousand gallons.

Section 18. Section 4-20-41, B.R.C. 1981, is repealed and amended to read:

**4-20-41. Park and Recreation Admission Fees.**

**Repealed.**

~~(a) The fees for admission to the East Boulder Community Center and the North and the South Boulder Recreation Centers are:~~

~~(1) Daily:~~

| ~~Category~~ | ~~Fee~~ |
|---|---|
| ~~Adult~~ | ~~$7.00~~ |
| ~~Youth~~ | ~~4.50~~ |
| ~~Senior~~ | ~~5.25~~ |

~~(2) Annual Pass:~~

| ~~Category~~ | ~~Resident~~ | ~~Nonresident~~ |
|---|---|---|
| ~~Adult~~ | ~~$552.00~~ | ~~$645.00~~ |
| ~~Youth~~ | ~~260.00~~ | ~~330.00~~ |
| ~~Senior~~ | ~~353.00~~ | ~~445.00~~ |

~~(3) Ten Admission Pass:~~

| ~~Category~~ | ~~Resident~~ | ~~Nonresident~~ |
|---|---|---|
| ~~Adult~~ | ~~$63.00~~ | ~~$69.00~~ |
| ~~Youth~~ | ~~40.00~~ | ~~45.00~~ |
| ~~Senior~~ | ~~47.00~~ | ~~51.00~~ |

~~(4) Twenty Admission Pass:~~

| ~~Category~~ | ~~Resident~~ | ~~Nonresident~~ |
|---|---|---|
| ~~Adult~~ | ~~$119.00~~ | ~~$131.00~~ |
| ~~Youth~~ | ~~76.00~~ | ~~84.00~~ |
| ~~Senior~~ | ~~89.00~~ | ~~99.00~~ |

~~(5) Forty Admission Pass:~~

| ~~Category~~ | ~~Resident~~ | ~~Nonresident~~ |
|---|---|---|
| ~~Adult~~ | ~~$224.00~~ | ~~$247.00~~ |
| ~~Youth~~ | ~~144.00~~ | ~~159.00~~ |
| ~~Senior~~ | ~~168.00~~ | ~~185.00~~ |

~~(b) The fees for admission to the Spruce and Scott Carpenter pools are:~~

~~Outdoor Pool Daily:~~

| ~~Category~~ | ~~Resident/Nonresident~~ |
|---|---|
| ~~Adult~~ | ~~$6.25~~ |
| ~~Youth~~ | ~~3.75~~ |
| ~~Senior~~ | ~~4.25~~ |

~~(c) The fees for season pass allowing admission to the Boulder Reservoir, Scott Carpenter Pool, and the Spruce Pool are:~~

| ~~Outdoor Aquatic Facility Season Passes (Splash Pass):~~ | | |
|---|---|---|
| ~~Season Pass~~ | ~~Resident~~ | ~~Nonresident~~ |
| ~~Adult~~ | ~~132.00~~ | ~~$165.00~~ |
| ~~Youth~~ | ~~88.00~~ | ~~110.00~~ |
| ~~Senior~~ | ~~90.00~~ | ~~112.50~~ |
| ~~Family~~ | ~~264.00~~ | ~~330.00~~ |
| ~~The "Splash Pass" provides admission to all three outdoor aquatic facilities: Boulder Reservoir, Scott Carpenter Park, and Spruce Pool.~~ | | |

~~(d) The fees for admission to Boulder Reservoir are:~~

~~Gate Admission only:~~

| ~~Category~~ | ~~Fee~~ |
|---|---|
| ~~Adult~~ | ~~$6.25~~ |
| ~~Youth~~ | ~~3.75~~ |
| ~~Senior~~ | ~~4.25~~ |

~~(e) The fees for Flati~~rons Municipal Golf Course are:

~~Per Round (Friday through Sunday and Holidays):~~

| ~~Category~~ | ~~Fee~~ |
|---|---|
| ~~Adult~~ | ~~Resident/Nonresident~~ |
| ~~9 holes~~ | ~~$24.00~~ |
| ~~18 holes~~ | ~~39.00~~ |
| ~~Regular fees apply Friday through Sunday and Holidays October 15 through April 14.~~ | |

~~(f) The fees for parks and recreation special events are: The city manager may set different entry fees for special events.~~

~~(g) For this section, a youth is age three through eighteen, a junior is eighteen years of age or less, a student is a person age nineteen through twenty-five who has a valid student identification card from a recognized institution of higher education, an adult is age nineteen through fifty-nine, and a senior is age sixty and older.~~

~~(h) The city manager may set different fees for parks and recreation special promotional pricing.~~

~~(i) The city manager may reduce the fees from time to time as market conditions warrant, and may also raise them again, so long as the fee never exceeds that specified in this~~

~~chapter. The manager shall give notice of fee reductions by filing a schedule of fees with the city clerk and displaying the reduced fees on the City's website. Reductions shall be in effect as of the effective date specified in the schedule. The manager shall give notice of fee increases in the same manner, but such increases shall not take effect until at least two weeks have passed since notice was given.~~

~~(j) If the city manager decides to allow any category of annual pass to be paid for in monthly installments of one-twelfth of the total fee, the manager shall charge holders who elect to pay in this way an additional fee totaling $45.00 per year ($3.75 per installment) to cover the increased transactional costs to the City. If one person pays for several annual pass installments (whether for one pass or for different passes within the same account) in a single transaction, only one transaction fee shall be charged.~~

~~(k) For recreation center annual passes, the first adult member of the household pays full price; all other family members pay half price when passes are purchased at the same time.~~

Section 19. Section 4-20-43, B.R.C. 1981, is amended to read:

**4-20-43. Development Application Fees.**

**....**

(c) Off-site Affordable Housing Design Review Fees.

(1) An applicant for an Off-site Affordable Housing Design Review shall pay the following fees:

Initial application $2,100

Revisions (if applicable) – an hourly rate for staff time required after issuance of the first set of comments $131.00/hour

(2) An applicant for a miscellaneous plan review (additional plan review required by changes, additions, or revisions to approved plans) shall pay $131.00 per hour of staff time required, with a minimum charge of one hour.

(3) An application fee paid under this section may be refunded, but only if an unambiguous written request to withdraw the application and refund the fee is received in the city office where the application was presented within five days of the date on which the application was received at that office.

(~~c~~d) Technical document review fees: The utility documents and fees listed in this section may be required as part of a technical document review, but may also be requested for any review process which would warrant a review type listed below:

**....**

Section 20. Section 4-20-45, B.R.C. 1981, is amended to read:

**4-20-45. Storm Water and Flood Management Fees.**

(a) Owners of detached residences and attached single-unit metered residences in the city shall pay the following monthly storm water and flood management fees:

| Size of Parcel | |
|---|---|
| (1) Up to 15,000 sq. ft. | $ 7.69~~7.47~~ |
| (2) 15,000-30,000 sq. ft. | 9.61~~9.34~~ |
| (3) 30,001 sq. ft. and over | 11.54~~11.21~~ |

(b) The owners of all other parcels of land in the city on which any improvement has been constructed shall pay a storm water and flood management fee based on the monthly rate in paragraph (a)(1) of this section (for up to a fifteen thousand square foot parcel) multiplied by the ratio of the runoff coefficient of the parcel to a coefficient of 0.43 and by the ratio of the area of the parcel in square feet to a seven thousand square foot parcel. If the calculation results in a fee less than the monthly rate in paragraph (a)(1) of this section, then the fee specified in paragraph (a)(1) of this section will be assessed.

Section 21. Section 4-20-46, B.R.C. 1981, is amended to read:

**4-20-46. Storm Water and Flood Management Utility Plant Investment Fee.**

Owners of all parcels of land in the City submitting building permit applications shall pay a storm water and flood management plant investment fee based on the square feet of added impervious area. However, if new storm water detention facilities are built by the owner according to the most current City of Boulder Design and Construction Standards in effect at the time the building permit application is submitted, on or after April 2, 2009, the applicable fee shall be reduced by fifty percent.

| | PIF Amount |
|---|---|
| (Per Square Foot of Impervious Area) | $2.06~~1.98~~ |

Section 22. Section 4-20-49, B.R.C. 1981, is amended to read:

**4-20-49. Neighborhood Parking Permit Fee.**

(a) A zone resident applying for a neighborhood parking permit shall pay $17.00 for each permit or renewal thereof.

(b) A business applying for a neighborhood parking permit for employees shall pay $75.00 for each permit or renewal thereof.

(c) An individual who does not reside within the zone applying for a neighborhood parking permit, if permitted in the zone, shall pay $82.00~~78.00~~ for each quarterly permit or renewal thereof.

Section 23. Section 4-20-57, B.R.C. 1981, is amended to read

**4-20-57. News Box Fees.**

(a) The annual fee for leases of news boxes governed by chapter 4-27, "News Box Leases and Regulation," B.R.C. 1981, is $96.00~~94.00~~ per full size box, $49.00~~48.00~~ for a double-sized slot, and $27.50~~27.00~~ for a single-sized slot, payable in advance at time of application or renewal. Fees shall be prorated by month for partial year periods, and partial months shall constitute a full month.

(b) The waiting list fee is $27.00~~26.50~~ for each box or slot desired, and shall not be prorated or refunded.

Section 24. Section 4-20-62, B.R.C. 1981, is amended to read:

**4-20-62. Capital Facility Impact Fee.**

(a) Impact Fee Rate: No person engaged in nonresidential or residential development in the City shall fail to pay a development impact fee. Fees shall be assessed and collected according to the standards of chapter 8-9, "Capital Facility Impact Fee," B.R.C. 1981, and the following rates:

**~~Table 1: Impact Fee Rates for Single Family Residential per Dwelling Unit~~**

| ~~*Size Range (SF)*~~ | ~~**IMPACT FEE RATE**~~ | | | | | | |
|---|---|---|---|---|---|---|---|
| | ~~*Library*~~ | ~~*Parks & Recreation*~~ | ~~*Human Services*~~ | ~~*Municipal Facilities*~~ | ~~*Police*~~ | ~~*Fire*~~ | ~~*TOTAL*~~ |
| ~~900 or less~~ | ~~$207~~ | ~~$1,417~~ | ~~$67~~ | ~~$127~~ | ~~$133~~ | ~~$94~~ | ~~$2,045~~ |
| ~~901-1000~~ | ~~240~~ | ~~1,644~~ | ~~77~~ | ~~146~~ | ~~154~~ | ~~109~~ | ~~2,370~~ |
| ~~1001-1100~~ | ~~268~~ | ~~1,842~~ | ~~86~~ | ~~164~~ | ~~173~~ | ~~121~~ | ~~2,654~~ |
| ~~1101-1200~~ | ~~295~~ | ~~2,024~~ | ~~95~~ | ~~180~~ | ~~190~~ | ~~134~~ | ~~2,918~~ |
| ~~1201-1300~~ | ~~319~~ | ~~2,191~~ | ~~104~~ | ~~195~~ | ~~205~~ | ~~146~~ | ~~3,160~~ |
| ~~1301-1400~~ | ~~342~~ | ~~2,345~~ | ~~110~~ | ~~208~~ | ~~220~~ | ~~155~~ | ~~3,380~~ |
| ~~1401-1500~~ | ~~363~~ | ~~2,490~~ | ~~117~~ | ~~221~~ | ~~232~~ | ~~165~~ | ~~3,588~~ |
| ~~1501-1600~~ | | | | | | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | ~~383~~ | ~~2,625~~ | ~~124~~ | ~~235~~ | ~~246~~ | ~~174~~ | ~~3,787~~ |
| ~~1601-1700~~ | ~~401~~ | ~~2,753~~ | ~~130~~ | ~~245~~ | ~~258~~ | ~~182~~ | ~~3,969~~ |
| ~~1701-1800~~ | ~~420~~ | ~~2,871~~ | ~~135~~ | ~~255~~ | ~~268~~ | ~~191~~ | ~~4,140~~ |
| ~~1801-1900~~ | ~~436~~ | ~~2,984~~ | ~~140~~ | ~~265~~ | ~~280~~ | ~~199~~ | ~~4,304~~ |
| ~~1901-2000~~ | ~~451~~ | ~~3,091~~ | ~~146~~ | ~~275~~ | ~~290~~ | ~~205~~ | ~~4,458~~ |
| ~~2001-2100~~ | ~~466~~ | ~~3,193~~ | ~~150~~ | ~~284~~ | ~~298~~ | ~~211~~ | ~~4,602~~ |
| ~~2101-2200~~ | ~~480~~ | ~~3,291~~ | ~~155~~ | ~~293~~ | ~~309~~ | ~~218~~ | ~~4,746~~ |
| ~~2201-2300~~ | ~~494~~ | ~~3,383~~ | ~~159~~ | ~~300~~ | ~~317~~ | ~~224~~ | ~~4,877~~ |
| ~~2301-2400~~ | ~~507~~ | ~~3,473~~ | ~~164~~ | ~~310~~ | ~~326~~ | ~~230~~ | ~~5,010~~ |
| ~~2401-2500~~ | ~~519~~ | ~~3,558~~ | ~~168~~ | ~~317~~ | ~~333~~ | ~~237~~ | ~~5,132~~ |
| ~~2501-2600~~ | ~~532~~ | ~~3,639~~ | ~~172~~ | ~~324~~ | ~~340~~ | ~~242~~ | ~~5,249~~ |
| ~~2601-2700~~ | ~~542~~ | ~~3,718~~ | ~~176~~ | ~~331~~ | ~~349~~ | ~~247~~ | ~~5,363~~ |
| ~~2701-2800~~ | ~~554~~ | ~~3,794~~ | ~~179~~ | ~~337~~ | ~~356~~ | ~~252~~ | ~~5,472~~ |
| ~~2801-2900~~ | ~~565~~ | ~~3,868~~ | ~~182~~ | ~~344~~ | ~~362~~ | ~~257~~ | ~~5,578~~ |
| ~~2901-3000~~ | ~~575~~ | ~~3,939~~ | ~~185~~ | ~~351~~ | ~~369~~ | ~~261~~ | ~~5,680~~ |
| ~~3001-3100~~ | ~~584~~ | ~~4,006~~ | ~~188~~ | ~~357~~ | ~~375~~ | ~~266~~ | ~~5,776~~ |
| ~~3101-3200~~ | ~~595~~ | ~~4,073~~ | ~~192~~ | ~~362~~ | ~~382~~ | ~~271~~ | ~~5,875~~ |
| ~~3201-3300~~ | ~~604~~ | ~~4,137~~ | ~~195~~ | ~~369~~ | ~~388~~ | ~~275~~ | ~~5,968~~ |
| ~~3301-3400~~ | ~~614~~ | ~~4,200~~ | ~~199~~ | ~~374~~ | ~~394~~ | ~~280~~ | ~~6,061~~ |
| ~~3401-3500~~ | ~~622~~ | ~~4,260~~ | ~~201~~ | ~~380~~ | ~~399~~ | ~~283~~ | ~~6,145~~ |
| ~~3501-3600~~ | ~~631~~ | ~~4,319~~ | ~~204~~ | ~~385~~ | ~~404~~ | ~~287~~ | ~~6,230~~ |
| ~~3601-3700~~ | ~~640~~ | ~~4,376~~ | ~~206~~ | ~~389~~ | ~~409~~ | ~~290~~ | ~~6,310~~ |

**~~Table 2: Impact Fee Rates for Multifamily Family Residential per Dwelling Unit~~**

| ~~*Size Range (SF)*~~ | ~~IMPACT FEE RATE~~ | | | | | | |
|---|---|---|---|---|---|---|---|
| | ~~*Library*~~ | ~~*Parks & Recreation*~~ | ~~*Human Services*~~ | ~~*Municipal Facilities*~~ | ~~*Police*~~ | ~~*Fire*~~ | ~~*TOTAL*~~ |
| ~~600 or less~~ | ~~$218~~ | ~~$1,497~~ | ~~$70~~ | ~~$133~~ | ~~$140~~ | ~~$163~~ | ~~$2,221~~ |
| ~~601-700~~ | ~~264~~ | ~~1,812~~ | ~~85~~ | ~~160~~ | ~~170~~ | ~~197~~ | ~~2,688~~ |
| ~~701-800~~ | ~~304~~ | ~~2,086~~ | ~~98~~ | ~~185~~ | ~~195~~ | ~~227~~ | ~~3,095~~ |
| ~~801-900~~ | ~~339~~ | ~~2,327~~ | ~~110~~ | ~~207~~ | ~~218~~ | ~~254~~ | ~~3,455~~ |
| ~~901-1000~~ | ~~371~~ | ~~2,542~~ | ~~119~~ | ~~226~~ | ~~239~~ | ~~277~~ | ~~3,774~~ |
| ~~1001-1100~~ | ~~399~~ | ~~2,737~~ | ~~130~~ | ~~244~~ | ~~257~~ | ~~298~~ | ~~4,065~~ |
| ~~1101-1200~~ | ~~426~~ | ~~2,915~~ | ~~137~~ | ~~260~~ | ~~273~~ | ~~318~~ | ~~4,329~~ |
| ~~1201-1300~~ | ~~450~~ | ~~3,079~~ | ~~144~~ | ~~274~~ | ~~288~~ | ~~336~~ | ~~4,571~~ |
| ~~1301-1400~~ | ~~471~~ | ~~3,231~~ | ~~152~~ | ~~288~~ | ~~303~~ | ~~353~~ | ~~4,798~~ |
| ~~1401-1500~~ | ~~492~~ | ~~3,372~~ | ~~158~~ | ~~299~~ | ~~316~~ | ~~369~~ | ~~5,006~~ |
| ~~1501-1600~~ | ~~511~~ | ~~3,503~~ | ~~165~~ | ~~312~~ | ~~328~~ | ~~383~~ | ~~5,202~~ |

**~~Table 3: Impact Fee Rates for Nonresidential~~**

| ~~**Nonresidential Uses**~~ | ~~**Impact Fee Rates Per Square Foot of Nonresidential Floor Area**~~ | | | |
|---|---|---|---|---|
| | ~~*Municipal Facilities*~~ | ~~*Police*~~ | ~~*Fire*~~ | ~~*TOTAL*~~ |
| ~~Retail/Restaurant~~ | ~~$0.14~~ | ~~$0.47~~ | ~~$0.38~~ | ~~$0.99~~ |
| ~~Business Park~~ | ~~$0.16~~ | ~~$0.10~~ | ~~$0.09~~ | ~~$0.35~~ |
| ~~Office~~ | ~~$0.20~~ | ~~$0.16~~ | ~~$0.57~~ | ~~$0.93~~ |
| ~~Hospital~~ | ~~$0.17~~ | ~~$0.15~~ | ~~$0.48~~ | ~~$0.80~~ |
| ~~School~~ | ~~$0.04~~ | ~~$0.07~~ | ~~$0.13~~ | ~~$0.24~~ |
| ~~Mini-Warehouse~~ | ~~$0.00~~ | ~~$0.02~~ | ~~$0.00~~ | ~~$0.02~~ |
| ~~Warehousing~~ | ~~$0.06~~ | ~~$0.04~~ | ~~$0.04~~ | ~~$0.14~~ |
| ~~Light Industrial~~ | ~~$0.12~~ | ~~$0.05~~ | ~~$0.07~~ | ~~$0.24~~ |

| ~~*Other Nonresidential Uses*~~ | ~~**Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators**~~ | | | |
|---|---|---|---|---|
| | ~~***Municipal Facilities***~~ | ~~***Police***~~ | ~~***Fire***~~ | ~~***TOTAL***~~ |
| ~~Nursing Home (per bed)~~ | ~~$18.85~~ | ~~$20.94~~ | ~~$51.30~~ | ~~$91.09~~ |
| ~~Day Care (per student)~~ | ~~$7.33~~ | ~~$18.85~~ | ~~$23.03~~ | ~~$49.21~~ |
| ~~Lodging (per room)~~ | ~~$23.03~~ | ~~$50.26~~ | ~~$63.87~~ | ~~$137.16~~ |

**Table 1: Impact Fee Rates for Single Family Residential per Dwelling Unit**

| ***Size Range (SF)*** | **IMPACT FEE RATE** | | | | | | |
|---|---|---|---|---|---|---|---|
| | ***Library*** | ***Parks & Recreation*** | ***Human Services*** | ***Municipal Facilities*** | ***Police*** | ***Fire*** | ***TOTAL*** |
| 900 or less | $211 | $1,443 | $ 68 | $ 129 | $ 135 | $ 96 | $2,082 |
| 901-1000 | 244 | 1,674 | 78 | 149 | 157 | 111 | 2,413 |
| 1001-1100 | 273 | 1,875 | 88 | 167 | 176 | 123 | 2,702 |
| 1101-1200 | 300 | 2,060 | 97 | 183 | 193 | 136 | 2,969 |
| 1201-1300 | 325 | 2,230 | 106 | 199 | 209 | 149 | 3,218 |
| 1301-1400 | 348 | 2,387 | 112 | 212 | 224 | 158 | 3,441 |
| 1401-1500 | 370 | 2,535 | 119 | 225 | 236 | 168 | 3,653 |
| 1501-1600 | 390 | 2,672 | 126 | 239 | 250 | 177 | 3,854 |
| 1601-1700 | 408 | 2,803 | 132 | 249 | 263 | 185 | 4,040 |
| 1701-1800 | 428 | 2,923 | 137 | 260 | 273 | 194 | 4,215 |
| 1801-1900 | 444 | 3,038 | 143 | 270 | 285 | 203 | 4,383 |
| 1901-2000 | 459 | 3,147 | 149 | 280 | 295 | 209 | 4,539 |
| 2001-2100 | 474 | 3,250 | 153 | 289 | 303 | 215 | 4,684 |
| 2101-2200 | 489 | 3,350 | 158 | 298 | 315 | 222 | 4,832 |
| 2201-2300 | 503 | 3,444 | 162 | 305 | 323 | 228 | 4,965 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 2301-2400 | 516 | 3,536 | 167 | 316 | 332 | 234 | 5,101 |
| 2401-2500 | 528 | 3,622 | 171 | 323 | 339 | 241 | 5,224 |
| 2501-2600 | 542 | 3,705 | 175 | 330 | 346 | 246 | 5,344 |
| 2601-2700 | 552 | 3,785 | 179 | 337 | 355 | 251 | 5,459 |
| 2701-2800 | 564 | 3,862 | 182 | 343 | 362 | 257 | 5,570 |
| 2801-2900 | 575 | 3,938 | 185 | 350 | 369 | 262 | 5,679 |
| 2901-3000 | 585 | 4,010 | 188 | 357 | 376 | 266 | 5,782 |
| 3001-3100 | 595 | 4,078 | 191 | 363 | 382 | 271 | 5,880 |
| 3101-3200 | 606 | 4,146 | 195 | 369 | 389 | 276 | 5,981 |
| 3201-3300 | 615 | 4,211 | 199 | 376 | 395 | 280 | 6,076 |
| 3301-3400 | 625 | 4,276 | 203 | 381 | 401 | 285 | 6,171 |
| 3401-3500 | 633 | 4,337 | 205 | 387 | 406 | 288 | 6,256 |
| 3501-3600 | 642 | 4,397 | 208 | 392 | 411 | 292 | 6,342 |
| 3601-3700 | 652 | 4,455 | 210 | 396 | 416 | 295 | 6,424 |

**Table 2: Impact Fee Rates for Multifamily Family Residential per Dwelling Unit**

| ***Size Range (SF)*** | **IMPACT FEE RATE** | | | | | | |
|---|---|---|---|---|---|---|---|
| | ***Library*** | ***Parks & Recreation*** | ***Human Services*** | ***Municipal Facilities*** | ***Police*** | ***Fire*** | ***TOTAL*** |
| 600 or less | $222 | $1,524 | $ 71 | $135 | $143 | $166 | $2,261 |
| 601-700 | 269 | 1,845 | 87 | 163 | 173 | 201 | 2,738 |
| 701-800 | 309 | 2,124 | 100 | 188 | 199 | 231 | 3,151 |
| 801-900 | 345 | 2,369 | 112 | 211 | 222 | 259 | 3,518 |
| 901-1000 | 378 | 2,588 | 121 | 230 | 243 | 282 | 3,842 |
| 1001-1100 | 406 | 2,786 | 132 | 248 | 262 | 303 | 4,137 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 1101-1200 | 434 | 2,967 | 139 | 265 | 278 | 324 | 4,407 |
| 1201-1300 | 458 | 3,134 | 147 | 279 | 293 | 342 | 4,653 |
| 1301-1400 | 479 | 3,289 | 155 | 293 | 308 | 359 | 4,883 |
| 1401-1500 | 501 | 3,433 | 161 | 304 | 322 | 376 | 5,097 |
| 1501-1600 | 520 | 3,566 | 168 | 318 | 334 | 390 | 5,296 |

**Table 3: Impact Fee Rates for Nonresidential**

| **Nonresidential Uses** | **Impact Fee Rates Per Square Foot of Nonresidential Floor Area** | | | |
|---|---|---|---|---|
| | ***Municipal Facilities*** | ***Police*** | ***Fire*** | ***TOTAL*** |
| Retail/ Restaurant | $0.14 | $0.48 | $0.38 | $1.00 |
| Business Park | $0.16 | $0.11 | $0.10 | $0.37 |
| Office | $0.20 | $0.16 | $0.58 | $0.94 |
| Hospital | $0.17 | $0.15 | $0.49 | $0.81 |
| School | $0.04 | $0.07 | $0.13 | $0.24 |
| Mini-Warehouse | $0.00 | $0.02 | $0.00 | $0.02 |
| Warehousing | $0.06 | $0.04 | $0.04 | $0.14 |
| Light Industrial | $0.12 | $0.05 | $0.07 | $0.24 |
| ***Other Nonresidential Uses*** | **Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators** | | | |
| | ***Municipal Facilities*** | ***Police*** | ***Fire*** | ***TOTAL*** |
| Nursing Home (per bed) | $19.19 | $21.32 | $52.22 | $92.73 |
| Day Care (per student) | $7.46 | $19.19 | $23.44 | $50.09 |
| Lodging (per room) | $23.44 | $51.16 | $65.02 | $139.62 |

(b) Additional Floor Area – Affordable Housing Linkage Fee. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, permits floor area components above the base floor area in the DT-5 zoning district. No person engaged in nonresidential development that is associated with constructing additional floor area components permitted under the

requirements of Section 9-8-2 shall fail to pay a housing linkage fee of $9.53 per sq. ft. for such floor area.

