

**BOULDER CITY COUNCIL MEETING  
MUNICIPAL BUILDING, 1777 BROADWAY  
Tuesday, October 22, 2013  
5 p.m.**

**AGENDA**

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

**A. Science Tuesday Presentation – Netzero Copenhagen**, Søren Nørgaard Madsen, Senior Sustainability Advisor, City of Copenhagen

**2. OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.

**3. CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time.

**A.** Consideration of a motion to approve the City Council Meeting **Minutes from October 1, 2013**

**B.** Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance** varying requirements of Title 9, “Land Use Regulations,” Title 10, “Structures,” and Chapter 6-6, “Protection of Trees and Plants,” B.R.C., 1981, **to allow for the relocation of two historic residential structures from 1220 and 1243 Grandview Avenue and 905 Marine Street**, variations include reduction of setbacks, an increase in density above the allowed density, and modifications of building codes, tree removal mitigation requirements, and fee payments

**C.** Consideration of a motion to **amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties** (Lots 10 and 11, Block 5, Moore’s Subdivision), #LUR2013-00036, to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue, 1215 and 1235 Tamarack Avenue are within the Residential-Low 2 (RL-2) zone district

**D.** Consideration of a motion **approving the proposed 2014 budget, operating plan and board nominations for the Downtown Boulder Business Improvement District**

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

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

## ORDER OF BUSINESS

### 5. PUBLIC HEARINGS

A. Continuation of second reading and consideration of a motion to:

1. Amend on second reading and **adopt Emergency Ordinance No. 7938** 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; and
2. Adopt **Ordinance No. 7939** 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; and
3. Adopt **Ordinance No. 7940** 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

B. **Second reading** and consideration of three **ordinances** all **to implement** and comply with the requirements of **Amendment 64** to the Colorado State Constitution as follows:

1. **Ordinance No. 7929** amending Section 6-14, "Medical Marijuana," B.R.C., 1981; and
2. **Ordinance No. 7930** adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C., 1981; and
3. **Ordinance No. 7931** amending Section 5-10, "Marijuana Offenses," B.R.C., 1981

### 6. MATTERS FROM THE CITY MANAGER

None

### 7. MATTERS FROM THE CITY ATTORNEY

None

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

A. Potential Call-Ups

None

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**  
**October 1, 2013**

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

Mayor Pro Tem Morzel called the regular October 1, 2013 City Council meeting to order at 6:00 p.m. in Council Chambers.

Those present were: Council Members Ageton, Becker, Cowles, Jones, Karakehian, Morzel, Plass and Wilson. Mayor Appelbaum arrived at 6:10 p.m., and Council Member Ageton arrived at 6:45 p.m.

**A. FLOOD RECOVERY UPDATE**

City Manager Jane Brautigam introduced the item and gave a brief overview of the Federal Emergency Management Agency's process after a disaster.

Director of Public Works for Utilities Jeff Arthur gave an update on flood impacts to the water and wastewater systems.

Director of Public Works Transportation Tracy Winfree gave an update on flood impacts to the transportation system.

Land and Facilities Services Division Manager Jim Reeder gave an update on flood impacts to Open Space and Mountain Parks trails and land.

**2. OPEN COMMENT and COUNCIL/STAFF RESPONSE – 7:25 PM**

1. Misty Bergstrom – Spoke in opposition to the opening of a Wal-Mart in Boulder.
2. Angelique Espinoza – Spoke as a representative of the Boulder Chamber and as a resident in support of Ballot Questions 2B, 2C and 2D.
3. John Russell – Spoke in opposition to the opening of a Wal-Mart in Boulder.
4. Tim Thomas – Spoke as an environmental justice activist against exercising eminent domain to seize mineral rights in the city and county.
5. Evan Ravitz – Spoke in support of the proposed E-bike pilot program allowing motorized bicycles on bike paths.
6. Wayne Ottinger – Spoke about the bear problem in Boulder in relation to trash and asked City Council to take action to take care of the issue.
7. Peter Loris – Spoke in support of the proposed E-bike pilot program to allow motorized bikes on the local paths.

8. Adam Blatt – Spoke against further regulation of liquor establishments on The Hill.
9. Matt Nicodemus – Complimented staff and citizens for working together during the recent flood disaster. He also spoke against allowing the retail store Wal-Mart to open a store in the city of Boulder.
10. Marilyn Johnson – Spoke about the recent problems involving bears coming into the city in search of food. She spoke against the relocation of bear cubs whose mother was recently euthanized. She suggested requiring “bear-proof” trashcans in areas of the city where they were more prevalent.
11. Brenda Lee – Also spoke about the problem regarding bears and trash. She asked Council to enforce the law that citizens would be fined for leaving out trash that bears had access to rather than putting down bears and relocating their cubs. She noted that when laws are not enforced, they are meaningless.
12. Hillary Griffith – Spoke as the chair of the University Hill Commercial Management District (UHCAM) against the proposed changes to the 500-foot rule for establishments serving liquor.
13. Sheila Horton – Spoke in support of waiving occupancy limits until January 1, 2014 to accommodate the many citizens displaced by the recent flooding.
14. Manfred Schoch – Spoke in favor of allowing E-bikes on city pathways.
15. Andrew Staehelin – Spoke in favor of allowing E-bikes on city pathways.

City Manager Jane Brautigam clarified that city staff was being directed not to enforce occupancy limits for a period during flood recovery and cleanup. There would be no formal action on the decision however.

Council Member Jones asked for a response to the bear problem.

Ms. Brautigam commented that the two-strike rule related to a specific bear was a decision by the Department of Wildlife. She noted that writing a ticket for trash problems was very difficult for enforcement because it was not always clear whose container it was.

Council Member Morzel wondered if there would be an opportunity for Council to discuss the policy regarding bear-proof containers.

Ms. Brautigam stated that the biggest hurdle was the initial investment in such containers and agreed to bring back a more thorough update on October 15, 2013.

Director of Housing and Human Services Karen Rahn disclosed that staff was working closely with Western Disposal on options for residents regarding bears and trash.

Council Member Wilson responded to the concerns related to bears and trash, he recalled previous discussions about the same problem years ago and it had been difficult for Council to figure out a long-term solution.

Council Member Cowles stated that he wanted to take decisive action in the near future to minimize the impact of bears getting into unsecured trash containers. He also corrected the speaker that made accusations against City Council Candidate Sam Weaver.

**A. CONSIDERATION OF A MOTION TO ADOPT OVERARCHING GOALS REGARDING CLEANUP AND FLOOD RECOVERY MEASURES**

Council gave direction clarifying specific wording, additions to the goals and requested the updated item be brought back on October 15, 2013 for further consideration.

**3. CONSENT AGENDA**

**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**
  

This item was amended according to the “buff” colored handout from the City Attorney’s Office.

  
- 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)**

**N. CONSIDERATION OF A MOTION TO CANCEL THE SPECIAL MEETING CALLED ON OCTOBER 8, 2013**

**O. CONSIDERATION OF A MOTION TO CANCEL THE MEETING CALLED ON NOVEMBER 5, 2013**

Council Member Morzel moved, seconded by Council Member Karakehian, to approve Consent Agenda items 3A through 3O with Item 3J amended according to the errata sheet provided by the City Attorney's Office. The motion carried 9:0. Vote taken at 8:50 PM.

**4. POTENTIAL CALL- UP CHECK IN – 8:50 PM**

No interest was expressed in call-up items 8A-1, 8A-2 or 8A-3.

**ORDER OF BUSINESS**

**5. PUBLIC HEARINGS - 8:55 PM**

**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**

This item was held as a Quasi Judicial hearing and the City Clerk swore in all participants.

James Hewat and Marcy Cameron, Historic Preservation Planning, provided the presentation on this item.

Council *ex parte* communications:

Council Members Plass, Becker and Jones disclosed that they had each received a tour of the property.

The public hearing was opened at 8:59 PM, there being no speakers the public hearing was closed.

Council Member Karakehian moved, seconded by Council Member Wilson, 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. The motion carried 9:0. Vote taken at 9:05 PM.

**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**

The presentation of this item was provided by Property Agent Jim Schmidt and Wildlife Ecologist Heather Swanson.

Council Member Morzel encouraged the public to take advantage of staff led tours of ecologically sensitive areas to learn more about native species.

The public hearing was opened at 9:33 PM, there being no speakers the public hearing was closed.

Council Member Morzel moved, seconded by Council Member Jones, to adopt 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; and

to adopt Ordinance No. 7934 approving the addition of the ERTL property as part of the Lower Boulder Creek Habitat Conservation Area. The motion carried 9:0. Vote taken at 9:35 PM.

**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**

City Manager Jane Brautigam and Budget Manager Peggy Bunzli presented this item. Chief Financial Officer Bob Eichen presented information on the Old Hire Fire, Old Hire Police Pension Plans and special district budgets.

The public hearing was opened at 10:21 PM:

1. Hillary Griffith – Suggested that the city increase funding for marketing efforts for special events and creative projects on the Hill. She suggested increasing funding from \$10,000 to \$20,000.

There being no further speakers, the public hearing was closed.

Mayor Appelbaum moved, seconded by Council Member Ageton, to introduce and order published by title only, the following ordinances related to the 2014 Budget:

1. Ordinance No. 7942 adopting a budget for the City of Boulder for 2014
2. Ordinance No. 7943 establishing the 2013 City of Boulder property tax mill levies
3. Ordinance No. 7944 appropriating money to defray expenses and liabilities of the City of Boulder for 2014, and
4. Ordinance No. 7945 changing certain fees

Council Member Cowles commented that Human Services were a core value and he felt that the budget reflected that priority. He ensured the public that the small percentage cut in the budget was related to contributions to non-profits in the community and the decision to reduce the amount was based on data showing that the city of Boulder spent 30 percent more than the County in this area. He noted that the city and county of Denver was the only municipality outspending Boulder in the area of Human Services.

Council Member Ageton expressed concerns about budget and funding cuts during the recession and after the flood event.

Council Member Morzel agreed with Council Member Ageton's concerns and remarked that she would rather wait until the next budget cycle to continue trimming the budget. She then asked for an additional \$60,000 to assist in the creation of a North Boulder Library and asked that the location be open a minimum of forty hours per week.

Council Member Jones added that she was looking forward to a broader conversation in 2014 about being strategic in considering funding requests.

Council Member Karakehian thanked Council Member Cowles for his comparison of contributions to non-profits as compared to other communities. He suggested discussing strategies for granting funding requests at the council retreat in January.

Council Member Wilson stated that the Human Services problem may not be able to be resolved with money and suggested working with regional partners on solutions.

Mayor Appelbaum commented that the Metro Mayor's Caucus had been discussing the regional issues around Human Services and struggled to find solutions for the wide reaching problems. He noted that he was interested in continuing those conversations.

Council Member Cowles asked for more funding for the University Hill area for events.

Vote was taken on the motion and the motion carried 9:0. Vote taken at 10:42 p.m.

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 7:2, with Council Members Karakehian and Wilson opposed. Vote taken at 10:44 PM.

**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**

Planner Marie Zuzack and Deputy Director of Community Planning and Sustainability Susan Richstone presented on this item.

The public hearing was opened at 10:56 PM, there being no speakers the public hearing was closed.

Council Member Cowles commented that he would be supporting the passage of the ordinance because it took care of the issues that Council asked staff to address.

Council Member Plass stated that he would also support adopting the ordinance. He asked that Council consider addressing the other issues they had found while vetting the current ordinance sooner rather than later.

Mayor Appelbaum agreed that the density bonus was an item that needed to be addressed in relation to congregate care.

Council Member Wilson warned against further regulating congregate care to the point that developers are forced to build fewer units.

Council Member Cowles moved, seconded by Becker, to adopt Ordinance No. 7832 amending the standards for Congregate Care Facilities. The motion carried 9:0. Vote taken at 11:01 p.m.

**6. MATTERS FROM THE CITY MANAGER**

None

**7. MATTERS FROM THE CITY ATTORNEY**

None

**8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL – 11:02 PM**

**A. POTENTIAL CALL-UPS**

**1. VACATION OF AN EXISTING UTILITY EASEMENT LOCATED AT 3737 SPRING VALLEY ROAD**

No action was taken on this item.

**2. VACATION OF AN EXISTING UTILITY EASEMENT LOCATED AT 6655 LOOKOUT ROAD**

No action was taken on this item.

**3. VACATION OF AN EXISTING DRAINAGE EASEMENT LOCATED AT 2044 WALNUT AVENUE**

No action was taken on this item.

**B. LIBRARY COMMISSION APPOINTMENT**

Nominations for the Library Commission were opened:

Council Member Jones nominated Paul Sutter.

Council Member Morzel nominated David Mendosa.

Nominations were closed.

Council Member Jones commented on how well qualified both applicants were for the position on the Library Commission.

Council Member Morzel agreed and encouraged the applicant not appointed to apply again when the 2014 annual recruitment opened.

Mayor Appelbaum asked for a show of hands, the Council unanimously agreed to appoint Paul Sutter to the Library Board for an unexpired term ending March 31, 2017.

**9. PUBLIC COMMENT ON MATTERS**

None

**10. FINAL DECISIONS ON MATTERS**

None

**11. DEBRIEF**

None

**12. ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on October 1, 2013 at 11:05 PM.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2013.

APPROVED BY:

ATTEST:

\_\_\_\_\_  
Alisa D. Lewis  
City Clerk

\_\_\_\_\_  
Matthew Appelbaum  
Mayor



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 22, 2013**

**AGENDA TITLE**

Introduction, first reading and consideration of a motion to order published by title only an ordinance varying requirements of Title 9, "Land Use Regulations," Title 10, "Structures," and Chapter 6-6, "Protection of Trees and Plants," B.R.C. 1981, to allow for the relocation of two historic residential structures from 1220 and 1243 Grandview Avenue to 905 Marine Street, variations include a reduction of setbacks, an increase in density above the allowed density, and modifications of building codes, tree removal mitigation requirements, and fee payments.

Applicant/Owner: Christian Griffith

**PRESENTERS**

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

David Driskell, Executive Director of Community Planning and Sustainability

Susan Richstone, Deputy Director of Community Planning and Sustainability

Charles Ferro, Development Review Manager for Community Planning and Sustainability

James Hewat, Senior Historic Preservation Planner

Jessica Vaughn, Planner II

**EXECUTIVE SUMMARY:**

The City Council is asked to consider an ordinance to allow for the relocation of two historic residential structures from 1220 and 1243 Grandview Ave. to 905 Marine St. The proposed ordinance can be found in Attachment A. A summary of the history of the two houses can be found in Attachment B, Historic Building Background. As proposed, the ordinance:

- Amends Title 9, "Land Use Code," B.R.C. 1981, with regard to building setbacks and density as a result of a proposed subdivision of the project site from one lot into three;
- Authorizes the city manager to defer the payment of fees for land use review applications and building permits to the earlier of Jan. 1, 2015 or the issuance of a certificate of occupancy as a result of difficulty in obtaining financing for the relocation of the houses prior to city approval;

- Amends Title 10, “Structures,” B.R.C. 1981, allowing the two houses to be considered individual landmarks for the limited purposes of reviewing and approving building permit applications, in particular to waive window replacement and insulation requirements; and
- Authorizes the city manager to find that the planting of new street trees satisfies the tree removal mitigation requirements of Section 6-6-7, B.R.C. 1981, as a result of removing a street tree along 9<sup>th</sup> Street.

Overall, staff finds that the application as presented would result in a defined community benefit for the City of Boulder that justifies the variances requested by the Applicant. Staff finds:

- The relocation and preservation of the bungalows is consistent with and furthers the Boulder Valley Comprehensive Plan (BVCP) goals and policies relating to historic preservation and housing;
- The applicant has agreed to submit an application for an individual landmark for each of the buildings proposed for relocation pursuant to the city’s landmarking process;
- The relocation of the bungalows to 905 Marine St. is generally consistent with the identifiably residential character of the area;
- The proposed setback modifications were found to promote a safer and better subdivision design as it allows for the residential structures to be located outside of the regulatory floodplain; and
- The proposed increase in density to roughly nine dwelling units per acre was found to be generally consistent with both the range of densities intended for the Mixed Density Residential BVCP land use designation (six-18 dwelling units per acre) and the range of densities currently present in proximity to the project site (9.5-39 dwelling units per acre).

Based on these findings, staff finds that the benefits of the relocation and preservation of the bungalows supports the modifications to the Land Use Code requirements included in the ordinance.

On Oct. 10, 2013, Planning Board voted unanimously to recommend approval of the proposed ordinance to allow for the relocation of two structures from 1220 and 1243 Grandview Ave to 905 Marine St. and setting forth specific details outlined in the Proposal section below. Refer to the city’s website for the staff memorandum to Planning Board and the audio of the proceedings related to the Planning Board’s review ([www.bouldercolorado.gov](http://www.bouldercolorado.gov) → City A to Z → Planning Board → Search for Past Meeting Materials).

**STAFF RECOMMENDATION:**

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

*Suggested Motion Language:*

*Motion to introduce on first reading and order published by title only, an ordinance varying requirements of Title 9, "Land Use Regulations," Title 10, "Structures," and Chapter 6-6, "Protection of Trees and Plants," B.R.C. 1981, to allow for the relocation of two residential structures from 1220 and 1243 Grandview Avenue to 905 Marine Street.*

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

- Economic: None identified.
- Environmental: None identified.
- 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" (pursuant to section 10-13-1 (a), B.R.C., 1981). Recognizing the community benefit of preserving the city's cultural resources, the city is contributing \$100,000 to aid in the relocation and preservation efforts of the two bungalows.

**FISCAL IMPACT:**

City services are existing and available to this site. All development will be subject to city development fees, including payment of Storm Water and Flood Management and Utility Plant Investment Fees (PIFs). The requested deferment of city development fees, including building permit fees, only defers the payment of these fees; it does not eliminate the requirement of their payment.

Staff time: The ordinance has been processed through the provisions of a standard application process and is within normal staff work plans.

**PLANNING BOARD ACTION:**

Planning Board reviewed the proposed ordinance on Oct. 10, 2013. Overall, the board was pleased that the historic buildings could be saved and commended the applicant for his efforts and commitment to the preservation of the buildings.

A motion was made by A. Brockett and seconded by C. Gray to recommend that the City Council approve the proposed ordinance:

- Amending Title 9, "Land Use Code," B.R.C. to modify building setbacks and density;
- Deferring the payment of fees for land use review applications and building permits to the earlier of Jan. 2015 or certificate of occupancy;
- Amending Title 10, "Structures," B.R.C. in that limited regard for the purposes of preserving the two houses; and
- Incorporating the staff memorandum as findings of fact.

The vote was 5-0 (S. Weaver absent).

**PUBLIC COMMENT:**

All notice requirements of section 9-4-3, “Public Notice Requirements,” B.R.C. 1981 have been met. Compliance with these requirements included public notice in the form of written notification mailed to all property owners within 600 feet of the subject property, and a sign posted on the property for at least 10 days prior to the public hearing as required.

In response to the public notice, two comments were received via telephone. The comments expressed concerns about the additional density that is being requested and potential adverse impacts associated with student rentals, such as noise, littering and parking deficiencies.

**BACKGROUND:**

**Grandview History:** Jan. 22, 2001, a Memorandum of Agreement (MOA) was executed between the Regents of the University of Colorado and the City of Boulder. The MOA recognizes the importance of preserving the buildings in the area known as the Grandview area, which is generally described as the area between the eastern boundary of Broadway, northern boundary of University Avenue and southern boundary of the abandoned railroad right-of-way as shown in Figure 1 at the right.



Figure 1: General Grandview Area

The MOA provides protective covenants for buildings located within an area identified as the Grandview Preserve. The Grandview Preserve is a smaller area within the general Grandview area that is described as the properties fronting Grandview Avenue between 13<sup>th</sup> and 14<sup>th</sup> streets. The MOA covenant protects the bungalows located within the Grandview Preserve from demolition or relocation for a period of 25 years, until 2026.

While the MOA protects the bungalows located within the Grandview Preserve from demolition or relocation, the MOA does not provide protective covenants for those buildings located within the general Grandview area. The two subject bungalows are located outside of the Grandview Preserve, in the larger Grandview area. Specifically, the MOA states that “...bungalows not located within the Grandview Preserve, may be demolished or relocated at any time...” While the MOA has expired as of July 2011, the University of Colorado and the city have continued to work together to honor the agreement in an effort to preserve the historic buildings located within the general Grandview area.

To date, a total of two bungalows have been relocated from the general Grandview area to other locations within the city. In 2001, one house, was relocated from 1513 13<sup>th</sup> St. to Chautauqua Park within the Chautauqua Historic District. Another house, now a duplex with two units, was relocated from 1434 15<sup>th</sup> St., to 905 Marine St., the project site. All of

the relocations to date involved the passing of an ordinance modifying city codes, including the land use code. The modifications to the land use code included setbacks, parking and building code requirements.

As part of the ordinance that permitted the relocation of 1434 15<sup>th</sup> St. to 905 Marine St., Ordinance No. 7148, modifications to the land use code were granted, including a reduction of the required side yard setback from five feet to three feet, the combined side yard from 15 feet to 13 feet, and the front yard setback for covered and uncovered parking in order to locate the parking in the front yard setback. A twenty percent parking reduction (four spaces were required where three were provided) was also granted as part of the ordinance. Finally, a waiver of the building and energy code requirements related to insulating the structure and replacing windows was granted as part of the ordinance.

In 2001, the project site was 23,000 square-feet in size. Since then, a roughly 2,000 square-foot unplatted piece of property, located between the project site and the adjacent property to the north, 1638 9<sup>th</sup> St., was discovered. The unplatted property was split equally between each of the adjacent property owners and quitclaimed; roughly 1,000 square feet were quitclaimed to the property owner of 905 Marine St. The proposed project would include a subdivision that would include this portion of land in the 905 Marine parcel increasing its size to 24,077 square feet. Today, given the size of the project site, a total of four units would be permitted on the project site, where three units exist.

**Land Use and Zoning:**

Boulder Valley Comprehensive Plan (BVCP) Land Use Designation. As indicated in

Figure 2, the project site is designated as Mixed Density Residential (MDR) by the BVCP. As noted in the BVCP, areas designated as MDR are defined as having densities ranging from six up to 18 dwelling units per acre. Generally, mixed density areas surround the downtown and are located in some areas planned for new development.



Figure 2: BVCP Land Use Designation

Densities within proximity to the project site range from 9.5 dwelling units per acre to roughly 39 dwelling units per acre. The development proposal at roughly nine dwelling units per acre is consistent with the surrounding densities as well as the BVCP range of densities intended to be developed in the MDR land use designation.



Figure 3: Zoning

are zoned Residential High-2.

**Site Context.** The project site, shown in Figure 4 is a single lot, roughly 24,077 square feet in size, located at the northeast corner of Marine and 9<sup>th</sup> streets. Currently, the property is comprised of three residential units, a duplex, (originally addressed 1434 15<sup>th</sup> St., that was located within the Grandview Preserve area and relocated to the project site in 2001), and a single family residence that was originally constructed around the turn of the century.

Unique to the project site is its topography and the presence of the conveyance zone and the 100-year floodplain, the majority of which are all located on the northern portion of the property. Refer to Figure 5 at the left. Improvements or work in the conveyance zone is not permitted to cause a rise in the elevation of the one hundred-year flood. In addition, a new residential structure in the 100-year floodplain, is required to be floodproofed by raising the

Zoning. The project site is zoned Residential Mixed-1 (RMX-1) which is defined as:

*“Mixed density residential areas with a variety of single-family, detached, duplexes, and multi-family units that will be maintained; and where existing structures may be renovated or rehabilitated”* (section 9-5-2(c)(1)(D), B.R.C. 1981).

Detached dwelling units are allowed uses in the RMX-1 district. All of the properties surrounding the project site are zoned RMX-1 with the exception of those adjacent to the northeast, which



Figure 4: Vicinity Map

lowest floor, including basement, to or above the flood protection elevation (two feet above the base flood elevation). Given the location and extent of the conveyance zone and the 100-year floodplain on the project site and the development restrictions within each zone, any new buildings to be located on the northern portion of the lot would have to be setback as much as possible to avoid development in the floodplain and conveyance zone that would cause a rise in the floodwater elevation.