Section 25. Section 4-20-66, B.R.C. 1981, is amended to read:

**4-20-66. Mobile Food Vehicle Sales.**

An applicant for a mobile food vehicle permit shall pay a $225.00~~220.00~~ application fee and a $225.00~~220.00~~ renewal fee per year.

Section 26. Section 8-3-8, B.R.C. 1981, is amended to read:

**8-3-8 Fees.**

(a) The city manager may impose fees for recreational activities open to the public conducted by the City, or for the use of city facilities~~ not otherwise addressed in this chapter~~. The city manager shall set such fees in amounts that are reasonable and necessary to preserve, maintain and manage such activities or facilities. The city manager may establish discounted fees for group rates and promotional purposes.

~~(b) Admission fees to the city recreation centers, pools, golf course, and Boulder Reservoir are those prescribed by section 4-20-41, "Park and Recreation Admission Fees," B.R.C. 1981. The city manager may establish discounted fees for group rates and promotional purposes in addition to those specified in that section.~~

(b~~c~~) No person shall fail to pay a fee prescribed ~~by this code~~ for the use of a recreation center, pool, golf course or Boulder Reservoir or any other fee prescribed by the city manager.

(c~~d~~) The term *facility* as used in this chapter shall mean any property owned by the City and designated by the city manager as a facility.

Section 27. This ordinance is effective on January 1, 2014.

Section 28. 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 29. The 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 1st day of October 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____ 2013.

_____
Mayor

Attest:

_____
City Clerk

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE: Oct. 1, 2013**

**AGENDA TITLE:**
Fifth reading and consideration of a motion to adopt Ordinance No. 7832 amending Title 9, "Land Use Code," B.R.C. 1981, regarding standards for congregate care facilities.

**PRESENTERS:**
Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Gehr, Deputy City Attorney
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Lesli Ellis, Comprehensive Planning Manager
Charles Ferro, Land Use Review Manager
Marie Zuzack, Planner

## EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider adoption of an ordinance amending the Boulder Revised Code, 1981 (B.R.C.) to strengthen the requirements for the density bonus for new congregate care facilities (**Attachment A**). The proposed amendments do not apply to existing congregate care facilities.

The draft ordinance in **Attachment A** includes the following code changes approved by council on fourth reading on Sept. 3, 2013, for facilities to qualify for the congregate care density bonus:

- A new minimum project size of ten units;
- A new maximum average unit size limit of 1,000 square feet and a maximum individual unit size of 1,200 square feet (not including garage space);
- A revised requirement to provide three (previously two) out of the five services listed in the congregate care definition (meal service, transportation, housekeeping, linen and organized activities); and

- A revised requirement that at least 80 percent of the occupied units of a congregate care facility eligible for the density bonus be occupied by at least one person who is 65 years of age or older (previously 60 years of age)
- An exemption for existing congregate care facilities from the above changes.

## BACKGROUND

Council approved introduction and first reading of a proposed ordinance on Jan. 17, 2012, to require congregate care facilities seeking a density bonus to have at least 10 units and a maximum unit size. Council revised the ordinance at second reading on Feb. 7, 2012, to: lower the maximum unit size (from an average of 1,200 square feet to an average of 1,000 square feet and 1,200 square feet for individual units); raise the age restriction (from 60 years to 65 years) and require three (rather than two) of five listed services.

At the third reading on April 3, 2012, council revised the age restriction to require at least 80 percent of occupied units in a congregate care facility seeking to qualify for the density bonus to be occupied by at least one person who is 65 years of age or older. This revision complies with federal and state fair housing acts and will provide more flexibility for facilities to accommodate those under age 65.

The fourth reading was scheduled for April 17, 2012, but was pulled from the agenda to allow staff to further consider the effects of the proposed amendments on existing congregate care facilities wishing to expand.

At the re-scheduled fourth reading on Sept. 3, 2013, council approved on consent the addition of an exemption from the proposed code revisions for existing congregate care facilities, so they will not become non-conforming and limited to no more than 10 percent expansion. **Attachment B** provides a list of existing facilities, which would be exempt from the proposed code amendments. The draft ordinance in **Attachment A** has not been modified since fourth reading approval.

## ATTACHMENTS

A. Draft ordinance
B. Existing senior housing facilities exempt from proposed code amendments

ORDINANCE NO. 7832

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, REGARDING STANDARDS FOR CONGREGATE CARE FACILITIES AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-8-6, B.R.C. 1981, is amended to read:

9-8-6 Occupancy Equivalencies for Group Residences

….

(g) Congregate Care Facility: In congregate care facilities, five sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit, three attached dwelling units constitute one dwelling unit, and one detached dwelling unit constitutes one dwelling unit.

(1) A congregate care facility that is built or the use is established after the effective date of Ordinance No. 7832 (add date, final reading date plus 30 days) and uses the dwelling unit equivalency of three attached dwelling units to constitute one dwelling unit shall meet the following additional standards:

(A~~1~~) The facility shall include a minimum of ten attached congregate care dwelling units.

(B~~2~~) The average dwelling unit floor area for attached congregate care facilities shall not exceed 1,000 square feet per unit and no single dwelling unit shall exceed 1,200 square feet. The average dwelling unit floor area shall include the floor area within the attached dwelling unit and associated storage areas and shall exclude common areas and garages.

(2) A congregate care facility built or the use is established prior to the effective date of Ordinance No. 7832 (add date, final reading date plus 30 days) may use the definition of "congregate care" to define the use classification and the average floor area per dwelling units for attached and detached dwelling units in effect when the congregate care facility was built or the use was established.

Section 2. The definition of "Congregate Care" in Section 9-16-1, B.R.C. 1981 is amended to read:

"Congregate care facility" means a facility for long-term residence:

(a) where at least 80 percent of the occupied units are occupied by at least one ~~exclusively by~~ person~~s~~ who is sixty-five years of age or older;

(b) the facility is in compliance with the requirements of the federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and the Colorado Housing Practices Act, 24-34-501, C.R.S. *et seq.* with respect to housing for older persons; and

(c) which shall include, without limitation, common dining and social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed to accommodate wheelchairs, and the provision of social services for residents which must include at least ~~two~~ three of the following: meal services, transportation, housekeeping, linen, and organized social activities.

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of January 2012.

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 7th day of February 2012.

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_____
Mayor

Attest:

_____
City Clerk

READ ON THIRD READING, AMENDED, PASSED AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of April 2012.

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_____
Mayor

Attest:

_____
City Clerk

READ ON FOURTH READING, AMENDED, PASSED AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of September, 2013.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON FIFTH READING, PASSED, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October, 2013.

_____
Mayor

Attest:

_____
City Clerk

# Existing Senior Housing Facilities*

Exempt from proposed congregate care code amendments

| Senior Housing Facility* | Year initially approved | Approved as congregate care | Number of units |
|---|---|---|---|
| **The Academy**<br>970 Aurora Ave. | 1992 | Y | 54 |
| **Boulder Meridian**<br>801 Gillaspie | 1985 | Y | 96 |
| **Canyon Pointe** (Boulder Housing Partners - BHP)<br>700 Walnut | 1980 | N/A (pre-dates congregate care definition**) | 82 |
| **The Carillon at Boulder Creek**<br>2525 Taft Dr. | 2007 | Y | 117 |
| **Dunn Memorial Senior Housing**<br>4805 Baseline Rd. | 2001 | N | 14 |
| **Frasier Meadows Retirement Community**<br>350 Ponca Place | 1960 | N/A (pre-dates congregate care definition) | 202 |
| **Golden West - Flatirons Terrace**<br>930 28th Street | 2004 | Y | 55 |
| **Golden West - The Towers**<br>1055 Adams Cir. | Late 1960s | N/A (pre-dates congregate care definition) | 252 |
| **Mapleton Place (Howe Mortuary)**<br>1045 Spruce and<br>2125 & 2135 11th | 2006 | Y | 3 congregate units + 1 non-congregate attached unit |
| **Northport** (BHP)<br>1133 Portland Place | 1971 | N/A (pre-dates congregate care definition) | 50 |
| **Presbyterian Manor**<br>1050 Arapahoe Ave. | 1965 | N/A (pre-dates congregate care definition) | 80 |
| **Sunrise of Boulder**<br>3955 28th St. | 2001 | Y | 109 |
| **Villas at the Atrium**<br>**Brookdale Senior Living**<br>3350 30th St. | 1987 | N (converted from existing apartment building) | 82 |
| **Walnut Place** (BHP)<br>1940 Walnut | 1980 | N/A (pre-dates congregate care definition) | 95 |

* List does not include approved “group homes” (e.g., The Academy at Bella Vista, Shawnee Gardens, Mary Sandoe House), which is a separate land use definition from congregate care.
** Congregate care definition entered the Boulder Revised Code in the mid-1980s

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**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**
**MEETING DATE: October 1, 2013**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager

Date: September 27, 2013

**Subject: Update on Flood Recovery and Disaster Assistance Status and Consideration of Overarching Goals Regarding Cleanup and Flood Recovery Measures**

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## EXECUTIVE SUMMARY:

Boulder's initial response to the flood of Sept. 11 through 15, as reported to City Council on Sept. 17, focused on life-safety issues. The city has since transitioned into disaster assistance and recovery operations. While the full recovery is likely to take months, and in some cases years, city staff has provided disaster assistance to impacted residents, and has made significant progress restoring city facilities and streets, while working with disaster relief agencies to assess damages throughout the city.

On Sept. 26, the city provided the Federal Emergency Management Agency (FEMA) with a preliminary damage assessment stemming from the storms and floods. While the citywide, damage estimates totals $48,910,000, the city has communicated with FEMA that the number is likely to change as assessments continue. On Sept. 27, four city representatives, including council member Karakehian, attended the state's Applicant Briefing. This was the preliminary meeting held before the city's kick-off meeting with FEMA occurs.

## COUNCIL ACTION REQUESTED:

In order to send a strong message to our community about the city's key objectives in response to the flood, staff has prepared a draft document for council to consider. Staff requests City Council consideration of this matter and action in the form of the following motion:

Motion to approve the Key Objectives for near-term recovery and long-term resiliency relative to the 2013 Flood (stated in draft form in **ATTACHMENT A**).

## BACKGROUND:

By Sept. 17, most city departments transitioned from emergency response to disaster assistance efforts and have been working cross-functionally to remove debris and restore municipal government operations, facilities and community infrastructure. A summary of the disaster

assistance and recovery status, accomplishments to date and near-term priorities are included in **ATTACHMENT B**.

In addition, in response to requests from FEMA for an initial assessment of damages caused by the flood, staff began the work of determining preliminary damage assessments. The following table explains these estimates, which are preliminary and will likely change as we are able to more fully assess the extent of infrastructure damage.

**PRELIMINARY DAMAGE ASSESSMENT:**

| | |
|---|---|
| Open Space and Mountain Parks | $17,670,000 |
| Parks and Recreation | $2,390,000 |
| Utilities: Water | $3,300,000 |
| Utilities: Wastewater | $2,500,000 |
| Utilities: Stormwater/Flood | $13,850,000 |
| Transportation | $6,000,000 |
| Facilities and Asset Management | $3,200,000 |
| | |
| **Preliminary Damage Assessment Total*** | **$48,910,000** |

* Based on preliminary assessments as of Sept. 26, 2013 and recognizing that some of the infrastructure is still covered by debris and water and therefore unable to be assessed at this time.

OPEN SPACE AND MOUNTAIN PARKS

Approximately 64%, or 93 miles of the 145 miles of trails within the OSMP system have significant to severe damage. Estimates include repair, restoration and/or replacement of trails, ecology, water delivery infrastructure and fencing.

PARKS AND RECREATION

Approximately 34%, or 35 of the 98 parks and recreation facilities have significant damage. Estimates include repair, restoration and/or replacement of facilities, structures, playgrounds, multi-use fields and courts, and paths.

UTILITIES

**Water**

Damage estimates include the restoration of erosion that is jeopardizing water delivery pipelines and access roads to critical water infrastructure.

**Wastewater**

Damage estimates include inspecting and cleaning 25% of the approximate 400 miles of pipe in the sanitary sewer system.

**Stormwater/ Flood**
Damage estimates include inspecting and cleaning 100% of the approximate 160 miles of pipe in the storm sewer system. Damage estimates include the reconstruction of improved drainageway features which will require the removal of vast amounts of sediment and debris.

TRANSPORTATION
Approximately 1% or 3 miles of the roads, city wide, have been damaged. There are approximately 300 miles of roads that exist within the City of Boulder. It is estimated that approximately 20% or 60 miles of the roads were covered in debris.

The City of Boulder has 60 miles of bike path within the city limits. Approximately, 15%, or 9 miles, of the path was damaged based on preliminary estimates.

FACILITIES AND ASSESSMENT MANAGEMENT (FAM): BUILDINGS AND STRUCTURES
84% or 306 of the 365 buildings and structures have been assessed. Utility and parking structures still require assessment. Of those 306 assets, approximately 35, or 9% are estimated to have damage.

**NEXT STEPS:**
Adopt a motion to approve Key Objectives for the near-term recovery and long-term resiliency.

**ATTACHMENTS:**
**Attachment A** – Responding to the 2013 Flood: Key Objectives for Near-term Recovery and Long-term Resiliency
**Attachment B** – Department Status Updates and Priorities/Goals Going Forward

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**ATTACHMENT A**

## Responding to the 2013 Flood:
## Key Objectives for Near-term Recovery and Long-term Resiliency

September 2013 brought unprecedented rainfall to our region, causing significant flooding, loss of life, and widespread damage. The Boulder community is quickly getting back on its feet. But while many are back to normal routines, others will be dealing with the floods' impacts for months and years to come. As a community, adequate care and support should be ensured for those most affected, in Boulder and surrounding areas, while focusing on the important work of reconstruction and other priorities. The flood has caused harm, but has also created an opportunity: to think critically about our future, and to work together like never before in support of long-term community sustainability and resiliency.

Our key objectives for the near-term recovery and long-term resiliency are:

1. **Help people get assistance.** Facilitate access to individual assistance for affected homeowners, renters and businesses to support their recovery from flood impacts and strengthen long-term resilience.

2. **Restore and enhance our infrastructure.** Invest in projects to restore services and to rebuild and enhance infrastructure, as appropriate, in the interests of public health and safety, community quality of life, and long-term resilience.

3. **Assist business recovery.** Work with the Boulder business community and key partners to connect affected businesses with resources, recover quickly from flood impacts, and support long-term economic vitality.

4. **Pursue and focus resources to support recovery efforts**. Work with governmental and other agencies to maximize partnerships, financial resources and efficiencies for recovery.

5. **Learn together and plan for the future.** Engage the Boulder community in assessing neighborhood impacts, evaluating options, and prioritizing actions and opportunities that mitigate hazards and support long-term community resilience and sustainability - building a city both greater and more beautiful than we were before.

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**ATTACHMENT B**

## DEPARTMENT STATUS UPDATES AND PRIORITIES/GOALS GOING FORWARD

Since the initial response to flooding on September 11, 2013, the city has been supported by the community through their patience during interruptions in services and individual impacts to persons and property. In addition, the community has expressed to the many departments who offer programs and services their overwhelming support. The great community in and around Boulder have stepped forward to help the community, affected neighbors and the many great attributes that make Boulder the special place it is. The city is most grateful to the community for its patience, assistance and support.

### PUBLIC WORKS DEPARTMENT:

Overall, the priority for Public Works is to respond to immediate threats to public health and safety.

### UTILITIES

For Utilities, the priority is to ensure safe drinking water and water for fire protection, conveyance and treatment of wastewater, and restoration of stormwater facilities required to convey minor storm events. Recovery efforts will commence as soon as response to immediate public health and safety are completed.

Initial recovery work that is occurring includes the restoration of erosion that is jeopardizing water delivery pipelines and access roads to critical water infrastructure. Currently, it is anticipated that the city will need to inspect and clean 25 percent of the approximate 400 miles of pipe in the sanitary sewer system as well as 100 percent of the approximate 160 miles of pipe in the storm sewer system. Initial assessments indicate that the city will need to reconstruct improved drainageway features which will require the removal of vast amounts of sediment and debris.

Source Water System

*Recovery Goal*:

Restore and stabilize all critical elements of the water system before the onset of winter or approximately Nov. 1, 2013 in mountainous areas.

*Status:*

Dams, diversion and source water pipelines were inspected for damage and confirmed safe and operable. Hydroelectric facilities were inspected for damage and are online with the exception of the Orodell facility which is offline due to non flood related issues.

*Accomplishments:*

- Boulder Canyon Hydro had minor flood damage and was brought back online on Sept. 19.

Water Treatment and Distribution

*Recovery Goal*:
Restore and stabilize all critical elements of the water system by Nov. 1, 2013.

*Status:*
All water to the city is currently being supplied by the Betasso Water Treatment Facility via the Sunshine Pipeline. The city's two treated water pipelines in Boulder Canyon were impacted by flood erosion and unable slopes and are currently offline pending the completion of stabilization work.

The Betasso Water Treatment Facility suffered minimal damage but had to operate on emergency generator until power was restored by Xcel Energy. Fuel and chemical deliveries have been and will continue to be coordinated with CDOT during reconstruction of the CO Highway 119.

The Boulder Reservoir Water Treatment Facility was shut down during the flood event due to high turbidities in Boulder Reservoir and damage to the Boulder Feeder Canal that delivers water from Carter Lake. It is anticipated that the treatment facility will be ready to come online if needed the week of Sept. 30 using water from the Boulder Reservoir source. The Boulder Feeder Canal, which is maintained by the Northern Colorado Water Conservancy District, is expected to be out of service through approximately April 2014.

A temporary water interconnect to the Spring Valley Water District was established. The only city residents without water are those that have sustained major damage and water was shut off until rebuilding is complete (at the request of their contractor). Fire hydrants are all in operation.

Several access roads suffered damage from erosion, the most serious being the road leading up to the Booten (Fourmile Canyon Creek crossing) water storage tank. Boulder County is currently working on restoring Wagon Wheel Gap Road (access to Booten). Once this roadway is restored, work will be initiated to restore the access road to the Booten water storage tank.

*Accomplishments:*

- Damage inspections have occurred for remote facilities including pipelines, tanks, pump stations and pressure reducing valves and access roads;
- Completed restoration work on the Chautauqua water storage tank access road; and
- Completed restoration of erosion damage threatening the treated water transmission line near Table Mesa Drive and Vassar Avenue.

<u>Wastewater Collection System</u>
*Recovery Goal:*
Restore and stabilize all critical elements of the wastewater collection system by Oct. 1, 2013.

*Status:*
Staff will continue to respond to reported issues in the collection system on a daily basis.

Floodwater in Two-mile Canyon Creek destroyed a section of sewer serving about 50 homes along Spring Valley Road and West Linden Drive. Reconstruction of the destroyed section of line has begun. A temporary pump system was installed to connect the damaged line with an operational line, allowing residents to return to normal flushing and water use. It is anticipated that the reconstruction will be complete in about a week.

*Accomplishments:*

- Investigated and resolved all reported issues in the collection system as of Sept. 23, 2013;
- Inspected all remote facilities including IBM pump station and pipelines for damage;
- Reconstruction of a severely damaged berm that contains an interceptor sewer to the Wastewater Treatment Facility.
- City and contracted crews worked 24/7 to mitigate overflows and backups in the sanitary sewer system; all reported issues in the collection system were resolved as of Sept. 23, 2013;

<u>Wastewater Treatment Facility (WWTF)</u>

*Recovery Goal*:

Restore all critical elements of the wastewater treatment facility by Nov. 1, 2013, including the influent bar screens in the "headworks" portion of the facility.

*Status:*

As of Wednesday, Sept. 25, 2013, the influent flows to the WWTF were 27 million gallons per day (Mg/D). While this is an improvement, it is still twice the pre-flood total (normal, pre-flood was 13 Mg/D on average). Once flows are below 25 Mg/D, staff will begin to clean facility tanks and channels. This is estimated to begin on Monday, Sept. 30. More damage may be discovered once a thorough facility assessment has occurred. Damaged headworks screens were shipped for repairs at the manufacturer's facility. One screen has been repaired and arrived on Thursday Sept. 26. Staff is working to get the screen installed and online as soon as possible. It is unknown how long the manufacturer will need to repair the second screen, or if a new screen will be required.

*Accomplishments:*

- Successfully treated wastewater influent during and after the flood event (with six consecutive days treating 50 Mg/D; normal is 13 Mg/D); and
- Based on performance this month, the WWTF is meeting the normal monthly discharge permit effluent limitations for September, which is a significant positive result.

<u>Storm water collection system</u>

*Recovery Goal*:

By April 1, 2014, restore the capacity of the storm sewer and local drainage systems. This will require removal of significant debris and sediment lodged in pipes, catch basins and inlets.

*Status:*

Work to remove debris and sediment lodged in pipes, catch basins and inlets continues.

There are likely other areas that have been impacted by the flood event and these areas will be inspected for debris and sediment. It is anticipated this work will continue through the winter and be completed by April 1, 2014.

*Accomplishments:*

- Using city staff, contractors, and assistance from the City of Broomfield, approximately 35-40 percent of the known impacted areas have been cleaned of debris and sediment.

Major Drainageway System

*Recovery Goal*:

By April 1, 2014, restore the capacity of the major drainageway system, with the exception of Fourmile Canyon Creek. Restore the capacity of the Fourmile Canyon Creek drainageway by Oct. 1, 2014. This will require removal of significant debris and sediment as well as the restoration or reconstruction of improved drainageway features such as drop structures, retaining walls and eroded channel bottoms.

*Status:*

A plan is being developed for long-term reconstruction, sediment and debris removal for heavily impacted drainageways including Bluebell Creek, Gregory Canyon Creek, Two-mile Canyon Creek and Fourmile Canyon Creek

Work to clear sediment and debris and restore drainageway features along Two-mile Canyon and Fourmile Canyon creeks will continue in cooperation with the Urban Drainage and Flood Control District. Work to clear sediment and debris and restore drainageway features along Gregory Canyon and Bluebell Creeks has been initiated.

*Accomplishments:*

- Field work completed required to document the extent of flooding, flow paths and damage along all major drainageways. This information will be documented in Geographical Information System (GIS) format for analysis and record keeping; and
- Significant restoration progress has been accomplished of drainageway features along Two-mile Canyon Creek upstream of Linden Avenue.

## TRANSPORTATION

Based on preliminary assessments and recognizing that some of the infrastructure is still covered by debris and water, it is estimated that approximately 1 percent or three miles of the approximately 300 miles of roads that exist within the City of Boulder. It is estimated that approximately 20 percent or 60 miles of the roads were covered in debris. While local transit routes were impacted during the flooding, all transit routes are currently operating on their normal schedules and routes with a few minor detours.

The City of Boulder has 60 miles of bike path within the city limits. Approximately, nine miles (15 percent) of the path was damaged based on preliminary estimates and approximately 18

miles (30 percent) was covered with debris. There is also a significant amount of sediment and vegetation at the underpass locations.

Overall, the priority is to get the transportation system (streets and paths) cleared of sediment and debris, assess the damage for the remaining sections that have yet to be evaluated and repair the damaged portions of streets and paths.

Street Damage

*Recovery Goal:*

Reconstruct and open residential streets (i.e., Willow Brook) impacted by flooding by December 2013. Clear and/or reconstruct culverts and adjacent impacted roadways (i.e. 47th north of Independence, Pennsylvania west of 7th, and 55th and Cypress) by the end of October 2013.

*Status:*

A few residential roadways remain closed and/or will need to be reconstructed because of flood damage. A list of current closures can be found at www.BoulderFloodinfo.net.
Numerous storm water channels through bridges and culverts will need to be cleared of sediment and debris. The bridges and culvert will be cleaned out as the channels are cleared of debris and sediment. Bridge structures shorter than 20 feet are being evaluated for impacts. Inspections will continue as water recedes to determine if there is damage to the structures below the water surface.

*Accomplishments:*

- Reopened Table Mesa Drive (Gillespie to Lehigh) to traffic – an exposed gas and communication line were supported and undermining on this major arterial was repaired to open all lanes to traffic including the Skip transit route;
- Opened access to high priority residential streets - Asphalt has been removed and a temporary gravel surface has been placed on streets that had significant damage and homes could not be accessed. The streets will be paved after underground utilities are evaluated. Example Streets include King Avenue from 17th to 18th Street; Willowbrook Drive north of Cascade and 7th Street from Pennsylvania to University; and
- Inspected vehicular bridges - To date, all major structures (more than 20 feet in length) have been evaluated and confirmed to be safe and operable.

Debris on streets

*Recovery Goal:*

Clear majority of the debris from streets and sidewalks deposited by the flooding by Nov. 1, 2013. Debris removal is expected to continue throughout the end of the year.

*Status:*

Work to clear sediment and debris on roadways and street sweeping was initiated to follow up debris removal. Much of the debris on the streets has been picked up and hauled away. City crews will continue to remove debris throughout the city.

*Accomplishments:*

- Removed significant amounts debris in the most impacted areas of town including Gregory Canyon Creek, Four Mile Canyon Creek and Two-mile Canyon Creek; and
- Street maintenance crews have been working on debris removal and two private crews have been hired to supplement the city's crews.

Street Sweeping

*Recovery Goal:*

Continue to sweep the street system concentrating on hardest hit areas first. Sweep and clear debris from all roadways with bike lanes, making them useable by the middle of October 2013. Sweeping will be on-going with a big focus on this effort the next two weeks and continuing with fewer sweepers into November and later, as needed.

*Status:*

Currently using the two city sweepers, one contracted sweeper, two sweepers on loan from Denver International Airport (DIA) and a contractor with power brooms. Crews have concentrated on the hardest hit areas first. This initial work, which is weather dependent, is expected to be complete in approximately two weeks. Sweeping and debris removal in certain areas need to be coordinated and posted for "No Parking" in order to access the parking areas.

*Accomplishments:*

- The sweepers have initially swept all impacted areas and continue to revisit and sweep as fine dust continues to be deposited on the streets.

Bike/Multi-Use path system and Underpasses

*Recovery Goal:*

Clear debris from paths and underpasses; remove trees that were undermined; reconstruct damaged path sections and open all of the greenways system to public use by the end of the year. Some of the system is still underwater, mostly at underpasses, and if significant damage is uncovered repairs could extend into spring 2014. Coordination will be required for most damaged sections with channel debris removal and reconstruction.

*Status*:

Much of the flood impacted path system is open, crews continue to pick up debris and sweep sand from paths. Several underpasses are still flooded. By the end of the week of Sept. 30, the Transportation Division hopes to have identified segments that have major damage and require capital reconstruction (unless they are still flooded). Up-to-date path and underpass closure can be found at www.BoulderFloodinfo.net. The areas that have the most damage and high water include Boulder Creek and sections of Four Mile Canyon Creek.

*Accomplishments:*

- Inspected all sections of path that are not under water and continue to evaluate the system daily;
- Removed significant amounts of debris and sediment and opened many underpasses and buried segments of path;
- Started capital maintenance and repair by filling some undermined paths;

- Concrete path was removed and replaced at Bear Creek and Moorhead Avenue where the path was significantly damaged;
- Forestry has inspected and removed many damaged and threatening trees in the channels; and
- Created a map for public information of closed segments that is updated daily on new openings.

**FACILITIES AND ASSESSMENT MANAGEMENT (FAM)**

Of the 365 city buildings and structures, 306 (84 percent) have been assessed. Utility and parking structures still require assessment. Of the 306 that have been assessed, approximately 35, or 9.6 percent, are estimated to have damage.

*Recovery Goals*:

- Complete all facility assessments and damage costs estimates by mid-October;
- Open all community use facilities for full use by the end of October (Reynolds Library, West Senior Center, parts of North Boulder Recreation Center); and
- Identify all latent flood damages to electrical, lighting and HVAC systems by the end of October.

*Status:*

Four facilities remain closed (West Senior Center, Reynolds Library, Fire Station #4 and the FlatIrons Event Center) with immediate restoration actions completed:

- Fire Station #4 is anticipated to re-open on Monday, Sept. 30, 2013;
- West Senior Center and Reynolds Library will be re-opened by the end of October 2013; and
- Assessments continue for the FlatIrons Event Center with the Spice of Life kitchen continuing to operate in safe areas of the facility.

*Accomplishments:*

- 306 of the city's 365 buildings and structures have been assessed for flood damage;
- Flood damage to the 35 facilities had air, water and materials tested to varying degrees;
- Flood damaged materials have been removed and impacted areas are being air dried; and
- Roof evaluations have been completed.

**PARKS AND RECREATION DEPARTMENT:**

Emergency Response

Parks and forestry staff responded to assist during the emergency work to assist the Public Works Department in the city emergency response operational structure to assist with city-wide flood response efforts. Parks staff performed road assessments for emergency service needs, road closures, sand bagging the two hospitals, and other assignments. Parks staff also initially assessed each park systematically to ensure a safe environment and where possible were able to mitigate issues to open some areas of parks or entire parks.

Tasks that parks staff were involved in were:

- De-watering flooded areas and Maxwell Lake
- Cleaning out clogged drains and ensuring flow of water away from buildings and neighborhoods
- Closing parks and park areas heavily impacted by the flood and creating unsafe conditions
- Clearing Boulder Creek Bike Path of debris
- Assessing tree stability along right of ways and along greenways and contracting out tree removals where deemed necessary

Initially, staff reported 13 full park closures and 10 partial park closures, full closure of the Flatirons Golf Course and Boulder Reservoir. By Sept. 25, 2013, staff reported five full park closures and only a handful of partial closures. Park closures currently include: Eben G Fine Park, Boulder Reservoir, most of Boulder Creek Bike Path, Elmer's Two Mile Park, Knollwood Tennis Court, and Elks Park which had recently begun construction before the flooding. The pedestrian bridge at Bear Creek Park is also damaged and un-usable.

Damage Assessment and Recovery

To date, all parks and park facilities within the City have been assessed with damage identified at seven recreation facilities and 47 parks. The damage ranges in severity and is categorized based on a high, medium or low impact dependent upon the threat to health/safety and program viability. Most sites have debris piles and sedimentation as well as some areas of structural damage to sidewalks, park amenities and infrastructure. Notable parks and recreation facilities that are high priorities for recovery include:

- North Boulder Recreation Center (Gymnastics / Gymnasium)
- Flatirons Golf Course (Events Center and course damage)
- Boulder Reservoir
- Eben G. Fine Park
- North Boulder Park
- Elks Park
- Municipal Campus and Central Park
- Boulder Creek Corridor
- Bear Creek Park

Recovery efforts are underway within several parks and recreation facilities to allow access and program delivery as soon as possible. Most notably, the North Boulder Recreation Center is reconstructing portions of the gymnastics studio and gymnasium that were damaged.

*The initial recovery process for Parks and Recreation will have five phases:*

1. **Assessment –** assess and prioritize impacts to all parks, facilities and equipment ***(Current Phase)***
2. **Coordination / Prioritization –** review comprehensive list of impacts and prioritize work/projects from city-wide perspective
3. **Design/Permitting/Purchasing –** develop plans, solicit vendors, permitting and engage contractors/suppliers
4. **Construction / Implementation –** implement improvements or install equipment that was damaged.

5. **Operation / Reporting –** ongoing operation and management with reporting functions for FEMA.

*The goals for Parks and Recreation:*

1. Open all parks by the end of October with the exception of the Everett Pierce Kids Fishing Ponds and Knollwood Tennis Courts.
2. Coordinate Evert Pierson Kids Fishing Pond repairs with Public Works, Urban Drainage and others to identify necessary repair work, costs, funding and timeline.
3. Assess damage to Knollwood Tennis Court and determine appropriate next steps by the end of October.
4. Clear all of Boulder Creek Bike Path after flood waters have receded and assess all damage and repair needs and costs (with Public Works)
5. Complete assessment of irrigation systems by mid October
6. Complete second full assessment of trees after water in the greenway corridors has receded and remove all hazard trees.
7. Complete right-of-way tree assessments by Oct. 15.
8. Develop and complete community-building volunteer events in the parks, facilities and Boulder Reservoir for the fall of 2013. Coordinate volunteer and other events across the city.
9. Coordinate with FAM to assess the opening all of the North Boulder Recreation Center by Jan. 1, 2014.
10. Coordinate with FAM to Investigate and evaluate engineering options for reducing flood risk to recreation centers by second quarter of 2014.

## OPEN SPACE AND MOUNTAIN PARKS DEPARTMENT

Accomplishments

Open Space and Mountain Parks (OSMP) is in the process of simultaneously assessing conditions, setting priorities, developing strategies taking action, while communicating what is going on. Much of the priority setting and strategy development is being "field engineered" and is embedded into the items listed below. The community has seen and appreciated the rapid follow up to the flood, considerable progress on providing community access to open space lands, steps to ensure public safety, and a focus on protecting resources at this vulnerable time while developing opportunities for meaningful community involvement.

Assessment and Information Gathering

- Trail and Trailhead Assessment Completed
- Ditch & Reservoir Assessment, Bridge, and Fence Assessment completed for areas most affected by flooding and to address known potential hazards.
- High level Plant and Wildlife Habitat Assessment completed for areas most affected by flooding and erosion.

- More in depth and widespread flood impact assessments to infrastructure habitat are underway and in early stages.
- Coordination with Colorado Dam Safety Inspectors on mitigation at the Flatirons Vista dam dams at Mesa Teller #3, Teller #5 reservoirs, Wonderland Lake. The smaller Eggleston #3 and Eggleston #4 reservoirs have been visually inspected by staff.
- Working with city and county transportation and utilities departments to identify and assess flood impacts to OSMP land that have affected roads and utilities.
- Working with other utility and ditch companies to address the impacts of the flood on their infrastructure that lies on OSMP.
- Condition Assessment and Rough Preliminary Cost Estimate prepared for FEMA.

Taking Action

- Fifty (50) miles, or one third of OSMP trails opened to public access (as of Sept. 26). Trails selected on the basis of safety, resource protection and to provide access by a variety of city neighborhoods, and activity types. Although many trails are not in pre-flood condition; these trail openings required many repairs, some minor and some major.
- Over 90 percent (32 of 35) trailheads cleared of debris and readied for stockpiling of materials and access by equipment necessary for trail restoration.
- Completed the mitigation required by Colorado Dam Safety Inspectors for the Flatirons Vista dam.
- Graded several dirt roads (ca. 3 mi) that provide access to OSMP so they can be used by staff/contractors for recovery efforts and visitors (where the roads serve areas that have been opened).
- Completed a variety of volunteer projects to restore trails and ecological resources, guide visitors, and remove rocky debris. OSMP staff is coordinating and assisting Parks and Recreation staff on volunteer projects.
- Began mitigation of water damage at OSMP facilities (roof leaks and mold in storage facility, minor flooding of crawlspaces, lower levels of two offices).
- Produced over 100 different maps to inform visitors about access opportunities on the city website, at OSMP trails, trailheads and access points, and guide decision making.
- Drafted and issued daily media releases and social media updates to inform the community about the increasing availability of OSMP access. The media involvement has resulted in several articles in the Daily Camera and interviews with television and radio.
- Recorded a 15 percent increase in Twitter followers; many of whom are showing a high level of engagement (re--tweeting), and positive reactions to news of openings of trails and availability of information.
- Coordinated with the city of Lafayette to divert flood water from South Boulder Creek at South Boulder Road to prevent water from entering Baseline Reservoir and threatening the dam.

- Coordinated with the Urban Drainage and Flood Control District and Boulder County Transportation to divert Boulder Creek floodwater through OSMP so that flows overtopping 95th Street would cease and the road could be re-opened.

**COMMUNITY PLANNING & SUSTAINABILITY / PLANNING & DEVELOPMENT SERVICES:**

Planning &Development Services (P&DS)

- Developed a streamlined building permit specific to flood recovery and repair that waives all fees, only charging tax.
- Opened a second Planning & Development Services permitting and customer service office at the Disaster Assistance Center. Assisted 72 customers at the Disaster Assistance Center and issued 23 building permits "over the counter" through Wednesday Sept. 25.
- The rapid evaluation safety assessment of buildings within the affected areas was completed on September 23 and 24. Approximately 20 disaster certified volunteers from the International Code Council Colorado Chapter and nine City of Boulder inspectors participated.
- Historic Preservation staff visited all 165 individual landmarked properties in the city, six were found to have substantial damage. A streamlined landmark alteration process and application was developed.
- Waived permitting requirements for roll-off trash receptacles in the right-of-way.
- Worked with the City Attorney's Office to develop a list of zoning regulations to vary due to the floods on a temporary basis.

Neighborhood Outreach

- Worked with the communications division to provide content for the boulderfloodinfo.net website
- Developed and continuously update frequently asked questions on the flood website
- Developed informational handouts for public meetings and the Disaster Assistance Center.
- Attended the previously scheduled Fourmile Canyon Creek Greenways open house on Sept. 26 to provide flood recovery information.
- Developed a neighborhood outreach strategy to learn from residents and assist in providing information.
- Investigating crowdsource tools to use for capturing flood assessment information.

Business

- Secured a lease at 5495 Arapahoe for the Disaster Assistance Center (coordinated with partner agencies, toured vacant buildings, negotiated a Letter of Intent for 2 buildings, and coordinated signing of a lease with Premier Credit Union).
- Contacted Google and local tech community contacts to request help with city tech needs as part of flood recovery efforts; coordinated tech offers with CP&S staff working on neighborhood outreach.

- Worked with city Parks and Recreation staff and Spice of Life owners (tenants and potential business retention clients) to discuss next steps after flood damage to the city-owned Flatirons Events Center building, including evaluating site options for community events and meetings, and Spice of Life events and catering.
- Prepared presentation and resources and participated (with City Manager Jane Brautigam and Chief Building Official Dave Thacker) at the Sept. 24 business flood information workshops at the Chamber, attended by over 50 people.
- Conducted outreach and assistance to Boulder businesses (primary employers and retail businesses in affected areas), coordinated with the Boulder Economic Council. The city and BEC have contacted 101 businesses as of Sept. 24 and created a list of those significantly impacted. Many businesses expressed appreciation for this proactive outreach. These calls addressed:
  - Did your business sustain any damage?
  - Do your employees need assistance or support? (staff provided resources/answered)
  - Are there any services or assistance your business needs moving forward?
- For the city web site, developing flood FAQs and a Resource Guide specifically for businesses, which includes:
  - Boulder Disaster Assistance Center and Boulder County Business Recovery Center information
  - Building repair and permitting information
  - Disaster assistance available from the Small Business Administration (SBA),including low interest loans for physical damage and economic injury
  - Free consulting from the Small Business Development Center (SBDC)
  - Tax relief and employment assistance
  - Volunteer opportunities for employees
- Began coordination with the Boulder SBDC to coordinate outreach to hardest hit businesses and assist them with accessing SBA disaster assistance.
- Began coordination with city building inspectors to share information on damaged commercial buildings and businesses.

<u>Debris & Pest Management:</u>

- Coordinated with county partners to set up 10 community collection sites for debris for initial disaster response.
- Managed and operated debris collection sites Sept. 16 - 22.
- Successfully cleaned up and closed collection sites by Sunday Sept. 22.
- Conducted a bid process that resulted in the selection of Swingle, Inc. to conduct curbside cleanup for residential flood debris from Sept. 26 through Oct. 18.
- Provided information on the website regarding pest management following floods
- Coordinated with Eco-Cycle's Center for Hard to Recycle Materials (CHaRM) to waive fees for electronics disposal
- Coordinated with debris monitoring contractor, True North, to monitor the debris collection for FEMA compliance on the city's behalf
- Coordinated with Western Disposal to waive fees for flood debris drop-off
- Coordinated street sweeping to follow debris collection crews

- Coordinated "no parking" zones in the most heavily damaged areas with a high density of on-street parking to facilitate safe debris collection
- Coordinated outreach to bicycle websites and listservs through email blasts and social media to minimize conflict and maintain safety around debris collection activities
- Coordinated with BVSD to avoid debris collection in school zones during drop-off and pick-up times
- Beginning on Sept. 27 will receive updated maps of completed debris collection areas; will post to www.boulderfloodinfo.net

**BOULDER DISASTER ASSISTANCE CENTER**

- Opened the Boulder Disaster Assistance Center on Sept. 19 in partnership with Boulder County disaster recovery team.
- Have served 2,773 Individuals and 1,194 households through Sept. 25; total Boulder residents served: 882 individuals and 435 households.
- Highest demand needs include FEMA individual assistance; basic needs assistance from Red Cross, BCDHHS and local nonprofits and short- and long-term housing.
- As the numbers of residents seeking services declines at the Boulder Disaster Assistance Center, triage services will cease and clients will access ongoing services at local organization sites. The Boulder DAC anticipates closing for triage services early the week of Sept. 30. FEMA will continue on site providing Disaster Recovery Operations open to the public. Results of FEMA Disaster Survivor Feedback Survey completed on Sept. 24:
  - 96 percent rated DRC experience as Satisfactory or better
  - 97 percent rated convenience of location as satisfactory or better
  - 98 percent rated hours of operation as satisfactory or better
- The organizations and services provided through the DAC include:
  - A Precious Child: Clothing, toiletries, diapers, shoes, food, pillows, blankets.
  - Boulder County Debris Management: Waste removal, dumping sites.
  - Boulder County Housing and Human Services: Cash assistance for food and transportation , referrals for housing assistance, and information on short and long-term housing needs, food vouchers.
  - Boulder County Land Use: (Unincorporated county) Building permits; code, planning and zoning questions.
  - Boulder County Mental Health: Mental health counseling/support
  - Boulder County Public Health: Environmental health (flooding issues with water, sewage, mold; food safety; info on debris collection)
  - Bridge House: Information and assistance for homeless residents.
  - City of Boulder Planning & Development: Building permits; code planning and zoning questions for city residents.
  - Colorado/Southern Baptists: Volunteers for on site debris and med removal; removal of household items, power wash, disinfect for mold.
  - Colorado Department of Labor: Help to people who lost their job due to flood.
  - Colorado Division of Housing: Assistance with locating housing.
  - Colorado Division of Insurance: Assistance with insurance policy questions

- Community Food Share: Food boxes (dry goods) Emergency Family Assistance Association (EFAA): Rental assistance, food, emergency hotel vouchers, eyeglasses, minor medical and prescription costs, ID and birth certificate fee assistance.
- EnergySmart in Boulder County: Interior building repairs, insulation, furnace, etc. Help finding contractors and low-interest loans.
- FEMA: Intake and registration for individual and small business disaster assistance; referral to other government agencies.
- Red Cross: Replacement of medication; onsite mental health services; clean up kits, eyeglasses, durable medical equipment.
- Salvation Army: Gift cards for replacement of personal items; clothing vouchers; taxi vouchers.
- Small Business Administration: (Register at FEMA) Low-interest Federal Disaster Loans for businesses & homeowners.
- Workforce Boulder County: Help in locating employment.
- Significant number of businesses supporting the operations of the DAC through volunteers, food and supplies for DAC volunteers and staff.

- Foothills United Way has funded the City of Boulder through the Disaster Relief Fund for the following: $40,000 for immediate housing subsidies for city residents and $4,400 for Bridge House to assist homeless clients not eligible for services at the DAC.

**HOUSING:**

- Participating in State-led Disaster Housing Task Force.
- Supporting County-led efforts to facilitate rehousing displaced residents.
- Developing a county-wide housing recovery plan.
- Assembling data on City of Boulder residents with short- and long-term housing needs.
- Finance and Housing staff met with CDBG disaster funding consultant.

**CITY OF BOULDER**
**CITY COUNCIL AGENDA ITEM**

**MEETING DATE:** October 1, 2013

**AGENDA TITLE**
Library Commission Appointment

**PRESENTERS**
Alisa D. Lewis, City Clerk and Director of Support Services
Alisa R. Darrow, Deputy City Clerk

**Executive Summary**
Staff is requesting that Council make an appointment to the City of Boulder Library Commission for the 2013 fourth quarter recruitment.

The following is an excerpt from council procedures, Section VII, B.R.C., 1981 outlining the process for nominating and appointing board and commission members. You may also refer to your City Council Handbook on page 21. Please note that item F below indicates that board and commission appointments are to be conducted in the same manner as described in this section.

**VII. Nominations and Elections**

A. Nominations. Nominations for mayor and acting mayor (generally referred to as deputy mayor) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may withdraw his or her name from nomination at this time. Silence by the nominee shall be interpreted as acceptance of candidacy.

B. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

C. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

D. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties), receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

E. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or deputy mayor.

F. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

**LIST OF APPOINTMENTS**

| | |
|---|---|
| Library Commission | Appoint one new member to fill a vacancy ending March 31, 2017 |

ATTACHMENT A – Vacancy Report
ATTACHMENT B – List of Applicants

# Vacancy Report

## Library Commission

| Seat #: | Requirement: | Term: | Occupant: | Sex: | Status: | Resigned: | End Date: |
|---|---|---|---|---|---|---|---|
| 2 | Citizen at Large | 5 | Daniel King | M | Resigned | 08/04/2013 | 03/19/2017 |

Board Gender Makeup:

| Sex: | Count: |
|---|---|
| F | 4 |
| M | 1 |

End Date prior to 8/15/2013

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# Applicant List

## Library Commission Applicants

David Mendosa
Apt. 2F
993 East Moorhead Circle
Boulder, CO 80305
Occupation: writer

Paul Sutter
1434 Zamia Ave
Boulder, CO 80304
Occupation: History Professor

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**TO:** Members of Council
**FROM:** Dianne Marshall, City Clerk's Office
**DATE:** October 1, 2013
**SUBJECT:** Information Packet

1. **Call Ups**
   A. Vacation of an existing utility easement for the existing fire hydrant located at 6655 Lookout Rd. to allow for redevelopment of the site as 68 attached residential units. Case no. ADR2013-00099.
   B. Vacation of a 2,280 square foot portion of an existing utility easement located at 3737 Spring Valley Road (ADR2013-00158).
   C. Vacation of an existing 2,503 square foot drainage easement located at 2044 Walnut Avenue (ADR2013-00035).