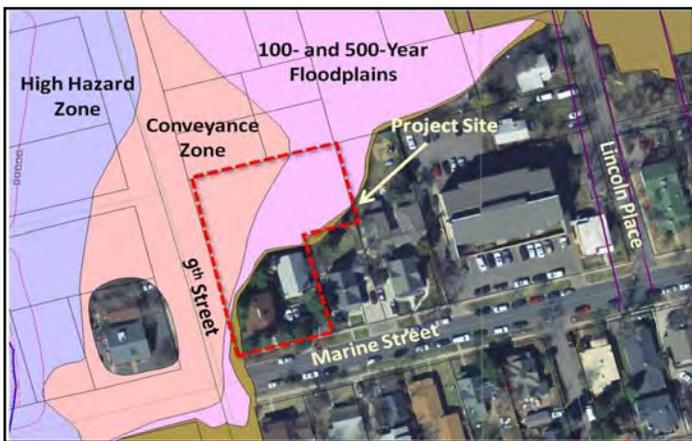


Figure 5: Flood Map

A Floodplain Development Permit has been submitted and was reviewed through the standard development review process. A Floodplain Development Permit is a staff level decision that is subject to a 14-day Planning Board call-up period. The permit was approved.

The project site also has significant topography. Moving across the project site from south to north, there is roughly 20 feet of grade change, with Marine Street edge being the highest point. Overall, the grade across the project site is roughly 10 percent. Refer to Figure 6 at the right.



Figure 6: Topography

The project site is surrounded primarily by residential development in an area where the general character is identified as residential development with a variety of student rental housing, including apartments, condos and single-family houses. Although the area is primarily residential in nature, nonresidential uses are also located in proximity to the project site. The Emergency Family Assistance Association (EFFA) is located to the east of the project site as well as office uses and the West Senior Center, both of which are located to the north of the project site at the corner of Arapahoe Avenue and 9<sup>th</sup> Street.

### **PROPOSAL:**

The applicant, Christian Griffith, has been awarded the two historic buildings currently located at 1220 and 1243 Grandview Ave., within the general Grandview area, outside of the Grandview Preserve, for relocation to the project site. Once relocated, the applicant is proposing to utilize the buildings as single-family residences and to subdivide the project site into three lots.

The relocation of the buildings to the project site can only be approved if City Council approves the requested modifications to the Boulder Revised Code through an ordinance, including:

- Amending Title 9, “Land Use Code,” B.R.C. 1981, with regard to building setbacks and density as a result of a proposed subdivision (refer to table 1 and 2 below for specific setback and density modifications);
- Authorizing the city manager to defer the payment of fees for land use review applications and building permits to the earlier of Jan. 1, 2015 or the issuance of a certificate of occupancy as a result of difficulty in obtaining financing to relocate the bungalows prior to their relocation;
- Amending Title 10, “Structures,” B.R.C. 1981, to waive building code requirements primarily relating to insulating the houses and replacing windows; and

- Authorizing the city manager to find that the planting of new street trees satisfies the tree removal mitigation requirements of Section 6-6-7, B.R.C. 1981 as a result of removing the one street tree along 9<sup>th</sup> Street.

The proposed subdivision of the project site from one lot into three will require several Land Use Code modifications, including setbacks and density. The requested modifications can only be approved by City Council through an ordinance. Refer to Table 1 below, which details the requested setback modifications.

<b>Yard</b>	<b>Required Setback</b>	<b>Proposed Setback</b>
Rear yard for principal structures, Lot 1	25 feet	13.4 feet
Rear yard for principal structures, Lot 2	25 feet	14 feet
Rear yard for principal structures, Lot 3	25 feet	20 feet
Combined side yards, Lot 2	15 feet	11 feet
Combined side yards, Lot 3	15 feet	11 feet

In addition, as a result of the proposed subdivision, Lot 1, where the three existing structures are currently located, will exceed the permitted density. Development in the RMX-1 zone district is subject to a minimum lot area per dwelling unit requirement of 6,000 square feet. Given the size of the proposed Lot 1 of roughly 10,482 square feet, only one dwelling unit would be permitted by-right where three are proposed, all of which are already located on site today. Therefore, the applicant is proposing to modify the permitted density pursuant to section 9-8, “Intensity Standards,” B.R.C. 1981, to allow for the three existing units, including the previously relocated historic house, to remain on the Lot 1 portion of the project site. The proposed lots 2 and 3 will meet the lot standards and no modifications will be required.

<b>Lots</b>	<b>Existing</b>	<b>Proposed</b>	<b>Existing No. of Units</b>	<b>Permitted No. of Units pursuant to Land Use Code</b>	<b>Proposed No. of Units</b>
1	24,077 sq. ft.	10,482 sq. ft.	3	4	3
2	N/A	6,150 sq. ft.	N/A	N/A	1
3	N/A	7,445 sq. ft.	N/A	N/A	1
<b>Total</b>		24,077 sq. ft.	3	4	5

All of the required parking will be provided on site for Lots 2 and 3. Pursuant to section 9-9-6, “Parking Standards,” B.R.C. 1981, a total of two parking spaces, one for each single-family residence, are required where three will be provided. It is important to note that, as part of the original special ordinance for the relocation of 1434 15<sup>th</sup> St. to 905 Marine St., a parking reduction was granted. A total of five spaces are required where four are provided. That parking reduction will not be changed as part of this proposal.

Refer to **Attachment C** for the applicant’s proposed site plan.

**ANALYSIS:**

As part of Council’s consideration of the proposed ordinance, it must consider whether the benefit to the City of Boulder, as a result of saving the historic buildings, justifies the land use code modifications that are being requested to facilitate the proposed relocation, including Title 9, “Land Use Code,” B.R.C. 1981 as it relates to setbacks and density and Title 10, “Structures,” B.R.C. as it relates to building code requirements. In addition, the applicant is also requesting a deferral of all land use application and building permit fees to be payable on the earlier of Jan. 1, 2015 or issuance of a certificate of occupancy and an alternative method of compliance with the tree mitigation requirements pursuant to section 6-6-7, B.R.C. 1981.

As part of the staff analysis, the following key issues were identified and used in the evaluation of the proposed ordinance:

- Key Issue #1:** Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the overarching BVCP goals and policies?
- Key Issue #2:** Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the city’s Historic Preservation Ordinance?
- Key Issue #3:** Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the intent of the zone district designation and the general character of the area?

On balance, the relocation and preservation of the two buildings to 905 Marine St. was found to be consistent with not only the overarching BVCP goals and policies, but also the city’s Historic Preservation Ordinance as well as the intent of the underlying zone district and general area character.

**Key Issue #1: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the overarching BVCP goals and policies?**

Yes, on balance the development proposal was found to be consistent with a wide range of Boulder Valley Comprehensive Plan (BVCP) goals and policies as well as the BVCP land use designation densities. The project site has a BVCP land use designation of Mixed Density Residential, which is identified as areas where densities may range from six up to eighteen dwelling units per acre. Given the size of the project site and the proposed number of dwelling units totaling five (two new units and three existing) the density of the project site will be roughly nine dwelling units per acre which is within the range of densities identified for the MDR land use designation.

The most applicable goals and policies in the BVCP are those that specifically speak to historic preservation found in Section 2 and housing found in Section 7, including policies 2.24 (*Preservation of Historic and Cultural Resources*), 2.27 (Eligible Historic District and

Landmarks), 7.07 (Preserve Existing Housing Stock), 7.09 (Housing for a Full Range of Households),

Similarly, the development proposal was found to be consistent with BVCP policies 2.15 (Compatibility of Adjacent Land Uses), 2.21 (Commitment to a Walkable and Accessible City) which are related to compatibility of adjacent land uses and providing housing in proximity to service centers.

**Key Issue #2: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the city's Historic Preservation Ordinance?**

Yes, the intent of the Historic Preservation Ordinance 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 person important to local, state or national history or providing significant examples of architectural styles of the past”* (section 9-11-1, “Purpose and Legislative Intent,” B.R.C. 1981).

Although the relocation of the buildings will result in a loss of environmental significance, the proposal will preserve two buildings with historic and architectural significance. To this end, staff considers the proposal consistent with the purpose of the Historic Preservation Ordinance.

As noted above, 1220 Grandview Ave. has architectural significance as a representative example of Edwardian Vernacular architecture, popular during the late nineteenth and early twentieth centuries in the United States. Notable details include the gabled roof, decorative wood shingles, double-hung windows with stone sills and lintels, and classical porch details. The house also has historic significance for its association with notable persons, George and Mabel Reynolds.

The building located at 1243 Grandview Ave. is a representative example of Craftsman Bungalow architecture popular at the beginning of the twentieth century. Notable features include wide, overhanging eaves with exposed rafter tails, half-timbering, multi-light windows, and a prominent porch supported by wooden posts. Its historic significance is based upon its association with persons, Edwin and Rosa Finch. Refer to Attachment B, Historic Building Background for additional information.

It is important to note that an individual landmark designation for each building is required as a condition of the funding provided by the city to assist with the cost of moving the houses. An application for an Individual Landmark designation is required to be submitted following the relocation of each house.

**Key Issue #3: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the intent of the zone district designation and the general character of the area?**

Yes, on balance the proposal was found to be generally consistent with both the RMX-1 zoning designation and the character of the area. The intent of the RMX-1 zone district is identified as “*Mixed density residential areas with a variety of single-family detached, duplexes and multi-family units that will be maintained and where existing structures may be renovated or rehabilitated*” (section 9-5-2(c)(1)(D), B.R.C. 1981). The proposal to relocate the two buildings to the project site and rehabilitate them for the purposes of utilizing them as single-family residences is generally consistent with the intent of the zone district. Detached dwelling units are also an allowed use in the RMX-1 zone district.

Although the requested setback modifications are required as a result of the proposed subdivision, they were found to be supportable given the development constraints present on the project site, including the conveyance zone and 100-year floodplain. The proposed rear yard setback modifications on the proposed lots 2 and 3 are a result of the presence of the conveyance zone and 100-year floodplain on the majority of the western portion of the project site, requiring the bungalows to be setback to a location outside of the floodplains. In addition, the requested setback modifications, specifically the side yard combined setbacks were found to have minimal adverse impacts to the adjacent properties, given that the impacted setbacks are interior to the overall project site. Given the development constraints located on the project site and the limited impacts to adjacent development, overall, the requested setback modifications were found to provide for a better, safer subdivision design.

As discussed above in Key Issue #1, the overall density of the development proposal at roughly nine dwelling units per acre, was found to be consistent with the densities that are currently present within proximity to the project site (9.5-39 dwelling units per acre) as well as those intended in the MD BVCP land use designation. In addition, the modification to the density will also allow for the existing three dwelling units to be maintained, consistent with the previously approved Ordinance No. 7148, which permitted the relocation of a historic house from the Grandview area to the project site.

Overall, the proposal was also found to be consistent with the general character of the area, which has been identified as primarily residential providing a mix of housing opportunities, including apartments, condos and houses. The proposal will result in additional residential development, consistent and compatible with the general character of the area.

**ATTACHMENTS:**

- A. Ordinance
- B. Historic Building Background.
- C. Proposed Site Plan.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE GRANTING AUTHORITY TO THE APPROVING AUTHORITIES UNDER TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO APPROVE THE MOVING OF TWO SINGLE-FAMILY DWELLING UNIT STRUCTURES FROM 1220 AND 1243 GRANDVIEW AVENUE TO 905 MARINE STREET, AND AS AN AMENDMENT TO CHAPTER 6-6, "PROTECTION OF TREES AND PLANTS," TITLE 9, "LAND USE CODE," AND TITLE 10, "STRUCTURES," B.R.C. 1981, TO WAIVE OR MODIFY CERTAIN TREE MITIGATION, LAND USE, AND BUILDING CODE REGULATIONS AS THEY APPLY TO THESE STRUCTURES, AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that:

A. The City of Boulder and the University of Colorado entered into a Memorandum of Agreement (the "MOU") dated January 22, 2001.

B. The purpose of the MOU was to protect some historic structures in the Grandview area from demolition through a covenant and to protect other historic structures from demolition through the requirement of notice of the intent to demolish and an opportunity to relocate such structures.

C. While the MOU expired on July 1, 2011, consistent with the spirit of the MOU, the University of Colorado has provided the City of Boulder with written notice of its plans to remove two Cottage structures, one located at 1220 Grandview Avenue and another located at 1243 Grandview Avenue, (the "Cottages") and its intent to make the Cottages available to the City and/or the public for off-site relocation.

D. Christian Griffith (the "Applicant") has proposed moving the Cottages to the location shown on the site plan attached to this ordinance as **Exhibit A**.

E. The City Council is interested in preserving each of the Cottages in the location proposed by the Applicant.

F. The purpose of this ordinance is to permit the Cottages that would otherwise be demolished by the University of Colorado to be relocated to the parcel of land generally known as 905 Marine Street (the "Property") and more particularly described on **Exhibit B** attached to this ordinance.

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

3 Section 1. The City Council authorizes the city manager to grant the necessary permits  
4 under Title 10, "Structures," B.R.C. 1981, to permit the moving of the Cottages from 1220 and  
5 1243 Grandview Avenue to 905 Marine Street in the location shown on the site plan attached to  
6 this ordinance as **Exhibit A**.

7  
8 Section 2. Moving permits required by this ordinance shall be reviewed under the  
9 provisions of Title 10, "Structures," B.R.C. 1981, in effect on October 22, 2013. In order to  
10 accomplish the objectives of this ordinance, the City Council authorizes the city manager to vary  
11 or waive the following City regulations:

- 12  
13 a. Notwithstanding that the site is neither in an historic district nor an individual  
14 landmark, the residential Cottages to be moved to the site will be considered as  
15 individual landmarks for the purposes of reviewing and approving building permits  
16 under Chapter 10-5, "Building Code," B.R.C. 1981, Chapter 10-5.5, "Residential  
17 Building Code," B.R.C. 1981, Chapter 10-7, "Energy Conservation Code," B.R.C.  
18 1981, and Chapter 10-7.5, "Green Building and Green Points Program," B.R.C.  
19 1981, for the initial occupancy of the structures at the proposed new location. In  
20 particular, the city manager is authorized to waive building and energy code  
21 requirements related to insulating the structures and replacing windows on the  
22 structures.

23  
24 Section 3. The City Council authorizes the city manager to approve a subdivision,  
25 generally as shown on the site plan attached to this ordinance as **Exhibit A**, creating three lots.

1 The City Council authorizes the city manger to approve the following modifications to zoning  
2 requirements for lots and structures in the RMX-1 zoning district in the subdivision review  
3 process:

- 4 a. A reduction in the rear yard set back for principal structures from twenty-five feet to  
5 thirteen feet for proposed Lot 1, to fourteen feet for proposed Lot 2, and to twenty  
6 feet for proposed Lot 3.
- 7 b. A reduction in the combined side yard setback from fifteen feet to eleven feet for  
8 proposed Lot 2 and to 11 feet for proposed Lot 3.
- 9 c. A reduction in minimum lot area per dwelling unit from 6000 square feet to allow  
10 three dwelling units on proposed Lot 1 with a total lot area of roughly 10,482 square  
11 feet.
- 12
- 13

14 Section 4. In order to accomplish the objectives of this ordinance, the City Council  
15 authorizes the city manager to vary the requirements of Section 6-6-7, "Mitigation of Trees or  
16 Plants Removed or Destroyed," B.R.C. 1981, related to the removal of the existing tree in the 9<sup>th</sup>  
17 Street right of way adjacent to 905 Marine Street and to find that the planting of new street trees  
18 in accordance with Section 9-9-13, "Streetscape Design Standards," B.R.C. 1981, satisfies the  
19 requirements of Section 6-6-7, "Mitigation of Trees or Plants Removed or Destroyed," B.R.C.  
20 1981.

21 Section 5. All other City of Boulder regulations that have not been specifically  
22 mentioned herein continue to apply to the Property.  
23  
24  
25

1           Section 6. The City Council authorizes the city manager to waive the due dates of any  
2 applicable fees and taxes associated with the moving, constructing, or otherwise making the  
3 Cottages habitable structures under the Boulder Revised Code; however, the Applicant shall pay  
4 any such waived fees or taxes by the later date of the date required under the Boulder Revised  
5 Code and May 1, 2014, but in no event later than receipt of a certificate of occupancy related to  
6 any moving permit for the Cottages onto the Property.  
7

8           Section 7. This ordinance shall be considered an amendment to Chapter 6-6, “Protection  
9 of Trees and Plants,” B.R.C. 1981, Title 9, “Land Use Code,” B.R.C. 1981, and Title 10,  
10 “Structures,” B.R.C. 1981. To the extent that this ordinance conflicts with any other ordinance  
11 of the City, such ordinance shall be suspended for the limited purpose of implementing this  
12 ordinance. Nothing in this ordinance shall be construed as a waiver of the City’s police power.  
13

14           Section 8. The City Council finds that this ordinance furthers important historic  
15 preservation goals for the City of Boulder. Further the City Council finds that the benefits of the  
16 City’s historic preservation goals made possible through this ordinance outweigh benefits that  
17 accrue to the city ordinances that are waived by this ordinance.

18           Section 9. This ordinance is necessary to protect the public health, safety, and welfare of  
19 the residents of the City, is consistent with the goals and policies of the Boulder Valley  
20 Comprehensive Plan, and covers matters of local concern.  
21

22           Section 10. The City deems it appropriate that this ordinance be published by title only  
23 and orders that copies of this ordinance be made available in the office of the city clerk for public  
24 inspection and acquisition.  
25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 22<sup>nd</sup> day of October, 2013.

4  
5 \_\_\_\_\_  
Mayor

5 Attest:

6  
7 \_\_\_\_\_  
City Clerk

8 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
9 PUBLISHED BY TITLE ONLY this 19th day of November, 2013.

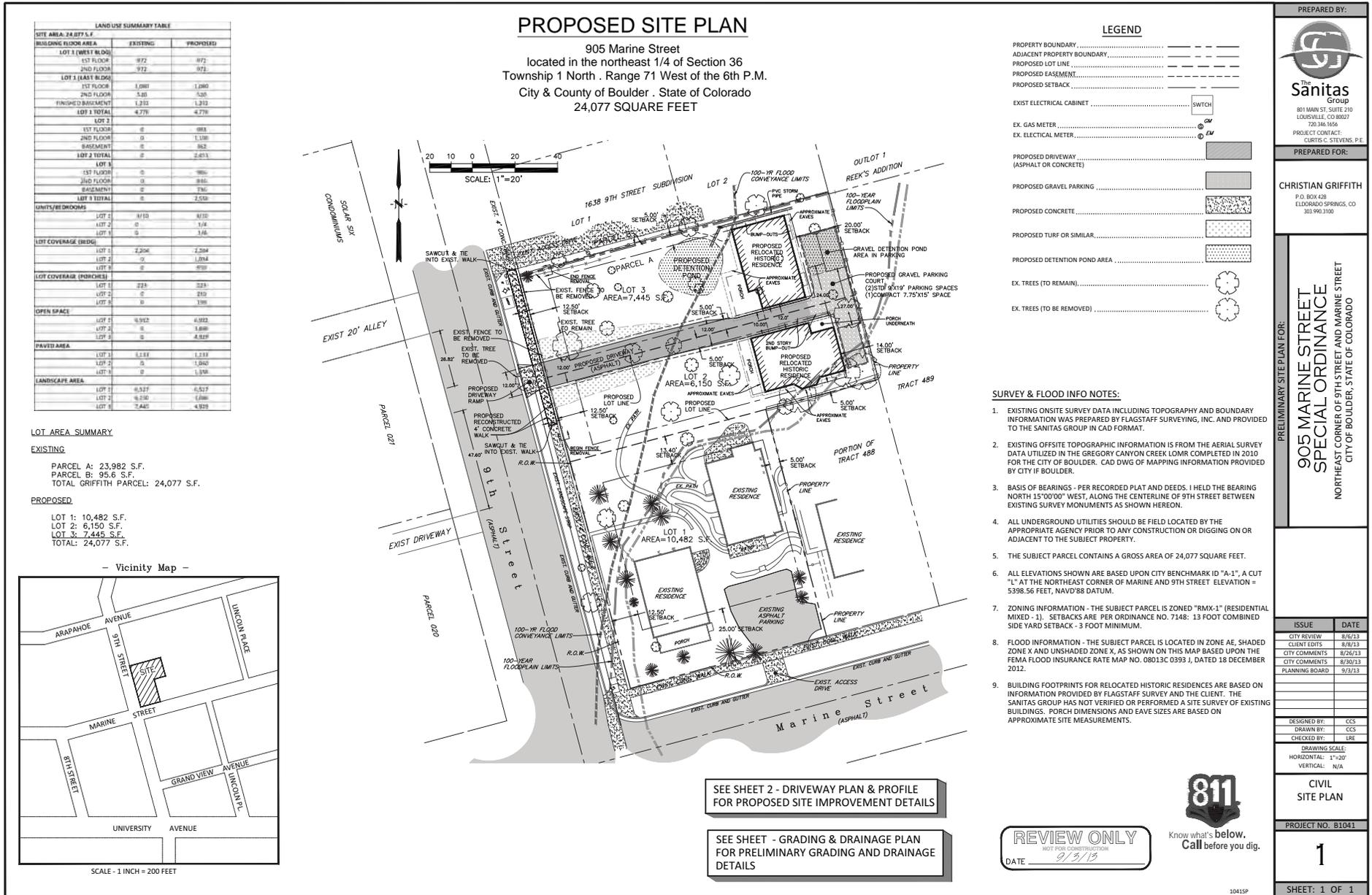
12  
13 \_\_\_\_\_  
Mayor

13 Attest:

14  
15 \_\_\_\_\_  
City Clerk

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Exhibit A



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EXHIBIT B

905 MARINE PROPERTY – LEGAL DESCRIPTION

RESULTING GRIFFITH PARCEL (PARCELS A AND B TOGETHER)

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER (NE 1/4) OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M., IN THE CITY AND COUNTY OF BOULDER, STATE OF COLORADO, BEING A PORTION OF ASSESSOR'S TRACTS 486, 487 AND 488 AND A PORTION OF LOT 2, SMITH'S ADDITION TO BOULDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF MARINE STREET WITH THE EAST LINE OF 9TH STREET;

THENCE NORTH 15°00'00" WEST, ALONG THE EAST LINE OF 9TH STREET, A DISTANCE OF 200.62 FEET TO A POINT THAT IS SOUTH 15°00'00" EAST, A DISTANCE OF 0.62 FEET FROM THE SOUTHWEST CORNER OF "1638 9TH STREET SUBDIVISION" RECORDED AS PLAN FILE P-24 F-1 #39, BOULDER COUNTY RECORDS;

THENCE NORTH 74°59'12" EAST, A DISTANCE OF 150.00 FEET TO A POINT THAT IS SOUTH 15°00'00" EAST, 0.66 FEET FROM THE SOUTHEAST CORNER OF SAID "1638 9TH STREET SUBDIVISION";

THENCE SOUTH 15°00'00" EAST, A DISTANCE OF 90.65 FEET;

THENCE SOUTH 75°00'00" WEST, A DISTANCE OF 54.75 FEET;

THENCE SOUTH 15°00'00" EAST, A DISTANCE OF 110.10 FEET TO THE NORTH LINE OF MARINE STREET;

THENCE SOUTH 75°03'35" WEST, ALONG THE NORTH LINE OF MARINE STREET, A DISTANCE OF 95.25 FEET TO THE POINT OF BEGINNING.

RESULTING GRIFFITH PARCEL CONTAINS 24,077 SQUARE FEET.

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### **HISTORIC BUILDING BACKGROUND:**

In an effort to prevent demolition of the two historically significant houses located within the Grandview Preserve area, the applicant, Christian Griffith, is proposing to relocate two historic buildings currently located at 1220 and 1243 Grandview Ave., to the project site, 905 Marine St. Below is a brief historic background on each building.

1220 Grandview Ave. The brick and frame house at 1220 Grandview Ave. was constructed in 1906 and is a well-preserved example of the Edwardian Vernacular architecture popular in Colorado during the late nineteenth and early twentieth centuries. The façade features a flat-roof porch with classical columns and a wooden railing. A paneled and glazed door with a transom is located on the west side of the north façade and a large, double-hung window is located on the east side of the same façade. Decorative elements on the front gable include a vent with scalloped louvers, decorative wooden shingles, and a door flanked by double-hung windows with dentil trim and decorative sills. Gabled dormers are located on the east and west elevations and feature shingled walls and paired windows. Small eyebrow vents are located on the east and west roof slopes. An addition, constructed in 1929, is located on the east elevation of the building and features 12-light, steel casement windows with stone sills. A one-car garage is located on the lower level. The west elevation features a two-story bay window. The building rests on an evenly coursed stone foundation.



Figure 7: Reynolds House, 1220 Grandview Ave. c. 1949 (left) and 2012 (right)

The house remains largely intact, although an attached garage was constructed in 1929 at the east elevation of the house. A building permit for “repair of dwelling” was issued in 1933, however, the extent of the alterations is unknown. All original materials, including exterior sheathing, decorative elements and windows and doors remain. The original wood roofing has been replaced with asphalt shingles.

As with many houses in this area, the building at 1220 Grandview Ave. provided housing for a series of University of Colorado professors. In 1910, Wilford Robbins, a biology teacher, and his mother, Jennie, were residents of the house. In 1913, Esther White, a teacher at Washington School and widow of Reverend Edgar White lived in the house. Drs. George F. and Mabel S. Reynolds purchased the house in 1919, the year they joined the University of Colorado faculty. George was a professor and head of the Department of English Literature, while Mabel taught English literature and speech. The Reynolds, along with Professor Wolle, co-founded the Little Theater at the University of Colorado.

In 1962, Mr. Reynolds sold the property to the University of Colorado. He died in 1964 and donated money to the City of Boulder to build its first branch library, located on Table Mesa Drive, which was named in his honor.

The house was converted for office use by the University of Colorado, but has been vacant for the past several years.

1243 Grandview Ave. The building at 1243 Grandview Ave. was constructed in 1909 and is an example of the Craftsman Bungalow influenced style popular during the early twentieth century. The one-and-half story building features a side gable roof with wide, overhanging eaves and exposed rafters. The building rests on a cut fieldstone with brick walls to the sill level and stucco and half-timbering above. A long, shed-roof dormer is located on the north and south roof slopes and each feature five multi-light casement windows. Two windows on the south façade gable and one on the east elevation have been removed for the installation of air conditioning units. The asymmetrical porch features a gable above the entrance with stucco and half-timbering and is supported by wood post supports with arched brackets atop brick pillars. The off-center, paneled and glazed door is located on the east side of the façade. Multi-over-single light double-hung windows are located on the first floor. The west elevation features a shed roofed bay window with paired windows. A small gable-roof addition is located on the east elevation and features paired, double hung windows and a solid wood door on the lower level.



Figure 8: 1243 Grandview Ave. c. 1949 (left) and 2012 (right)

The building is relatively intact. An addition was constructed on the east elevation around 1930. The divided-light wood windows on the shed dormer, evident in the 1987 survey photograph, have been removed and boarded over to accommodate air conditioning units.

Edwin J. and Rosa C. Finch resided in this house from the time of its construction until Mrs. Finch died in 1930. Edwin was a bookkeeper for the Boulder National Bank for 20 years and was also a prominent member of the Freemason Fraternal Organization and active in the Eastern Star Social Organization. Rosa was also active in many social organizations, including the Eastern Star, the Daughters of the American Revolution, the Women's Club and the Garden Club. A 1930 newspaper article notes that the garden at 1243 Grandview was one of the finest in town. Their daughter, Frances, graduated from the State Preparatory School and the University of Colorado.

The next occupants of 1243 Grandview Ave. were Percy and Virginia Paddock. Percy served as postmaster of Boulder. His brother was A. "Gov." Paddock, publisher of the Boulder Daily Camera. Percy worked as a linotype operator for the Boulder Daily Camera until he sustained an eye injury, and was later involved in the Central Colorado Power Company and operated Paddock's Store on University Hill. In 1934 he was appointed postmaster of Boulder and served in this position until his death in 1946. Following Percy's death, Virginia moved to California and later remarried.

From 1946 until 1952 the property was occupied by a series of short-term residents, including Capt. Clifford Fines, a university professor, John and Beverley Thompson, CU students, and in 1953 the fraternity Alpha Epsilon Phi was listed at this address.

In 1954 the house was purchased by Gordon and Miriam Yager. Gordon was an insurance auditor for the K. L. Pearce Company. The Yagers resided in the house until they sold it to the University of Colorado in 1971. For the next forty years, the property was used as offices for the Institute of Behavioral Sciences.

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PREPARED BY:



**The Sanitas Group**  
801 MAIN ST. SUITE 210  
LOUISVILLE, CO 80027  
720.346.1656  
PROJECT CONTACT:  
CURTIS C. STEVENS, P.E.

PREPARED FOR:

**CHRISTIAN GRIFFITH**  
P.O. BOX 428  
ELDORADO SPRINGS, CO  
303.990.3100

PRELIMINARY SITE PLAN FOR:

**905 MARINE STREET  
SPECIAL ORDINANCE**  
NORTHEAST CORNER OF 9TH STREET AND MARINE STREET  
CITY OF BOULDER, STATE OF COLORADO

ISSUE	DATE
CITY REVIEW	8/6/13
CLIENT EDITS	8/8/13
CITY COMMENTS	8/26/13
CITY COMMENTS	8/30/13
PLANNING BOARD	9/3/13

DESIGNED BY: CCS  
DRAWN BY: CCS  
CHECKED BY: LRE

DRAWING SCALE:  
HORIZONTAL: 1"=20'  
VERTICAL: N/A

CIVIL  
SITE PLAN

PROJECT NO. B1041

1

SHEET: 1 OF 1

# PROPOSED SITE PLAN

905 Marine Street  
located in the northeast 1/4 of Section 36  
Township 1 North . Range 71 West of the 6th P.M.  
City & County of Boulder . State of Colorado  
24,077 SQUARE FEET

LAND USE SUMMARY TABLE		
SITE AREA: 24,077 S.F.		
BUILDING FLOOR AREA	EXISTING	PROPOSED
<b>LOT 1 (WEST BLDG)</b>		
1ST FLOOR	972	972
2ND FLOOR	972	972
<b>LOT 1 (EAST BLDG)</b>		
1ST FLOOR	1,080	1,080
2ND FLOOR	520	520
FINISHED BASEMENT	1,232	1,232
<b>LOT 1 TOTAL</b>	<b>4,776</b>	<b>4,776</b>
<b>LOT 2</b>		
1ST FLOOR	0	983
2ND FLOOR	0	1,108
BASEMENT	0	352
<b>LOT 2 TOTAL</b>	<b>0</b>	<b>2,453</b>
<b>LOT 3</b>		
1ST FLOOR	0	986
2ND FLOOR	0	836
BASEMENT	0	736
<b>LOT 3 TOTAL</b>	<b>0</b>	<b>2,558</b>
<b>UNITS/BEDROOMS</b>		
LOT 1	3/10	3/10
LOT 2	0	1/4
LOT 3	0	1/4
<b>LOT COVERAGE (BLDG)</b>		
LOT 1	2,204	2,204
LOT 2	0	1,034
LOT 3	0	959
<b>LOT COVERAGE (PORCHES)</b>		
LOT 1	223	223
LOT 2	0	210
LOT 3	0	199
<b>OPEN SPACE</b>		
LOT 1	6,922	6,922
LOT 2	0	3,866
LOT 3	0	4,929
<b>PAVED AREA</b>		
LOT 1	1,133	1,133
LOT 2	0	1,040
LOT 3	0	1,358
<b>LANDSCAPE AREA</b>		
LOT 1	6,527	6,527
LOT 2	6,150	3,866
LOT 3	7,445	4,929

**LOT AREA SUMMARY**

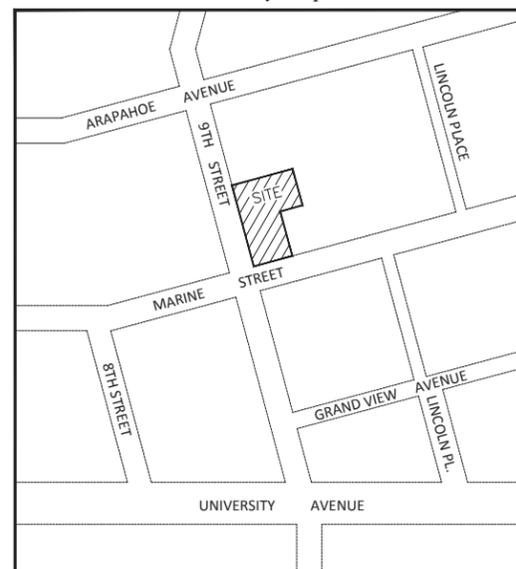
**EXISTING**

PARCEL A: 23,982 S.F.  
PARCEL B: 95.6 S.F.  
TOTAL GRIFFITH PARCEL: 24,077 S.F.

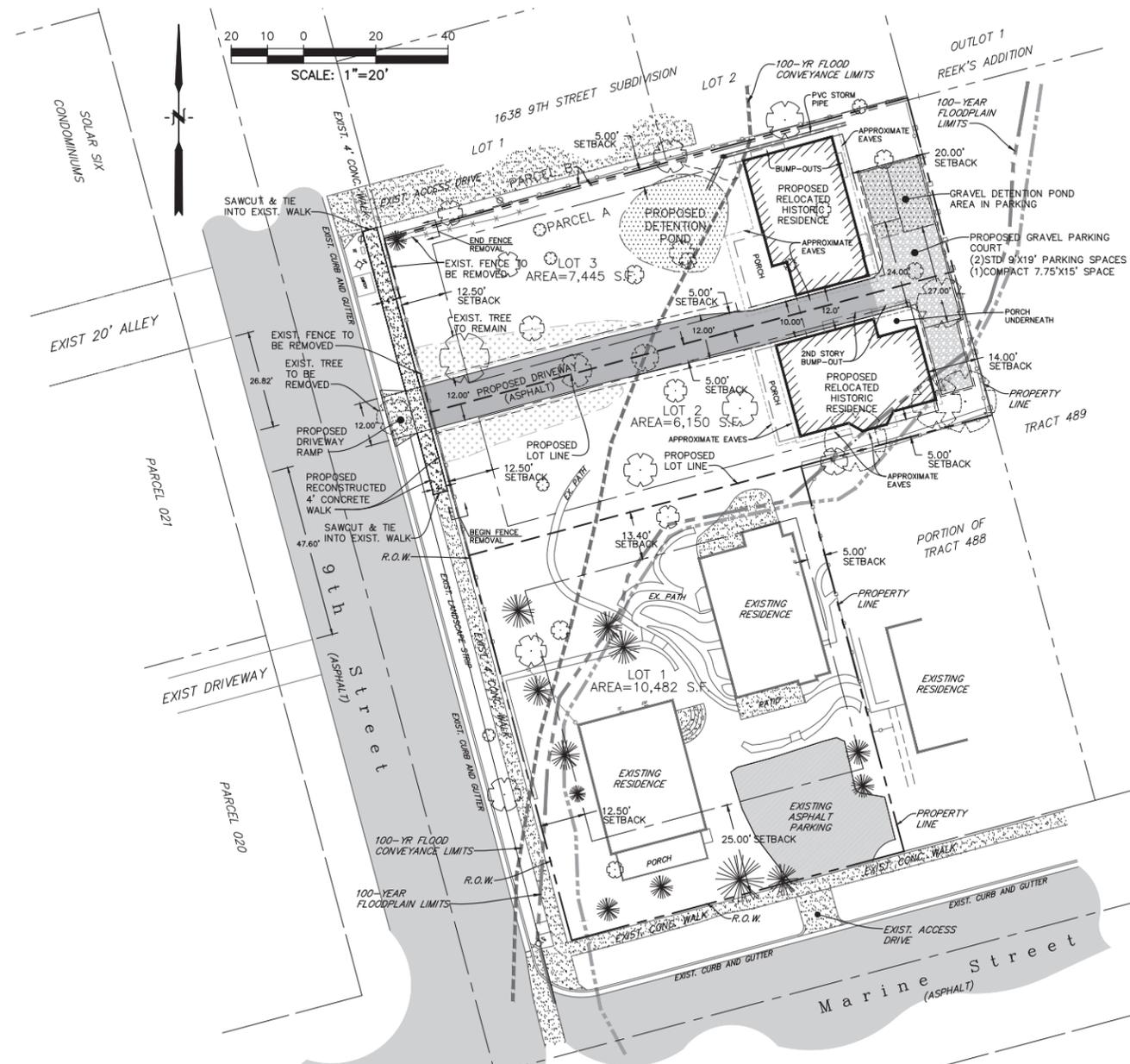
**PROPOSED**

LOT 1: 10,482 S.F.  
LOT 2: 6,150 S.F.  
LOT 3: 7,445 S.F.  
TOTAL: 24,077 S.F.

- Vicinity Map -



SCALE - 1 INCH = 200 FEET



**LEGEND**

- PROPERTY BOUNDARY .....
- ADJACENT PROPERTY BOUNDARY .....
- PROPOSED LOT LINE .....
- PROPOSED EASEMENT .....
- PROPOSED SETBACK .....
- EXIST ELECTRICAL CABINET ..... SWITCH
- EX. GAS METER ..... GM
- EX. ELECTRICAL METER ..... EM
- PROPOSED DRIVEWAY (ASPHALT OR CONCRETE) .....
- PROPOSED GRAVEL PARKING .....
- PROPOSED CONCRETE .....
- PROPOSED TURF OR SIMILAR .....
- PROPOSED DETENTION POND AREA .....
- EX. TREES (TO REMAIN) .....
- EX. TREES (TO BE REMOVED) .....

**SURVEY & FLOOD INFO NOTES:**

- EXISTING ONSITE SURVEY DATA INCLUDING TOPOGRAPHY AND BOUNDARY INFORMATION WAS PREPARED BY FLAGSTAFF SURVEYING, INC. AND PROVIDED TO THE SANITAS GROUP IN CAD FORMAT.
- EXISTING OFFSITE TOPOGRAPHIC INFORMATION IS FROM THE AERIAL SURVEY DATA UTILIZED IN THE GREGORY CANYON CREEK LOMR COMPLETED IN 2010 FOR THE CITY OF BOULDER. CAD DWG OF MAPPING INFORMATION PROVIDED BY CITY OF BOULDER.
- BASIS OF BEARINGS - PER RECORDED PLAT AND DEEDS. I HELD THE BEARING NORTH 15°00'00" WEST, ALONG THE CENTERLINE OF 9TH STREET BETWEEN EXISTING SURVEY MONUMENTS AS SHOWN HEREON.
- ALL UNDERGROUND UTILITIES SHOULD BE FIELD LOCATED BY THE APPROPRIATE AGENCY PRIOR TO ANY CONSTRUCTION OR DIGGING ON OR ADJACENT TO THE SUBJECT PROPERTY.
- THE SUBJECT PARCEL CONTAINS A GROSS AREA OF 24,077 SQUARE FEET.
- ALL ELEVATIONS SHOWN ARE BASED UPON CITY BENCHMARK ID "A-1", A CUT "L" AT THE NORTHEAST CORNER OF MARINE AND 9TH STREET ELEVATION = 5398.56 FEET, NAVD'88 DATUM.
- ZONING INFORMATION - THE SUBJECT PARCEL IS ZONED "RMX-1" (RESIDENTIAL MIXED - 1). SETBACKS ARE PER ORDINANCE NO. 7148: 13 FOOT COMBINED SIDE YARD SETBACK - 3 FOOT MINIMUM.
- FLOOD INFORMATION - THE SUBJECT PARCEL IS LOCATED IN ZONE AE, SHADED ZONE X AND UNSHADED ZONE X, AS SHOWN ON THIS MAP BASED UPON THE FEMA FLOOD INSURANCE RATE MAP NO. 08013C 0393 J, DATED 18 DECEMBER 2012.
- BUILDING FOOTPRINTS FOR RELOCATED HISTORIC RESIDENCES ARE BASED ON INFORMATION PROVIDED BY FLAGSTAFF SURVEY AND THE CLIENT. THE SANITAS GROUP HAS NOT VERIFIED OR PERFORMED A SITE SURVEY OF EXISTING BUILDINGS. PORCH DIMENSIONS AND EAVE SIZES ARE BASED ON APPROXIMATE SITE MEASUREMENTS.

SEE SHEET 2 - DRIVEWAY PLAN & PROFILE FOR PROPOSED SITE IMPROVEMENT DETAILS

SEE SHEET - GRADING & DRAINAGE PLAN FOR PRELIMINARY GRADING AND DRAINAGE DETAILS

**REVIEW ONLY**  
NOT FOR CONSTRUCTION  
DATE: 9/3/13



Know what's below.  
Call before you dig.





**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 22, 2013**

**AGENDA TITLE**

Consideration of a motion to amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore's Subdivision), #LUR2013-00036, to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue. 1215 and 1235 Tamarack Avenue are within the Residential- Low 2 (RL-2) zone district.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Paul J. Fetherston, Deputy City Manager  
David Driskell, Director of Community Planning and Sustainability  
Charles Ferro, Land Use Review Manager  
Chandler Van Schaack, Planner I

**EXECUTIVE SUMMARY**

The purpose of this request is to amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore's Subdivision) to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenues. The proposed amendment would allow for construction of 12 ½ Street between Upland and Tamarack Avenues as a standard twelve foot (12') wide residential alley at the time of any building permit for an additional dwelling unit, but would maintain the existing requirement to construct 12 ½ Street as a full twenty foot (20') wide residential access lane at the time of subdivision.

The proposed amendment to the subject Annexation Agreement would make the requirements relating to the construction of 12½ Street consistent with the Post-Annexation Agreement Amendment for Lots 3 and 12 (1276 Upland and 1275 Tamarack), and would allow the owners of the affected lots to redevelop their properties in a manner consistent with the underlying zoning standards without having to construct the 12½ Street right-of-way as a full twenty (20') foot wide residential access lane.

Because the twelve (12') foot wide alley has already been constructed, the proposed amendment would allow the owners of Lots 10 and 11 to obtain building permits for new dwelling units on their properties without having to construct any new right-of-way; construction of 12 ½ Street as a twenty (20') foot wide residential access lane would be required only in the event that one of the lots were to be subdivided. See **Attachment C** for the proposed Annexation Agreement Amendment.

**Key Issue Identification**

The following key issue was identified regarding the proposed application request:

1. Is the requested annexation agreement amendment consistent with the intent of the original Crestview West Annexation package with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan?

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

*Motion to amend the annexation agreement for the 1215 and 1235 Tamarack properties to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue.*

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic – No impacts.
- Environmental – No impacts.
- Social – No impacts.

**OTHER IMPACTS**

- Fiscal – No Impacts.
- Staff time – The application has been processed through the provisions of a standard vacation process and is within normal staff work plans.

**BOARD AND COMMISSION FEEDBACK**

On October 10, 2013 the Planning Board unanimously recommended approval (6-0; Weaver absent) of the proposed annexation agreement amendment as it is consistent with the overall goals and policies of the Boulder Valley Comprehensive Plan policies pertaining to annexation as well as the intent of the original Crestview West Annexation package with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan. To address a concern expressed by Board Member Brockett, who had recently seen vehicles parked in the middle of the 12½ Street alley impeding bicycle/ pedestrian access, the Board recommended that signage identifying the

12 ½ Street alley as a bike/pedestrian route and prohibiting parking be posted in the alley. Staff members from the Planning and Transportation Engineering Departments have discussed the recommended signage and the Transportation Engineering Department will place appropriate signage indicating bicycle access and restricted vehicle access at the entrances to the alley. With regards to the board's recommendation for 'No Parking' signage, Transportation Engineering staff recommends that rather than place signage staff should communicate with the property owners adjacent to the alley to inform them that vehicles may only be parked on the side of the right-of-way keeping the alley unobstructed for pedestrian and bicycle traffic. To view staff's memorandum of recommendation to the Planning Board, please go to: ([www.bouldercolorado.gov](http://www.bouldercolorado.gov) → A to Z → Planning Board → Search for Past Meeting Materials-Planning Board → 2013 → 10 OCT)

### **PUBLIC FEEDBACK**

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the proposed development, and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. No public comment was received in response to the notice.

### **BACKGROUND:**

The project area is located in North Boulder in the Crestview West Neighborhood (generally, the area east of Broadway, south of Violet Avenue, west of 19th Street, and north of vacated Riverside Avenue) within the Residential Low - 2 (RL-2) zone district. Please refer to **Figure 1** for a vicinity map. Lot 10 (1215 Tamarack) is currently vacant, and Lot 11 (1235 Tamarack) contains an existing single-family home. The neighboring lots to the east, Lots 3 and 12 (1276 Upland and 1275 Tamarack) are both developed with single family homes, and 12½ Street has been constructed as a twelve (12') foot wide residential alley. Below is a summary of the background on the existing annexation agreements affecting the lots east of Broadway and west of 13<sup>th</sup> Street, between Upland and Tamarack Avenues, as well as the status of the 12½ Street connection.

The subject area is located in the Crestview West Neighborhood, which was unilaterally annexed into the City in October 1997. During the Crestview West Annexation process, a street connection for 12½ Street was required in anticipation of future higher density development on the lots east of Broadway and west of 13<sup>th</sup> Street, between Upland and Tamarack Avenues. Specifically, 12½ Street was intended to provide access to new lots if any of the lots adjacent to Broadway were to be subdivided, thereby precluding new curb cuts from being placed on Broadway (please see **Figure 2** below for anticipated lot configuration and access contained in original Annexation and Initial Zoning proposal).

Consistent with the NoBo Plan's vision for higher densities along the Broadway corridor, property owners in that area who signed an annexation agreement were given a zoning designation of RL-2. In anticipation of future subdivision, the annexation agreement signed by the owner of Lots 10 and 11 (1215 and 1235 Tamarack) at that time (see

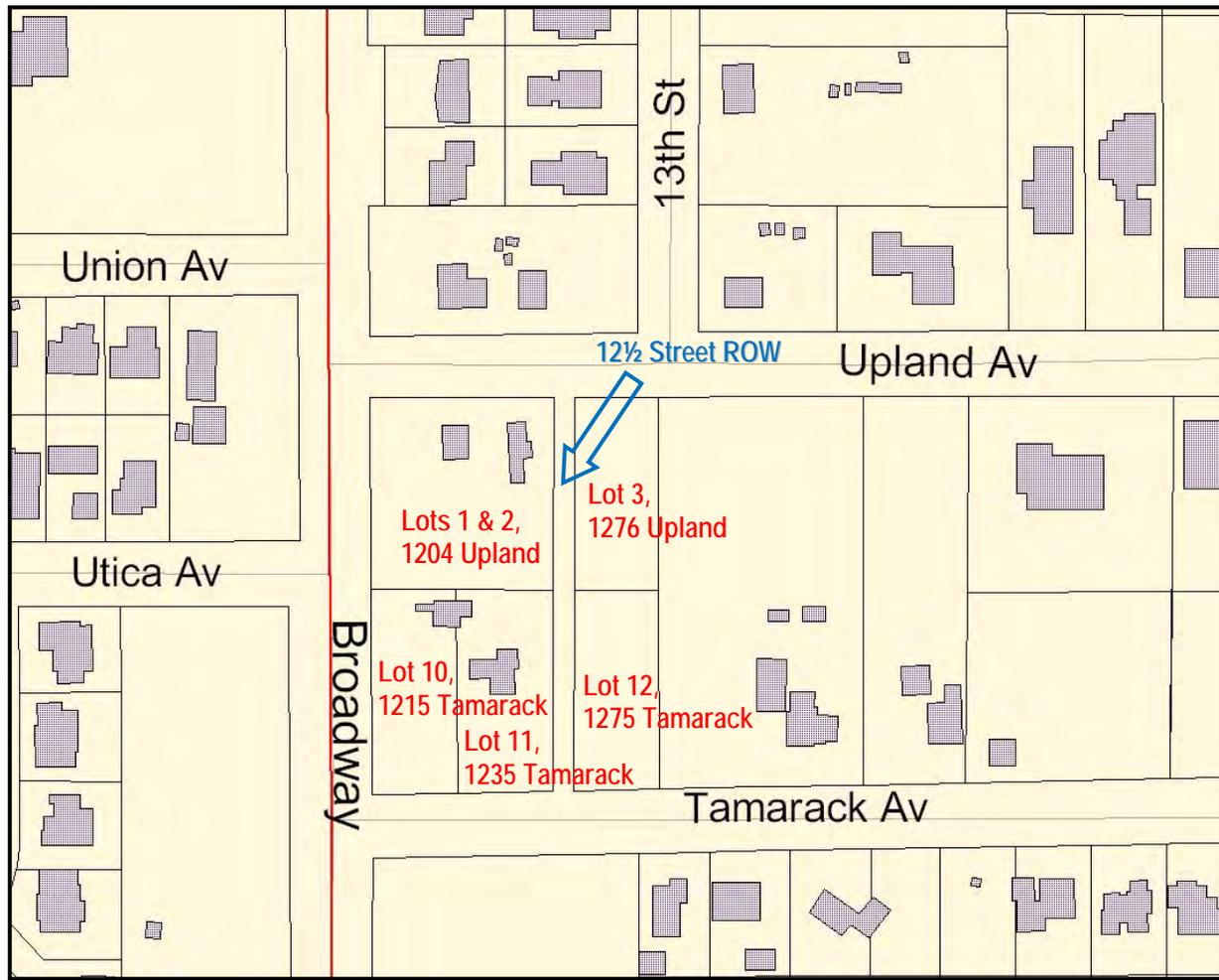


Figure 1: Vicinity Map

**Attachment A**) required the owner to construct 12½ Street as a standard twenty (20') foot access lane with a required turnaround and an eight-foot-wide pedestrian/ bicycle path extending west to Broadway at the time of development or redevelopment of the subject property (see **Figure 2**).