2. **Information Item**
   A. Update on City-Xcel Energy Partnership Discussions
   B. Youth Opportunities Program Annual Grant Allocations

3. **Boards and Commissions**
   A. Arts Commission – August 21, 2013
   B. Library Commission – August 8, 2013
   C. Open Space Board of Trustees – September 11, 2013

4. **Declarations**
   A. Colorado Companies to Watch Month – October 1-31, 2013
   B. Colorado Ocean Coalition – September 21, 2013
   C. Immigrant Heritage Week – September 28-October 5, 2013

**INFORMATION PACKET**
**MEMORANDUM**

**To:** Members of City Council

**From:** Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Jessica Vaughn, Planner I

**Date:** September 26, 2013

**Subject:** **Call-Up Item:** Vacation of an existing utility easement for the existing fire hydrant located at 6655 Lookout Rd. to allow for redevelopment of the site as 68 attached residential units. Case no. ADR2013-00099.

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**EXECUTIVE SUMMARY**

The applicant has requested the vacation of an existing fire hydrant utility easement located at 6655 Lookout Rd. consistent with the Use Review approval, case no. LUR2012-00093. Refer to **Attachments A** and **B** for a vicinity map and a site plan showing the easement location. The utility easement was originally dedicated by separate instrument which was recorded at the office of the Boulder County Clerk & Recorder on Feb. 8, 1983 at Reception No.532392.

In April 2013, a Use Review approval (case no. LUR2012-00093) was granted for the redevelopment of the project site as 68 attached residential units. The redevelopment of the project site included the demolition of the existing building and the relocation of the existing fire hydrant utilities. As a result of the redevelopment of the project site, the existing fire hydrant utility easement is required to be vacated and a new utility easement dedicated.

The proposed vacation was approved by staff on August 20, 2013. There are two scheduled City Council meetings, on September 3, 2013 and September 17, 2013, within the 30-day call-up period.

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of existing utility easement at 6655 Lookout Rd. The date of final staff approval of the easement vacation was August 20, 2013 (refer to **Attachment C**,

*Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on September 19, 2013 unless the approval is called-up by City Council.

**FISCAL IMPACTS**
None identified.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: No economic impact is anticipated through this easement vacation.

- Environmental: No impacts are anticipated through this easement vacation.

- Social: None identified.

**BACKGROUND**
The project site, a 2.5-acre lot, is located at 6655 Lookout Rd. within the Gunbarrel Subcommunity, just north of the recently approved Gunbarrel Town Center. Refer to **Attachment A**, Vicinity Map.

The project site is zoned Industrial General (IG). Properties adjacent to the project site on the north and west sides are also zoned IG, while properties to the east and south are zoned Residential Medium-1 (RM-1) and Business Regional-2 (BR-2) respectively. All of the properties immediately adjacent to the site are currently comprised of various uses, including professional and medial office, automotive service, manufacturing and warehouse uses.

Given that the project site is currently developed, the property is encumbered by utility easements and existing on-site utilities, including fire utilities that serve the existing building.

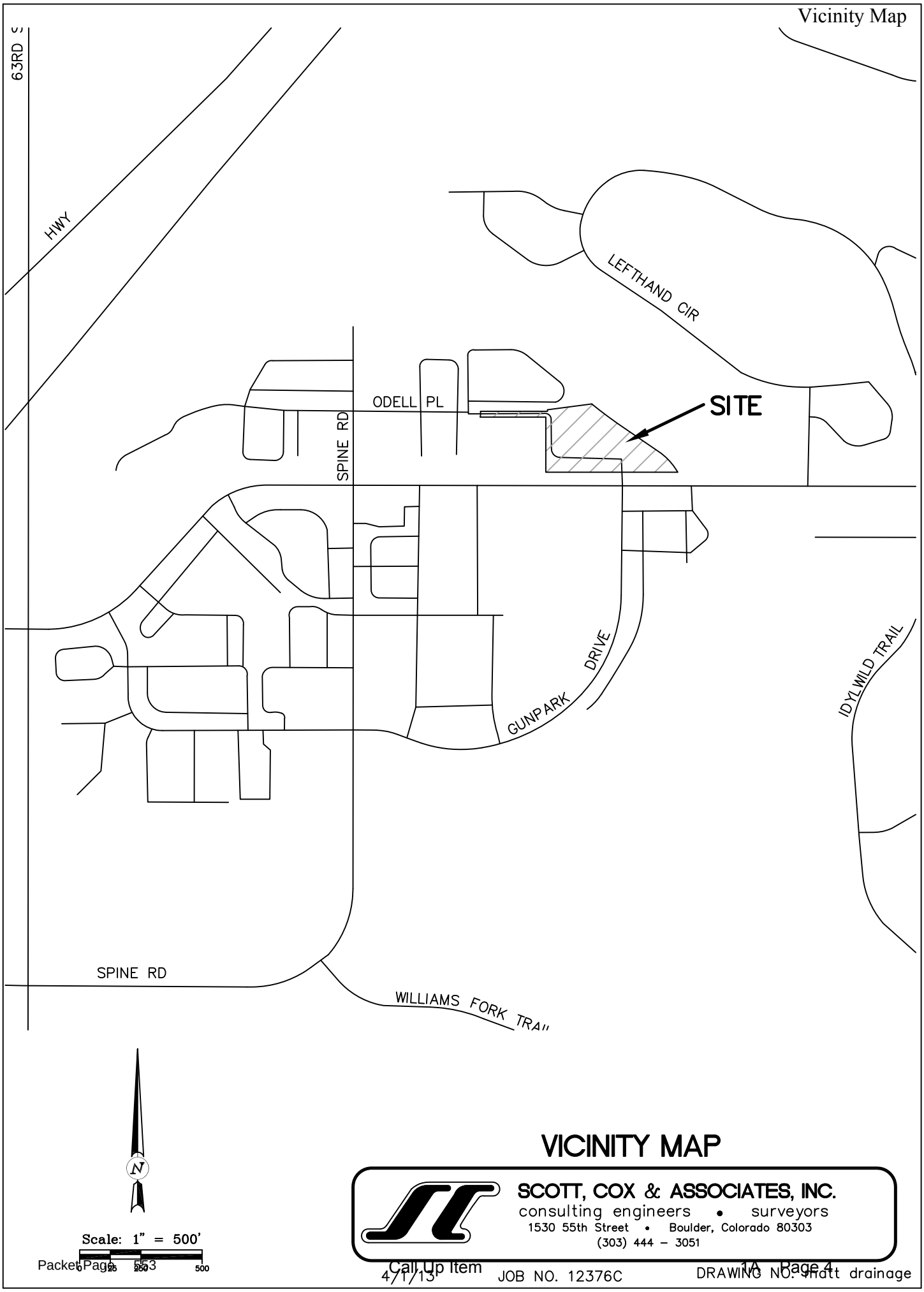
The proposed development to construct 68 attached residential units requires that the existing fire hydrant utility easement be vacated and the utility relocated.

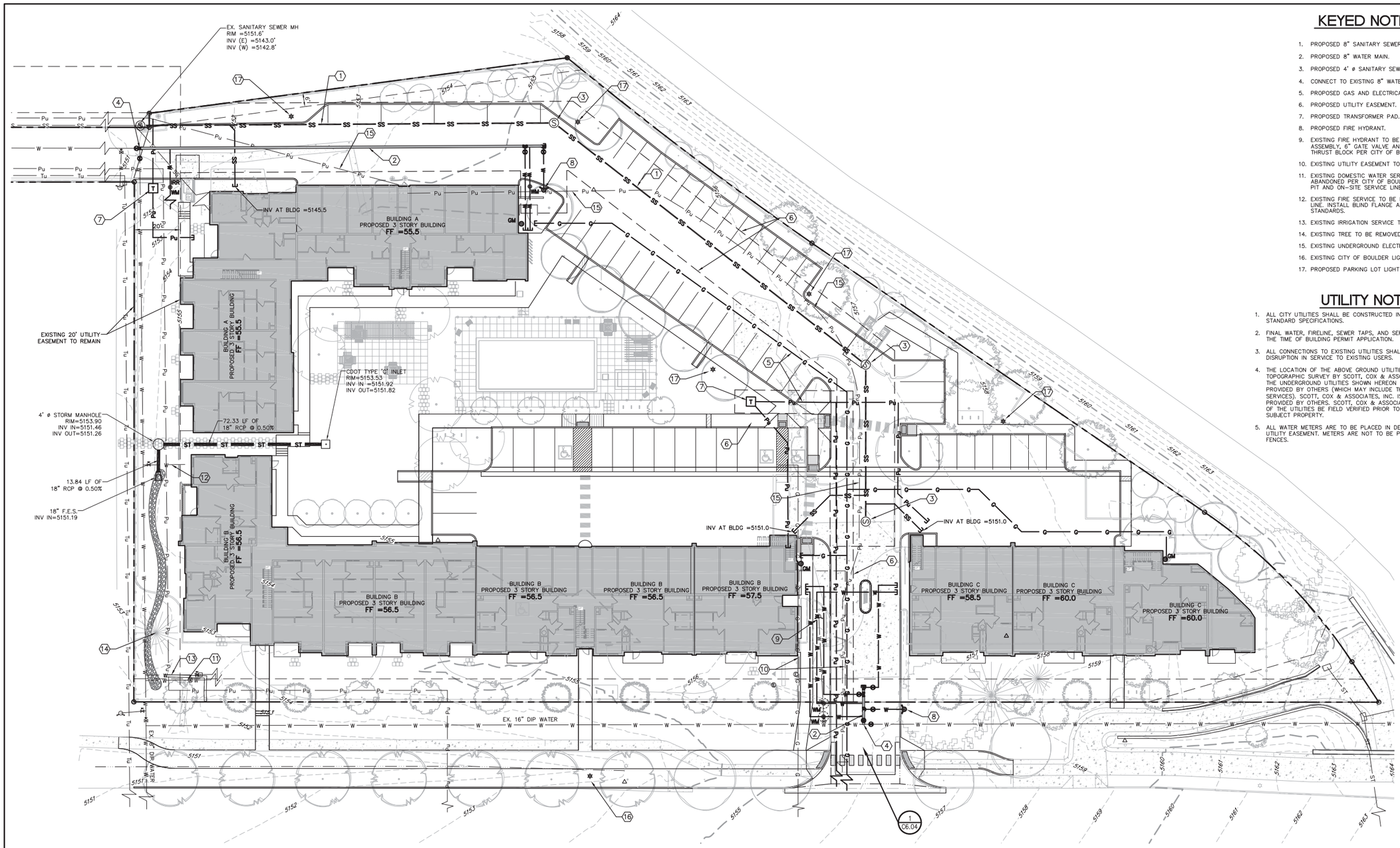
**ANALYSIS**
Staff finds the proposed vacation of the existing utility easement at 6655 Lookout Rd. consistent with the standard set forth in subsection (b) of section 8-6-10, "*Vacation of Public Easements*", B.R.C. 1981. Specifically, staff has determined that no public need exists for the existing on-site fire utility easement given that the relocation of fire hydrant utility and easement is required as part of the Use Review approval (case no. LUR2012-00093). Refer to **Attachment D** for a complete analysis of the vacation of a public easement review criteria.

**PUBLIC COMMENT AND PROCESS**
Notice of the vacation was advertised in the Daily Camera within the 30-day call-up period as required by the code. Staff has received no written or verbal comments adverse to the vacation.

**NEXT STEPS**
If the requested vacation is not called-up by City Council then the Deed of Vacation (**Attachment E**) will be recorded. If the requested vacation is called-up and subsequently denied, the applicant will be limited to development outside of the easement.

**ATTACHMENTS:**
A: Vicinity Map
B: Site Plan Showing Easement to be Vacated
C: Notice of Disposition
D: Criteria Analysis
E: Deed of Vacation with Exhibit A (Legal Description and Map of the Utility Easement to be vacated)


63RD S
HWY
LEFTHAND CIR
ODELL PL
SITE
SPINE RD
GUNPARK DRIVE
IDYLWILD TRAIL
SPINE RD
WILLIAMS FORK TRAIL
N
Scale: 1" = 500'
0 125 250 500
VICINITY MAP
SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 – 3051
4/1/13
JOB NO. 12376C
DRAWING NO. Pratt drainage




## KEYED NOTES ①

1. PROPOSED 8" SANITARY SEWER MAIN.
2. PROPOSED 8" WATER MAIN.
3. PROPOSED 4' ø SANITARY SEWER MANHOLE.
4. CONNECT TO EXISTING 8" WATER MAIN.
5. PROPOSED GAS AND ELECTRICAL MAINS.
6. PROPOSED UTILITY EASEMENT.
7. PROPOSED TRANSFORMER PAD.
8. PROPOSED FIRE HYDRANT.
9. EXISTING FIRE HYDRANT TO BE REMOVED. REMOVE FIRE HYDRANT ASSEMBLY, 6" GATE VALVE AND WATER LINE. INSTALL BLIND FLANGE AND THRUST BLOCK PER CITY OF BOULDER STANDARDS.
10. EXISTING UTILITY EASEMENT TO BE VACATED.
11. EXISTING DOMESTIC WATER SERVICE TO BE SHUT OFF AT MAIN AND ABANDONED PER CITY OF BOULDER STANDARDS. REMOVE EXISTING METER PIT AND ON-SITE SERVICE LINES.
12. EXISTING FIRE SERVICE TO BE REMOVED. REMOVE EXISTING VALVE AND FIRE LINE. INSTALL BLIND FLANGE AND THRUST BLOCK PER CITY OF BOULDER STANDARDS.
13. EXISTING IRRIGATION SERVICE TO BE REMOVED.
14. EXISTING TREE TO BE REMOVED.
15. EXISTING UNDERGROUND ELECTRIC TO BE REMOVED.
16. EXISTING CITY OF BOULDER LIGHT POLE TO BE REMOVED AND REPLACED.
17. PROPOSED PARKING LOT LIGHT POLE.

## UTILITY NOTES

1. ALL CITY UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF BOULDER STANDARD SPECIFICATIONS.
2. FINAL WATER, FIRELINE, SEWER TAPS, AND SERVICE LINE SIZES SHALL BE DETERMINED AT THE TIME OF BUILDING PERMIT APPLICATION.
3. ALL CONNECTIONS TO EXISTING UTILITIES SHALL BE DONE IN A WAY SO AS TO MINIMIZE DISRUPTION IN SERVICE TO EXISTING USERS.
4. THE LOCATION OF THE ABOVE GROUND UTILITIES SHOWN HEREON ARE BASED ON THE TOPOGRAPHIC SURVEY BY SCOTT, COX & ASSOCIATES, INC. ON 9/26/12. THE LOCATIONS OF THE UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON SAID SURVEY AND INFORMATION PROVIDED BY OTHERS (WHICH MAY INCLUDE THE UTILITY OWNER OR UTILITY LOCATING SERVICES). SCOTT, COX & ASSOCIATES, INC. IS NOT RESPONSIBLE FOR UTILITY INFORMATION PROVIDED BY OTHERS. SCOTT, COX & ASSOCIATES, INC. RECOMMENDS THAT THE LOCATION OF THE UTILITIES BE FIELD VERIFIED PRIOR TO ANY DIGGING ON, OR ADJACENT TO THE SUBJECT PROPERTY.
5. ALL WATER METERS ARE TO BE PLACED IN DEDICATED CITY RIGHT-OF-WAY OR A PUBLIC UTILITY EASEMENT. METERS ARE NOT TO BE PLACED IN DRIVEWAYS, SIDEWALKS OR BEHIND FENCES.

CITY OF BOULDER
DEPARTMENT OF PUBLIC WORKS
APPROVED
ENGINEERING CONSTRUCTION DRAWING
ENGINEERING REVIEW MANAGER DATE
APPROVAL EXPIRES ONE YEAR AFTER DATE ABOVE

CITY OF BOULDER
PUBLIC WORKS DEPARTMENT
RECOMMENDATION FOR APPROVAL
WATER/SEWER
TRANSPORTATION
DRAINAGE

COLORADO REGISTERED
DONALD P. ...
05/20/13
36045
PROFESSIONAL ENGINEER

# UTILITY PLAN
# BOULDER VIEW APARTMENTS
# 6655 LOOKOUT ROAD
# BOULDER, COLORADO

SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 - 3051

| Designed by WMK | Date | Scale | Drawing no. | Sheet |
|---|---|---|---|---|
| Drawn by JAS | 04/15/13 | 1"=20' | 12376C-1 | C2.05 |
| Checked by DPA | Revision | Description | Date | Project no. |
| | 1 | CITY COMMENTS | 05/20/13 | 12376C |

**CITY OF BOULDER**
**Community Planning and Sustainability**

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

# ADMINISTRATIVE REVIEW
# NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

**DECISION:** Approved
**DATE:** May 31, 2013
**REQUEST TYPE:** Public Utility Easement Vacation
**ADDRESS:** 6655 Lookout Road
**APPLICANT:** Bruce Dierking
**CASE #:** ADR2013-00099
**LEGAL DESCRIPTION:** See Exhibit A
**DESCRIPTION:** ADMINISTRATIVE REVIEW REQUEST for a public utility easement vacation for multi-family residential development located at 6655 Lookout Rd. The easement vacation will result in the relocation of a fire hydrant.

**FINAL DECISION STANDARDS:**
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981.

This approval does not constitute building permit approval.

This approval is limited to the vacation of a utility easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk & Recorder on February 8, 1983 at Reception No. 532392, located at 6655 Lookout Road.

Approved By:

Jessica Vaughn, Planning Department

Case #: ADR2013-00099

Project Name: 6655 Lookout Road Easement Vacation

Date: May 31, 2013

## CRITERIA CHECKLIST AND COMMENT FORM

## VACATION OF PUBLIC EASEMENTS

| Criteria Met | Criteria Not Met | | |
|---|---|---|---|
| | | | Does project meet vacation policies? |
| _Y_ | ___ | 1. | Change is not contrary to the public interest. |
| | | | *The purpose of the requested easement vacation is to relocate an existing fire hydrant to accommodate the redevelopment of the project site as multi-family residential. A new easement will be dedicated prior to the relocation and vacation of the existing hydrant.* |
| _Y_ | ___ | 2. | All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose. |
| | | | *All agencies have acknowledged and approved the vacation of the existing easement and relocation of the existing fire hydrant.* |
| _Y_ | ___ | 3. | Consistent with the Comprehensive Plan and Land Use Regulations and |
| | | | *The purpose of the proposed easement vacation is to relocate an existing fire hydrant. A subsequent dedication will occur for the hydrant as a result of the redevelopment of the project site.* |
| _Y_ | ___ | a. | Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or |
| | | | *Failure to vacate the easement would result in the inability to relocate the existing water line and the inability to redevelop the project site as proposed.* |
| _Y_ | ___ | b. | Would provide a greater public benefit than retaining the property in its present status. |
| | | | *Vacating the existing easement and relocating the existing utility results in a site design that allows for transportation connection to align as well as a use that will help to support the Gunbarrel Town Center.* |
| _Y_ | ___ | | Are there utilities in the easement? |

*The purpose of the proposed easement vacation is to relocate an existing fire hydrant. A subsequent dedication will occur for the hydrant as a result of the redevelopment of the project site.*

_Y_ ___ Are there encroachments in the easement?

*No.*

___ N/A Encroachment investigation fee paid?

*Not applicable; the purpose of the easement vacation is to eliminate the potential for encroachments.*

**FINAL DECISION STANDARDS**
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981.

This approval does not constitute building permit approval.

This approval is limited to the vacation of a utility easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk & Recorder on February 8, 1983 at Reception No. 532392, located at 6655 Lookout Road.

cur/chklists/adrvacat.doc

For Administrative Purposes Only
Address: 6655 Lookout Road
Case No. ADR2013-000099

# DEED OF VACATION

The City of Boulder, Colorado does hereby vacate and release to the present owner(s) of the subservient land, in a manner prescribed by Section 8-6-10(b), B.R.C. 1981, the following portion of utility easement (previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 532392 at 1:21 p.m. on the 8th day of February, 1983)**,** located at 6655 Lookout Road and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The within easement vacation and release of said easement shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way or easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 20__, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By:_____
Jane S. Brautigam,
City Manager

Attest:

_____
City Clerk on behalf of the
Director of Finance & Record

Approved as to form:

_____
City Attorney

# EXHIBIT A

(PAGE 1 OF 2)

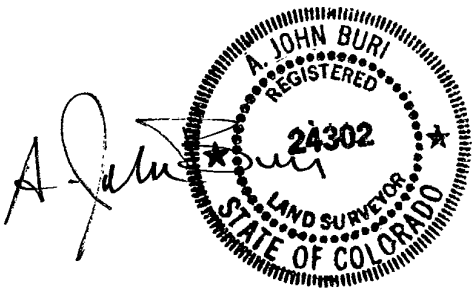
LEGAL DESCRIPTION – PUBLIC UTILITY EASEMENT

A PUBLIC UTILITY EASEMENT RECORDED AT RECEPTION NUMBER 532392 OF THE BOULDER COUNTY RECORDS, LOCATED IN THE S 1/2 OF SECTION 2, T1N, R70W OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

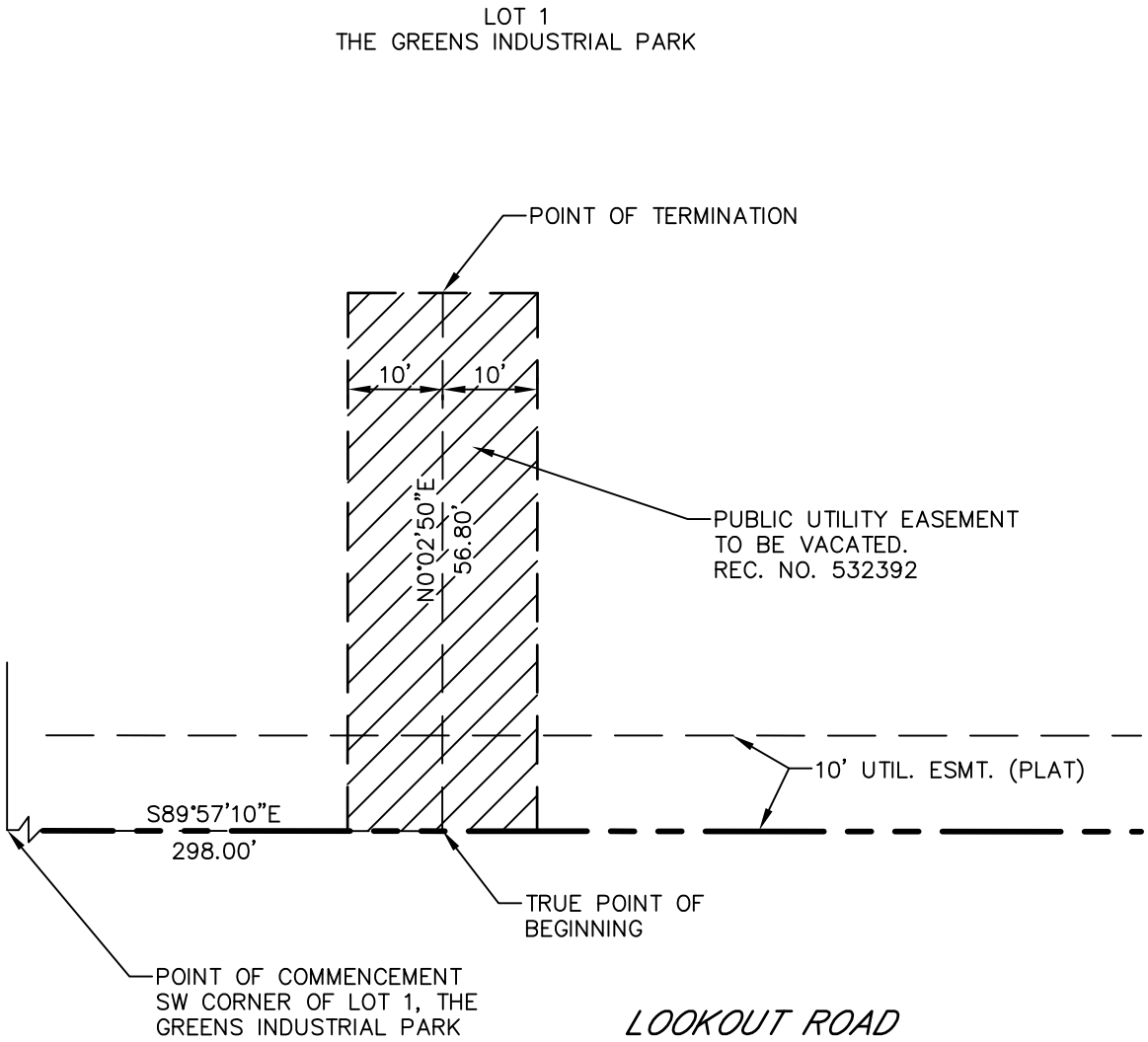
A STRIP OF LAND 20.00 FEET IN WIDTH LOCATED IN LOT 1, THE GREENS INDUSTRIAL PARK, A SUBDIVISION IN THE COUNTY OF BOULDER, STATE OF COLORADO, ACCORDING TO THE RECORDED PLAT THEREOF, EXTENDING FROM THE SOUTH LINE OF SAID LOT 1, NORTHERLY, TO THE POINT OF TERMINATION, SAID STRIP OF LAND BEING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

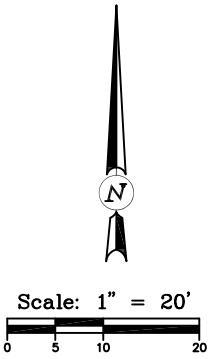
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE S89°57'10"E, 298.00 FEET ALONG THE SOUTH LINE OF SAID LOT 1 TO THE TRUE POINT OF BEGINNING; THENCE N00°02'50"E, 56.80 FEET TO THE POINT OF TERMINATION.

SAID PARCEL CONTAINS 1136 SQUARE FEET OR 0.026 ACRES.




A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
05/20/13
PROJECT NO. 12376CS




# EXHIBIT A
# PAGE 2 OF 2

SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 – 3051

5/14/13 JOB NO. 12376CS DRAWING NO. 12376CS–1

**INFORMATION PACKET**
**MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Charles Ferro, Development Review Manager
Sloane Walbert, Associate Planner

Date: September 24, 2013

**Subject: Call-Up Item:** Vacation of a 2,280 square foot portion of an existing utility easement located at 3737 Spring Valley Road (ADR2013-00158).

---

## EXECUTIVE SUMMARY:

The applicant requests vacation of a 2,280 square foot portion of an existing fourteen-foot utility easement at 3737 Spring Valley Road (refer to **Attachment D** for exact location) to accommodate an addition to the existing home on the property. The easement was originally dedicated on the Spring Valley Estates Subdivision plat, recorded August 27, 1965. It appears the easement was reserved for future utility connections between Spring Valley Road (then 3rd Street) to Wild Plum Court to the west. However, all public utilities have been placed in public right-of-way or other easements and no public need exists for the easement.

The proposed vacation was approved by staff on September 10, 2013. There is one scheduled City Council meeting on October 1st within the 30 day call-up period.

## CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 2,280 square foot portion of the existing fourteen-foot utility easement. The date of final staff approval of the easement vacation was September 10, 2013 (refer to **Attachment E**, *Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on October 10, 2013 unless the approval is called up by City Council.

**FISCAL IMPACTS:**
None identified.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- Economic: No economic impact is anticipated.

- Environmental: No impacts are anticipated through this utility easement vacation.

- Social: None identified.

**BACKGROUND:**
The subject property is a large 22,392 square foot lot located in a Residential - Estate (RE) zone district (refer to **Attachment A**, *Vicinity Map*). The property is encumbered by a fourteen-foot utility easement that runs northeast to southwest across the property and a stream easement that runs along the southwest property line (please refer to **Attachment B**, *Site Plan*). The utility easement to be vacated originally ran along the property line between Lots 24 and 25, with 7 feet located on each property. However, the subject property was created when Lots 24 and 25 were split into three lots in 1970. The stream easement for Twomile Creek will remain.

It appears the portion of easement to be vacated was reserved at the time of original subdivision for future utility connections between Spring Valley Road (then 3rd Street) to Wild Plum Court to the west. Presently water services are located in the public right-of-way along Spring Valley Road and Lakebriar Drive. The water main connects to Wild Plum Court within a separate easement located to the north of the subject property. Sewer services are located in public right-of-way along Lakebriar Drive and in easements to the north and south of the subject property. There are no plans to extend the sewer main through the subject easement. Additionally, all storm sewer infrastructure is located in public right-of-way. There are no public or private utilities located in the easement and there is no public need for the portion of utility easement to be vacated.

A portion of the existing house encroaches into the easement. The property owner would like to remodel the existing home to include a second floor addition, which would encroach into the subject easement. Given that there is no public need for the easement for which it was intended, failure to vacate the requested portion of easement would cause hardship to the property owner by limiting the development potential of the property.

**ANALYSIS:**
Staff finds the proposed vacation of a 2,280 square foot portion of an existing fourteen-foot utility easement consistent with the standard set forth in subsection (b) of section 8-6-10, "*Vacation of Public Easements*", B.R.C. 1981. Specifically, staff has determined that no public need exists for the portion of easement to be vacated because all public utilities are located in public right-of-way or other easements.

No vacation of a public easement shall be approved unless the approving agency finds that:

✓ 1. Change is not contrary to the public interest.

✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.

✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.

✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or

*The utility easement was dedicated for possible utility connections between Spring Valley Road (then 3rd Street) to Wild Plum Court. All public utilities are located in public right-of-way or other easements and there are no plans to extend utilities through the subject easement. The building site on this lot is currently unnecessarily limited by the utility easement since there is no public need for the easement.*

N/A b. Would provide a greater public benefit than retaining the property in its present status.

**PUBLIC COMMENT AND PROCESS:**

Notice of the vacation will be advertised in the Daily Camera within the 30 day call up period. Staff has received no written or verbal comments adverse to the vacation.

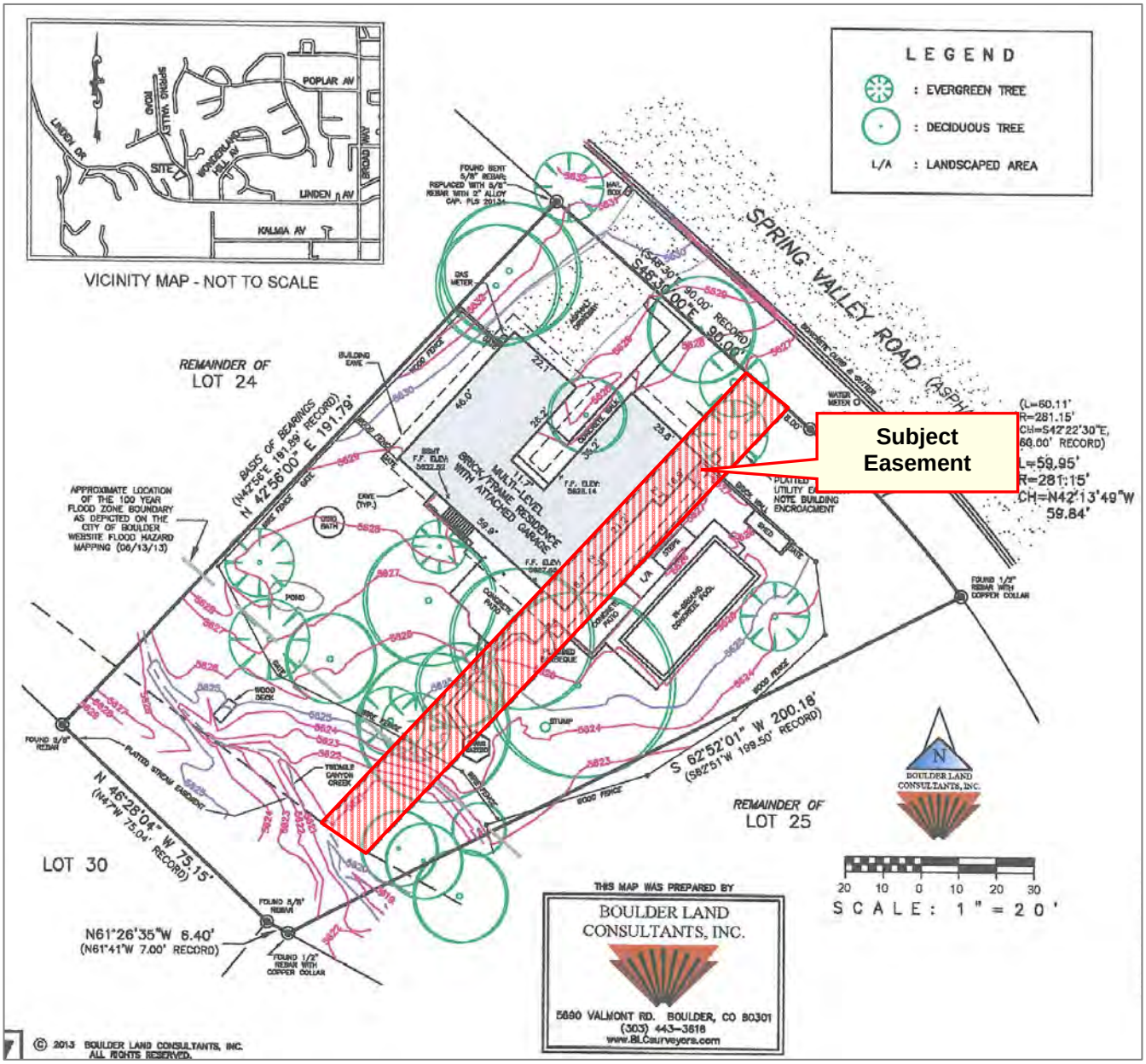
**NEXT STEPS:**

If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

**ATTACHMENTS:**

Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition

LAKEBRIAR DR
SPRING VALLEY RD
3737 Spring Valley Rd
WILD PLUM CT


LEGEND
: EVERGREEN TREE
: DECIDUOUS TREE
L/A : LANDSCAPED AREA
VICINITY MAP - NOT TO SCALE
POPLAR AV
LINDEN DR
SPRING VALLEY DRIVE
WONDERLAND HILL DR
SITE
LINDEN AV
KALMIA AV
ANN DRIVE
SPRING VALLEY ROAD (ASPH.)
REMAINDER OF LOT 24
BASIS OF BEARINGS (N42°58'E 191.89' RECORD) N 42°56'00" E 191.79'
APPROXIMATE LOCATION OF THE 100 YEAR FLOOD ZONE BOUNDARY AS DEPICTED ON THE CITY OF BOULDER WEBSITE FLOOD HAZARD MAPPING (06/13/13)
BRICK/FRAME RESIDENCE WITH ATTACHED GARAGE
MULTI-LEVEL
Subject Easement
(L=60.11' R=281.15' CH=S42°22'30"E, 60.00' RECORD)
L=59.95' R=281.15' CH=N42°13'49"W 59.84'
S 62°52'01" W 200.18' (S62°51'W 199.50' RECORD)
N 46°28'04" W 75.15' (N47°W 75.04' RECORD)
N61°26'35"W 8.40' (N61°41'W 7.00' RECORD)
LOT 30
REMAINDER OF LOT 25
SCALE: 1" = 20'
THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.
5660 VALMONT RD. BOULDER, CO 80301
(303) 443-3618
www.BLCsurveyors.com
© 2013 BOULDER LAND CONSULTANTS, INC. ALL RIGHTS RESERVED.

For Administrative Purposes Only
Address: 3737 Spring Valley Rd
Case No. ADR2013-00158

**DEED OF VACATION**

The City of Boulder, Colorado does hereby vacate and release to the present owners of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, the following portion of utility easement previously dedicated to the County of Boulder and recorded in the records of the Boulder County Clerk and Recorder on the final plat of Spring Valley Estates subdivision in Plan File P-1, F-3, No. 17 at Reception No. 90792353 on August 27, 1965, located at 3737 Spring Valley Road and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The City acquired the rights to said easement upon annexation of the property pursuant to Ordinance No. 4081 recorded in the records of Boulder County Clerk and Recorder at Film 974, Reception No. 238534 on August 23, 1977.

The within easement vacation and release of said easement shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way or easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 20__, by the City Manager after having received authorization from 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:

Hella Pannewig
City Attorney's Office

9-10-2013

*EXHIBIT A – Sheet 1 of 2*

# A LEGAL DESCRIPTION AND EXHIBIT MAP OF A PORTION OF A PLATTED EASEMENT AT

THE 3737 SPRING VALLEY ROAD PROPERTY BEING PORTIONS OF LOTS 24 AND 25, SPRING VALLEY ESTATES, LOCATED IN THE NW1/4 OF SECTION 24, T1N, R71W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

SHEET 1 OF 2

LEGAL DESCRIPTION:

A STRIP OF LAND BEING A PORTION OF A PLATTED UTILITY EASEMENT, 14 FEET IN WIDTH, LYING WITHIN LOTS 24 AND 25, SPRING VALLEY ESTATES, A SUBDIVISION OF PARTS OF THE SOUTHWEST 1/4 OF SECTION 13 AND THE NORTHWEST 1/4 OF SECTION 24, T1N, R71W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, SAID STRIP OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERNMOST CORNER OF LOT 24, SPRING VALLEY ESTATES SUBDIVISION; THENCE S 48°30'00" E, 195.00 FEET TO THE EASTERNMOST CORNER OF SAID LOT 24 AND THE POINT OF BEGINNING;

THENCE S 48°30'00" E, 7.00 FEET ALONG THE NORTHEASTERLY LINE OF SAID LOT 25, TO THE EASTERNMOST CORNER OF AN EXISTING PLATTED UTILITY EASEMENT;
THENCE S 42°55'00" W, 161.19 FEET ALONG THE SOUTHEASTERLY LINE OF SAID EASEMENT TO A POINT ON THE NORTHEASTERLY LINE OF AN EXISTING PLATTED STREAM EASEMENT;
THENCE N 61°35'54" W, 14.46 FEET ALONG SAID NORTHEASTERLY LINE TO A POINT ON THE NORTHWESTERLY LINE OF SAID PLATTED UTILITY EASEMENT;
THENCE N 42°55'00" E, 164.47 FEET ALONG SAID NORTHWESTERLY LINE TO A POINT ON THE NORTHEASTERLY LINE OF SAID LOT 24;
THENCE S 48°30'00" E, 7.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 2280 SQUARE FEET (0.0523 ACRES), MORE OR LESS.

© 2013 BOULDER LAND CONSULTANTS, INC.
ALL RIGHTS RESERVED

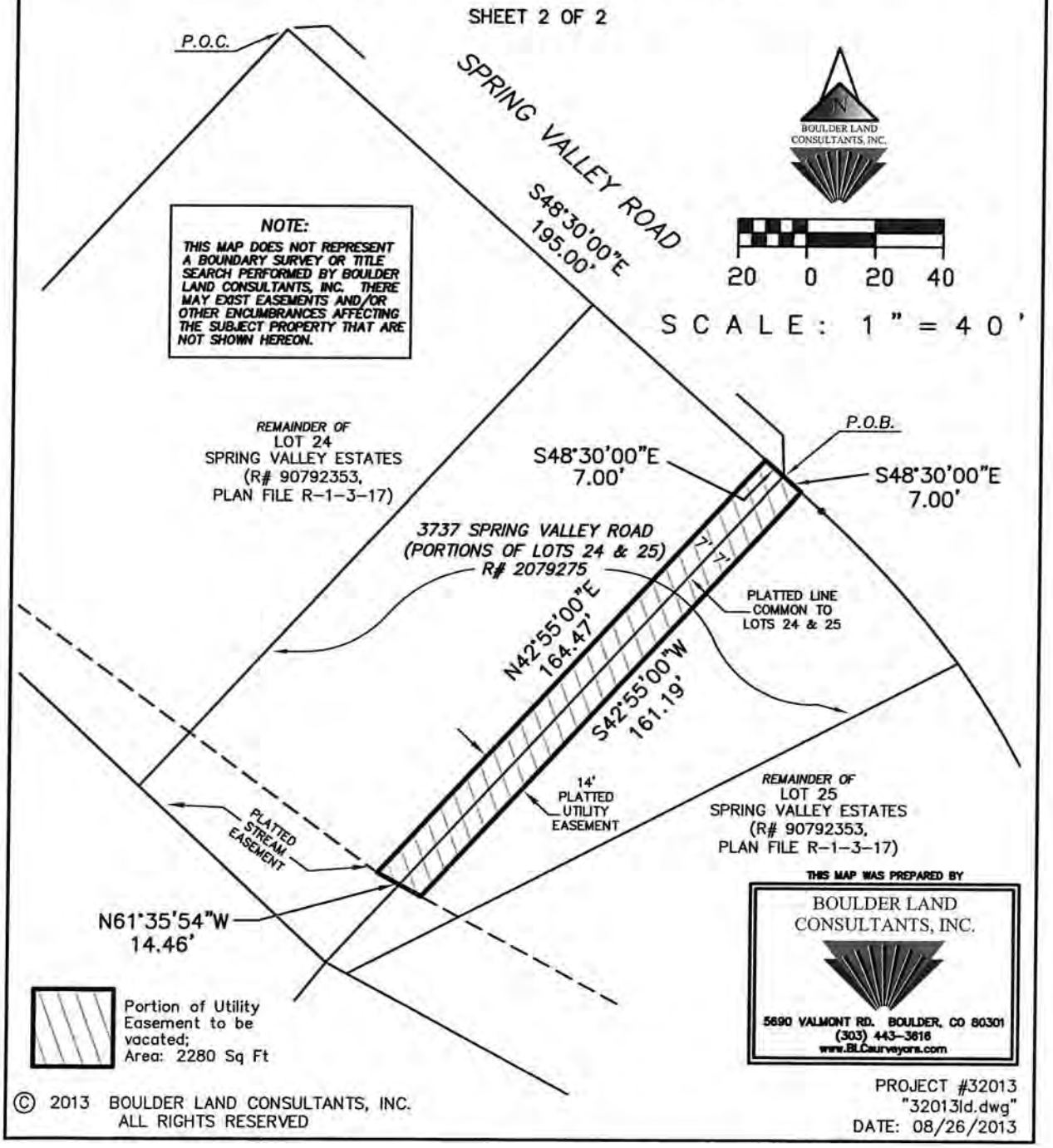
PROJECT #32013
"32013ld.dwg"
DATE: 08/26/2013

*EXHIBIT A – Sheet 2 of 2*

# A LEGAL DESCRIPTION AND EXHIBIT MAP OF A PORTION OF A PLATTED EASEMENT AT

THE 3737 SPRING VALLEY ROAD PROPERTY BEING PORTIONS OF LOTS 24 AND 25, SPRING VALLEY ESTATES, LOCATED IN THE NW1/4 OF SECTION 24, T1N, R71W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

SHEET 2 OF 2



**CITY OF BOULDER**
**Planning and Development Services**
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web boulderplandevelop.net

# ADMINISTRATIVE REVIEW
# NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

| | |
|---|---|
| **DECISION:** | Approved |
| **DATE:** | September 10, 2013 |
| **REQUEST TYPE:** | Vacation/Easement |
| **ADDRESS:** | 3737 Spring Valley Rd. |
| **APPLICANT:** | Thomas Martini |
| **CASE #:** | ADR2013-00158 |
| **LEGAL DESCRIPTION:** | See attached. |
| **DESCRIPTION:** | UTILITY EASEMENT VACATION to vacate a portion of an existing fourteen-foot utility easement bisecting the property at 3737 Spring Valley Road. |

**FINAL DECISION STANDARDS:**
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval.

This approval is limited to the vacation of a 2,280 square-foot portion of an existing fourteen-foot utility easement, previously dedicated to the County of Boulder and recorded in the records of the Boulder County Clerk and Recorder on the final plat of Spring Valley Estates subdivision in Plan File P1, F3, No. 17 at Reception No. 90792353 on August 27, 1965. The City acquired the rights to said easement upon annexation of the property pursuant to Ordinance No. 238534 on August 23, 1977.

**INFORMATIONAL COMMENTS:**
Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

Approved By: S Walbert
Sloane Walbert, Planning Department

**INFORMATION PACKET**
**MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner I

Date: October 1, 2013

**Subject: Call-Up Item:** Vacation of an existing 2,503 square foot drainage easement located at 2044 Walnut Avenue (ADR2013-00035).

---

## EXECUTIVE SUMMARY:

The applicant requests vacation of an existing 2,503 square foot drainage easement at 2044 Walnut Avenue (refer to **Attachment D** for exact location) to allow for the construction of two new residential duplex units as Phase II of the 2044 Walnut Street development project. The easement was originally dedicated in 2009 as part of an approved by-right development project; however, the applicant has modified the development proposal such that the original purpose for which the easement was dedicated is no longer valid. There is no public need for the portion of utility easement to be vacated because there have never been any public utilities located in the easement.

The proposed vacation was approved by staff on September 5, 2013. There are two scheduled City Council meetings on September 17 and October 1, 2013 within the 30 day call-up period.

## CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of an existing 2,503 square foot drainage easement. The date of final staff approval of the easement vacation was September 5, 2013 (refer to **Attachment E**, *Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on October 7, 2013 unless the approval is called-up by City Council.

**FISCAL IMPACTS:**
None identified.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- Economic: None identified.
- Environmental: None identified.
- Social: None identified.

**BACKGROUND:**
The subject property is a 14,826 square foot lot located in the Residential - High 2 (RH-2) zone district (refer to **Attachment A**, *Vicinity Map*) just east of the Boulder & White Rock Ditch near Walnut St. and 21st St. The property is encumbered by a drainage easement beginning at the northeast corner of the property and running south and then west across the center of the property toward the ditch (please refer to **Attachment B**, *Site Plan*). The property owner would like to construct two new residential duplex units on the subject site which would encroach into the subject easement. This request is to vacate the easement in order to allow for the construction of the duplex units. New easements have been dedicated for access, drainage, and utility purposes.

The subject easement was originally dedicated for to allow for parking lot drainagein 2009; however, the previously approved parking lot that was intended to go on the subject property was never constructed. There are no public utilities located in the subject easement. Given that there is no public need for the easement for which it was intended, failure to vacate the requested portion of easement would cause hardship to the property owner by limiting the development potential of the property. The proposed duplex units and any additions will be subject to the zoning regulations for the RH-2 zone district.

**ANALYSIS:**
Staff finds the proposed vacation of an existing drainage easement consistent with the standard set forth in subsection (b) of section 8-6-10, "*Vacation of Public Easements*", B.R.C. 1981. Specifically, staff has determined that no public need exists for the portion of easement to be vacated due to the fact that the easement has never carried any public utilities.

No vacation of a public easement shall be approved unless the approving agency finds that:

✓ 1. Change is not contrary to the public interest.

✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.

✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.

✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or

*The easement to be vacated is not necessary because there are no public or private utilities located in the easement. Further, the required utilities for the new proposed by-right development will be accommodated by new easements.*

*Therefore, the building site on this lot is currently unnecessarily burdened by the easement since there is no public need for the easement.*

N/A b. Would provide a greater public benefit than retaining the property in its present status.

**PUBLIC COMMENT AND PROCESS:**

Notice of the vacation will be advertised in the Daily Camera within the 30 day call-up period. Staff has received no written or verbal comments adverse to the vacation.