In 1999, Lots 3 and 12 (1276 Upland and 1275 Tamarack) signed a Post-Annexation Agreement containing all applicable conditions from the 1997 annexation agreement signed by the owner of Lots 10 and 11 to the west.

Later in 1999, following a new redevelopment proposal for Lots 3 and 12 (1276 Upland and 1275 Tamarack) for two duplexes (one on each lot), City Council approved an amendment to the Post-Annexation Agreement for those properties to allow the construction of a twelve (12') foot wide residential alley in place of constructing a twenty (20') foot wide residential access lane for 12½ Street (See **Attachment B**). Several factors were considered as part of council's approval of the amendment, including the fact that the new development proposal was still consistent with the NoBo Plan's vision for higher densities along the Broadway corridor as well as the fact that the proposal included taking direct access from Upland and Tamarack Avenues and therefore did not require the use of 12½ Street to provide access as originally intended in the Crestview West Annexation Package.

The proposed project to build duplexes on Lots 3 and 12 was never completed, and Lots 3 and 12 have since been developed as single family homes. As part of the redevelopment of these properties, the owners were required to construct 12 ½ Street as a twelve (12') foot wide alley, consistent with the Post-Annexation Agreement Amendment for those properties. Currently, both properties take access from the alley. Both owners have indicated that they have no intention of subdividing in the future; however, the Post-Annexation Agreement Amendment is still valid today and contains a provision requiring the full twenty (20') foot 12½ Street connection to be constructed in the event that either Lot 3 or 12 were to be subdivided in the future.

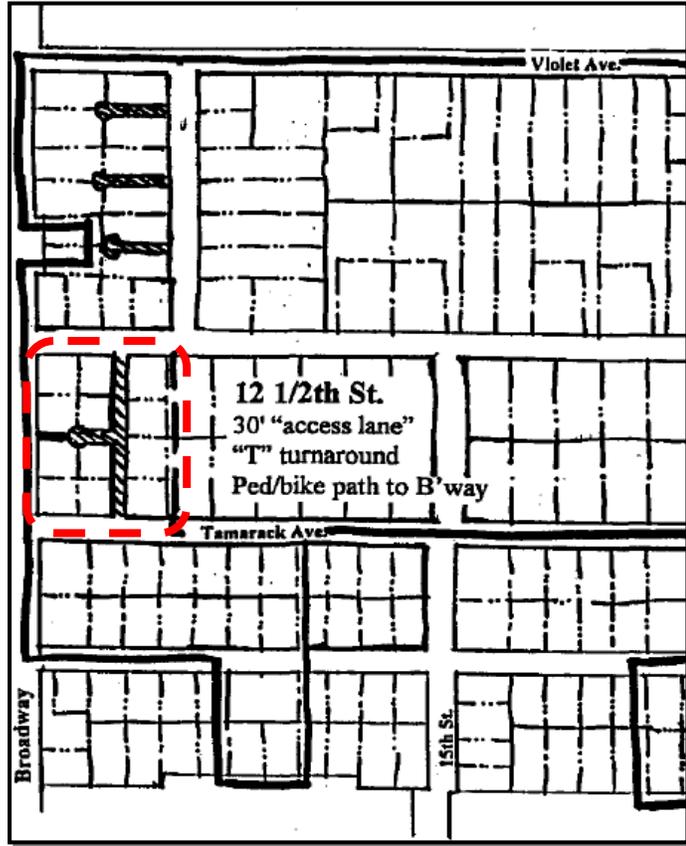


Figure 2: Original 12 ½ Street Proposal

As mentioned above, Lot 10 (1215 Tamarack) is currently vacant, and Lot 11 (1235 Tamarack) contains an existing single-family home which takes direct access from Tamarack Avenue. The original 1997 Annexation Agreement for Lots 10 and 11, which requires the owner to construct 12½ Street as a standard twenty (20') foot access lane with a required turnaround and an eight-foot-wide pedestrian/ bicycle path extending west to Broadway at the time of development or redevelopment of the subject properties is still valid.

**ANALYSIS:**

Staff identified the following key issue for discussion regarding the proposed application request:

1. Is the requested annexation agreement amendment consistent with the intent of the original Crestview West Annexation package with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan?

Staff finds the request to amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore’s Subdivision) to be consistent with the intent of the original annexation package with regards to the NoBo

Plan. The specific goals for Crestview West included in the NoBo Plan that are applicable to the subject area include:

***Crestview West Annexation Goals*** (This area was annexed subsequent to the Plan adoption, in 1997.)

- *Allow possible higher densities along the Broadway corridor to achieve affordable and diverse housing close to transit.*
- *Consider neighborhood consensus, in balance with other annexation goals.*
- *Help defray the property owners' costs of annexation.*

The proposed annexation agreement amendment is consistent with the goals listed above. The proposed amendment will not affect the existing zoning of the area which allows for higher densities, so the goal of allowing possible higher densities along the Broadway corridor will continue to be met. The RL-2 zoning designation for properties along Broadway was intended to help meet the first goal of “*allow(ing) possible higher densities along the Broadway corridor to achieve affordable and diverse housing close to transit.*” The requirement to construct 12½ Street with a turnaround and a bicycle/pedestrian path to Broadway was predicated upon a redevelopment scenario in which all of the subject properties would subdivide along the east-west axis and redevelop as single family homes (refer to **Figure 2** for intended lot configuration following subdivision), and would therefore require new right-of-way from which to take access.

Under current RL-2 zoning standards, density is based upon open space, with a minimum of 6,000 square feet of open space required per dwelling unit. Because each of the two subject lots is large enough to accommodate up to two attached dwelling units under the current zoning standards without subdividing, they could theoretically redevelop at a higher density while keeping direct access from Tamarack Avenue. In the event that any of the lots were to be subdivided, the requirement to construct 12 ½ Street as a twenty (20') foot wide residential street would apply.

With regards to affordable housing, the proposed amendments do not affect the inclusionary housing requirements for the subject properties, so the goals and policies contained in the NoBo Plan relating to the provision of affordable housing will continue to be met. The owners of both Lots 3 and 12 are required to pay the applicable cash-in-lieu fee for the new single-family homes being constructed, and the owners of Lots 10 and 11 will be required to meet inclusionary housing requirements at the time of development or redevelopment of the subject properties.

With regards to neighborhood comments, staff has not received any comments from neighbors expressing opposition to the proposed amendments.

**ATTACHMENTS**

- Attachment A:** 1997 Annexation Agreement for Lots 10 & 11
- Attachment B:** Post-Annexation Agreement and Post Annexation Agreement Amendment for Lots 3 & 12
- Attachment C:** Requested Amendments to Annexation Agreement
- Attachment D:** Approved Technical Document plans for 12' alley with 20.25' Right-of-Way

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ANNEXATION AGREEMENT

This Agreement, made this 19th day of Sept, 1997, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and Dolores M. Benson, hereinafter referred to individually or collectively as "Applicant:"

WITNESSETH:

RECIPIENTS

WHEREAS, the Applicant is the owner of Parcel #3, the real property described as:

Lots 10 and 11, Book 5, Moore's Subdivision, recorded in the offices of the Boulder County Clerk and Recorder at Book 5, pages 92-94, County of Boulder, State of Colorado,

also known as 1255 Marack Avenue, which real property shall hereinafter be referred to as the "Subject Property;" and

WHEREAS, the Applicant is interested in obtaining approval from the City of the annexation of the Subject Property in order to provide adequate urban services to said area, particularly city water and sewer; and

WHEREAS, the parties anticipate that annexation, with an initial zoning designation of Low Density Residential - Developing (LR-D), will be consistent with the Boulder Valley Comprehensive Plan; and

WHEREAS, the City is interested in insuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

NOW, THEREFORE, in consideration of the recitals, promises and covenants herein set forth, and other good and valuable consideration herein received for, the parties agree as follows:

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Page: 2 of 14  
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1. Definitions

“Redevelopment” shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new dwelling unit, or issuance of a building permit for additional square footage or other improvement which is twenty-five percent (25%) or more of the market value of the existing structure, except where twenty-five percent (25%) is less than Twenty-Five Thousand dollars (\$25,000) in which case redevelopment shall mean a building permit for a structure whose value is greater than or equal to Twenty-Five Thousand dollars (\$25,000). Successive building permits will be aggregated in determining whether redevelopment has occurred and will be cumulative over any three (3) year period.

Improvements to existing structures to the extent that the improvements are necessary to comply with City’s rental housing requirements will not be counted against the twenty-five percent (25%) or Twenty-Five Thousand dollars (\$25,000) thresholds which define redevelopment and will not trigger payment of outstanding fees.

“Basement” shall be defined as habitable or non-habitable areas below grade enclosed by a foundation wall where no part of the foundation wall exceeds two (2) feet in height above grade, as said grade existed at the time of this agreement. If any portion of the foundation wall projects more than two (2) feet above the grade, the basement area enclosed by the foundation shall count against the total Floor Area Ratio (FAR) permitted on the site and said basement shall be considered a story for purposes of determining the number of permitted stories in a structure.

2. Water

A. Domestic water service will be constructed and paid for by the City pursuant to that agreement between the City of Boulder, the EPA and the other Potentially Responsible Parties (PRPs). Domestic water service to existing residences shall include application fees, main front footage charges, tap fees for a 3/4" tap, Plant Investment Fees (PIFs) for residential use, meter fees and any other fees for water connection to existing residences and will include the filing fee(s) for inclusion into the Northern Colorado Water Conservation District (NCWCD), if necessary, and the Municipal Subdistrict. The City will not pay the annual mill levy of NCWCD.

New units will be required to pay all normal fees and charges for water service at time of construction, except that no front foot assessment for the newly installed water mains will be collected.

B. Applicant shall connect to the City’s water system immediately upon annexation.



- C. Applicant may use existing wells for irrigation purposes. Under no circumstances may existing wells be used for domestic water purposes. No person shall make any cross connections between a well and the City's municipal water supply system.

3. Sewer

- A. If the Subject Property is currently served by an adequate septic system, Applicant will not be required to connect to the City's sanitary sewer system. In order to demonstrate that the septic system is adequate, the Applicant must provide to the City of Boulder confirmation of (1) a valid Boulder County ISDS Permit and (2) an inspection of the septic system confirming there is a four foot (4') separation between the absorption field and the seasonal high groundwater level. If the property does not meet these requirements, Applicant shall connect to the sanitary sewer system within 365 days of the effective date of the annexation ordinance.

- B. Assessments for the costs of construction of the sanitary sewer mains shall be paid by Applicant as a lump sum, at time of connection or redevelopment, unless a property owner applies for connection to the City's sanitary sewer system within sixty (60) days of the effective date of the annexation ordinance. If the application is made within sixty (60) days and the connection made within 365 days after application, the property owner may elect to pay the outstanding assessment in a lump sum payment or pay the prorated amount in ten (10) equal, annual installments amortized at a rate of six and a half percent (6.5%) simple interest per annum beginning on the effective date of the annexation ordinance.

Unofficial Copy

If the property owner does not apply for connection within sixty (60) days of the effective date of the annexation ordinance or fails to connect within three hundred sixty-five (365) days after application, the outstanding balance will accrue interest at a rate of six and a half percent (6.5%) simple interest per annum and must be paid in full at time of connection.

- C. Plant Investment Fees (PIFs) and other connection fees will be determined at time of connection based on the then applicable fee schedule.
- D. Where the City is not required by an existing agreement to collect outstanding assessments for the construction of a sanitary sewer main, such prorated fees will not be collected by City.
- E. Sanitary sewer main assessments and PIFs for the Subject Property must be paid for the entire property at time of redevelopment or connection to the City sanitary sewer



system. Sanitary sewer main assessments and PIFs for individual buildable lots, will be due at the time of redevelopment of each lot.

- F. Low-Income Deferral - Applicant shall be eligible for a low income deferral or payment schedule when a property is required to connect to the sanitary sewer system prior to redevelopment and the property owner meets the criteria set by the City of Boulder Housing Authority and applies in writing to the City Manager for a deferral prior to connection to the sanitary sewer system.

4. Transportation

- A. At or prior to the time of subdivision or redevelopment of the Subject Property, whichever first occurs, Applicant shall sign an agreement to participate in and not to remonstrate against the establishment of a Local Improvement District (LID). Applicant acknowledges that no subdivision will be approved and no redevelopment will be permitted until said agreement to participate is signed.

In the formation of such LID, the City shall pay fifty percent (50%) of the costs to improve the existing pavement sections of the following streets to City of Boulder standards:

- Upland from Broadway to 19th Street;
- Portions of Tamarack from Broadway to Crestview School;
- 13th Street from Upland to Violet; and
- Sumac from Broadway to 19th Street.

The costs of all new improvements, including but not limited to road base, pavement, curb, gutter, sidewalks, and drainage facilities, shall be paid for one hundred percent (100%) by the properties located in the LID for the following improvements:

- 13th Street, between Upland and Violet, as a standard rural residential street with sidewalks on one side;
- 15th Street, between Upland and Tamarack Avenue, as standard rural residential street with sidewalks on one side;



- Upland Avenue as a standard rural residential street with drainage improvements and a sidewalk on one side;
- Tamarack Avenue as a standard rural residential street with drainage improvements;
- Sumac Avenue as a standard rural residential street with drainage improvements and a sidewalk on one side; and
- 17th Street between Upland and Violet as a multi-use path for pedestrians, bicycles, and emergency access for police and fire.

Prior to the formation of any assessment district which includes the construction of 15th or 17th Street, the City will provide the opportunity for the Applicant to have input into the final designs for the street improvements to be built.

B. At the time of development or redevelopment of the Subject Property, Applicant shall be required to construct the following improvements in the location depicted on the attached Exhibit A:

- 12 1/2 Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way access lane with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway

C. Prior to second reading of the annexation ordinance, the Applicant shall:

- Dedicate to the City of Boulder, in fee and at no cost, right-of-way for Broadway such that there is a total of forty and a half feet (40.5') from the centerline which the City agrees is the Section line.

D. The Applicant acknowledges that access to existing and proposed streets shall be limited as follows:

- No new curb cuts or direct access to Broadway will be permitted;
- Existing curb cuts on Broadway shall be closed at time of redevelopment; and
- Shared driveways and curb cuts may be permitted and may be encouraged during subdivision or redevelopment of the Subject Property where such

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combined access is consistent with the adopted zoning and infrastructure plan.

- 5. **Flood Control and Stormwater** - At time of redevelopment or sale of the Subject Property, the Applicant shall pay the Stormwater and Flood Control Plant Investment Fee (SFCPIF). If the fee is paid within two (2) years of the effective date of the Annexation Ordinance, the fee will be the amount due on the effective date of the Annexation Ordinance. If the fee is paid later than two (2) years from the effective date of the Annexation Ordinance, the fee will be the amount due at time of payment. The Applicant acknowledges the use of a modified equation for the calculation of SFCPIF that charges each property based on the developed (impervious area) of the site, as follows:

$$[X/7000 \times (C5-0.2)/0.2 \times \$1094.78]$$

where X=Total Impervious Area in square feet;  
 C5=[0.9Y+0.1(X-2)]/X; and  
 Y=Total Impervious Area in square feet

To accurately determine the SFCPIF due for the Subject Property, the Applicant shall submit an Improvement Location Certificate completed by a licensed surveyor to the Utilities Division of the Public Works Department, prior to sale or redevelopment.

- 6. **Floodplain and Drainage**
  - A. The City has implemented a restudy of the Fourmile Canyon Creek Floodplain and if appropriate, will amend the location of the High Hazard and Conveyance Zones and the boundaries of the Floodplain when the study is complete.
  - B. The City of Boulder floodplain regulations, Chapter 9-9, B.R.C., 1981, as amended, shall apply to all properties located within the regulatory One Hundred (100) Year Floodplain. Existing structures located in the floodplain of Fourmile Canyon Creek may remain, consistent with the aforementioned Section. All new structures, additions, or substantial improvements or modifications will be subject to the City's floodplain regulations.
  - C. Properties shall convey drainage from the site in a manner which does not negatively impact abutting properties.
  - D. At the time of redevelopment, Applicant acknowledges that the Subject Property shall provide drainage improvements needed to serve their property (including detention facilities and an adequate outfall to a major drainage system) in accordance



with the City's design standards. Such detention or other drainage facilities shall be designed and constructed by property owners at time of redevelopment, if the improvements are needed in order to comply with "C" above.

- E. Applicant acknowledges that existing irrigation ditches and/or laterals shall not be used as an outfall point for developed storm water runoff if the storm water discharge is of increased quantity or frequency. The City agrees that there may be certain situations where such releases to ditches or ditch laterals may be appropriate if an adequate hydraulic engineering analysis acceptable to the City Manager is provided to show that the ditch/lateral has sufficient capacity and a positive outfall at a major drainage way. In those cases it will be necessary to obtain the consent of the ditch company to accept the storm water discharge, in a form which is acceptable to the City Attorney.

7. Silver Lake Ditch Water Release and Existing Well

- A. At time of redevelopment or connection to the City's water system, the Applicant shall offer a "First Right of Refusal", consistent with Section 11-1-19, B.R.C., 1983, for any water rights appurtenant to the Subject Property. Said right of refusal shall provide that the Applicant shall give the manager sixty (60) days' advance written notice of Applicant's desire to sell the ditch rights to the City. It is the City's desire to keep for use on the land any water or ditch rights appurtenant to property zoned ER-E and RR-E and for residential lots over 15,000 sq. ft. in size regardless of zoning.
- B. Properties abutting an existing irrigation ditch or lateral shall not relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

8. Miscellaneous Fees / Taxes

- A. Park Fees - For residential dwelling units existing on July 1, 1997, the Applicant may defer the payment of park fees until redevelopment or sale of the Subject Property. The Applicant agrees to pay the then current park fees at the time redevelopment or sale occurs.
- B. Development Excise Tax - For buildings in existence on July 1, 1997, the Development Excise Tax (DET) that would normally be due upon annexation will be deferred until redevelopment or sale occurs. Applicant acknowledges that at the time of redevelopment or sale of the Subject Property, Applicant shall pay the DET

for any existing building or buildings and the new building or addition at the time that a permit is requested for the new building or addition. The rates imposed for this tax will be the rates applicable at that time.

9. Northern Colorado Water Conservancy District

- A. Applicants shall execute the Petition for inclusion of Lands in the NCWCD municipal subdistrict prior to first reading of the annexation ordinance.

10. City Codes and Policies:

- A. Zoning and Allowed Uses The Applicant agrees that the following design guidelines and criteria will apply to the Subject Property after annexation:

General

- Non-residential uses such as personal services, offices, medical and dental offices or clinics, automobile parking lots as a principal use, mobile home parks, convenience stores and outlets, antique stores, and village centers shall not be permitted;
- Site Review or Subdivision (platting, lot layout, housing types) shall not be used to reduce the density below two (2) platted lots;
- All lots must have frontage on a public street; and
- Flaglots shall not be permitted.

Landscaping

- Street trees shall be selected from among the "large maturing" varieties and planted as required by the City Forester at time of redevelopment; and
- Properties shall receive credit, if approved by the City Forester, for existing "large maturing" varieties of street trees.

Fences

- Fences and landscaping berms are permitted in required front yards and side yard abutting a public street (up to the front facade of the principal building



and the side yard building envelope) so long as either or the combination of both does not exceed forty-eight inches (48") in height. However, in no event may a berm exceed thirty-six inches (36") in height;

- For properties abutting Broadway or Mont Ardenue, a fence which shall not exceed thirty-six inches (36") in height may be located on the top of the thirty-six inches (36") berm; and
- Up to 7 foot fences permitted on interior sideyard or rearyard lot lines equal to or behind the front facade of the principal building.

Buildings

- Two-story maximum above basement;
  - At least one "Entry" element including but not limited to, covered and uncovered porches and front doors shall be provided on facades abutting a public street;
- Porches may encroach within a required yard abutting a street consistent with §9-3.2-15(c) and (d), B.R.C., 1981; and
- Attached and detached garages shall be setback at least 10' from the front facade of the principal building; or if side-loaded, may not project beyond the front facade of the building.

**B. Floor Area Ratios (FARs)**

Redevelopment shall be consistent with the following FARs which shall be defined as the total square footage of all levels within the outside walls of a building or portion thereof including attached and detached garages and detached accessory buildings, but which shall not include basements, unenclosed carports, and unenclosed porches and decks:

Lots 6500 - 15000 sq.ft.	0.30:1 FAR
Lots 15001 - 29999 sq.ft.	0.25:1 FAR
Lots >or = 30000 sq.ft.	0.20:1 FAR

Additionally, a 500 square foot increase to the total FAR is available for a detached or attached garage or a detached accessory building.



Properties, upon redevelopment, may transfer up to forty percent (40%) of the total permitted floor area of one lot to another lot within a development in order to create greater diversity of housing types within the development.

C. Non-conforming Buildings, Uses, Animal Ordinances

- The City agrees that its ordinances generally are not applicable to pre-existing non-conforming structures and uses, with the exception of ordinances regarding fire and life safety hazards. This means that existing legal non-conforming uses will be allowed to continue and be modified or expanded in accordance with the City's non-conforming review provisions of the Code.
- The City acknowledges that non-standard buildings, established while under County jurisdiction, may be retained and may be modified consistent with the City's zoning and use and other regulations.

The City acknowledges that the application of the Uniform Building Code to Applicant's property will be the same as, and no greater than, its application to any other property in the City limits as of July 1, 1997.

- Signs which are legal under the existing County regulations as of the date of annexation may remain in place without meeting the City's amortization schedule for the removal of non-conforming signs. At the time of redevelopment of the Subject Property, signs shall meet the City Sign Code.

D. Rental Properties

Rental properties shall submit an application to the City for a rental housing license within ninety (90) days of the effective date of annexation; property owners shall comply with the immediate life safety requirements of the rental housing code within 180 days of the inspection report.

E. Design Standards

- The City shall work with utility providers such as Public Service Company and US West to review the design of the provision of services to the Crestview West Annexation Area. Property owners shall relocate or construct any overhead service lines consistent with a redesigned system



upon redevelopment. The City and the respective utility companies may participate in the costs to construct the new distribution system.

- Existing fences not conforming with these guidelines may be retained until redevelopment of the Subject Property. However, new or replacement fences must conform to the standards for fences listed in this agreement.
- Non-residential uses shall be eligible for Site Review whether or not they meet the lot size or dwelling unit thresholds of the City's code.
- The City Manager may approve variances to the berm height, FARs, garage setbacks, fence setbacks, and the two (2) story limit upon a finding that a physical hardship or limitation exists, that the hardship or limitation was not of the Applicant's own making, that the proposed variance is the minimum necessary to reasonably utilize the property.

11. Fire and Life Safety Codes

The City's Fire and Life Safety Code is intended to be retroactive so that buildings and building occupancies or uses should meet the Code shortly after annexation. However, existing buildings and their occupancies or uses will not be required to meet the Fire and Life Safety Code until redevelopment occurs or unless the use of the building is a hazardous use. At the time of redevelopment or change of occupancy to a hazardous use, the building or portion of the building being redeveloped or changed will be required to meet the Fire and Life Safety Code. Building uses that are classified as hazardous uses include those using flammable or combustible liquids, spray paint operations, woodworking shops and similar places generating combustible dusts, and restaurants.

12. Breach of Covenants

In the event the Applicant breaches or fails to perform any required action under or fails to pay any fee specified under Covenants 1, 2, 4, or 7 of this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligation to connect to the water and/or sewer system of the City. In the event the Applicant fails to pay any monies due under this agreement or fails to perform any affirmative obligation hereunder, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or the City may perform the obligation on behalf of the Applicant, and collect its costs in the manner herein provided. The Applicant agrees to



waive any rights he or she may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing collection of this specific debt, or acknowledges that the adoption of the annexation ordinance is such enabling ordinance.

13. Vested Rights

The Applicant hereby waives any statutory vested rights that may have accrued under County jurisdiction, that have not been perfected as common law vested rights. The Applicant acknowledges that nothing herein may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

This Agreement and any documents executed pursuant hereto shall be null and void and of no consequence in the event the Subject Property is not annexed to the City of Boulder.

This Agreement and the covenants set forth herein shall run with the land and be binding upon the Applicant, her heirs, successors, and assigns and all persons who may hereafter acquire an interest in the Subject Property, in any part thereof. If it shall be determined that this Agreement contains an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus twenty (20) years and 64 days.

APPLICANT:

By:   
Dolores M. Benson



STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me, Notary Public, this 19<sup>th</sup> day of September, 1997, by Dolores M. Benson.