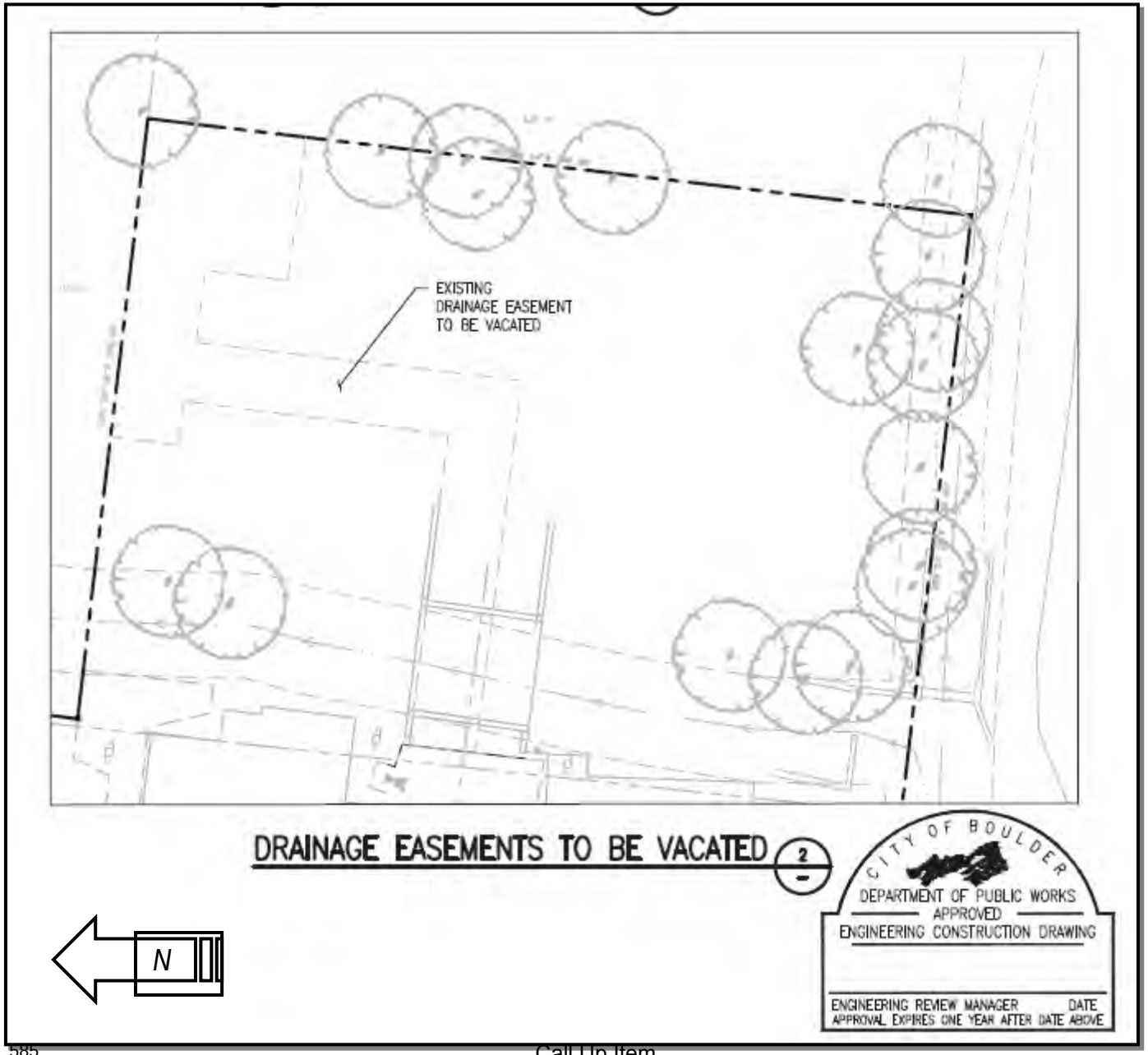
**NEXT STEPS:**

If the requested vacation is not called-up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called-up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

**ATTACHMENTS:**

Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition

20th St
21st St
WalnutSt.
22nd St
Subject Site:
2044 Walnut
N


EXISTING
DRAINAGE EASEMENT
TO BE VACATED
DRAINAGE EASEMENTS TO BE VACATED
2
N
CITY OF BOULDER
DEPARTMENT OF PUBLIC WORKS
APPROVED
ENGINEERING CONSTRUCTION DRAWING
ENGINEERING REVIEW MANAGER
DATE
APPROVAL EXPIRES ONE YEAR AFTER DATE ABOVE

For Administrative Purposes Only
Address: 2044 Walnut St.
Case No. ADR2013-00035

**DEED OF VACATION**

The City of Boulder, Colorado does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, a drainage easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk & Recorder at Reception No. 2975772 on the 29th day of January, 2009, located at 2044 Walnut Street, Boulder, CO, and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The within easement vacation and release of said easement at 2044 Walnut Street shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way or easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2013, by the City Manager after having received authorization from 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

9-17-2013
Date

# EXHIBIT "A"

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT AS RECORDED AT RECEPTION NO. 2975772 ON JANUARY 29, 2009 IN THE RECORDS OF BOULDER COUNTY TO BE VACATED OVER AND ACROSS A PORTION OF LOTS 12 AND 13, BLOCK D, EAST BOULDER, LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 13, BLOCK D, EAST BOULDER; THENCE SOUTH 00°06'44" EAST ALONG THE EAST LINE OF LOT 13, BLOCK D, EAST BOULDER, A DISTANCE OF 28.52 FEET;
THENCE SOUTH 89°53'16" WEST, A DISTANCE OF 25.98 FEET;
THENCE NORTH 00°06'44" WEST, A DISTANCE OF 11.84 FEET;
THENCE SOUTH 89°53'16" WEST, A DISTANCE OF 13.17 FEET;
THENCE SOUTH 00°06'44" EAST, A DISTANCE OF 55.99 FEET;
THENCE NORTH 89°39'37" WEST, A DISTANCE OF 67.85 FEET;
THENCE NORTH 00°06'44" WEST, A DISTANCE OF 12.00 FEET;
THENCE SOUTH 89°39'37" EAST, A DISTANCE OF 55.84 FEET;
THENCE NORTH 00°06'44" WEST, A DISTANCE OF 60.57 FEET TO THE NORTH LINE OF LOT 12, BLOCK D, EAST BOULDER;
THENCE NORTH 89°53'16" EAST ALONG THE NORTH LINE OF LOTS 12 AND 13, BLOCK D, EAST BOULDER, A DISTANCE OF 51.14 FEET TO THE POINT OF BEGINNING;
COUNTY OF BOULDER, STATE OF COLORADO.

ALL BEARINGS HAVE BEEN BASED UPON THE SURVEY PLAT FILED WITH THE COUNTY OF BOULDER AS LS-06-0148, PREPARED BY AMERICAN WEST LAND SURVEYING COMPANY AND DATED MAY 11, 2006.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

COLORADO LICENSED
JOHN BRUCE GUYTON
16406
8/1/13
PROFESSIONAL LAND SURVEYOR

JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 13-61,251
CHAIRMAN/CEO, FLATIRONS, IN

JOB NUMBER: 13-61,251
DRAWN BY: B. LUND
DATE: AUGUST 1, 2013

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

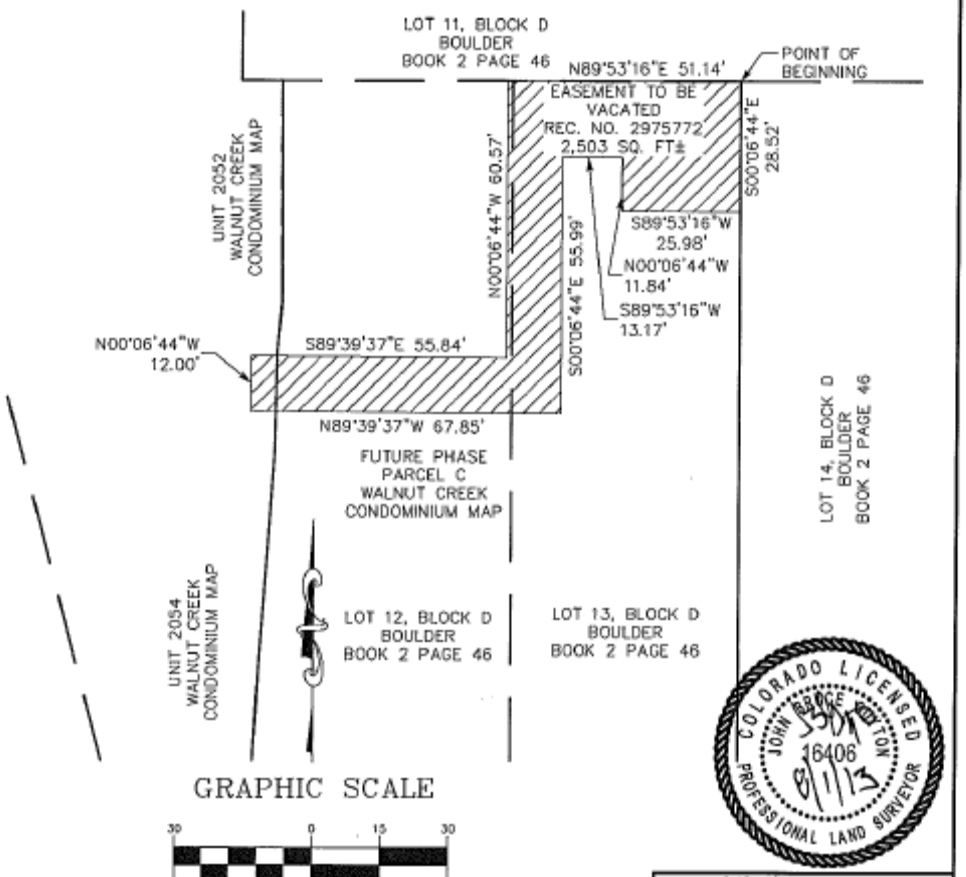
**Flatirons, Inc.**
*Surveying, Engineering & Geomatics*
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.Flatironsinc.com

BY:BLUND FILE:VACATE-DESC.DWG DATE:8/1/2013 3:02 PM

# EXHIBIT "A"

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2




GRAPHIC SCALE

30 0 15 30

( IN FEET )
1 inch = 30 ft.

JOB NUMBER: 13-61,251
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CITY OF BOULDER
Community Planning and Sustainability
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

# ADMINISTRATIVE REVIEW
# NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

**DECISION:** Approved
**DATE:** September 5, 2013
**REQUEST TYPE:** Public Utility Easement Vacation
**ADDRESS:** 2044 Walnut St.
**APPLICANT:** Charlie Hager
**CASE #:** ADR2013-00035
**LEGAL DESCRIPTION:** See Exhibit A attached
**DESCRIPTION:** PUBLIC UTILITY EASEMENT VACATION: Vacation of a drainage easement for detention improvements at 2044 Walnut St.

**FINAL DECISION STANDARDS:**
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval.

This approval is limited to the vacation of a drainage easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk & Recorder on January 29, 2009 at Reception No. 2975772 located at 2044 Walnut Street.

Approved By: _____
Chandler Van Schaack, Planning Department

**INFORMATION PACKET**
**MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development
Tom Carr, City Attorney
Debra Kalish, Senior Assistant City Attorney
Jonathan Koehn, Regional Sustainability Coordinator

Date: Sept.26, 2013

**Subject:** Update on City-Xcel Energy Partnership Discussions

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## EXECUTIVE SUMMARY

At its July 24 Study Session, the City Council directed staff to continue to explore a possible partnership with Xcel Energy by evaluating the products and services proposed by Xcel at the conclusion of the Boulder-Xcel Energy Partnership meetings in early July. The Boulder-Xcel Energy Task Force suggested performing quantitative and qualitative modeling to determine the cost impact to rate-payers and the emission reductions relative to the city's municipalization options.

City and Xcel Energy staff have been meeting regularly to identify the potential benefits of the company's proposal and will be modeling the products and services or a selection thereof using agreed upon assumptions. A meeting with the Task Force members has been scheduled for Monday, Sept. 30. The city and Xcel Energy have agreed upon a process to involve members of the Task Force and other working groups, with the goal of presenting key findings to City Council in the first quarter of 2014.

## BACKGROUND

During discussions with the Boulder-Xcel Energy Partnership Task Force, Xcel Energy agreed to explore with Boulder an initial set of eight possible products and services to reduce energy demand, increase the use of renewable energy and distributed generation, reduce the use of coal for generating electricity, modify retail rates for customers and reduce carbon emissions. Several of these concepts were first suggested by the city in its December 2012 white paper. With the

exception of products or services tied to SmartGridCity infrastructure, these would be made available to other municipalities as well and, where applicable, to individual customers. Many of the products and services, if instituted in partnership with Xcel Energy, would be subject to approval by the Colorado Public Utilities Commission.

The July Xcel Energy proposal included a high-level analysis of the potential emission reductions, costs and overall impacts and benefits of a package of products and services. At its Study Session, City Council directed staff to continue to work with Xcel Energy to perform a more detailed analysis of the Xcel products and services, which included running them through a rigorous modeling process to determine the impact to Boulder rate-payers with regard to costs, renewable energy, and emissions reductions. City council affirmed this direction after a presentation by Task Force members at the Aug. 6 City Council meeting.

City and Xcel staff have agreed to review the modeling methodology and qualitative analysis with the Boulder-Xcel Energy Partnership Task Force on Sept 30. Based on how long this important part of the process could take, both parties agree that a presentation to City Council in early 2014 is achievable.

**ANALYSIS**

Since Aug. 6, staff from the city and Xcel Energy have continued to meet regularly. While good progress has been made, the flooding events during September slowed the process considerably. In addition, both sides have gained more clarity around the magnitude and likely timeline of the work items.

To date, the following actions have been completed:

1. On July 31st, city staff and representatives from Xcel Energy met with the Task Force to update its members on the work being done and to solicit their continued participation. The session was attended by all members of the group and there was great interest in continuing to be involved.
2. The parties have met five times to identify information needs and develop details related to the Xcel proposal.
3. The parties have agreed on a modeling methodology that will be reviewed with the Boulder-Xcel Task Force on Sept. 30.
4. On Aug 28, the city provided a draft Qualitative Analysis Matrix to Xcel to evaluate the products and services associated with the Xcel Energy proposal. City and Xcel Energy staff have divided between them, the task of developing greater detail for the more qualitative products and services.
5. On Sept. 3, the city presented Xcel with a full set of detailed resource modeling assumptions used in the city's modeling process. This is refined data the city has previously released in an attempt to manage the variation between HOMER and Strategist modeling methodologies.

Given council's directive to evaluate the partnership options in relation to the Status Quo and Municipalization options, the development of a modeling methodology has been a key focus area of the discussions. The parties have agreed to review this methodology and key assumptions and inputs with the Boulder-Xcel Energy Partnership Task Force.

The intent is to have members from the Task Force form two sub-committees that would work in parallel. The first will focus on quantitative modeling tasks, while the second will work on the issues related to developing the details of the specific Xcel program offerings. These will include distributed generation, energy efficiency, demand-side management, smart grid and the Energy efficiency/Distributed Generation Incubator. The subcommittees would include Task Force members along with additional community experts, such as members of the Resource Modeling Group.

**NEXT STEPS**

City and Xcel Energy staff have had a working agreement that the results of the quantitative and qualitative modeling would be presented to City Council on Dec.17. On Sept. 25, the city was informed that Xcel Energy felt that work could not be completed in time to issue a final report to present to council by December 17. Therefore, the following revised timeline was discussed:

**Sept. 30:** Present modeling methodology, key modeling assumptions and draft Qualitative Matrix to the Boulder-Xcel Energy Task Force. Discuss the development of subcommittee's, their scope, schedule of deliverables, and identify representatives.

**Oct. 4:** Finalize draft modeling assumptions

**Week of Oct. 14:** Present draft modeling assumptions to modeling subcommittee, and first meeting of the "programs" subcommittee.

**Oct. 15:** Verbal update by city staff to City Council highlighting key feedback from the Task Force and review of the modeling process. Xcel Energy will be invited to participate in this update.

**Week of Oct. 21:** Second meeting of the subcommittees

**Nov. 18:** Present initial results of the quantitative modeling to the Boulder-Xcel Energy Partnership Task Force.

**Nov. 19:** Verbal partnership update to City Council. Xcel Energy will be invited to participate in this update.

**Dec. 17:** Energy Future Work Plan update to City Council, including update on Task Force progress. Xcel Energy will be invited to participate in this update.

**January to February 2014:** Finalize modeling, prepare City Council report

**February 2014:** Joint presentation by Xcel Energy, City staff and the Boulder-Xcel Energy Task Force. In addition to presenting the results of the quantitative and qualitative analysis, Xcel Energy will present additional detail on the various products and services included in the Xcel proposal. This will include a more detailed description of what each offering could achieve, how it might be rolled out to Boulder and Colorado customers and what type of regulatory approvals will be necessary moving forward.

**INFORMATION PACKET**
**MEMORANDUM**

To: Members of the City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Human Services
Cindy Smith, Children Youth and Families Division Manager
Allison Bayley, Youth Opportunities Program Coordinator

Date: Oct. 1, 2013

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**Subject: Information Item: 2013 - 2014 Youth Opportunities Program Annual Grant Allocations**

## EXECUTIVE SUMMARY

This memorandum presents the allocation of 2013 Youth Opportunities Program (YOP) annual grant funds. A total of $138,635 has been allocated to ten community agencies. Funding recommendations were developed by the Youth Opportunities Advisory Board (YOAB), comprised of 16 Boulder resident high school students. Youth benefiting from grant funds typically perform local volunteer work in exchange for receiving financial support. Annual grant allocations were approved by the city manager in May 2013.

## FISCAL IMPACT

In the 2013 budget, the Youth Opportunities Fund allocated $138,635 for annual grants. There are no additional fiscal impacts.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

**Social:** All funds provide cultural, recreational or educational activities for middle and high school-age city youth. Some grantees provide after school and summer opportunities for youth whose life circumstances present barriers to success, including immigrant and low-income youth. Research has shown that the greater the number of out-of-school time activities a young person is involved in, the less likely s/he is to engage in risk behaviors. The YOP fosters strong relationships between youth and the community, which research has shown to serve as a protective factor for youth of color. This increased resiliency supports increased high school graduation rates, improved earnings potential, less involvement with law enforcement, and increased self-sufficiency.

## BACKGROUND

The Youth Opportunities Fund was established in 1992. The YOP's mission is to strengthen the community through empowering youth, providing enrichment opportunities for youth, encouraging youth

civic participation and community service, and advising city government. Funds are allocated each year to provide social, cultural and educational opportunities and services for city resident, middle and high school age youth.

Using guidelines and priorities identified in the Housing and Human Services Master Plan, bi-annual Youth Risk Assessment Surveys (YRBS) and the Social Sustainability Strategic Plan, the YOP has identified the following focus areas to address community needs. Annual grant applicants addressed at least one of these goal areas:

- Address key issues identified in the YRBS results. For example: mental health, substance use, harassment, and health disparities based on sexual orientation or ethnicity;
- Promote youth voice by engaging youth in structured aspects of civic life and/or in community dialogue on social issues;
- Provide after-school, evening, and/or summer opportunities that likely would not otherwise be available to youth;
- Provide targeted services, particularly to middle school or Latino youth;
- Provide transportation to help youth access cultural, educational or recreational opportunities or employment;
- Provide employment-related education opportunities for youth; and
- Support city-sponsored after-school activities.

The priority for all YOP funding is to support programs serving low-income, at-risk, or differently-abled youth.

**ANALYSIS**

Twenty-three annual grant proposals totaling $299,875 were received in 2013. Thirteen of those proposals requested two-year grants. Eleven proposals were funded either fully or partially for one year, totaling $108,204. Combined with the $20,970 allocated for two years in the 2012 process, a total of $129,174 will be distributed in the 2013-2014 academic year. Two-year grant funds allocated in 2013 will result in $30,431 for two agencies in 2013-2014. The total amount allocated in 2013 is $ 138,635.

**Chart 1: 2013-2014 Youth Opportunities Program Annual Grant Allocations**

| Agency | Project | 2013-14 | 2014-15 |
|---|---|---|---|
| Attention Homes | **Educational and Extracurricular Program Component**<br>Provide educational and extracurricular activities to reduce youth homelessness by putting youth on track for self-sufficiency. | $15,000 | $15,450 |
| Boulder County Partners | **One-to-One Mentoring**<br>Improve outcomes for at-risk youth by matching them with trained adult volunteers. | $8,000 | |
| Boulder Judo Training Center | **The Aim Higher Project**<br>Provide a sports-focused alternative community placement program for at- | $14,750 | |

| Agency | Project | 2013-14 | 2014-15 |
|---|---|---|---|
| | risk youth. | | |
| Boulder Museum of Contemporary Art | **The Studio Project and Art Lounge Program**<br>Engage and connect middle and high school youth with contemporary art and visiting artists. | $5,000 | |
| Boulder Valley Women's Health | **SHAPE (Sexual Health & AIDS Awareness Peer Education)**<br>Educate teens so they will reduce their risk of sexually transmitted diseases or unwanted pregnancies. | $12,000 | |
| Casey Middle School | **Mexican Folklorico Dance Group**<br>Provide an environment of teamwork between students of different genders, diverse languages, socioeconomic backgrounds and ethnic groups through dancing. | $10,183 | |
| Colorado Film Society | **Boulder International Film Festival's Youth Pavilion**<br>Build tolerance and understanding of others' lives, ethnicities, abilities, human experiences, and promote a youth voice using the medium of film. | $4,940 | |
| EcoArts Connections | **Stories for a New Future, Part 2 (SNF2)**<br>Help Manhattan Middle School students understand the full definition of sustainability and how they intersect and affect their own lives, with a focus on celebrating Latino culture. | $8,500 | |
| New Vista High School | **Natural Highs - Healthy Alternatives to Drugs & Alcohol**<br>A substance abuse prevention and intervention program designed to provide healthy alternatives to drugs and alcohol. | $14,545 | $14,981 |
| Parlando School For The Arts | **Music Education Accessibility Project**<br>To make music education and performance opportunities more accessible to youth. | $7,450 | |
| Second Wind Fund of Boulder County (SWFBC) and Stories on Stage | **Voices Out of Silence**<br>Address the issues of suicide and depression through the telling of stories to create a safe space to increase awareness and provide resources to young people. | $7,836 | |
| | **Total** | $108,204 | $30,431 |

| Agency | Project | 2013-14 | 2014-15 |
|---|---|---|---|
| | Total 2013 Allocation: $138,635 | | |

**NEXT STEPS**

Contracts with successful applicants will be executed. Funded programs received half of their funding in September (allocated in the 2013 budget). Mid-year reports are due in January. On approval of the mid-year report, agencies receive the second half of their funding in February. Final reports are due in September.

For further information on the Youth Opportunities Fund, please contact Cindy Smith, 303-441-4045 or smithc@bouldercolorado.gov.