Witness my hand and official seal.

My commission expires 12/6/2000

(seal)



MY COMMISSION EXPIRES  
DECEMBER 6, 2000

Jessi L. Tall  
Notary Public

CITY OF BOULDER

By: [Signature]  
City Manager

Attest:

[Signature]  
Director of Finance and Record  
Ex-Officio City Clerk

Approved As To Form:

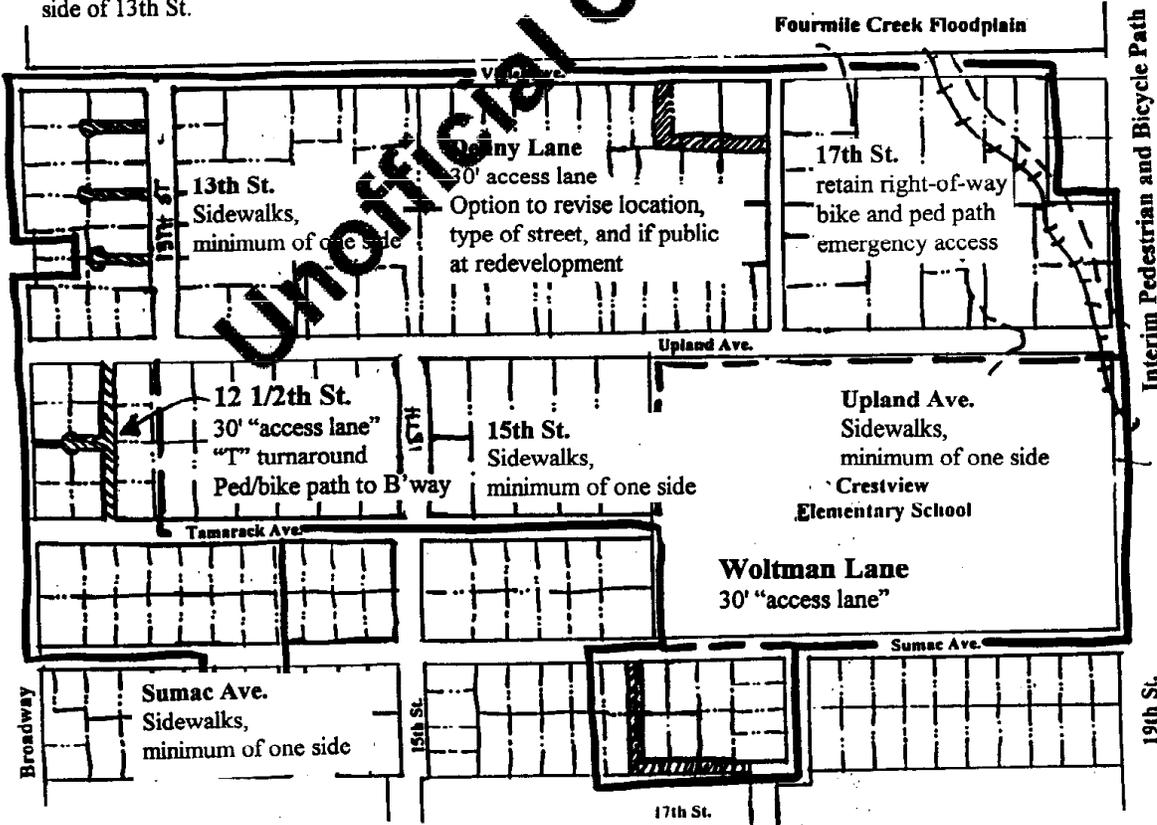
[Signature]  
City Attorney 11-6-97



### EXHIBIT A

**Shared Driveways**  
May exceed length requirement  
w/ City Manager approval  
Max 3 curb cuts on the west  
side of 13th St.

**Future Pedestrian and Bicycle Path**  
Path easement not required at  
annexation; Path to be constructed  
by Crestview properties, or portions  
thereof, to be purchased for bridge/underpass  
and floodplain improvements





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Page: 1 of 5  
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**POST-ANNEXATION AGREEMENT AMENDMENT**

This Agreement, made this 22<sup>nd</sup> day of ~~October~~<sup>November</sup>, 1999, by and between the City of Boulder, a Colorado home rule city, (the "City") and Sierra Development, L.L.C., a Colorado limited liability company, (the "Owner") the owner of Property that is generally located at 1276 Upland Avenue and more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Subject Property").

RECITALS

WHEREAS, this Post-Annexation Agreement Amendment is intended to amend Post-Annexation Agreement between the City and Aca A. Nasalroad, dated September 9, 1999, and recorded on September 27, 1999 at Reception No. 1985022 with the Boulder County Clerk and Recorder (the "Post-Annexation Agreement"); and

WHEREAS, the Owner of the Subject Property has proposed an alternative method for constructing 12 1/2 Street than was originally contemplated in the Post-Annexation Agreement; and

WHEREAS, said method proposed for the construction of 12 1/2 Street meets the City standards; and

WHEREAS, the Planning Board recommended that the City Council authorize the City Manager to execute this Agreement on October 21, 1999; and

WHEREAS, the City Council authorized the City Manager to execute this agreement on November 9th, 1999.

COVENANTS

NOW, THEREFORE, in consideration of the recitals, promises and covenants herein set forth, and other good and valuable consideration herein received for, the parties agree as follows:

A. The Parties agree to amend the Post-Annexation Agreement by repealing and replacing Paragraphs "B" and "C" of Section 5, "Transportation," with the following:

5. Transportation

...

K:\PLCUVA-NASALROAD-AMDNT.GYR

LOB



- B. No additional dwelling units may be constructed until the Owner of the Property dedicates three feet (3') of additional right-of-way, for a total of eighteen feet (18') of right-of-way, along the west property line, to the City.
  
- C (1). At time of application for any building permit for an additional dwelling unit on the Subject Property, Owner shall be required to construct the following improvements in the location depicted on Exhibit "B" attached to this agreement:
  - 12 1/2 Street between Upland Avenue and Tamarack Avenue as a standard twelve foot (12') wide residential alley placed one foot (1') from the west property line and meeting the City of Boulder's "Design and Construction Standards."
  
- C(2) Prior to, or concurrent with, subdivision of the subject Property, the Owner shall dedicate or secure the dedication of, the entire width of 12 1/2 Street up to the City thirty foot (30') wide right-of-way access lane standard. The Owner shall be required to construct 12 1/2 Street between Upland Avenue and Tamarack Avenue as a standard thirty (30') foot wide right-of-way with an access lane meeting the City of Boulder's "Design and Construction Standards."
  
- C(3) The City and the Owner Agree that no further Subdivision of the Property will be permitted until 12 1/2 Street has been constructed in accordance with Paragraph C(2) above.
  
- C(4) Owner may receive reimbursement for part or all of the costs of such improvements constructed pursuant to Paragraph C(2) above, in accordance with the terms and conditions of a Public Improvement Extension Agreement that is consistent with Paragraph 9-5-9(e)(1), B.R.C. 1981.

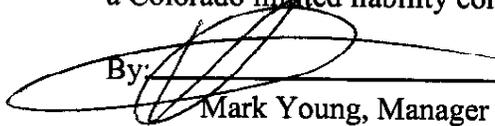
B. The Owner agrees to pay all costs associated with the recording of this Post-Annexation Agreement Amendment.

C. The City and Owner agree that all covenants, conditions and requirements set forth in the Post-Annexation Agreement, more fully described above, except as modified herein, shall remain in full force and effect as written.

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Page: 3 of 5  
11/23/1999 10:05A  
Boulder County Clerk, CO AMEND AGREE R 25.00 D 0.00

SIGNED:

SIERRA DEVELOPMENT, L.L.C.,  
a Colorado limited liability company

By:   
Mark Young, Manager

STATE OF COLORADO )  
) ss.  
COUNTY OF BOULDER )

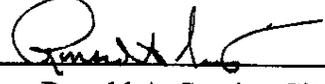
The foregoing instrument was acknowledged before me this 14 day of October,  
1999, by Mark Young, Manager of Sierra Development, L.L.C., a Colorado limited liability  
company.

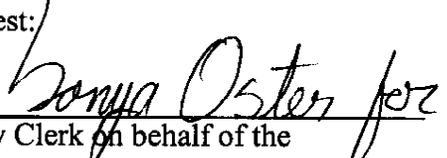
Witness my hand and official seal  
My commission expires: 04/21/02



  
Michelle R. Guillen  
Notary Public

CITY OF BOULDER, a Colorado home rule  
city

By:   
Ronald A. Secrist, City Manager

Attest:  
  
Sonya Oster for  
City Clerk on behalf of the  
Director of Finance and Record

Approved as to form:  
  
City Attorney  
11-12-99  
Date

EXHIBITS

- Exhibit A - Legal description
- Exhibit B - Location drawing



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Page: 4 of 5  
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Boulder County Clerk, CO AMEND AGREE R 25.00 D 0.00

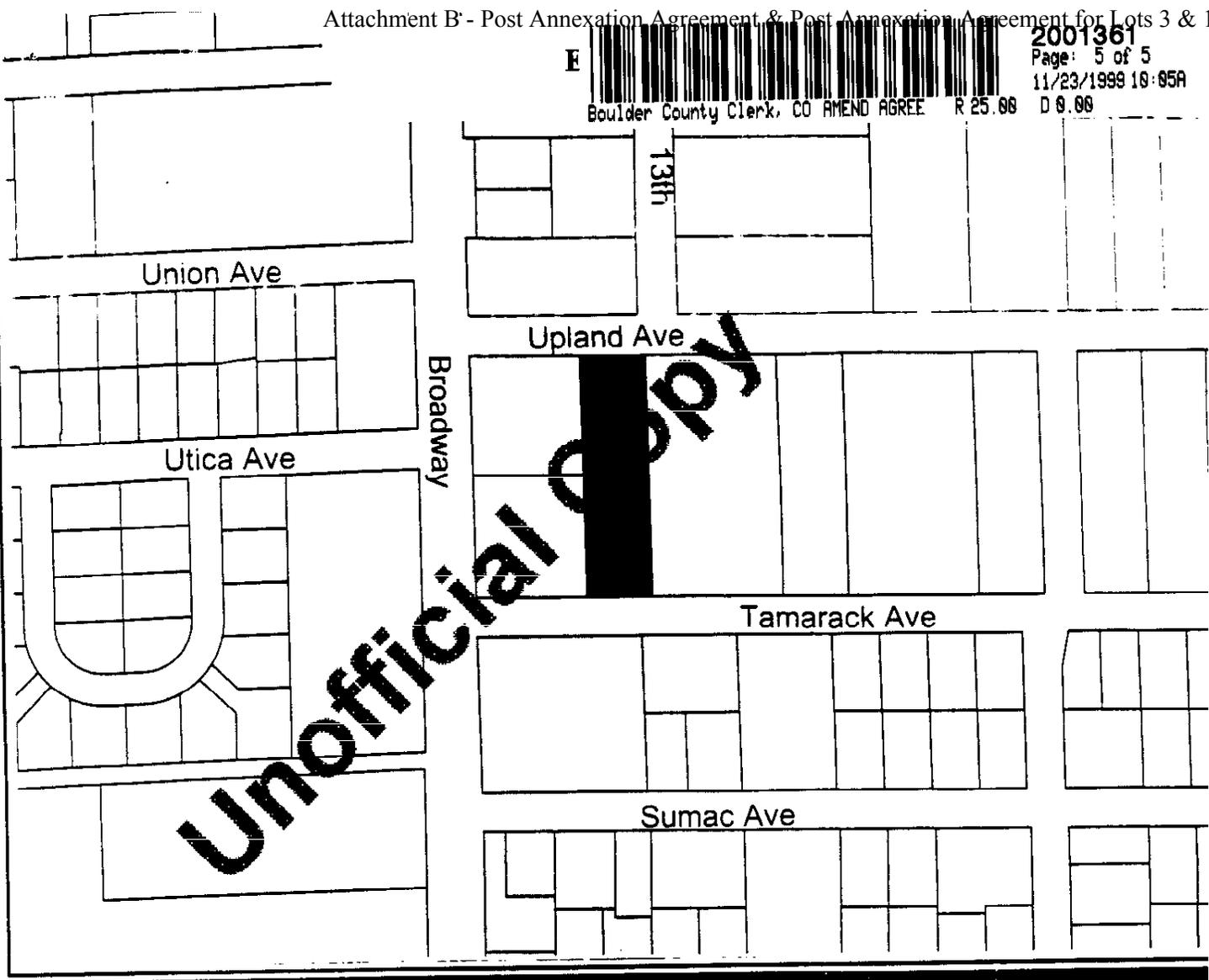
**Exhibit A**

**Legal Description**

Lots 3 and 12, Block 5, Moore's Subdivision, County of Boulder, State of Colorado, excepting therefrom the westerly 15 feet of said Lots 3 and 12, as conveyed by Aca A. Nasalroad to the City of Boulder, a Colorado home rule city, in the warranty deed recorded July 26, 1999 as reception no. 1964274. Also known by street and number as 1206 Upland Avenue, Boulder, Colorado 80304

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Boulder County Clerk, CO AMEND AGREE R 25.00 D 0.00

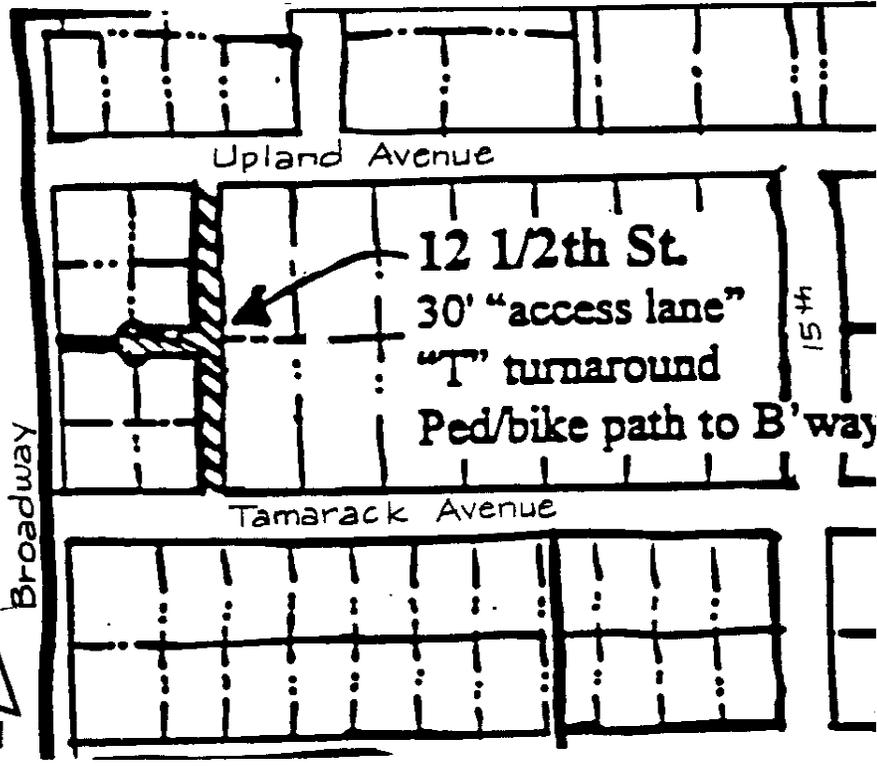


- LOCATION:  
1276 Upland Avenue

- APPLICATION TYPE:  
Amendment to Post Annexation Agreement

- ZONING:  
LR-D Low Density Residential Developing

- APPLICANT:  
Sierra Development LLC,  
Mark Young, manager



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For Administrative Purposes Only  
Address: 1215 and 1235 Tamarack  
Case No. LUR2013-00036

## ANNEXATION AGREEMENT AMENDMENT

This annexation agreement amendment ("Amendment") made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Boulder, a Colorado home rule city ("City"); TJM Investment, LLC, a Colorado limited liability company, f/k/a TJM Properties, LLC, a Colorado limited liability company ("TJM Investment"), the owner of the property generally known as 1215 Tamarack and more particularly described on Exhibit A ("1215 Tamarack Property"); and James C. Hohmann and Deborah Stabler, the owners of the property generally known as 1235 Tamarack and more particularly described on Exhibit B ("1235 Tamarack Property"). TJM Investment and James C. Hohmann and Deborah Stabler are hereafter collectively referred to as the "Applicant." The 1215 Tamarack Property and 1235 Tamarack Property and hereafter collectively referred to as "Subject Property."

## RECITALS

A. The Annexation Agreement for the Subject Property was between Dolores M. Benson and the City and recorded in the records of the Boulder County Clerk and Recorder on November 18, 1997 at Reception #1748523 ("Annexation Agreement").

B. The Applicant is interested in obtaining approval from the City for this Amendment to modify the requirement set forth in Paragraph 4.B of the Annexation Agreement to construct 12 ½ Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way access lane with the required turnaround from the time of development or redevelopment to the time of subdivision of the Subject Property.

## COVENANTS

NOW, THEREFORE, in consideration of the recitals, promises and covenants herein set forth, and other good and valuable consideration herein received for, the parties agree as follows:

1. The City and the Applicant agree to amend the Annexation Agreement by repealing and replacing the existing Section 4.B with the following:
  - B.i. At time of application for any building permit for an additional dwelling unit on the Subject Property, the Applicant shall be required to construct the

following improvements in the location depicted on Exhibit C attached to this Amendment:

- 12½ Street between Upland Avenue and Tamarack Avenue as a standard twelve foot (12') wide residential alley placed one foot (1') from the eastern property line and meeting the City of Boulder Design and Construction Standards.
- B.ii. Prior to, or concurrent with, subdivision of the Subject Property, the Applicant shall dedicate or secure the dedication of, the entire width of 12½ Street up to the City thirty foot (30') wide right-of-way access lane standard with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway. The Applicant shall be required to construct 12½ Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway meeting the City of Boulder Design and Construction Standards.
- B.iii. The City and the Applicant agree that no further Subdivision of the Property will be permitted until 12½ Street has been constructed in accordance with paragraph B.ii above.
- B.iv. The Applicant may receive reimbursement for part or all of the costs of such improvements constructed pursuant to Paragraph B.ii above, in accordance with the terms and conditions of a Public Improvement Extension Agreement that is consistent with Paragraph 9-12-12(f)(1), "Public Improvement Extension Agreement," B.R.C. 1981.
2. The City and the Applicant also agree that the remaining portions of Section 4 of the Annexation Agreement not affected by this Amendment shall remain in full force and effect.
3. Prior to an application for a building permit for redevelopment of either the 1215 Tamarack Property or 1235 Tamarack Property, the Applicant shall ensure that the accessory building located on the lot line between these properties is removed.

4. This Amendment is contingent upon the approval of the Boulder City Council. If the Boulder City Council does not approve this Amendment, the parties agree that it will have no force or effect.
5. This Amendment shall be recorded in the records of the Boulder County Clerk and Recorder at the expense of the City.

CITY OF BOULDER , COLORADO

By: \_\_\_\_\_  
Jane S. Brautigam, City Manager

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney's Office

\_\_\_\_\_  
Date

APPLICANT

OWNER OF 1215 TAMARACK PROPERTY

TJM INVESTMENT, LLC,  
a Colorado limited liability company,  
f/k/a TJM PROPERTIES, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Michael Marez, Manager

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF \_\_\_\_\_  )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Michael Marez as Manager of TJM Investment, LLC, a Colorado limited liability company, f/k/a TJM Properties, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

APPLICANT  
OWNERS OF 1235 TAMARACK PROPERTY

By: \_\_\_\_\_  
James C. Hohmann

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by James C. Hohmann.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

By: \_\_\_\_\_  
Deborah Stabler

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by Deborah Stabler.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

[SEAL]

\_\_\_\_\_  
Notary Public

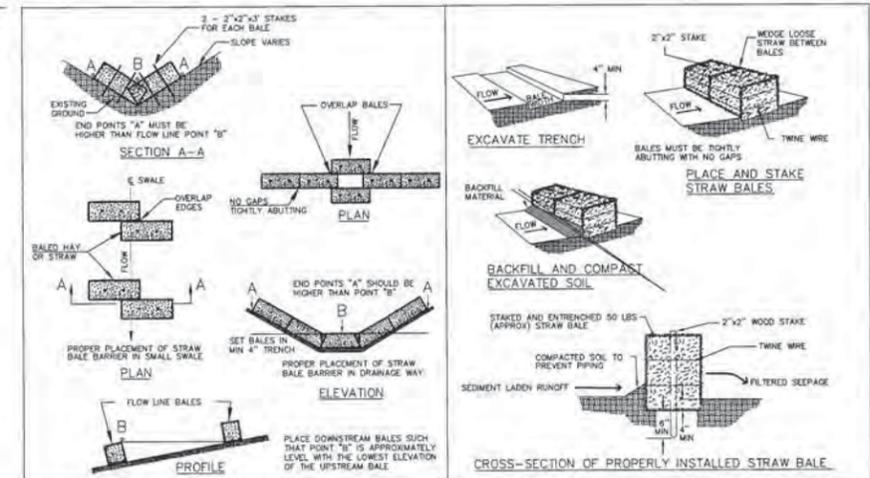
EXHIBITS

- Exhibit A Legal Description for 1215 Tamarack
- Exhibit B Legal Description for 1235 Tamarack
- Exhibit C Map of the location of the 12½ Street Improvement

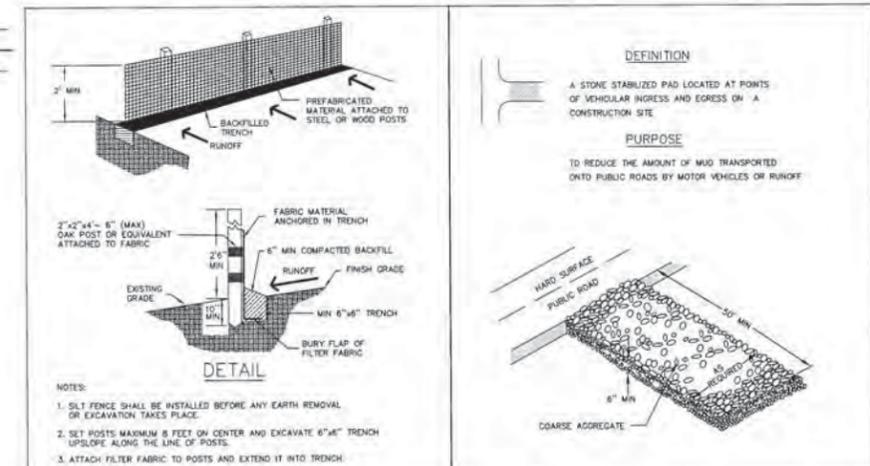
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**NOTES**

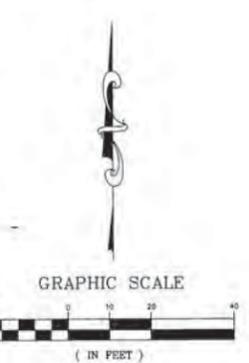
1. SEE DRAWINGS C-1 AND N-1 FOR ADDITIONAL NOTES.