CITY OF BOULDER
Boards and Commissions Minutes

| |
|---|
| NAME OF COMMISSION: Boulder Arts Commission |
| DATE OF MEETING: August 21, 2013 |
| NAME/EXTENSION OF PERSON PREPARING SUMMARY: Gregory Ravenwood (x4113) |
| MEMBERS: Felicia Furman, Richard Turbiak, Anna Salim, Ann Moss, Linda Haertling<br>STAFF: Greg Ravenwood, Valerie Maginnis, Mary Wohl Haan, Mary Fowler, David Mallett<br>COMMUNITY MEMBERS: Chelsea Pohl, Annette Coleman, Janet Heimer, Amy Tremper, Sally Eckert, Janet Heimer, Randee Toler, Sage Hamilton, Dia Ingalls, Beth Merckel |
| TYPE OF MEETING: REGULAR |
| **Call to Order & Approval of Minutes:** The meeting was called to order at 5:30 p.m. The July 24 minutes were approved as amended.<br>**Information and Discussion Items:** Maginnis reviewed her memo to the commission, asking for a member of the Arts Commission to participate in a public art selection panel which Furman volunteered to do. Maginnis announced that the City's HR Department was in the process of making an offer to the preferred candidate for the Arts Manager position. She also announced that the North Boulder arts district community-building meeting was scheduled for August 29.<br>**Arts and Business Collaborative Grant Proposals, Round 1:** The Commissioners reviewed their comments and scores for each of the Round 1 applications. The proposals from Boulder Ensemble Theater Company with Fiske Planetarium for the project Star Power Event Series; Boulder Museum of Contemporary Art with Boulder 2140 and HUB Boulder for the project Art Meets Tech; the Dairy Center for the Arts with Ciolo Foods and Edible Communities for the project Art of Food Festival; Gateway Apprenticeship Program with Golden Bridge, CU Ethnic Studies and Shining Mountain Waldorf School for the project Intensive Performance Blocks; and Locheart Arts (Claw and Talon Tattoo) with Factory made and Shine for the project The Boulder Tattoo Project were discussed. Of the proposals, Boulder Ensemble Theater Company's moved on to the final round of consideration for the grant award.<br>**Grant Categories Discussion:** Maginnis and Mallett led the commissioners through continued discussions of the grant categories with Mallett recording suggestions and resolutions to present in comprehensive form at the September BAC meeting. Topics addressed at this meeting included the Arts in Education and Theater Rental/Marketing Assistance grants, the Americans for the Arts Convention Scholarships, potential new grant categories and funding options.<br>**Grant Budget Reports:** The Commission reviewed the reports submitted by Boulder Ballet (2013 Major Grant – Ballet in the Park); Shoshana Bass (2013 Mini-Grant and Theater Rental/Marketing Assistance Grants – Wanda & the Wave); and The Upstart Crow (2013 Theater Rental/Marketing Assistance Grant – Henry V by William Shakespeare). Haertling motioned to approve all reports; Furman seconded and the motion passed unanimously.<br>**Adjournment:** The meeting was adjourned at 8:58 p.m. |
| ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS: Chelsea Pohl and Sage Hamilton spoke on their separate ABC grant applications. Sally Eckert spoke on an art project in progress for the Boulder Housing Partners at 1175 Lee Hill. Janet Heimer spoke to the possibility of the City's de-accessioning the Kimbrough Field sculpture at the Boulder Municipal. Annette Coleman suggested the Commission should look to create subordinate panels for grant jurying. |
| TIME AND LOCATION OF ANY NEXT MEETINGS:<br>6 p.m., Wednesday, October 16, 2013 in the North Meeting Room, Boulder Public Library, 1001 Arapahoe Avenue. |

**Approved Minutes**
**Boulder Public Library Commission meeting**
**August 7, 2013**
**Main Library North Meeting Room**

COMMISSION MEMBERS PRESENT

Anne Sawyer
Celeste Landry
Donna O'Brien
Anna Lull

COMMISSION MEMBERS ABSENT

Dan King resigned effective Aug. 4, 2013.

LIBRARY STAFF MEMBERS PRESENT

Valerie Maginnis, Library & Arts Director
Jennifer Miles, Deputy Library Director
Leanne Slater, Administrative Specialist
Gwen Holton, Branch Library Specialist
Kathleen Janosko, Administrative Specialist II (Finance)

CITY STAFF MEMBERS PRESENT

Glenn Magee, Facilities Design and Construction Manager
Joe Castro, Facilities & Fleet Manager
Maureen Rait, Executive Director of Public Works
David Mallett, Budget Analyst
Jennifer Bray, Communication Specialist III

PUBLIC PRESENT

Alice McDonald
Doris Hass
Carl Manthei (Boulder Library Foundation, president)
Peter Richards
Laurence Anderson
Jacqueline Reid, organizational development consultant (on contract with the city)
Cynthia Neil

BOULDER TEEN ADVISORY BOARD MEMBER PRESENT (BTAB)

Nick Bozik

CALL TO ORDER

The meeting was called to order at 6:00 p.m.

APPROVAL OF AGENDA

The agenda was approved with the additions included below.

PUBLIC PARTICIPATION

No public participation.

CONSENT AGENDA

**A. APPROVAL OF JULY 10, 2013 MINUTES**

The July 10, 2013 minutes were unanimously approved as amended (3-0, O'Brien abstained as she was absent from the July meeting.

**B. COMMISSION UPDATE (FROM MEMO)**

There were no items from this memo that needed to be discussed.

**C. LIBRARY UPDATE (FROM MEMO)**

An item was added as C. under Matters from the Commission.

COMMISSION PRIORITY DISCUSSION AND INPUT

**A. MAIN LIBRARY RENOVATION PROJECT DESIGN ADVISORY GROUP (DAG) UPDATE (87 MINUTES)**

The Library Commission received an information update from DAG on the following categories: project communication plan, public art process timeline, shelving floor plan, technology, HVAC augmentation, preliminary information on cost estimate, and an update on the Request for Qualifications (RFQ) process for construction contractor selection.

In terms of project communication, Landry asked about whether the library would continue to display the hard hat icon used for the Capital Improvement Bond projects? Maginnis responded affirmatively. O'Brien asked whether the library anticipates closing during the construction phase of the project? Maginnis answered that the goal is for the library to remain open. However, in terms of efficiency, the benefits of temporarily closing the library will be considered.

Landry stated that Mamie Doud Eisenhower Library is closed this week due to new carpet installation. In terms of patron convenience, Sawyer suggested that perhaps the pick-up for holds can be moved to a smaller (different) location (during portions of the construction phase.) She added a statement which was in favor of the webcam idea and showing periodic snapshots of the evolving construction process.

(More information can be found at: http://news.boulderlibrary.org/).

- Public Art Selection Process

Maginnis told the commission that the Boulder Public Library public art opportunity would be posted via CaFÉ™ (www.callforentry.org). People can also view other organizations' public art projects on this website.

- Lull asked if the artistic displays rotate? Maginnis responded that it could be permanent or it could be rotating, depending on the artist's proposal and the scope of the project.
- Sawyer asked if the various art pieces would be from one artist or multiple artists. Maginnis said that it could be either.
- Landry voiced concern that this part of the project (art selection) was being handled now rather than after construction. Maginnis responded that studiotrope recommended doing this part soon in case the selected art's placement needed to be included in the construction plans. Commissioners added that this strategy might also be helpful as the art placement could affect shelving placement or paint color selections.

Maginnis stated that, as requested by Commission and in an effort to be inclusionary, she is offering a change to the policy to allow the option of two library commissioners (instead of just one) to serve on the public art selection panel. However, she stated that when applying the city's interim Public Arts Policy in the future, selection panels may need to adhere to the defined policy.

Commissioners Sawyer and Lull volunteered to serve on the public art selection panel.

- Shelving Floor Plan

Miles presented information regarding the current shelving plan as it stands today and is considered a work in-progress. She reiterated the intent for the bond funds as:

- Remodeling and relocating the children's library
- Expanding and upgrading the teen space
- Improving access and browsing areas for fiction, movies, and music

Miles explained that the community goals for the renovation reinforced the intents listed above. Also, the community emphasized in these meetings that they would like more spaces for meetings, more seating, and an enhanced user experience. With the current renovation plans there will be:

- 250 percent more space for the teens
- 46 percent more meeting space

Miles also reviewed different areas of the library and how those specific shelving areas will be affected by the renovation project.

- Landry stated the importance of considering noise levels in relation to the placement of computers in the children's area. Staff agree with this concern/consideration.
- Lull asked if there would still be Books in a Bag for children? Miles answered affirmatively. She also asked if the shelving rows have different heights? Miles responded affirmatively and added that the bottom shelf will also be raised above floor level for easier viewing.

- O'Brien asked if the shelving in the teen area would face the teen area. Miles responded that the shelving will not be facing the teen area but will instead be on the outside wall of the teen area next to the door.

Miles said that the literacy collection will move up to the second floor and will hopefully serve patrons better there. The collection will be easier to access and it will also be better showcased in this location; improved signage will help guide non-English speaking or ESL patrons upstairs to this collection. Due to the 250 percent space increase in the teen area, about 15 percent of the non-fiction will be displaced and the DAG is currently looking for strategies to fit some of these materials in somewhere else in the library and hopefully offset this number.

- Landry asked whether the library is keeping the shelves in the non-fiction section? Miles said yes; it is not in the budget to replace them. She also asked if the materials on hold for teachers in the children's library will not be as close to the entrance as they are now. And she asked how did DAG come up with this idea? Miles answered that Mary Jane Holland and her staff have worked with studiotrope on this design.

Miles presented information on the process of maintaining and streamlining the collection. The library has adapted the CREW method (an industry standard for maintaining collections) and the librarians do their best to follow these guidelines.

- Landry asked how do patron requests from other libraries (via the Prospector system) affect collection decisions? Miles responded that this type of report is not currently available via Prospector; however, librarians do search other libraries' catalogs to determine whether the item might be available from another library if needed for a patron request.
- Landry asked if the children's book sale money go back into the collection budget? Miles responded, yes; any of the money gained from used book sales goes back into the collection budget.
- O'Brien asked what percentage of a librarian's time is spent on maintaining and streamlining the collection? Miles responded that it varies depending on the individual positions.
- Lull asked if the library be revising the collection development policy in the future? Miles answered yes, but not in the near future.
- Sawyer asked about visibility for eReaders since these are currently hidden away to make them secure. Miles responded that a future step for DAG will be cabinets and cases which may include better placement for eReaders, but this will be considered. Maginnis stated that more flexible signage options will also improve this.

  (More information can be found at http://boulderlibrary.org/pdfs/commission/2013/handouts/13AugMeetingHandout.pdf)

Magee presented information on the technology for the renovation, the HVAC augmentation, the cost estimate and the RFQ process for the construction contract. He stated that there would be more detailed information about the budget at the September meeting.

- Landry asked if there has been any discussion about the 3D printer? Magee responded that not really, there is no budget for that equipment; it is outside the scope of our technology portion for this project.
- Sawyer stated that there have been complaints about Library Commissioners' voices not carrying during meetings. Therefore the possibility of some kind of amplified sound could be useful in the meeting room where this takes place.
- Lull asked that if a patron needs assistance with technology in the meeting rooms, which staff would help with that? Maginnis responded that along with the reexamination of the service model and how staff will be positioned to provide assistance to patrons, the library will be working on incorporating technology training into the staff work plan.
- Lull asked that in regards to future technology upgrades, who will be the consultant? Maginnis said the library is now fully staffed in eServices and the library can also rely on the city's IT department.
- Sawyer asked if there will there be any software for video production in the teen area? Magee answered that there will only be a green screen and furniture. Sawyer suggested that minimally an iMac does great video production.

(More information can be found at http://boulderlibrary.org/pdfs/commission/2013/handouts/13AugMeetingHandout.pdf).

MATTERS FROM THE COMMISSION

**A. CONSIDERATION OF A STATEMENT ABOUT TAX OPTIONS AND POSSIBILITY OF A FUTURE LIBRARY DISTRICT (11 MINUTES)**

Landry stated that this fall will have a busy ballot specifically in regards to taxes. She said that it is possible that any general fund money will probably go to the police, fire and transportation departments. Landry wants voters to know that there may be other tax questions in the future and also would like to introduce voters to the idea of a library district. She shared thoughts on a draft statement and asked if a subcommittee would like to write a more final draft statement and present it to the commission next month. She said that it could be submitted as an Op/Ed piece to the Daily Camera, be posted to the Library Commission webpage, or possibly as part of the BPL Now e-newsletter.

- Lull asked if staff, the Boulder Library Foundation, and the Arts Commission are on board with the idea of proposing a library district. Landry responded that staff is unable to make a statement about this.
- O'Brien was concerned that if a statement is made now about a future issue, than it could confuse the voters. Lull agreed that it is premature to explain this to the public unless they were voting on it. She added that she was not so much skeptical of the idea (behind the statement) but instead of the statement being made before it is time.
- Sawyer said, depending how the statement is crafted, it could be a reminder to the public about the library and its needs. She added that if the library became a district, this could free up General Fund money for bother City needs. She is willing to consider it,

but also added that it could be a statement on behalf of one or two commissioners if not fully endorsed by the commission.

Landry agreed to write a more final draft statement on this topic and O'Brien agreed to proof this document, to be considered at the September commission meeting.

**B. DISCUSSION REGARDING RESIGNATION OF COMMISSIONER KING**

Commissioner Sawyer will make a request to the City Council Agenda Committee that states the Library Commission's preference for a new commissioner to be appointed prior to the annual spring recruitment period.

C. **MUNICIPAL CAMPUS RULES OF CONDUCT**

Maginnis said that she thought the fact that the Municipal Campus Rules of Conduct were adapted from the Boulder Public Library Rules of Conduct was a compliment to the Library Commission. Sawyer added that City Council has also taken the Library Commission's Communication Guidelines and is looking to make that available to other boards and commissions as well.

MATTERS FROM THE DEPARTMENT

**A. PATRON SURVEY COST INFORMATION AND OPTIONS (15 MINUTES)**

- Landry asked if individual consultants had facilitated the library's surveys in the past. Maginnis answered that yes; but this (simplified) target survey is something that can be managed internally.
- Landry asked what is the goal of the target survey?
  The response was that the goal is to find out what the community would like to see in terms of library programming, which will help provide guidance for the programming specialist.
- Sawyer suggested that the commission think about the specific questions that they would like to have included in the target survey so that this information will be prepared when it comes to time for staff to administer the survey. She stated she is OK doing the target survey now in order to gather information that will be timely and is OK waiting until after the renovation to do the full patron survey.

  Landry thought it would be helpful to do the full outsourced patron survey every two years.

- O'Brien said that the information from the survey may be great to hand to the new Programming specialist; she suggested perhaps doing the target survey in tandem with hiring for this position.

- Maginnis affirmed that no hiring or services are on hold for the patron survey. Some programming may change depending on the results of the survey.

- Maginnis said that having the results of the survey in time for the fall round of Foundation grant requests would be a lofty goal.

  This agenda item will be added to next month's meeting.

**B. UPDATE ON THE NORTH BOULDER LIBRARY STATION (10 MINUTES)**

Maginnis stated that BHP strongly recommended doing an electronic survey (for more information, please see library director's memo from Aug. 2, 2013 at http://boulderlibrary.org/pdfs/commission/2013/packet/AugCompletePacket.pdf).

- Landry asked what are the feelings from the executive budget team in regards to the north Boulder library station? Mallett responded that the budget information will be presented to City Council later this month; items are dependent on the financial status of the upcoming year. Landry read to the commission from an email that Maginnis had sent on July 9 to the commission's North Boulder Library Services subcommittee, "If the funding request is not approved through the budget process, staff will work to develop an alternative funding plan which we could present in a September-October timeframe."
- Lull and Sawyer suggested having the library station open on more weekday mornings as this is ideal for storytimes.
- Sawyer questioned the proposed schedules as the hours are inconsistent enough to make it difficult to remember when the library would be open.
- Maginnis explained that a library station is typically open with limited hours. Commissioners noted that residents in the area wanted more hours than the limited hours offered on the survey and expressed hope that the library station hours could be expanded.

**C. QUESTIONS ABOUT THE NEW LIBRARY COMMISSION CITY-BASED WEBPAGE- (10 MINUTES)**

Both Sawyer and Landry submitted questions and issues related to the new Library Commission page on the City's website.

Sawyer commented that the Commission has worked hard on the Library website's commission page, and it would be difficult to replace this page with the City's page that is less efficient and doesn't include the same links, etc. While there are benefits to having the City page (consistency with other boards and searching across city-wide documents), there are enough usability/informational issues that waiting for a response on these is important.

Commission deferred a decision until the September meeting.

ITEMS FOR INCLUSION IN THE ACTION SUMMARY

Commission discussed items for the Action Summary.

NEXT COMMISSION MEETING (ROLLOVER ITEMS AND DATE)

The next Library Commission meeting will be held at 6 p.m. on Wed., Sept. 4, 2013 at the Main Library, in the North Meeting Room, 1001 Arapahoe Ave. and will include the following agenda items: Main Library renovation project design advisory group and studiotrope update regarding way finding, furniture and finishes, RFID and automated materials handling system selection process, cost estimate and tradeoffs (if any) to consider, and preliminary architect-recommended project phasing; (possible) results from the north Boulder survey; review of library's portion of the city manager's recommended city budget; discuss target survey questions in relation to library programming.

Meeting adjourned at 8:23 p.m.

Approved By _____ Date _____

Please note: Commissioner Sawyer approved these minutes on September 18, 2013.

CITY OF BOULDER
Boards and Commissions Minutes

| |
|---|
| NAME OF COMMISSION: Open Space Board of Trustees |
| DATE OF MEETING: September 11, 2013 |
| NAME/EXTENSION OF PERSON PREPARING SUMMARY: Leah Case x2025 |
| NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:<br><br>MEMBERS: Allyn Feinberg, Tom Isaacson, Shelley Dunbar, Molly Davis<br><br>STAFF: Mike Patton Dean Paschall Eric Stone Mark Gershman Jim Schmidt Mike Orosel Phillip Yates Dave Kuntz Steve Armstead Leah Case Cecil Fenio<br><br>GUESTS: Marni Russell, Clay Douglas |
| TYPE OF MEETING: **REGULAR** CONTINUATION SPECIAL |
| SUMMATION:<br><br>AGENDA ITEM 1- **Approval of the Minutes**<br>Tom Isaacson moved to approve the minutes from August 14, 2013 as amended. Shelley Dunbar seconded. This motion passed unanimously<br><br>AGENDA ITEM 2- **Public Participation**<br>None.<br><br>AGENDA ITEM 3- **Director's Updates**<br>Mike Patton, OSMP director, gave a presentation regarding e-bikes. The City Council requested that staff initiate an accelerated process to consider a pilot project that would allow electric-assisted bicycles on city property where they are currently prohibited. This meeting is an opportunity for the Board to consider the proposal and get any clarification needed. At the Oct. 9 meeting there will be an opportunity to hold a public hearing and make a formal recommendation to City Council regarding the potential use of electric bikes on OSMP property. This memo is saved in S:OSMP\admin\Memos\Memos 2013\13-0911.<br><br>AGENDA ITEM 4- **Matters from the Board**<br>Molly said a definition for "passive" needs to be created. The Board will discuss this more in depth at next meeting. |

AGENDA ITEM 5 – **Review the City Manager's 2014 proposed budget for the OSMP Department and recommend approval of the Operating and Capital Improvement Program Budgets and a portion of the Lottery Fund Capital Improvement Program Budget.***
Mike Orosel, Financial Services Manager, gave a presentation regarding the proposed 2014 Budget. This reflects the Open Space Board of Trustees (OSBT) goals of maintaining both stewardship of present Open Space lands and preserving additional acres, within the financial sustainability of the Open Space Fund. This memo is saved in S:OSMP\admin\Memos\Memos 2013\13-0911.

This item spurred one motion:
**Shelley Dunbar moved the Open Space Board of Trustees approve and recommend that City Council approve the appropriation of $27,473,496 in 2014 from the Open Space Fund and the General Fund and $343,000 from the City's Lottery Fund CIP to cover the 2014 Open Space and Mountain Parks Department operating and CIP expenditures and transfers. Frances Hartogh seconded. This motion passed unanimously.**

AGENDA ITEM 6 – **Consideration of a motion to amend the previous approval and council recommendation (July 10, 2013 OSBT meeting) for the acquisition from ERTL, Inc. by approving an additional purchase of 120 acres of oil and gas mineral estate from ERTL, Inc. for an additional $75,000 for OSMP purposes. The overall purchase price for the acquisition of the ERTL, Inc. holdings is thusly increased to $7,575,000. ***
Jim Schmidt, Property Agent, gave a presentation regarding the ERTL property. Subsequent to the OSBT approval of the acquisition of 685 acres of land, oil and gas mineral interests and water rights from Energy Resource Technology Land (ERTL), Inc. on July 10, 2013, staff discovered that there is an additional 120 acres of mineral estate interests owned by the seller that was not accounted for in the original contract. This presentation is saved in S:OSMP\admin\OSBT\Minutes\Minutes 2013\September.

This item spurred one motions:
**Tom Isaacson moved the Open Space Board of Trustees approve and recommend that the Boulder City Council approve the purchase of 685 acres of land, associated water rights and oil and gas mineral estate interests located at 8323 Valmont Road, Boulder, CO from ERTL, Inc. for $7,575,000 for Open Space and Mountain Parks purposes. Molly Davis seconded. This motion passed unanimously.**

AGENDA ITEM 7 - **Process for designating and modifying Open Space and Mountain Parks Management Areas. ***
Eric Stone, division manager, gave a presentation regarding modifying OSMP management areas. This memo describes the OSMP staff-recommended process for establishing and changing management area designations. Saved in S:OSMP\Admin\OSBT\Minutes\Minutes 2013\September.

This item spurred one motion:
**Tom Isaacson moved the Open Space Board of Trustee approve the practices/process described in this memo of September 2013 for designating and modifying the designation of management areas. Molly Davis seconded. This motion passed unanimously.**

AGENDA ITEM 8 - **Consideration of a motion to approve an easement allowing use of the planned Community Ditch Multi-Use Trail. This is a disposal of Open Space land under City Charter Section 177. ***
Jim Schmidt, Property Agent, gave a presentation regarding this easement. This easement will allow, along with a license FRICO will get from Colorado Department of Transportation (CDOT), FRICO maintenance staff to move its rubber-tired maintenance equipment from one side of the highway to the other by going under SH 93 avoiding the highway surface entirely.

This item spurred one motion:
**Tom Isaacson moved the Open Space Board of Trustees approve and recommend that City Council pass a motion approving, the disposal of Open Space land described as a permanent easement to FRICO allowing use of a section approximately 100 feet in length of the planned Community Ditch Multi-Use Trail on Open Space and Mountain Parks' West Rudd property and a section approximately 30 feet in length on Open Space and Mountain Parks' East Rudd property in the area between CDOT's right-of-way and existing FRICO easements on the proposed multi-use trail at the new underpass at State Highway 93. Shelley Dunbar seconded. This motion passed unanimously.**

AGENDA ITEM 9 - **Consideration and recommendation to the city manager and City Council on the prospect for holding a stage of the USA Pro-Cycle Challenge that could impact Open Space and Mountain Parks-managed property.***
Mike Patton, OSMP Director, gave a presentation regarding the USA Pro-Cycle Challenge. The City of Boulder is being considered for a stage of the USA Pro-Cycle Challenge (USA PCC) bicycle race to be held during August of 2014. The proposed stage would be similar to that held in 2012 and would end with travel up Flagstaff Road, turn into Realization Point with the finish line in the parking area NW of Sunrise Amphitheater. It is anticipated that staging in and around the finish line would be similar to that of 2012 with VIP seating and food tents located around the area.

ADJOURNMENT: The meeting adjourned at 9:34 p.m.

ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS:
Two people spoke in favor of the ERTL additional purchase.

One person spoke in favor of the staff recommendation regarding HCA's.

Many people spoke regarding the Pro Cycle Race.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:
The next OSBT meeting will be at 1777 Broadway in the Council Chambers September 25, 2013 at 6:00 p.m.