DRAWN BY: JSH CHECKED BY: RJB APPROVED BY: DIRECTOR OF PUBLIC WORKS	CITY OF BOULDER, COLORADO <b>STRAW BALE CHECK DAMS</b>	PREP: JULY 2, 1998 REVISION: OCT. 17, 2000 DRAWING NO: 7.24	DRAWN BY: JSH CHECKED BY: RJB APPROVED BY: DIRECTOR OF PUBLIC WORKS	CITY OF BOULDER, COLORADO <b>STRAW BALE INSTALLATION</b>	PREP: JULY 2, 1998 REVISION: OCT. 17, 2000 DRAWING NO: 7.25
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**CITY OF BOULDER**  
 DEPARTMENT OF PUBLIC WORKS  
 ENGINEERING CONSTRUCTION DRAWING

APPROVED

CITY OF BOULDER  
 PUBLIC WORKS DEPARTMENT

RECOMMENDATION FOR APPROVAL

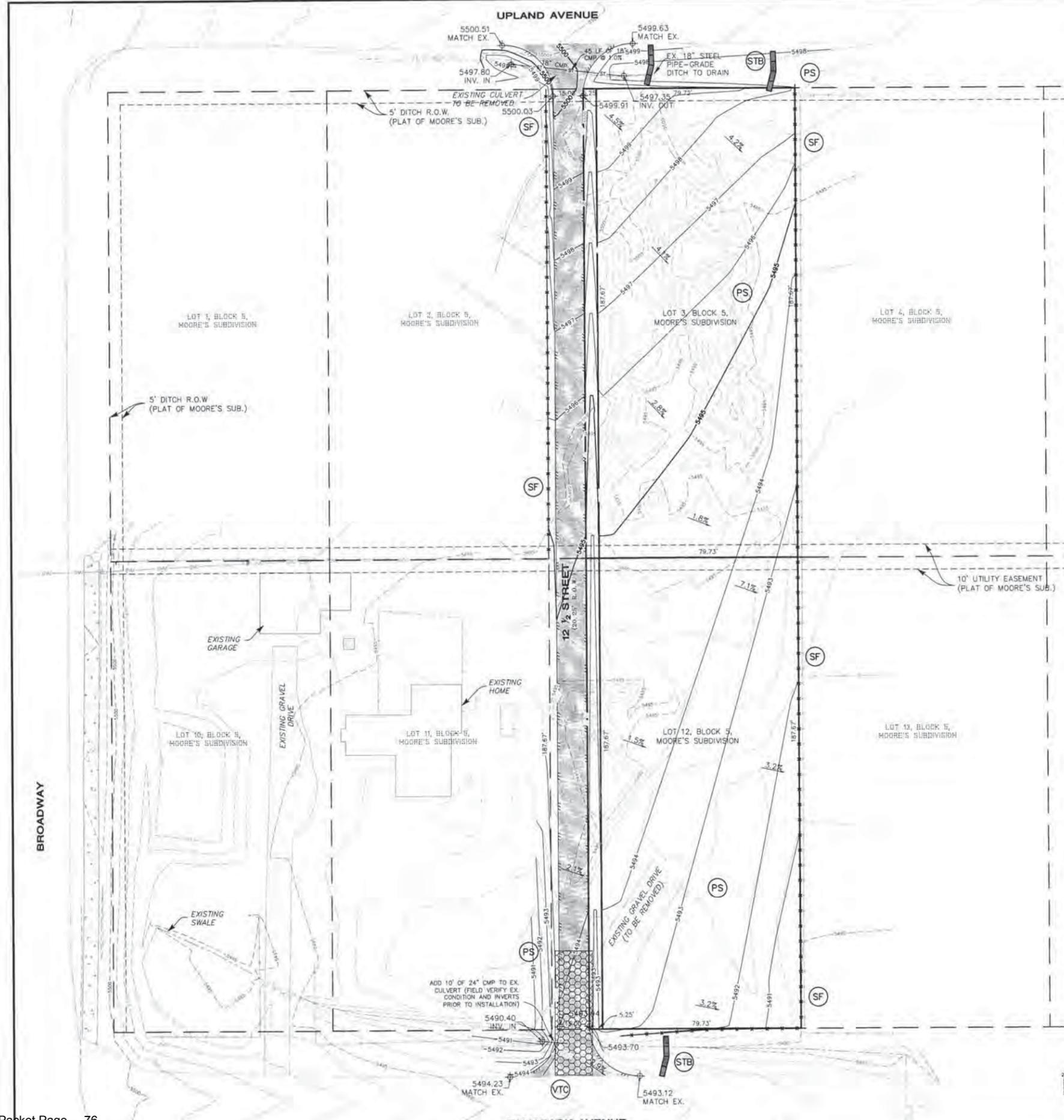
WATER/SEWER: *[Signature]*

TRANSPORTATION: *[Signature]*

DRAINAGE: *[Signature]*

City of Boulder - Department of Public Works  
**ENGINEERING CONSTRUCTION DRAWING**  
**"RECORD SET"**

DATE: 09.15.08



DATE	8/2/08
REVISION	9/17/08
1. CITY COMMENTS - ALLEYWAY DETAIL	
2. CITY COMMENTS - DRING, NOTE/REV. SEC.	
JOB NUMBER:	08-100,104
DATE:	07/21/08
DESIGNED BY:	JHN
DRAWN BY:	JHN
CHECKED BY:	KC/DW
APPROVED BY:	KC/DW

**Flatirons, Inc.**  
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 LONGMONT, CO 80501  
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**12.5 STREET**  
 CITY OF BOULDER  
 EROSION AND SEDIMENTATION PLAN

CALL UTILITY NOTIFICATION CENTER OF COLORADO 1-800-922-1987

DATE: 2-REGIONS ONLY IN DENANCE FOR THE MARKS OF UTILITIES

**DRAWING**  
**E-1**  
 SHEET OF 5





**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 22, 2013**

**AGENDA TITLE: Consideration of a motion approving the proposed 2014 budget, operating plan and board nominations for the Downtown Boulder Business Improvement District.**

**PRESENTER/S**

Sean Maher, Executive Director, Downtown Boulder Business Improvement District  
Dave Adams, Deputy Director, Downtown Boulder Business Improvement District

**EXECUTIVE SUMMARY**

The purpose of this item is to approve the 2014 budget and operating plan of the Downtown Boulder Business Improvement District (BID) as per state statute, and to approve nominations for three board positions as per city ordinance.

**Budget Process:** The budget process for the BID began in August 2013. Staff consulted with committees to review 2013 programming and submit proposed 2014 budgets by Sept. 20, 2013. On Oct. 4, a proposed budget was distributed to the BID board for review along with a staff recommendation.

The total City of Boulder allocation to the 2014 BID budget is \$84,565.

A final draft, along with the nominating committee report, was approved at the BID board meeting on Oct. 10, 2013. There was no public comment regarding the budget. The 2014 budget was approved at 4.73 mills by a majority vote, and the nominating committee recommendations were approved and accepted unanimously.

**Nominating process:** There are three, 3-year expiring terms, and an alternate board position. In September 2013, a nominating committee of the following representatives from the district met: Boni Sandoval, Chair of Downtown Boulder, Inc., Barclay Eckenroth, Board Treasurer, Downtown Boulder Business Improvement District, Mary Ann Mahoney, Executive Director of the Boulder Convention and Visitors Bureau, and Scott Crabtree, Vice Chair of the

Downtown Management Commission. Beginning in September 2013, BID Board seats were publicized via email blast to 4500 subscribers and in the Boulder County Business Report. Two sitting board members and nine newcomers applied for the three board positions. The committee recommended one incumbent for an additional three year term, two new board members for three year terms, and recommended an alternate who will join the board in the event of a resignation.

### **STAFF RECOMMENDATION**

Staff recommends approval of the 2014 Downtown Boulder Business Improvement District budget and operating plan, and the nominations of Patty Ross, Clutter Consignment; Michael Brown, Serac Adventure Films; Shaun Oshman, iSupportU Computer Services, for the Downtown Boulder Business Improvement District Board of Directors and Kiva Stram, Wells Fargo Bank, as the alternate to the board.

#### **Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion: motion to approve the proposed 2014 budget, operating plan and board nominations for the Downtown Boulder Business Improvement District.

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic**: The Downtown Boulder Business Improvement District has a direct impact on the economy of Boulder. The BID organizes and funds promotions designed to increase sales and to raise awareness of downtown as a shopping, dining and office destination. So far in 2013, downtown accounts for roughly 12 percent of sales taxes collected in Boulder. However, in the dining category, downtown restaurants collect over 36 percent of taxes. For apparel, downtown retailers bring in nearly 30% of the City's sales tax revenue. In addition, the BID staff works with property owners brokers and tenants to increase occupancy rates for both office and retail space. As of September of this year, commercial occupancy rates downtown were at 97%.
- **Environmental**: Downtown Boulder has been a leader in converting all of our events and festivals to zero waste. This includes partnerships with Eco Cycle, Eco Products, Boulder County and the City of Boulder. The BID partners with the Downtown Management Division on promoting the Employee EcoPass program. We also actively promote 10 for Change, PACE and the Energy Smart programs to our downtown businesses.
- **Social**: Since downtown is the primary central gathering place of Boulder, the entire community benefits from a cleaner, safer, vibrant downtown environment. Community events sponsored by the BID take place every month and target a wide variety of community segments from athletes to art lovers. Family focused events take place in all four seasons of the year.

## **OTHER IMPACTS**

- Fiscal: The City contribution is fee for service allocations from the Downtown Management Division for visitor center usage, collateral (maps), ambassador services, maintenance and marketing services.

## **BOARD AND COMMISSION FEEDBACK**

At its monthly board meeting on Oct. 10, 2013 the Downtown Boulder Business Improvement District Board of Directors voted to adopt the 2014 budget and slate of directors.

## **PUBLIC FEEDBACK**

As required by law, a public hearing will be held on November 14, 2013 prior to the regular Board of Directors Meeting for the Business Improvement District. The public hearing will be noticed ahead of time as required.

## **BACKGROUND**

The Downtown Boulder Business Improvement District was created pursuant to the “Business Improvement District Act” part 12 of article 25 of title 31, Colorado Revised Statutes. Sponsored by a coalition of property owners and business owners and Downtown Boulder, Inc., in cooperation with the City of Boulder, the Downtown Boulder Business Improvement District (BID) was created to provide enhanced or otherwise unavailable services, facilities and improvements to commercial properties located in downtown Boulder. Operational since January 2000, the BID provides services above and beyond those provided by the city, including, but not limited to, marketing, communications, events, maintenance, business assistance and downtown ambassadors. More background info is available in Attachment A.

## **ANALYSIS**

The operating plan in **Attachment A** outlines both the service plan for 2014 and the accomplishments for 2013. The nominating committee report is part of the operating plan. The Board of Directors for the Business Improvement District accepted the report from the nominating committee. The nominating process is outlined in the Executive Summary of this report.

The City Council is requested to approve the 2014 Operating Plan, Budget and Nominating Committee report as submitted by the board of directors of the Downtown Boulder Business Improvement District. It is representative of the issues and priorities of the rate payers and stakeholders it affects.

## **ATTACHMENTS**

A. Operating plan and Budget for 2014 including nominating committee report

B. Map of the Downtown Boulder Business Improvement District boundaries

### **DOWNTOWN BOULDER BUSINESS IMPROVEMENT DISTRICT DISTRICT OPERATING PLAN 2014**

#### **SECTION 1: GENERAL SUMMARY**

##### **Creation:**

The Downtown Boulder Business Improvement District was created pursuant to the “Business Improvement District Act,” part 12 of article 25 of title 31, Colorado Revised Statutes.

##### **Non-duplication of Services, Facilities and Improvements:**

The services, facilities and improvements to be provided by the Downtown Boulder Business Improvement District are not intended to duplicate the services, facilities and improvements provided by the City of Boulder within the boundaries of the district. The Downtown Boulder Business Improvement District (BID) was created to provide enhanced or otherwise unavailable services and resources for owners of real and personal property (excluding agricultural and residential) located in downtown Boulder.

##### **Service Area:**

Approximately 34 blocks contiguous with the Central Area General Improvement District (CAGID) plus additional blocks to the east and west, bounded roughly by 8<sup>th</sup> Street to the west, Spruce Street to the north, 21<sup>st</sup> Street to the east and Arapahoe Avenue to the south. The BID may be expanded in the future upon the request of the property owners. Pursuant to statute, the district shall contain only that taxable real and personal property within said boundaries, which is NOT classified as either agricultural or residential. A map of the district service area is attached to this operating plan.

##### **Powers, Functions and Duties:**

The Downtown Boulder BID will have the authority through its board of directors to exercise all the powers, functions and duties specified in this Business Improvement District Act except as expressly stated in this operating plan.

##### **Board of Directors:**

The Board of Directors of the BID consists of nine electors of the district appointed by the City Council of the City of Boulder. Members appointed to the board represent specific geographic areas and a cross section of interests in the district, including large and small

property and business owners. Each director serves a three-year term. Terms are staggered with three expiring every year. Four representatives from the City of Boulder serve as ex-officio members and liaisons to the board, including the City Manager, two City Council members and the Director of the Downtown Management Division & Parking Services.

**Services:**

The Downtown Boulder BID provides services in three major areas: marketing and promotion, service and maintenance, and economic vitality. The service plan for FY2014 includes the continuation of these services as well as development of close partnerships with Downtown Boulder, Inc. and the Downtown Management Division to provide a strong identity for downtown. These partners also work together to communicate with downtown constituents, plan and administer programs and encourage economic vitality and community involvement.

**Method of Funding:**

The Downtown Boulder BID has three sources of revenue:

- Levy of ad valorem tax on taxable real and personal property, estimated to be between 3.5 and 4.8 mills (to be finalized in December 2013),
- Fee for service from the City’s general fund and meter revenue budget and
- Contract with Downtown Boulder, Incorporated (DBI) for staffing, administration and event production.

**Budget:**

Total proposed district budgeted revenue for FY2014 is \$1,371,017.27. Approximately \$1,112,052.27 in revenue is generated by BID property taxes and specific ownership taxes; \$84,565 is fee for service from the City of Boulder, and \$148,000 in contract services from DBI. \$26,400 is generated from earned income and other miscellaneous sources.

**Legal Restrictions:**

BID assessments are subject to state constitutional limitations – a vote by ratepayers is required to increase revenue over allowed limits.

**Term:**

The district will terminate 20 years from January 1, 2010, unless a petition is filed to continue it before that date.

**Existing City Services:**

The City of Boulder will continue to document existing city services to ensure that service levels currently provided by the city do not decrease.

## SECTION 2: SERVICE PLAN

### Marketing and Promotion

The Downtown Boulder Business Improvement District (BID) is responsible for the marketing & promotion of the district to both consumer and investor markets. This includes, but is not limited to promotions, advertising, image campaign, branding, banners, brochures, printed collateral materials, newsletters, public relations and market research.

### **2013 Accomplishments**

- Developed a uniformed campaign with marketing collateral (brand and event) that tied overall brand messaging together in a common theme. Worked closely with Destination Development International (DDI) for an analysis / recommendation / review of marketing efforts. DDI's founder /CEO Roger Brooks commented: "In a nutshell, you do an outstanding job. Boulder has always been a model for downtowns across the country to emulate – in terms of ambiance, events, marketing, business mix, and overall appeal. I use downtown Boulder as a great example when I speak around the world."
- Downtown Boulder's paid advertising efforts incorporated niche publication marketing opportunities. Geo targeted ads ran in the April and July issues of Bon Appétit, Food & Wine, Travel + Leisure, Real Simple, Elle Décor, and O Magazine.
- A detailed 10 week campaign was launched on Pandora.com (in place of a traditional radio buy) to promote Bands on the Bricks. The campaign exceeded expectations delivering 2,012,081 impressions with 1,170 clicks recorded equaling a .06 click rate - way above the .01 industry standard.
- Downtown Boulder's website (BoulderDowntown.com) continued to see strong growth throughout the year. In comparing stats from January 1 – July 31, 2012 to the same timeframe in 2013, Google Analytics shows a 17% increase in unique visitors (205,954) and a 6% increase in page views (855,534) compared to 2012.
- Comparing 2012 to 2013 outgoing referrals from the website to specific downtown businesses' websites (January 1 – July 31) - 2012: 139,192 links to 706 businesses a year (averaging 657 referrals a day). In 2013: 154,194 links to 654 businesses a year (averaging 730 referrals a day).
- Traffic to the mobile site increased significantly between January 1 – July 31 2012 v. 2013 (65%) from 26,245 (2012) to 43,246 (2013) unique visits. Page views also increased dramatically going from 137,770 to 238,549 – an increase of 73%. This year, 60% of mobile traffic can be traced to iPhone users and 29% from Android users.
- Working with the DBI events team, specific event sitelets were created for signature events: TasteofPearl.com, OpenArtsFest.org, BoulderFallFest.com, and DowntownBoulderHolidays.com.

- Bi-weekly newsletter readership increased from approximately 4,972 emails in 2012 to 5,836 emails in 2013. The average open rate this year (29.5%) remains well above the industry standard of 18% (for travel / tourism e-newsletters).
- Since July 31, 2012 to July 31, 2013, Facebook 'Likes' have increased from 9,460 to 11,253. In that same timeframe, Twitter has increased from 8,690 followers in 2012 to 11,095 this year.
- This year, Downtown Boulder has also worked hard to develop, grow and maintain Instagram and Pinterest followers.
- Downtown Boulder's Official Guide Book remained a strong resource for both downtown businesses that were eager to advertise in the guide, as well as visitors from near and far. In 2012, 40,000 copies were printed and in 2013, because of demand, 50,000 copies were printed. The guide is distributed throughout Boulder, as well as Denver International Airport, 16<sup>th</sup> Street Mall Visitor Information Center, Red Rocks and the Colorado Convention Center.
- Through participation in a Visit Denver leads program, the Downtown Boulder Guide Book has been mailed worldwide to 4,829 addresses this year to date and an electronic version has been emailed to an additional 3,223 people to date.
- Downtown Boulder Gift Card sales increased 11% (\$17,044 total) for the January-July 2013 period over 2012 sales.
- Working closely with the city, information about downtown-related capital improvement projects (e.g. sidewalk repair, Boulder Transit Center & Arapahoe Avenue Reconstruction, etc.) was effectively communicated with downtown businesses via email and in person distribution of maps and other collateral.
- In partnership with the city and convention and visitors bureau, Downtown Boulder provided input/recommendations on design and functionality of the interactive kiosk that will be built on the 1400 block.
- Redesigned Downtown Boulder tear off map/business listings, as well as directory maps along the mall.

### **Plan for 2014**

- The marketing / communications plan will continue to incorporate a traditional and nontraditional media mix that can be tracked through unique URLs/open rates/social engagement.
- Creation of an online database through the website software (Citylight) will be established to help merge and manage a comprehensive database of BID businesses, as well as DBI members.
- Business communications: Continued support of existing communication networks (email, monthly business newsletter, in-person delivery of fliers, posters, etc.). Launch new venues to help keep all businesses in the loop (LinkedIn, etc.).

- Revisiting the ‘shop local movement’ - “Love the Local”, marketing efforts will build around the concept of ‘Be local’ in an effort to be more welcoming / incorporate visitors. (“Be a local for the day – shop downtown.”)
- Updating the Downtown Boulder Guide Book into more of an activity guide (sample itineraries, things to do, sections for families, girl’s weekends, culinary experiences, nightlife, performing arts, etc.).
- Working with the city on West End improvements – specifically helping ensure that way finding and other branding efforts compliment the entire downtown brand. Development of a more all-inclusive brand position.
- Finding opportunities to showcase the downtown retail scene - drawing more attention to the fashion elements that can help make downtown a retail destination. (Arranging interviews around Fashion’s Night Downtown & Small Business Saturday).
- Look for marketing / PR opportunities to reach out to different segments of the population (seniors, couples, families, office workers, college students) and appeal to their wants/needs in terms of what downtown has to offer.

### **Operations Service and Maintenance**

One of the BID’s primary missions is to work closely with Boulder Police, Parks staff and the Downtown Management Division to keep downtown clean and safe for residents, tourists and employees.

### **2013 Accomplishments**

- Increased Spring Green business participation by 14% to 96 businesses. The BID program provides free flowers and soil to street level businesses throughout the district.
- Launched the inaugural Student Banner Project showcasing artwork by nearly 100 BVSD students on banners displayed on the Pearl Street Mall from January to April.
- Promoted and trained new operations manager, Chris Zachariasse.
- Received \$1000 grant from Keep America Beautiful and installed 10 additional ash receptacles adjacent to hospitality venues, bus stops, and Mall cross streets.
- Implemented new seasonal lighting plan incorporating additional mall and courthouse lighting.
- Reduced contractor expenses and increased operations personnel utilization.
- Expanded scope of BID streetscape ambiance to include alley maintenance and dumpster graffiti.
- Obtained new staff uniforms to increase Downtown Boulder visibility and exposure.
- Increased off mall landscaping and tree well maintenance.
- Augmented Downtown security with additional OT police officers.
- Created lead ambassador position and increased training efforts at Downtown Visitor Center to enhance visitor experience.

- Managed logistics for new Downtown Boulder Race series, as well as expanded events without additional staff or budget.
- Refinished street benches throughout BID.

### **Plan for 2014**

- Increase visibility and public interaction with 2014 Student Banner Showcase project.
- Remove or replace East/West End banners as needed.
- Replace Mall banners with newly designed banners featuring new original artwork.
- Evaluate new seasonal lighting plan and refine for holiday 2014.
- Augment Boulder Police presence on the Mall during peak times with BID funded private security patrols.
- Expand scope of BID operations with 2 full time staff members.
- Work with Parks staff to improve cleanliness and maintenance of Mall restrooms.
- Increase exposure of operations staff and maintenance efforts to BID stakeholders.
- Improve ambassador training, knowledge, and expertise.
- Minimize negative impact to businesses during West Pearl Streetscape Improvement project and 11<sup>th</sup> & Pearl demolition and construction.

### **Economic Vitality**

Executive Director, Sean Maher works closely with City staff, Council, property owners and employers to maintain a vibrant business sector downtown. Major goals include:

1. Expanding our limited supply of office space to address an acute shortage.
2. Maintaining a strong and unique retail/restaurant tenant mix so downtown remains as a favorite destination for locals, visitors and employers.
3. Supporting entrepreneurial tech and creative class companies to maintain the “entrepreneurial density” that is critical to continued vitality.

### **2013 Accomplishments**

- Worked closely with the development team at 11<sup>th</sup> and Pearl on tenant recruitment, specifically a multi-screen art theater, a major co working facility and a flagship retailer.
- Assumed a leadership role in Boulder Startup Week, sponsoring a venue on the Pearl Street Mall where tech-related events took place during the week.
- Partnered with Downtown Denver Partnership on growing Denver and Boulder as a major start-up destination.
- Met with tech entrepreneurs and CEOs monthly to assist in searching for and securing space for growing firms.
- Assisted 12 prospective retail & restaurant tenants in the search for downtown space.
- Partnered on business outreach with the City’s Economic Vitality team and the BEC.

- Worked closely with City staff, CVB and others on IRONMAN and Pro Cycling Challenge for 2014.
- Delivered presentation at International Downtown Association World Conference on fostering a healthy technology sector.
- Downtown enjoys one of the lowest commercial vacancy rates in Colorado – 3 percent.

**Plan for 2014**

- Intensify retention efforts to assist tech firms in securing adequate downtown office space and maintain downtown Boulder as a successful entrepreneurial hub.
- Refine and expand business recruiting efforts for both retail and office tenants Downtown.
- Continue business outreach efforts with the Chamber, City and BEC.
- Partner with DMD and the Civic Use Task Force on completing a successful plan for the Civic Use Pad.
- Play active role in successful execution of Pro Cycling Challenge and IRONMAN Boulder and ensure that downtown plays a significant role in both events.
- Research and secure pedestrian counting technology to assist in recruiting top retail prospects.
- Increase downtown involvement in Boulder Startup Week and enhance Boulder’s reputation as a tech and startup hub.