**Boulder *Colorado Companies to Watch* Month**
**October 1-31, 2013**

**WHEREAS,** the Governor of Colorado initiated an annual *Colorado Companies to Watch* award program in 2009 to recognize second-stage companies with high potential for future growth; and

**WHEREAS,** from hundreds of nominations, only 50 companies from throughout the state are selected for the award each year and six of the *Colorado Companies to Watch* award winners this year are from Boulder, and

**WHEREAS,** these six Boulder companies: Doc Popcorn, Green Garage, Isonas, Minute Key, Populus and Quick Left, represent a broad range of industries; and

**WHEREAS,** these six Boulder companies support the local and state economy by providing more than 170 jobs in the community; and

**WHEREAS,** the Boulder economy benefits from the expenditures that these companies make in the local community and the wages they pay; and

**WHEREAS,** the city of Boulder benefits from the innovation and entrepreneurial spirit of these companies and their involvement in the community,

**NOW, THEREFORE, BE IT DECLARED** by the City Council of the City of Boulder, Colorado, that October 1-31, 2013 is

**Boulder *Colorado Companies to Watch* Month**

_____

Matthew Appelbaum, Mayor

# Colorado Ocean Coalition Day
# September 21, 2013

**WHEREAS,** the City Boulder and Boulder County, Colorado are two separate entities, but are united in the awareness that individual and collective actions are having a powerful impact on the environment. This awareness and a commitment to action have made the City of Boulder and Boulder County partners in acting to reduce human impacts on the environment. Because of this partnership, the word "Boulder" in the remainder of this declaration shall mean the City of Boulder, Boulder County and the people who reside in each of them and;

**WHEREAS**, Boulder recognizes the interconnectedness of ecological systems—that the actions we take on land impact the health of our watersheds and oceans; and

**WHEREAS**, the *Colorado Ocean Coalition* was founded in Boulder in 2010 as the first community-based inland ocean organization in the United States designed to create an inland ocean constituency; and

**WHEREAS**, Boulder appreciates and supports partnership efforts that connect inland communities with coastal communities to build larger coalitions of support for environmental awareness and protection; and

**WHEREAS**, NOAA's Monterey Bay National Marine Sanctuary and the State of California have been partnering with Boulder-based *Colorado Ocean Coalition* to create a "Rocky Mountain to the Sea" partnership; and

**WHEREAS**, California and NOAA's Monterey Bay National Marine Sanctuary have officially recognized that people in Boulder are leading the effort as the nation's first inland ocean community to engage Coloradans and others, including scientists, activists, divers, and businesses to address current ocean threats and solutions; and

**WHEREAS**, Boulder and the *Colorado Ocean Coalition* appreciate the leadership of California Assemblyman, Mark Stone, and Paul Michel of NOAA's Monterey Bay National Marine Sanctuary in raising awareness on ocean health and protection and reaching across the country to build larger coalitions; and

**WHEREAS,** the City of Boulder and Boulder County formally accept the honor bestowed by NOAA's National Marine Sanctuary and the State of California as honorary coastal communities, Boulder further salutes the efforts of the *Colorado Ocean Coalition* to form this important link between the oceans and inland communities.

**NOW, THEREFORE, BE IT DECLARED** by the City Council of Boulder, Colorado and by the County Commissioners of Boulder County, Colorado that September 21, 2013 is

**Colorado Ocean Coalition Day**

| | |
|---|---|
| Matthew Appelbaum<br>Mayor, City of Boulder | Cindy Domenico<br>Chair, Board of Boulder County Commissioners |

**Celebrating Boulder's Immigrant Heritage**
**September 28 – October 5, 2013**

**WHEREAS,** immigrants have enriched the United States beyond measure, bringing many contributions to our society, along with the unique customs and traditions of their ancestral homeland; and

**WHEREAS**, immigration has been one of the largest single factors in our Nation's social, cultural, and economic development; and

**WHEREAS,** immigrants have had an indelible impact on the growth and development of Boulder throughout its history, playing a critical economic and cultural role in making it a great and diverse place to live; and

**WHEREAS,** immigrants have provided meaningful contributions to the City of Boulder; and

**WHEREAS,** Boulder recognizes the importance of educating the City's population on shared immigrant histories, diverse cultures and the role these play in shaping and enriching the life of the City; and

**WHEREAS,** Boulder celebrates its second annual Immigrant Heritage Week with a series of events honoring the experience and contributions of the millions of immigrants who have shaped the city over many generations

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Boulder, Colorado, that September 28 – October 5, 2013 is recognized as

**Boulder's Immigrant Heritage Week**

and invite all Boulder residents to celebrate the vibrant life stories of immigrants in our community and facilitate the successful integration of immigrants into the civic, economic and cultural life of Boulder.

_____

Matthew Appelbaum, Mayor

# 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.

**Council Communication:**

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're 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, the a 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 response 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 goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal 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.

Approved by Council 10/19/04

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# 2013
# Study Session Calendar

| Date | Topic | Time | Televised |
|---|---|---|---|
| **11/26/13** | **No Meeting** | | |
| 12/10/13 | Hold for CMO | | |
| **12/24/13** | **No Meeting** | | |

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| October 8, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
| | | |
| **PUBLIC HEARINGS:** | | |
| Second Reading Emergency Ordinance appointing city manager as entity to receive applications for recreational marijuana businesses/Second reading of 3 ordinances related to amendment 64 | | |
| | | |
| USAPCC Boulder Venue Proposal | | |
| **MATTERS FROM CITY MANAGER:** | | |
| Ironman update - 2015 and Beyond | 30 Min. | |
| **MATTERS FROM CITY ATTORNEY:** | | |
| | | |
| **MATTERS FROM MAYOR AND MEMBERS:** | | |
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| **CALL-UPS:** | | |
| | | |

| October 15, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
| | | |
| Consideration of a resolution approving an amended and restated Fire and Police Money Purchase Pension Plan and Trust Agreement of the City of Boulder and authorizing the City Manager to execute it on the cityâ's behalf | | |
| **PUBLIC HEARINGS: All Budget Items Will be Heard as One Public Hearing** | | |
| 2014 Budget Items | 2 Hours | |
| 2nd reading Alcohol: 500 Foot Rule & use Definitions/ BLA Structural Changes | 2 Hours | |
| **MATTERS FROM CITY MANAGER:** | | |
| | | |
| Municipalization Exploration Project Update | 10 Min. | No Memo |
| **MATTERS FROM CITY ATTORNEY:** | | |
| | | |
| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| | | |
| **CALL-UPS:** | | |
| Vacation of an 829 square-foot portion of an existing fourteen-foot utility easement that runs along the north and east property lines at 3220 Arnett Street (ADR2013-00170). | | Last opportunity for call-up |
| | | |

| October 22, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
| 1st Reading Grandview Bungalow Relocation Project | | |
| Motion amending the Benson Annexation agreement | | |
| | | |
| **PUBLIC HEARINGS:** | | |
| | | |
| 2nd Reading, Electric Assist Bicycles Pilot Demo Project | 3 Hours | |
| | | |
| **MATTERS FROM CITY MANAGER:** | | |
| | | |
| **MATTERS FROM CITY ATTORNEY:** | | |
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| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| | | |
| **CALL-UPS:** | | |
| | | |

| October 29, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
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| **PUBLIC HEARINGS:** | | |
| If necessary: Consideration of items relating to the 2014 budget | | Only if required |
| If necessary: 3rd Reading Alcohol Changes (500 Foot Rule and BLA Structure) | | Only if required |
| Tentative: Historic Preservation Plan | 1 Hour | |
| **MATTERS FROM CITY MANAGER:** | | |
| AMPS Update | 1 Hour | |
| Development of a Comprehensive Housing Strategy | 1 Hour | |
| **MATTERS FROM CITY ATTORNEY:** | | |
| | | |
| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| Economic Sustainability Strategy | 1 Hour | |
| | | |
| **CALL-UPS:** | | |
| | | |

| November 12, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| Platform of Mayor and Mayor Pro Tem | 1 Hour | **5-6 PM** |
| **Consent** | | |
| 1st reading Boulder Jewish Commons Annexation, Site and Use Reviews | | |
| Hold for CMO | | |
| **Public Hearing** | | |
| Hold for CMO | | |
| **MATTERS FROM CITY MANAGER:** | | |
| Economic Sustainability Strategy - Adoption | 30 Min. | |
| **MATTERS FROM CITY ATTORNEY:** | | |
| Hold for CMO | | |
| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| Hold for CMO | | |
| **CALL-UPS:** | | |
| Hold for CMO | | |

| November 19, 2013<br>10 AM Special Meeting<br>Oath of Office | Est. time | Timing Issues/ Comments |
|---|---|---|
| Certification of Election Results and Oath of Office for new members | | |

| November 19, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
| 1st Reading Food Vehicle Follow Up to April 16, 2013 IP | | |
| First reading of an emergency ordinance BRC Supplement 118 | | Quarterly |
| First Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone) | | |
| First Reading of the Second Adjustment to Base Ordinance | | |
| **PUBLIC HEARINGS:** | | |
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| **MATTERS FROM CITY MANAGER:** | | |
| Municipalization Exploration Update | 10 Min. | |
| Legislative Agenda | 30 Min. | |
| **MATTERS FROM CITY ATTORNEY:** | | |
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| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| | | |
| **CALL-UPS:** | | |
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| December 3, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| | | |
| **Consent** | | |
| Second adjustment to Base - CAGID Resolution | | On the agenda right after 2nd reading of adj. to base |
| First Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC | | |
| Legislative Agenda | | |
| Second Reading of Second Adjustment to Base of the 2013 Budget | | None |
| **Public Hearing** | | |
| Second Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone) | 15 min. | |
| | | |
| **MATTERS FROM CITY MANAGER:** | | |
| Legislative Agenda | 1 Hour | |
| **MATTERS FROM CITY ATTORNEY:** | | |
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| **MATTERS FROM MAYOR AND MEMBERS:** | | |
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| **CALL-UPS:** | | |
| | | |

| December 17, 2013 | Est. time | Timing Issues/ Comments |
|---|---|---|
| **CONSENT:** | | |
| | | |
| **PUBLIC HEARINGS:** | | |
| 2nd Reading Food Vehicle Follow Up to April 16, 2013 IP | 1 Hour | |
| 2nd reading Boulder Jewish Commons Annexation, Site and Use Reviews | 1 Hour | |
| First Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC | 1 Hour | |
| **MATTERS FROM CITY MANAGER:** | | |
| Municipalization Exploration Project Update | 10 Min. | |
| **MATTERS FROM CITY ATTORNEY:** | | |
| | | |
| **MATTERS FROM MAYOR AND MEMBERS:** | | |
| | | |
| **CALL-UPS:** | | |
| | | |

| January 7, 2014<br>Preliminary: 12/26 :: Final 1/2 | Est. time | CAO to Prepare Ord.? | Power Point | Timing Issues/ Comments | Contact |
|---|---|---|---|---|---|
| | | | | | |
| **Consent** | | | | | |
| | | | | | |
| **Public Hearing** | | | | | |
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| **MATTERS FROM CITY MANAGER:** | | | | | |
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| **MATTERS FROM CITY ATTORNEY:** | | | | | |
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| **MATTERS FROM MAYOR AND MEMBERS:** | | | | | |
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| **CALL-UPS:** | | | | | |
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| January 21, 2014<br>Preliminary: 1/8 :: Final 1/15 | Est. time | CAO to Prepare Ord.? | Power Point | Timing Issues/ Comments | Contact |
|---|---|---|---|---|---|
| **CONSENT:** | | | | | |
| | | | | | |
| **PUBLIC HEARINGS:** | | | | | |
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| **MATTERS FROM CITY MANAGER:** | | | | | |
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| **MATTERS FROM CITY ATTORNEY:** | | | | | |
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| **MATTERS FROM MAYOR AND MEMBERS:** | | | | | |
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| **CALL-UPS:** | | | | | |
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## City Council Goals – 2013

**Top Priorities:**

**1. Boulder's Energy Future**
The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:
**To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.**

**2. Climate Action Plan**

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

**3. Affordable Housing**

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

**4. Civic Center Master Plan**

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

**<u>Next Tier Priorities:</u>**

**1. University Hill Revitalization**

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

**2. Homelessness**

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

**3. Boulder Junction Implementation**

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site

# City Council
# 2013 Work Plan by Council Goal

## TOP PRIORITIES

### GOAL: Boulder's Energy Future

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables<br>▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing | ▪ Boulder's Energy Future – based on the strategies approved by Council in 1st Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables<br>▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session | ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables<br>▪ Study Session | ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables<br>▪ Study Session |

### GOAL: Climate Action Plan

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ Boulder Canyon Hydroelectric Project<br>▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools<br>▪ Energy Efficiency:<br>o Launch of 2013 program priorities<br>o Upgrades in City Buildings – employee education and outreach project (IP)<br>▪ Disposable Bag Fee – implementation plan and revised budget (IP)<br>▪ Transportation Master Plan (TMP) – | ▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session)<br>▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems<br>▪ Electric/ Hybrid vehicles – project closeout<br>▪ Energy Efficiency – finalize Market Innovations approach (Study Session)<br>▪ Solar/ Wind Generation Facility Code Changes<br>▪ SmartRegs – code changes | ▪ CEES – adopt Energy Rating and Reporting Ordinance<br>▪ Climate Commitment – policy integration with TMP and ZWMP<br>▪ Energy Efficiency – launch Market Innovations competition<br>▪ Zero Waste Master Plan (ZWMP) – draft | ▪ Climate Commitment – policy integration with TMP and ZWMP<br>▪ Energy Efficiency<br>o Upgrades in City Buildings – results of employee education and outreach (IP)<br>▪ SmartRegs – options for quality control of rental housing inspections |

| | | | |
|---|---|---|---|
| initial results of Transportation Funding Task Force (Study Session) | | | |

## GOAL: Affordable Housing

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ ADU/ OAU – study results (IP)<br>▪ Comprehensive Housing Strategy issues - stakeholder engagement process<br>▪ Density and Distribution of affordable and special needs housing - report<br>▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process<br>▪ Mobile Homes Parks – legislative agenda | ▪ Comprehensive Housing Strategy<br>o Stakeholder engagement process<br>o Study Session | ▪ Comprehensive Housing Strategy issues - stakeholder engagement process | ▪ Comprehensive Housing Strategy issues - stakeholder engagement process |

## GOAL: Civic Area Plan

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ Board and community input<br>▪ Council participation in Ideas Competition | ▪ Council direction on preferred option(s) and strategies<br>▪ Draft plan<br>o Development<br>o Community input<br>o Study Session<br>▪ Municipal Space Study Final Report | ▪ Boulder Civic Area vision and plan<br>o Study session<br>o Public hearings on adoption | |

**NEXT TIER PRIORITIES**

## GOAL: University Hill Revitalization

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ 2013 action priorities confirmed by Council at January retreat<br>▪ Hill Residential Service District – update<br>▪ Innovation District - update | ▪ Action on other priorities<br>▪ Hill Residential Service District – 1st reading of petition | ▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process | |

## GOAL: Addressing Homelessness

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ City and Community Efforts – Denver sleeping ordinance (IP)<br>▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP)<br>▪ Work plan check in and priority – Council retreat | ▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs<br>▪ Ten Year Plan to Address Homelessness – progress update (IP) | ▪ Analysis and recommendations regarding banning panhandling on street corners | ▪ Ten Year Plan to Address Homelessness – progress update (IP) |

## GOAL: Boulder Junction Implementation

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ Depot Square implementation – update<br>▪ MU-4 zone change - consideration<br>▪ TDM District Implementation Update (IP)<br>▪ Update on potential policy issues related to key public improvements and city owned site (as needed) | ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) | ▪ Boulder Junction Access District Parking – update<br>▪ TDM Access District implementation - IP | |

**OTHER**

## GOAL: Other City Goals and Work Plan Items

| 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
|---|---|---|---|
| ▪ 13th Street Plaza - IP<br>▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up<br>▪ Acquisition Plan Update - OSMP<br>▪ Alcohol/ Land Use Code Changes – options and recommendations<br>▪ Boating on Barker Reservoir<br>▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities<br>▪ BVCP Area III Planning Reserve Amendments (if approved by County)<br>▪ Chautauqua Guiding Principles, Next Steps –update on progress<br>▪ Civic Use Task Force – update from Council members<br>▪ Cultural Master Plan<br>▪ Design and Construction Standards Update – consideration of minor updates<br>▪ Development Review Projects:<br>o Hogan Pancost – annexation and site review<br>o Wonderland Creek Townhouses – potential call up<br>o 28th and Canyon (Eads/ Golden Buff) – potential call up<br>o Landmark Lofts II (970 28th Street) – potential call up<br>▪ East Arapahoe Study – potential action on limited zoning changes<br>▪ Economic Sustainable Strategies – | ▪ Access and Parking Management Strategies – study session<br>▪ Alcohol Land Use Code Changes - action<br>▪ Baseline Underpass East of Broadway CEAP – Call up<br>▪ Bike Parking Ordinance Updates<br>▪ Capital Improvement Bond Projects status update - IP<br>▪ Capital Projects – carry over and first supplemental<br>▪ Critical Facilities Ordinance – public hearing and motion<br>▪ Education Excise Tax – consideration of City Manager funding recommendations<br>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities<br>▪ Human Rights Ordinance – proposed changes regarding age discrimination<br>▪ Integrated Pest Management Program Changes - IP<br>▪ International Building and Energy Codes – public hearing<br>▪ North Boulder Subcommunity Plan - IP<br>▪ Old Hire Fire and Police Pension Plans – Study Session | ▪ 2014 Budget Process<br>▪ Access and Parking Management strategies (update)<br>▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP)<br>▪ Capital Improvement Program – study session<br>▪ Carter Lake Pipeline – thru CIP process<br>▪ Contractor Licensing – proposed changes (IP)<br>▪ Development Review Projects:<br>o Blue Spruce Auto (4403 Broadway) – potential call up<br>o Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up<br>o Colorado Building Parking Lot (1301 Walnut) - ordinances<br>o 1000 Alpine – potential call up<br>o 3085 Bluff – potential call up<br>o 3390 Valmont (Former Sutherlands Site) – potential call up<br>▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility<br>▪ FAM Master Plan – study session<br>▪ Harbeck-Bergheim House – Future Use Options (IP)<br>▪ North Trail Study Area – study | ▪ Access and Parking Management Strategies – update<br>▪ Agriculture Plan (OSMP) – public hearing<br>▪ Capital Improvement Program – adoption of CIP; 2nd budget supplemental<br>▪ Contractor Licensing – consideration of proposed changes<br>▪ Design and Construction Standards Update – consideration of additional changes<br>▪ Development Review Projects:<br>o Village Shopping Center Hotel (26th and Canyon) – potential call up<br>▪ East Arapahoe Study – check in on project scope and work plan (3/4Q)<br>▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP)<br>▪ FAM Master Plan – consideration of acceptance<br>▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up<br>▪ Human Relations Commission Work Plan update - IP<br>▪ Human Services Fund allocations - IP<br>▪ Light Response Vehicle Pilot Program - IP<br>▪ OSMP Natural Resources Overarching Issues – Study session |

| | | | |
|---|---|---|---|
| study session<br>▪ Education Excise Tax Allocation of Funds – refine RFP criteria<br>▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP)<br>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities<br>▪ Hazardous Materials Management IGA<br>▪ Hydroelectric operations and opportunities - IP<br>▪ Keep It Clean IGA<br>▪ Mobile Food Vending – options for ordinance changes<br>▪ Multi-hazard mitigation plan – possible consent item<br>▪ Nuisance Mosquito Control Pilot Project Evaluation - IP<br>▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics<br>▪ Police Department Master Plan – Study Session<br>▪ State of the Court Presentation<br>▪ Sustainable Streets & Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy<br>▪ Transportation Funding (SS)<br>▪ TMP Update – additional direction | ▪ OSMP natural resources – overarching policy issues<br>o Temporal Regulations<br>o Penalties for violations<br>o Multi-modal access and parking opportunities<br>o Analysis of trail network and distribution of activities<br>▪ Parks and Recreation Master Plan<br>▪ Pearl Street Mall Code Changes<br>▪ Police Department Master Plan<br>▪ Randolph Center Condominium Declaration<br>▪ Recirculation of wastewater – CU Williams Village North (IP if necessary)<br>▪ Skunk Creek, Bluebell Creek and King's Gulch Flood Mapping Update – public hearing and motion<br>▪ Smoking Ban on Pearl Street Mall - IP<br>▪ Snow and Ice Control Evaluation – study session<br>▪ Transportation Funding – study session<br>▪ TMP Update – additional direction<br>▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion<br>▪ Water budgets – commercial, industrial and institutional – Council direction<br>▪ Water supply status – IP | session or dinner discussion<br>▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process<br>▪ Parks and Recreation Master Plan<br>▪ Regional Trail Connections (OSMP) – IP<br>▪ South Boulder Creek Flood Mitigation Study – public hearing and motion<br>▪ Transportation Demand Management Toolkit - IP<br>▪ Valmont Butte Future Use Discussions – study session<br>▪ Water Conservation Futures Study<br>▪ Youth Opportunities Funding allocations - IP | on remaining topics<br>▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance<br>▪ Water budgets – commercial, industrial and institutional – consideration of changes |

| | | | |
|---|---|---|---|
| ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired)<br>▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update<br>▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up<br>▪ Zero Waste Master Plan Update | | | |

**KEY**

| | |
|---|---|
| ADU | Accessory Dwelling Units |
| BVCP | Boulder Valley Comprehensive Plan |
| CEAP | Community and Environmental Assessment Process |
| CIP | Capital Improvement Program |
| CU | University of Colorado |
| DUHMD/PS | Downtown and University Hill Management District/ Parking Services (City Division) |
| FAM | Facility and Asset Management |
| ICC | International Code Council |
| IGA | Intergovernmental Agreement |
| IP | Information Packet |
| OAU | Owner Accessory Units |
| OSMP | Open Space/Mountain Parks Department |
| RFQ | Request for Qualifications |
| RFP | Request for Proposals |
| TDM | Transportation Demand Management |
| TMP | Transportation Master Plan |
| ZWMP | Zero Waste Master Plan |

**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<br>▪ Retention of FERC and acquisition legal counsel<br>▪ Initial work in developing appraisal of distribution system and preparing legal strategy<br>▪ Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling<br>▪ Active participation at the PUC to advance Boulder's energy goals and protect community interests<br>▪ 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<br>▪ Preparation of November 2012 CAP tax ballot options for Council consideration<br>▪ 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<br>▪ Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)<br>▪ Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)<br>▪ Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)<br>▪ 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 ACTIONS***[1]

- 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:**

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|---|
| 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 |
| Lisa Morzel | Mayor Pro Tem |
| Suzy Ageton | Council Member |
| KC Becker | Council Member |
| Macon Cowles | Council Member |
| Suzanne Jones | Council Member |
| George Karakehian | Council Member |
| Tim Plass | Council Member |
| Ken Wilson | 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 |
| Kirk Kincannon | 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 |
| Boulder County Consortium of Cities | Karakehian, Wilson (alt) |
| Colorado Municipal League (CML) – Policy Committee | Jones, Appelbaum (Castillo – staff alternate) |
| Denver Regional Council of Governments (DRCOG) | Becker, Jones (Alternate) |
| Housing Authority (Boulder Housing Partners) | Ageton |
| Metro Mayors Caucus | Appelbaum |
| National League of Cities (NLC) | Appelbaum |
| Resource Conservation Advisory Board | Plass, Morzel (at large seat) |
| Rocky Flats Stewardship | Morzel, Plass (1st alternate), Castillo (2nd alternate) |
| University of Colorado (CU) / City Oversight | Wilson, Jones, Karakehian |
| US36 Mayors and Commission Coalition | Appelbaum, Ageton (alternate) |
| US36 Commuting Solutions | Ageton, Karakehian (alternate) |
| Urban Drainage and Flood Control District | Morzel |

### LOCAL ORGANIZATIONS

| | |
|---|---|
| Boulder Museum of Contemporary Art (BMoCA) | Cowles, Becker (alternate) |
| Boulder Convention and Visitors Bureau | Becker, Plass (alternate) |
| Dairy Center for the Arts | Karakehian |
| Downtown Business Improvement District Board | Plass, Jones |

### INTERNAL CITY COMMITTEES

| | |
|---|---|
| Audit Committee | Morzel, Becker, Cowles |
| Boulder Urban Renewal Authority (BURA)<br>Mayoral Appointment | Becker (appointed through 2015) |
| Charter Committee | Morzel, Cowles, Ageton, Karakehian |
| Civic Use Pad/ 9th and Canyon | Morzel, Jones, Becker |
| Council Budget Action Plan Committee | Ageton, Becker, Plass |
| Evaluation Committee | Karakehian, Morzel |
| Legislative Committee | Ageton, Karakehian, Wilson, Jones |

### SISTER CITY REPRESENTATIVES

| | |
|---|---|
| Jalapa, Nicaragua | Jones |
| Kisumu, Kenya | Morzel |
| Llasa, Tibet | Ageton |
| Dushanbe, Tajikistan | Karakehian |
| Yamagata, Japan | Wilson |
| Mante, Mexico | Plass |
| Yateras, Cuba | Cowles |
| Sister City Sub-Committee | Morzel, Cowles |