**SECTION 3: BOARD & NOMINATING COMMITTEE REPORT**

The current board members, terms and the geographic areas they represent are:

**Term expires December 31, 2013**

John Mehaffy, Attorney, Pearl Street Mall  
 Patty Ross, Clutter Consignment Shop, West End  
 Leonard Thomas, Urban West Studio Architecture, At-Large

**Term expires December 31, 2014**

Marc Ginsberg, Flatirons Technology Group, Pearl Street Mall  
 Fern O’Brien, O’Brien & Zender, PC, At-large,  
 Stephen Sparn, Stephen Sparn Architects, PC, At-Large

**Term expires December 31, 2015**

Barclay Eckenroth, ShipCompliant, At Large  
 Gannon Hartnett, Patagonia, Pearl Street Mall  
 David Workman, Unico Properties, East End

**Ex-Officio Liaisons**

Jane Brautigam, City Manager  
Suzanne Jones, City Council  
Tim Plass, City Council  
Molly Winter, DUHMD

In September 2013, BID Board seats were publicized via email blast to 4500 subscribers and in the Boulder County Business Report. Two sitting board members and nine newcomers applied for the three board positions. A nominating committee of the following representatives met: Boni Sandoval, Chair of Downtown Boulder, Inc., Barclay Eckenroth, Board Treasurer, Downtown Boulder Business Improvement District, Mary Ann Mahoney, Executive Director of the Boulder Convention and Visitors Bureau, and Scott Crabtree, Vice Chair of the Downtown Management Commission. The committee's recommendations are as follows:

**Appoint to fill three-year terms beginning January 2014 and ending December 31, 2016:**

Patty Ross, West End  
Clutter Consignment  
1909 9<sup>th</sup> St., Suite 130  
Boulder, CO 80302

Michael Brown, Pearl Street Mall  
Serac Adventure Films  
1135 Pearl St., #1  
Boulder, CO 80302

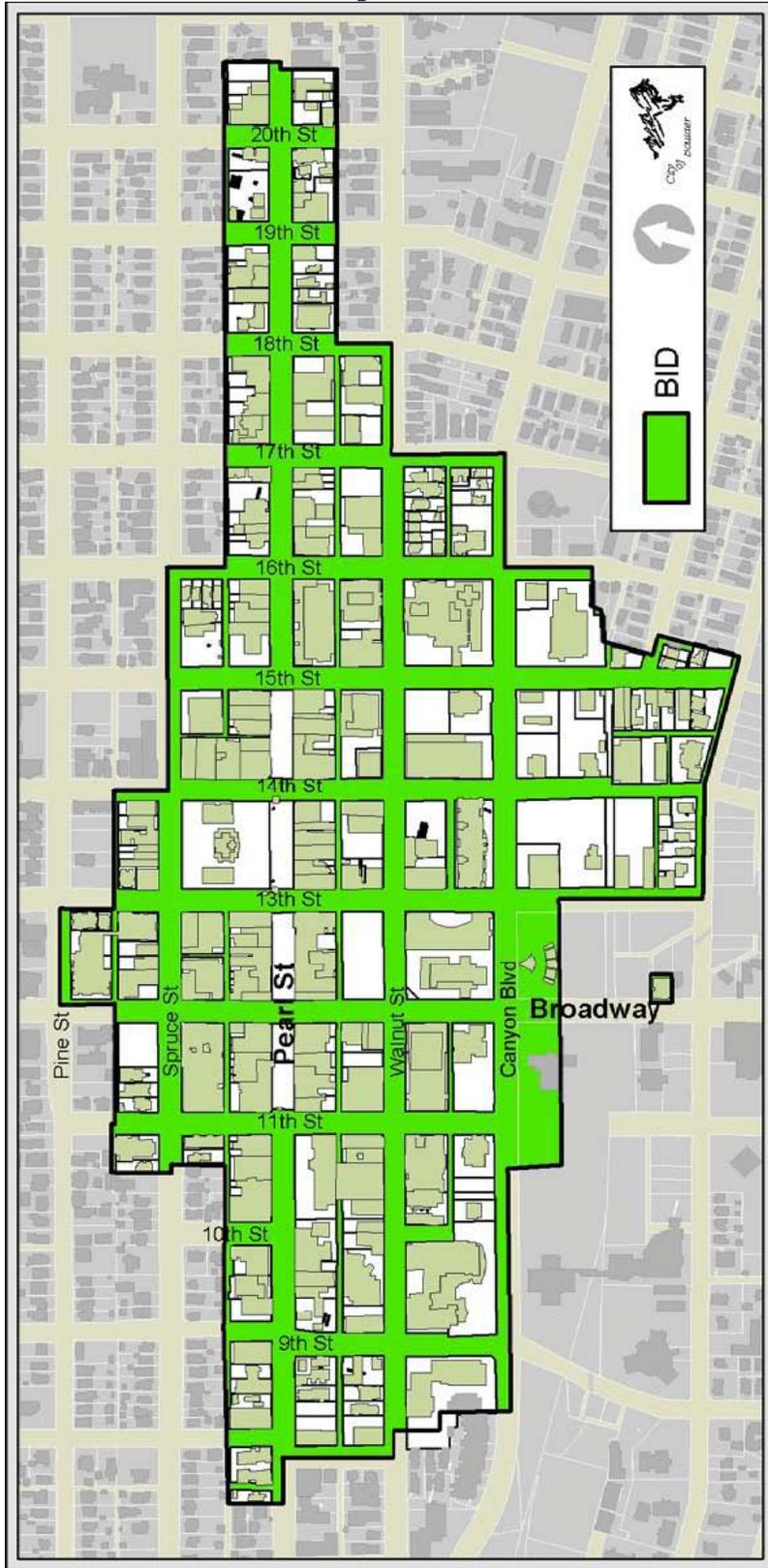
Shaun Oshman, East End  
iSupportU  
1825 Pearl St., Suite A  
Boulder, CO 80302

**Appoint as Alternate:**

Kiva Stram  
Wells Fargo Bank  
1242 Pearl Street  
Boulder, CO 80302



Attachment B – District Map



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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 22, 2013**

**AGENDA TITLE:** Continuation of second reading and consideration of motion to:

1. **Amend** on second reading and adopt Emergency Ordinance No. 7938 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;
2. Adopt **Ordinance No. 7939** 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; and
3. Adopt **Ordinance No. 7940 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.

**PRESENTER/S**

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Cross-Departmental Staff Team (*see page 21 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.

Since the Feb. 19<sup>th</sup> meeting, staff has also moved forward on the joint inspection teams – another component of the action plan to increase the level of enforcement on hospitality establishments.

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.<sup>1</sup> 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**)

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<sup>1</sup> 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 waiver includes provisions relating to capacity and square footage. Removal of this section will not have an impact to any existing establishments.

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. 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<sup>2</sup> as a hearing officer to handle all liquor licensing matters.<sup>3</sup> 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

At the first reading of the ordinance on Oct. 1<sup>st</sup>, City Council posed the following questions/requests of staff:

- What is the stance of University Hill Neighborhood Association (UHNA) on this topic?

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<sup>2</sup> 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.

<sup>3</sup> The city clerk would continue to handle administrative matters.

- How will the proposed changes affect economic vitality? Will there be unintended consequences?
- Why doesn't the definition for restaurants include beer and wine licenses?
- Address the gap between restaurants that must close at 11pm and late night restaurants that can stay open until 12am.
- What are the specific reasons for dissolving the BLA? Provide additional information about municipal hearing officers.

These questions are answered at the end of the 'Analysis' section with this memorandum.

City Council held a public hearing on this item on Oct. 15, 2013. Staff presented to the council and public comments were heard. Given the lateness of the hour, council requested additional information from staff and continued the item to Oct. 22<sup>nd</sup>. Staff will follow up with council on the requested information via HOTLINE and at the Oct. 22<sup>nd</sup> meeting.

Due to the continuance of the second reading meeting to Oct. 22<sup>nd</sup>, Ordinance No. 7938 has been modified to be passed as an emergency ordinance to allow City Council to pass the ordinance within this council term, the final meeting of which is on Oct. 29, 2013.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

Staff requests council consideration of this matter and action as follows:

1. Motion to amend on second reading and adopt Emergency Ordinance No. 7938 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 adopt Ordinance No. 7939 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 adopt Ordinance No. 7940 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. 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](http://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/beer](http://www.bouldercolorado.gov/city-manager/beer).

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/beer](http://www.bouldercolorado.gov/city-manager/beer). 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](http://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.<sup>4</sup> It is anticipated that the proposed changes will better distinguish between lower intensity and higher intensity<sup>5</sup> 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 centers:* 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 28<sup>th</sup> 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 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.

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<sup>4</sup> 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.

<sup>5</sup> 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.

- **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.

It should be noted that Ordinance No 7938 related to the land use code changes has been updated since first reading to correct use designations and use standards in the land use table and Paragraph 9-6-5(b)(3) for Restaurants in industrial areas. The intent of the regulations specific to restaurants in industrial areas has not changed from the current code requirements, but the use modules related to industrial districts were erroneously marked in the first reading version of Ordinance No. 7938. This small correction will require a third reading of the ordinance.

**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](http://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 28<sup>th</sup> 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:

<b><u>Different Scenarios assuming proposed Land Use Definitions are adopted</u></b>	<b><u>Licensing Implications (Title 4)</u></b>	<b><u>Land Use Implications (Title 9)</u></b>
Scenario A (No action on 500-foot rule.)	Hotel and Restaurant Licenses could continue to be issued on the Hill.	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Late Night Restaurants could be permitted through the Use Review process (would not be allowed to have a liquor license).</li> <li>• 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.</li> <li>• 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.</li> </ul>
Scenario B (Revoke waiver)	Revoking the waiver would not permit any additional liquor licenses on the Hill. Existing license holders would be grandfathered.	<ul style="list-style-type: none"> <li>• Existing hospitality establishments would be grandfathered.</li> <li>• 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.</li> <li>• Late Night Restaurants could be permitted through the Use Review process..</li> <li>• No establishment could be established with a new liquor license.</li> </ul>
Scenario C (Modify	Would limit liquor licenses within the 500-foot of the	<ul style="list-style-type: none"> <li>• Existing hospitality establishments would be grandfathered.</li> </ul>

<p>waiver to allow beer and wine licenses only)</p>	<p>University to Beer and Wine Licenses only. Existing license holders would be grandfathered.</p>	<ul style="list-style-type: none"> <li>• 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).</li> <li>• 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.</li> <li>• Neighborhood Pub or Bistros would be permitted as conditional uses. Restaurants, per the proposed definition, would only be possible if they held no liquor license. If they wanted to hold a beer and wine license, they would be categorized as a Neighborhood Pub or Bistros.</li> <li>• Other permitted uses, such as hair salons (defined as personal service uses in the land use code) and gyms could request Beer and Wine liquor licenses since the liquor license type does not require service of meals. Service of beverages at such establishments would have to be accessory to the principal use and an establishment would not be able to function like a restaurant or bar. Alcohol sales at such establishments are only a small portion of their proceeds.</li> </ul>
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**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.

City Council questions/requests from the Oct. 1 first reading of the ordinances

- **What is the stance of University Hill Neighborhood Association (UHNA) on this topic?**

A representative from UHNA served on the city's community working group in 2010. UHNA was invited again in 2012, but no executive committee members attended. At council's request, staff has reached out to UHNA and the chair indicated that the group was going to discuss the matter and either provide a position on the proposed changes or at a minimum, members would express their independent opinions on the matter to City Council.

- **How will the proposed changes affect economic vitality? Will there be unintended consequences?**

Resolution No. 960 states: *“The City of Boulder, as part of this community-wide effort, will undertake a review of city beverage licensing policies, code enforcement and zoning and land use regulations in order to identify the existing and relevant authorities available to the city. Staff shall propose policy and ordinance changes, as appropriate, to address identified concerns.”* This goal has informed staff’s recommendation on the land use code changes as well as the changes to the 500-foot rule and the restructuring of the BLA.

In this case, the concerns identified and recommendations received in the community working group meetings as well as through public outreach included:

- addressing “bad actor” establishments through more focused enforcement (e.g., joint inspection teams, already in process);
- establishments that morph into more intense drinking establishments in late hours and present impacts to nearby residential neighborhoods;
- easy access to hard alcohol which leads to quicker intoxication resulting in behaviors impacting neighboring properties as well as individuals and the community at large; and
- the efficacy of the BLA, as a civilian volunteer board asked to make decisions like a court of law.

As presented at the Feb. 2013 discussion on the topic, many of the researched studies with respect to alcohol consumption recommend strict control of access to alcohol in order to reduce overconsumption – in essence, make alcohol (particularly hard alcohol) less available. Specifically, many studies recommend limiting alcohol outlet density. This may be accomplished by strict prohibition of additional alcohol serving establishments and/or by spacing requirements that prohibit alcohol serving establishments within a certain distance of residential areas or each other.

If these options were implemented, there would be a significant change in where such hospitality establishments could locate in the city, and there would likely be a negative impact to the city’s economic vitality as a result. Based on this concern, staff did not recommend spacing requirements or prohibitions in business districts. City Council agreed with staff’s recommendation. What was recommended and incorporated into the action plan reviewed in the February discussion were new land use definitions to better differentiate different types of hospitality establishments by level of impact. Staff finds that the proposed changes to the land use code will not deter economic investment, but rather would enable a review of applications for hospitality establishment uses that is based on standards that better anticipate and mitigate the impacts of those uses furthering the city’s goal of mitigating the impacts of hospitality establishments on the community.

While it would be difficult to forecast every potential impact to the city’s economic vitality as a result of the proposed changes, staff finds that the list below may paint a better picture as to the potential outcomes of implementing the new regulations. The list describes what areas of the land use code would become stricter and what other

areas would become less strict. This should give the City Council a better idea of what changes would occur and how the changes are meant to better manage and monitor hospitality establishments to address impacts.

*Where the regulations would become stricter:*

- Many Hospitality establishments currently permitted as by-right uses would become conditional uses (two week or less staff level review/no call up).
- The possibility for brewpubs and taverns within some high density residential zoning districts would be eliminated as these uses would be prohibited in residential zones.
- In interface zones (i.e., zones near residential such as BMS, MU and the DT-1, DT-2 and DT-3 zoning districts), Use Review would automatically be required for brewpubs or taverns where today Use Review would only be required if operating past 11pm.
- In interface zones (i.e., zones near residential such as BMS, MU and the DT-1, DT-2 and DT-3 zoning districts), restaurants that have a liquor license would be required to close at 11pm; restaurants could operate in such areas after 11pm if they did not possess a liquor license. If operating after 12am, a Use Review approval would be required.
- Restaurants that are larger than 1,500 square feet would require Use Review in the BMS zone where the current code permits up to 4,000 square feet if it does not operate after 11pm.
- Late night restaurants operating after 12 am in residential zones would not be permitted.
- Minimum food percentages for restaurants (50%) and Neighborhood Pubs or Bistros (40%) would be added to promote food consumption for alcohol serving establishments.
- Management plans (with additional descriptive elements required) and neighborhood meetings would be required in all interface areas (i.e., zones near residential such as BMS, MU and the DT-1, DT-2 and DT-3 zoning districts) as opposed to just around University Hill under the current regulations. Could be reviewed as part of conditional review (staff level) or Use Review (discretionary review with call up) as applicable.
- Limitation of trash and recycling pick up near residential zones has been added.
- Requirement added for active food preparation area for restaurants and Neighborhood Pubs or Bistros during all business hours.
- Bar areas limited to 35% of dining areas in Neighborhood Pubs or Bistros.
- Retail liquor stores, a new defined use, would require Use Review in interface areas (i.e., zones near residential such as BMS, MU and the DT-1, DT-2 and DT-

3 zoning districts) where under current code, would be permitted by-right as a retail store.

*Where the regulations would become less strict:*

- Where the current code does not permit restaurants in the RH-3, RH-6 and RH-7 (the latter of which is not yet implemented), the proposed changes would permit restaurants or Neighborhood Pubs or Bistros no larger than 1,500 square feet through Use Review to promote mixed use in high density areas.
  - Neighborhood Pubs or Bistros and late night restaurants without a liquor license would be allowed to operate until 12am without Use Review.
  - The square footage threshold differentiating by-right restaurants in some MU zones has changed from 1,000 square foot to the uniform 1,500 sf. used in other zones.
- **Why doesn't the definition for Restaurants include beer and wine licenses?**

Establishments serving food with a beer and wine liquor license are captured by the neighborhood pub or bistro use. The definitions and regulations for Restaurants and Neighborhood Pub or Bistros largely overlap and the use designation in the use table is the same for the two types of establishments for all zoning districts. Beer and Wine liquor licenses were not included in the definition of Restaurants to avoid ambiguities in the code for establishments with beer and wine licenses that would meet the definitions for both Restaurants and Neighborhood Pub or Bistro. It was assumed that if a Restaurant wanted to only possess a Beer and Wine liquor license they would prefer to be categorized as a Neighborhood Pub or Bistro so that they could operate until 12am as opposed to 11pm. The latter use is incentivized in this manner to encourage establishments that would not have hard alcohol available.

- **Address the gap between Restaurants that must close at 11pm and late night restaurants that can stay open until 12am.**

Initially, staff had drafted code changes where late night restaurants were proposed to be permitted only in the most intense commercial areas of the city (e.g., core of downtown, Boulder Valley Regional Center along 28<sup>th</sup> Street etc.). Planning Board suggested providing a late night option for restaurants without liquor licenses in other areas like BMS (e.g., the Hill) with a Use Review approval. As such establishments have a lesser impact on neighboring properties than late night restaurants with a liquor license, staff incorporated that recommendation by distinguishing in the use table between late night restaurants with liquor licenses and those without. To avoid a situation where a neighborhood pub and bistro serving beer and wine could stay open until 12 a.m. as a conditional use, while, in the same zoning district, a restaurant without a liquor license would have to go through a Use Review if open until 12 a.m., an additional distinction was created in the use table to avoid that result.

- **What are the specific reasons for dissolving the BLA? Provide additional information about municipal hearing officers.**

Staff recommends dissolving the BLA and adopting of a municipal court judge model for the following reasons:

1. One of the ways to address overconsumption of alcohol is to increase enforcement of licensed establishments that over-serve and to focus on “problem” establishments. Prosecutions of these types of cases are typically more complicated from a legal and enforcement perspective than under-age compliance checks. Suspension or revocation of a liquor license requires what is essentially a trial. A legally trained hearing officer is much better equipped to handle these types of enforcement cases than a volunteer board.
2. Reliable enforcement requires predictability of results. The makeup of the BLA board changes often and this affects consistency and therefore predictability of results. A legally trained hearing officer would provide the police department and prosecution with the confidence to bring forward the types of cases mentioned above which can be very resource intensive.
3. A municipal judge is familiar with the community’s overconsumption of alcohol concerns and with problem liquor establishments because they preside over all municipal court cases including charges such as minor in possession of alcohol, brawling, assault, noise. As a result, they are likely to have a better understanding of the broader impacts of overconsumption of alcohol at liquor establishments in our community than a volunteer board may have.
4. Efficiencies would result from one hearing officer versus a five member board. For example, in a show cause hearing (a trial for a liquor code violation) each witness testifies by answering questions of the prosecutor /defense attorney who has called the witness, is then cross-examined by the opposing party, followed by questions from board members. Each of the five board members individually may ask questions of a witness. Lastly, the party who called the witness has another opportunity to ask the witness questions (redirect). When several witnesses testify, show cause hearings can easily last many hours. A single hearing officer would significantly cut down the hearing time.
5. A reduction in hearing time has a direct impact on Officers. Officers must be subpoenaed for the hearing and are paid time and half for overtime attendance. Spending less time at hearings means that officers can be out doing their primary work.
6. Efficiencies in staff attorney time would result from one hearing officer versus a five member board. Currently, a CAO attorney provides legal support to the BLA board. In its quasi-judicial role, the BLA must consider evidence, decide on the legal admissibility of evidence, and rule on legal objections. This requires a significant

amount of attorney time to support the BLA. A hearing officer (judge/licensed attorney) would not require such support. Efficiencies in administrative staff time would also be achieved.

7. If a municipal judge takes over, the municipal court is already set up for hearings, recordings of the record, security, and witness sequestration.

8. Other jurisdictions use this model and have found it to be beneficial for many of the reasons stated above.

The municipal court is working to collect information on court decisions on quality of life offenses through use of their standard reports, and this collected information will be provided as soon as it is available.

- **Provide City Council with a list of every group that has been convened since 1995 to consider any of the following: 1) rebranding the Hill; 2) improving the quality of life on the Hill, land use planning or land use changes related to the Hill; 4) addressing alcohol problems on the Hill. Please provide the name of the group, its mission, whether it drafted a report or recommendation, where that report or recommendation can be found, the date during which the group convened, and the name of the people or entity who convened the group.**

This information was provided to City Council in a HOTLINE response dated Oct. 9, 2013.

- **As part of consideration of land use changes proposed to regulate alcohol licensees, provide City Council with a summary of the history of Whittier's alcohol land use changes. Whittier was the first neighborhood to have an 'interface zone' that regulated size and hours of establishment (not just liquor) and it was expanded with the Downtown Alliance work. The Whittier regulations are widely viewed as being successful in helping to increase the fun and interest surrounding East Pearl. These changes are viewed as successful by residents, businesses and visitors.**

This information was provided to City Council in a HOTLINE response dated Oct. 9, 2013.

## **ATTACHMENTS**

**A** – Emergency Ordinance No. 7938 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 No. 7939 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 No. 7940 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

**Cross-Departmental Staff Team**

Bob Eiche, Chief Financial Officer

Mishawn Cook, Licensing and Collections Manager

Tom Carr, City Attorney

David Gehr, Deputy City Attorney

Hella Pannewig, Assistant City Attorney

Sandra Llanes, Assistant City Attorney III

Linda P. Cooke, Municipal Court Judge

Jennifer Korbelik, Community Coordinator

Mark Beckner, Police Chief

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Jennifer Riley, Code Enforcement Supervisor

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Molly Winter, Director of Downtown/ Univ. Hill Management Division/Parking Services

Maureen Rait, Executive Director of Public Works

Joanna Crean, Public Works Project Coordinator

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## ORDINANCE NO. 7938

AN EMERGENCY 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 materials*, *trash*, *trash container*, *visible to the public* and *wildlife-resistant container*.

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

*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) No owner, operator, or manager of any hospitality establishment or any other business shall fail to:
- (1) Prevent trash from being scattered from the business property onto the public right of way or onto other properties; and
  - (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.
- (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>I. ADMINISTRATIVE REVIEWS</i>	<i>II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES</i>	<i>III. DEVELOPMENT REVIEW AND BOARD ACTION</i>
<ul style="list-style-type: none"> <li>• Building permits</li> <li>• Change of address</li> <li>• Change of street name</li> <li>• 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</li> <li>• Easement vacation</li> <li>• Extension of development approval/staff level</li> <li>• Landmark alteration certificates (staff review per section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)</li> <li>• Landscape standards variance</li> <li>• Minor modification</li> <li>• Nonconforming use (extension, change of use (inc. parking))</li> <li>• Parking deferral per subsection</li> </ul>	<ul style="list-style-type: none"> <li>• Accessory Units (Dwelling, Owners, Limited)</li> <li>• Antennas for Wireless Telecommunications Services</li> <li>• Bed and Breakfasts</li> <li>• Cooperative Housing Units</li> <li>• Daycare Centers</li> <li>• Detached Dwelling Units with Two Kitchens</li> <li>• Drive-Thru Uses</li> <li>• Group Home Facilities</li> <li>• Home Occupations</li> <li>• Manufacturing Uses with Off-Site Impacts</li> <li>• Neighborhood Service Centers</li> <li>• Offices, Computer Design and Development, Data Processing, Telecommunications,</li> </ul>	<ul style="list-style-type: none"> <li>• Annexation/initial zoning</li> <li>• BOZA variances</li> <li>• Concept plans</li> <li>• 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</li> <li>• 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</li> <li>• Lot line adjustments</li> <li>• Lot line elimination</li> <li>• Minor Subdivisions</li> <li>• Out of City utility permit</li> <li>• Rezoning</li> <li>• Site review</li> </ul>

<p>9-9-6(e), B.R.C. 1981</p> <ul style="list-style-type: none"> <li>• Parking reduction of up to fifty percent per subsection 9-9-6(f), B.R.C. 1981</li> <li>• Parking stall variances</li> <li>• Public utility</li> <li>• Rescission of development approval</li> <li>• Revocable permit</li> <li>• Right of way lease</li> <li>• Setback variance</li> <li>• Site access variance</li> <li>• Solar exception</li> <li>• Zoning verification</li> </ul>	<ul style="list-style-type: none"> <li>• Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts</li> <li>• Recycling Facilities</li> <li>• Religious Assemblies</li> <li>• Residential Care, Custodial Care, and Congregate Care Facilities</li> <li>• Residential Development in Industrial Zoning Districts</li> <li>• <del>Restaurants and Taverns</del> <u>Hospitality Establishments</u></li> <li>• Sales or Rental of Vehicles on Lots Located Five Hundred Feet or Less from a Residential Zoning District</li> <li>• Service Stations</li> <li>• Shelters (Day, Emergency, Overnight, temporary)</li> <li>• Temporary Sales</li> <li>• Transitional Housing</li> </ul>	<ul style="list-style-type: none"> <li>• Subdivisions</li> <li>• Use review</li> <li>• Vacations of street, alley or access easement</li> </ul>
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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 addresses 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) Hours of operation;
    - (C) Client and visitor arrival and departure times;
    - (D) 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) ~~¶~~The facility's drug and alcohol policy;
- (K) Strategies to avoid loitering;
- (L) eEmployee education;
- (M) ~~¶~~The facility's responsibilities as good neighbors;
- (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
...																												
<b>Dining and Entertainment</b>																												
...																												
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	A	*	*	9-6-5(b)(3.5)



<u>Restaurant, late night, without a liquor license and which closes after 12 a.m.</u>	*	*	*	*	*	*	*	*	*	U	U	*	U	*	U	C	C	C	C	C	U	U	U	U	*	*	<u>9-6-5(b)</u>
<u>Restaurant, late night, with a liquor license and which closes after 11 p.m.</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	C	*	U	U	U	U	*	*	<u>9-6-5(b)</u>
<u>Restaurants (general)</u>	n/a	C	C	C	C	n/a	n/a	<u>9-6-5(b)</u>																			
<u>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 1/2 the floor area, and which close no later than 11:00 p.m.</u>	*	*	*	*	*	U	A	*	*	A	A	A	n/a	-													
<u>Restaurants, brewpubs and taverns no larger than 1,500 square feet in floor area, which</u>	*	*	*	*	*	n/a	*	*	*	*	A	*	A	U	A	A	A	A	A	C	n/a	n/a	n/a	n/a	n/a	n/a	<u>9-6-5(b)</u>





<b>Commercial, Retail and Industrial Uses</b>																												
...																												
Retail Sales Uses:																												
...																												
<u>Retail liquor store</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	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~~ 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, **Late Night Restaurants, and Neighborhood Pub or Bistros** in the Industrial Districts: The following criteria will apply to restaurant, **late night restaurant, and neighborhood pub or bistro** 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, **late night restaurants, and neighborhood pub or bistros** 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; **and**

- (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 a late night restaurant use in an industrial district 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 located more than five hundred 500 feet from any 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**

<i>Use</i>	<i>Parking Requirement</i>
Large daycare (less than 50 children)	Determined through review
Nonresidential uses in General Improvement Parking Districts	No parking required
<del>Restaurant or tavern</del> <u>Hospitality establishment</u> – interior seating	Greater of 1 per 3 seats, or the ratio for the use module

<u>Restaurant or tavern</u> <del>Hospitality establishment</del> – outdoor seating:	
a. Outside seats for <del>restaurant or tavern</del> <u>hospitality establishment</u> 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	No additional parking spaces required
b. Outside seats for <del>restaurant or tavern</del> <u>hospitality establishment</u> with more than =50 interior seats if outside seats do not exceed the greater of 12 seats or 20 percent of indoor seats	
c. Outside seats for <del>restaurant or tavern</del> <u>hospitality establishment</u> 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 <del>restaurants</del> <u>hospitality establishment</u> 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:  (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.

Section 11. The City Council finds that public health, peace and safety justify the adoption of this ordinance as an emergency measure. The City Council further finds that this ordinance should be passed within this council term, the final meeting for which is October 29, 2013.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED

BY TITLE ONLY this 1<sup>st</sup> day of October, 2013.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

READ ON SECOND READING, AMENDED, PASSED AND ADOPTED AS AN  
EMERGENCY MEASURE BY TWO-THIRDS OF COUNCILMEMBERS PRESENT, 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. 7939(A)

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 ~~(1) The principal campus of the University of Colorado is eliminated from the application of~~  
2 ~~the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for~~  
3 ~~hotel-restaurant liquor licenses only. For the purposes of this section, the principal campus is~~  
4 ~~defined as the area generally circumscribed by Broadway Street on the west; Baseline Road~~  
5 ~~on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder~~  
6 ~~Creek, 17th Street and University Avenue on the north.~~

7 ~~(2) The five hundred foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as~~  
8 ~~it applies to the principal campus of Boulder High School shall be changed to four hundred~~  
9 ~~feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply~~  
10 ~~to establishments with full kitchen facilities, with a seating capacity not to exceed thirty five,~~  
11 ~~and with a square footage not to exceed 1,200 square feet.~~

12 (b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and  
13 adopted for application by the Beverage Licensing Authority.

14 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of  
15 the residents of the city, and covers matters of local concern.

16 Section 3. The City Council deems it appropriate that this ordinance be published by title  
17 only and orders that copies of this ordinance be made available in the office of the city clerk for  
18 public inspection and acquisition.

19 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
20 TITLE ONLY this 1<sup>st</sup> day of October, 2013.

21 \_\_\_\_\_  
22 Mayor

23 Attest:

24 \_\_\_\_\_  
25 City Clerk

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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. 7939(B)

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 ~~(1) The principal campus of the University of Colorado is eliminated from the application of~~  
2 ~~the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for~~  
3 ~~hotel-restaurant~~beer and wine-liquor~~ licenses as defined by 12-47-409, C.R.S., only. For the~~  
4 ~~purposes of this section, the principal campus is defined as the area generally circumscribed~~  
5 ~~by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue~~  
6 ~~and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the~~  
7 ~~north.~~

8 ~~(2) The five hundred foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as~~  
9 ~~it applies to the principal campus of Boulder High School shall be changed to four hundred~~  
10 ~~feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply~~  
11 ~~to establishments with full kitchen facilities, with a seating capacity not to exceed thirty five,~~  
12 ~~and with a square footage not to exceed 1,200 square feet.~~

13 (b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and  
14 adopted for application by the Beverage Licensing Authority.

15 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of  
16 the residents of the city, and covers matters of local concern.

17 Section 3. The City Council deems it appropriate that this ordinance be published by title  
18 only and orders that copies of this ordinance be made available in the office of the city clerk for  
19 public inspection and acquisition.

20  
21 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
22 TITLE ONLY this 1<sup>st</sup> day of October, 2013

23 \_\_\_\_\_  
24 Mayor

25 Attest:

\_\_\_\_\_  
City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_ 2013.

3  
4 \_\_\_\_\_  
Mayor

5 Attest:

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City Clerk

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ORDINANCE NO. 7939(C)

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.

1 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
2 OF BOULDER, COLORADO:

3 Section 1. Section 4-2-4, B.R.C. 1981, is amended to read:

4 **4-2-4 State Law Procedures Apply.**

5 (a) Provisions of the Colorado Liquor Code and the Colorado Beer Code governing procedures  
6 for applications, hearing, and decisions for state liquor or fermented malt beverages apply for  
7 city licenses.

8 ~~(1) The principal campus of the University of Colorado is eliminated from the application of~~  
9 ~~the five hundred foot distance restriction of subparagraph 12-47-313(1)(d)(I), C.R.S., for~~  
10 ~~hotel-restaurant liquor licenses only. For the purposes of this section, the principal campus is~~  
11 ~~defined as the area generally circumscribed by Broadway Street on the west; Baseline Road~~  
12 ~~on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder~~  
13 ~~Creek, 17th Street and University Avenue on the north.~~

14 ~~(2) The five hundred foot distance restrictions of subparagraph 12-47-313(1)(d)(I), C.R.S. as~~  
15 ~~it applies to the principal campus of Boulder High School shall be changed to four hundred~~  
16 ~~feet for hotel-restaurant liquor licenses only. In addition, the distance change shall only apply~~  
17 ~~to establishments with full kitchen facilities, with a seating capacity not to exceed thirty-five,~~  
18 ~~and with a square footage not to exceed 1,200 square feet.~~

19 (b) The optional procedures set forth in subsections 12-47-601(3) to (6), C.R.S., are accepted and  
20 adopted for application by the Beverage Licensing Authority.

21 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of  
22 the residents of the city, and covers matters of local concern.

23 Section 3. The City Council deems it appropriate that this ordinance be published by title  
24 only and orders that copies of this ordinance be made available in the office of the city clerk for  
25 public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 1<sup>st</sup> 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:

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City Clerk

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ORDINANCE NO. 7940(A)

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. From 1967 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 4651 and 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:

1            Section 1. Section 2-3-3, B.R.C. 1981, is deleted:

2  
3    ~~**2-3-3 Beverage Licensing Authority.**~~

4    ~~(a) The City of Boulder Beverage Licensing Authority consists of five members serving five year~~  
5       ~~staggered terms, all of whom are city electors. The council shall appoint members at a~~  
6       ~~regular meeting in March of every year. The council shall adjust terms as needed to stagger~~  
7       ~~the terms. Vacancies shall be filled for the remainder of the term.~~

8    ~~(b) The city manager shall serve as secretary to the authority. The secretary may be known as the~~  
9       ~~licensing clerk, and shall serve as the authority's agent for all functions.~~

10   ~~(c) The authority's functions are:~~

11       ~~(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and~~  
12       ~~fermented malt beverages;~~

13       ~~(2) To conduct investigations;~~

14       ~~(3) To suspend or revoke such licenses for cause;~~

15       ~~(4) To perform all other acts or duties required to carry out the purposes of the state and city~~  
16       ~~liquor and fermented malt beverage licensing laws; and~~

17       ~~(5) To perform all other responsibilities that the council may delegate to it.~~

18   ~~(d) The city manager shall issue all licenses granted by the authority upon receipt of the license~~  
19       ~~fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and~~  
20       ~~Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.~~

21   ~~(e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and~~  
22       ~~subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the~~  
23       ~~authority.~~

24   ~~(f) The city council shall establish and adopt by resolution rules of procedure for the authority.~~

25   ~~(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.~~

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

2  
3   **4-2-3 Authority to Issue City Licenses.**

4   (a) An applicant for a city license under this chapter shall apply therefor to the Beverage  
5       Licensing Authority ("Authority") established by section ~~4-2-122-3-3~~, "Beverage Licensing  
6       Authority," B.R.C. 1981, on forms provided by the Aauthority.

7   (b) The Aauthority may issue the following types of city licenses:

8       (1) Retail liquor store;

9       (2) Liquor-licensed drugstore;

10       (3) Beer and wine;

11       (4) Hotel and restaurant;

12       (5) Tavern;

13       (6) Club;

14       (7) Arts;

15       (8) Racetrack;

16       (9) Brew pub;

17       (10) Fermented malt beverage on-premises;

18       (11) Fermented malt beverage off-premises;

19       (12) Fermented malt beverage on-premises and off-premises;

20       (13) Hotel and restaurant with optional premises; ~~and~~

21       (14) Tastings of alcoholic beverages conducted on licensed retail liquor stores and liquor-  
22       licensed drugstore premises;

23       (15) Art gallery permit;

24       (16) Bed and breakfast permit; and

25       (17) Special Event Permit.

1 (c) In order to qualify for a city license under this chapter, an applicant must meet all conditions  
2 for the issuance of the parallel state license prescribed by the Colorado Liquor Code, for  
3 malt, vinous, and spirituous liquors, and the Colorado Beer Code, for fermented malt  
4 beverages, except that the fees for a city license are those prescribed by section 4-20-2,  
5 "Alcohol and Fermented Malt Beverage License and Application Fees," B.R.C. 1981.

6 Section 3. Section 4-2-12, B.R.C. 1981, is created to read:

7 **4-2-12 Beverage Licensing Authority.**

8 (a) The Beverage Licensing Authority ("Authority") shall have all powers and duties granted to  
9 local liquor licensing authorities as set forth in Title 12, Articles 46, 47 and 48, C.R.S. The  
10 Authority shall have the duty and authority to grant or refuse licenses for the possession, sale  
11 and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt  
12 beverages as provided by law, to conduct investigations as are required by law and to levy  
13 penalties against licensees in the manner provided by law.

14 (b) The Authority shall consist of a sole Hearing Officer who shall be a judge in the Municipal  
15 Court. The term "Hearing Officer" and "Authority" as used in Chapter 4-2, shall be  
16 synonymous with "Beverage Licensing Authority".

17 (c) The city manager shall serve as secretary to the Authority. The secretary may be known as  
18 the licensing clerk, and shall serve as the Authority's agent for all functions.

19 (d) The Authority's functions are:

20 (1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and  
21 fermented malt beverages;

22 (2) To conduct investigations;

23 (3) To suspend or revoke such licenses for cause;

24 (4) To perform all other acts or duties required to carry out the purposes of the state and city  
25 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.

1 (f) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and  
2 subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the  
3 Authority.

4 (g) The Authority shall adopt the existing rules of procedure established by the city council.

5 (h) The Authority may adopt supplemental rules of procedure provided that the Authority's  
6 supplemental rules shall not be in conflict with those adopted by the City Council.

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

8 **2-6-3 Creation, Jurisdiction, and Powers of Municipal Court.**

9 (a) Pursuant to charter section 86 there exists a municipal court in and for the City of Boulder,  
10 Colorado.

11 (b) The municipal court has original jurisdiction of all criminal cases arising under the charter,  
12 this code, and other ordinances of the city, with power to punish violations thereof by  
13 imposing fines and penalties as authorized by this code or any ordinance.

14 (c) The municipal court has original jurisdiction of all civil cases arising under the charter, this  
15 code, and other ordinances of the city, with power to assess and collect civil penalties, order  
16 and enforce by contempt abatement of nuisances, and perform other responsibilities  
17 prescribed by the charter, this code, and other ordinances of the city.

18 (d) The municipal court has the jurisdiction and powers of an administrative hearing officer,  
19 where so provided by this code or other ordinance of the city.

20 (e) Each judge is authorized to issue search warrants for the inspection of premises or property  
21 by municipal or city-county officials or inspectors in accordance with the Colorado  
22 Municipal Court Rules. Each judge may also issue such inspection warrants for the  
23 inspection and examination of any structure or property if it satisfactorily appears that the  
24 applicant for the warrant is required to make the inspection by any provision of this code or  
25 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 a judge acts as an  
administrative hearing officer under this code or other ordinance of the city, the judge shall

1 conduct hearings under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings,"  
2 B.R.C. 1981. In all such cases, other than "Beverages License" pursuant to Chapter 4-2, the  
3 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.

- 4 (h) Except as otherwise provided in this code, the municipal court shall be conducted under the  
5 procedures prescribed by the Colorado Municipal Court Rules and title 13 of the Colorado  
6 Revised Statutes.  
7 (i) Code and ordinance violations for which imprisonment is not a possible penalty and that are  
8 not criminal under counterpart state law are civil, but the judge shall follow the Colorado  
9 Municipal Court Rules in all such cases unless the rules are clearly inapplicable.

10 Section 5. This ordinance shall take effect on January 2, 2014.

11 Section 6. Upon the effective date of this ordinance, the terms of any previously  
12 appointed members of the Authority shall terminate.

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

15 Section 8. The City Council deems it appropriate that this ordinance be published by title  
16 only and orders that copies of this ordinance be made available in the office of the city clerk for  
17 public inspection and acquisition.

18 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
19 TITLE ONLY this 1<sup>st</sup> day of October, 2013.

20 \_\_\_\_\_  
Mayor

21 Attest:

22 \_\_\_\_\_  
23 City Clerk  
24  
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1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_ 2013.

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Mayor

Attest:

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ORDINANCE NO. 7940(B)

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. From 1967 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 4651 and 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:

1            Section 1. Section 2-3-3, B.R.C. 1981, is deleted:

2    ~~**2-3-3 Beverage Licensing Authority.**~~

3    ~~(a) The City of Boulder Beverage Licensing Authority consists of five members serving five year~~  
4    ~~staggered terms, all of whom are city electors. The council shall appoint members at a~~  
5    ~~regular meeting in March of every year. The council shall adjust terms as needed to stagger~~  
6    ~~the terms. Vacancies shall be filled for the remainder of the term.~~

7    ~~(b) The city manager shall serve as secretary to the authority. The secretary may be known as the~~  
8    ~~licensing clerk, and shall serve as the authority's agent for all functions.~~

9    ~~(c) The authority's functions are:~~

10    ~~(1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor and~~  
11    ~~fermented malt beverages;~~

12    ~~(2) To conduct investigations;~~

13    ~~(3) To suspend or revoke such licenses for cause;~~

14    ~~(4) To perform all other acts or duties required to carry out the purposes of the state and city~~  
15    ~~liquor and fermented malt beverage licensing laws; and~~

16    ~~(5) To perform all other responsibilities that the council may delegate to it.~~

17    ~~(d) The city manager shall issue all licenses granted by the authority upon receipt of the license~~  
18    ~~fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and~~  
19    ~~Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.~~

20    ~~(e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and~~  
21    ~~subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the~~  
22    ~~authority.~~

23    ~~(f) The city council shall establish and adopt by resolution rules of procedure for the authority.~~

24    ~~(g) The authority may adopt supplemental rules of procedure provided that the authority's~~  
25    ~~supplemental rules shall not be in conflict with those adopted by the city council.~~

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

2            **4-2-3 Authority to Issue City Licenses.**

3            (a) An applicant for a city license under this chapter shall apply therefor to the Beverage  
4            Licensing Authority ("Authority") established by section ~~4-2-122-3-3~~, "Beverage Licensing  
5            Authority," B.R.C. 1981, on forms provided by the Aauthority.

6            (b) The Aauthority may issue the following types of city licenses:

7            (1) Retail liquor store;

8            (2) Liquor-licensed drugstore;

9            (3) Beer and wine;

10           (4) Hotel and restaurant;

11           (5) Tavern;

12           (6) Club;

13           (7) Arts;

14           (8) Racetrack;

15           (9) Brew pub;

16           (10) Fermented malt beverage on-premises;

17           (11) Fermented malt beverage off-premises;

18           (12) Fermented malt beverage on-premises and off-premises;

19           (13) Hotel and restaurant with optional premises; ~~and~~

20           (14) Tastings of alcoholic beverages conducted on licensed retail liquor stores and liquor-  
21           licensed drugstore premises;

22           (15) Art gallery permit;

23           (16) Bed and breakfast permit; and

24           (17) Special Event Permits.

1 (c) In order to qualify for a city license under this chapter, an applicant must meet all conditions  
2 for the issuance of the parallel state license prescribed by the Colorado Liquor Code, for  
3 malt, vinous, and spirituous liquors, and the Colorado Beer Code, for fermented malt  
4 beverages, except that the fees for a city license are those prescribed by section 4-20-2,  
5 "Alcohol and Fermented Malt Beverage License and Application Fees," B.R.C. 1981.

6 Section 3. Section 4-2-12, B.R.C. 1981, is created to read:

7 **4-2-12 Beverage Licensing Authority.**

8 (a) The Beverage Licensing Authority ("Authority") shall have all powers and duties granted to  
9 local liquor licensing authorities as set forth in Title 12, Articles 46, 47 and 48, C.R.S. The  
10 Authority shall have the duty and authority to grant or refuse licenses for the possession, sale  
11 and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt  
12 beverages as provided by law, to conduct investigations as are required by law and to levy  
13 penalties against licensees in the manner provided by law.

14 (b) The Authority shall consist of a sole Hearing Officer who shall serve at the pleasure of City  
15 Council. The Hearing Officer shall be appointed by the City Council by resolution and may  
16 be removed with or without cause by a majority vote of City Council. City Council may, in  
17 its discretion, appoint an Alternate Hearing Officer who may serve in the event that the  
18 appointed Hearing Officer is unavailable. City Council shall establish compensation for such  
19 Hearing Officer and Alternate Hearing Officer. The term "Hearing Officer" shall be  
20 synonymous with "Beverage Licensing Authority".

21 (c) The Hearing Officer and any Alternate Hearing Officer shall be an individual over the age of  
22 twenty-one, an attorney at law admitted to practice in the State of Colorado, and with  
23 sufficient knowledge and expertise to apply and enforce the State of Colorado Beer Code,  
24 Liquor Code, Special Events Code, and Code of Regulations. The Hearing Officer shall not  
25 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;

1 (2) To conduct investigations;

2 (3) To suspend or revoke such licenses for cause;

3 (4) To perform all other acts or duties required to carry out the purposes of the state and city  
4 liquor and fermented malt beverage licensing laws; and

5 (5) To perform all other responsibilities that the council may delegate to it.

6 (f) The city manager shall issue all licenses granted by the Authority upon receipt of the license  
7 fees prescribed by sections 4-20-2, "Alcohol and Fermented Malt Beverage License and  
8 Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.

9 (g) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and  
10 subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the  
11 Authority.

12 (h) The Authority shall adopt the existing rules of procedure established by the City Council.

13 (i) The Authority may adopt supplemental rules of procedure provided that the Authority's  
14 supplemental rules shall not be in conflict with those adopted by the City Council.

15 Section 4. This ordinance shall take effect on February 1, 2014.

16 Section 5. Upon the effective date of this ordinance, the terms of any previously  
17 appointed members of the Authority shall terminate.

18 Section 6. This ordinance is necessary to protect the public health, safety, and welfare of  
19 the residents of the city, and covers matters of local concern.

20 Section 7. The City Council deems it appropriate that this ordinance be published by title  
21 only and orders that copies of this ordinance be made available in the office of the city clerk for  
22 public inspection and acquisition.  
23  
24  
25

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 1<sup>st</sup> 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:

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City Clerk

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CITY OF BOULDER, COLORADO

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

**Hearing officer/Judge Estimated Workload:**

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

## Attachment D - Cost Estimates for Hearing Officer Options

Mishawn Cook, Tax and License Manager

Page 2

September 25, 2013

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<sup>1</sup>. 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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<sup>1</sup> 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.

## Attachment D - Cost Estimates for Hearing Officer Options

Mishawn Cook, Tax and License Manager

Page 3

September 25, 2013

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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<b>Land use definitions for Hospitality Establishments- Staff and Planning Board recommendations</b>				
<b>Staff recommendation to Planning Board</b>	<b>Planning Board recommendations</b>	<b>Intended impact/Benefit</b>	<b>Potential consequences/Disadvantage</b>	<b>Staff's revised recommendation</b>
<i>Require snacks or food to be served during all business hours for hospitality establishments</i>	<i>Make solid food requirements more strict (i.e., requirement for full service menus)</i>	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
<i>Allow neighborhood pubs or bistros to operate until 12am without Use Review approval (conditional use; staff level)</i>	<i>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</i>	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
<i>Prohibit late night restaurants in interface areas like MU zones adjacent to residential zones so as to avoid "morphing" issue</i>	<i>Allow Late Night Restaurants in MU-1, MU-2 and MU-4 with Use Review approval (*)</i>	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
<i>Prohibit late night restaurants in interface areas like BMS adjacent to residential zones as to avoid "morphing" issue</i>	<i>Allow Late Night Restaurants in BMS with Use Review approval (**)</i>	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	<i>Require Use Review for hospitality establishments in the DT-5 zone within 300 feet of a residential zone (***)</i>	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

New Land Use Definitions	Review Process & Allowed Zoning District	Liquor License Types
<p><b>Restaurants &lt; 1500 sf</b></p> <p><b>"Restaurant"</b> 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 <b>must close no later than 11 p.m.</b> and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.</p>	<p><b>USE REVIEW*:</b> RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, BT-1, BT-2</p> <p><b>CONDITIONAL USE**:</b> 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</p>	<p>Beer and Wine License <b>or</b> Hotel Restaurant License (full service) <b>or</b> No liquor license</p>
<p><b>Restaurants &gt; 1500 sf</b></p> <p><b>"Restaurant"</b> 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 <b>must close no later than 11 p.m.</b> and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.</p>	<p><b>USE REVIEW:</b> 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</p> <p><b>CONDITIONAL USE:</b> BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5</p>	<p>Beer and Wine License <b>or</b> Hotel Restaurant License (full service) <b>or</b> No liquor license</p>
<p><b>Restaurants, Late Night</b></p> <p><b>"Restaurant, late night"</b> 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 <b>may operate after 11 p.m.</b></p>	<p><b>USE REVIEW (NO LIQUOR LICENSE):</b> 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</p> <p><b>CONDITIONAL USE:</b> BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5</p>	<p>Beer and Wine License <b>or</b> Hotel Restaurant License (full service) <b>or</b> No liquor license</p>
<p><b>Neighborhood Pub or Bistro &lt; 1500 sf</b></p> <p><b>"Neighborhood pub or bistro"</b> 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 <b>must close no later than 12 a.m.</b></p>	<p><b>USE REVIEW:</b> RH-1, RH-2, RH-3, RH-7, RH-6, BT-1, BT-2</p> <p><b>CONDITIONAL USE:</b> 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</p>	<p>Beer and Wine Licenses Only</p>
<p><b>Neighborhood Pub or Bistro &gt; 1500 sf</b></p> <p><b>"Neighborhood pub or bistro"</b> 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 <b>must close no later than 12 a.m.</b></p>	<p><b>USE REVIEW:</b> 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</p> <p><b>CONDITIONAL USE:</b> BC-1, BC-2, BCS, DT-4, DT-5</p>	<p>Beer and Wine Licenses Only</p>
<p><b>Tavern</b></p> <p><b>"Tavern"</b> 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.</p>	<p><b>USE REVIEW:</b> MU-1, MU-2, MU-3, MU-4, BT-2, DT-1, DT-2, DT-3</p> <p><b>CONDITIONAL USE:</b> BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5</p>	<p>Tavern License</p>
<p><b>Brewpub</b></p> <p><b>"Brewpub"</b> 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.</p>	<p><b>USE REVIEW:</b> MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, DT-3</p> <p><b>CONDITIONAL USE:</b> BC-1, BC-2, BCS, BR-1, BR-2</p>	<p>Brew Pub License</p>
<p><b>Retail Liquor Store</b></p> <p><b>"Retail liquor store"</b> 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.</p>	<p><b>USE REVIEW:</b> MU-4, BMS, DT-1, DT-2</p> <p><b>APPROVED USE BY-RIGHT:</b> BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5</p>	<p>Retail Liquor License</p>

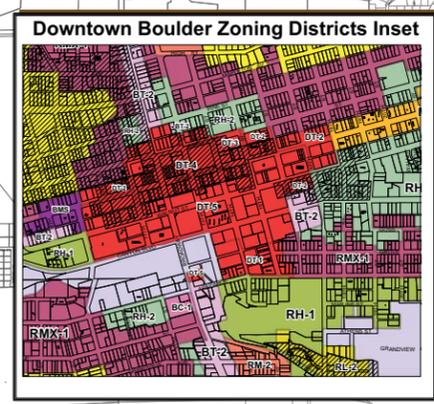
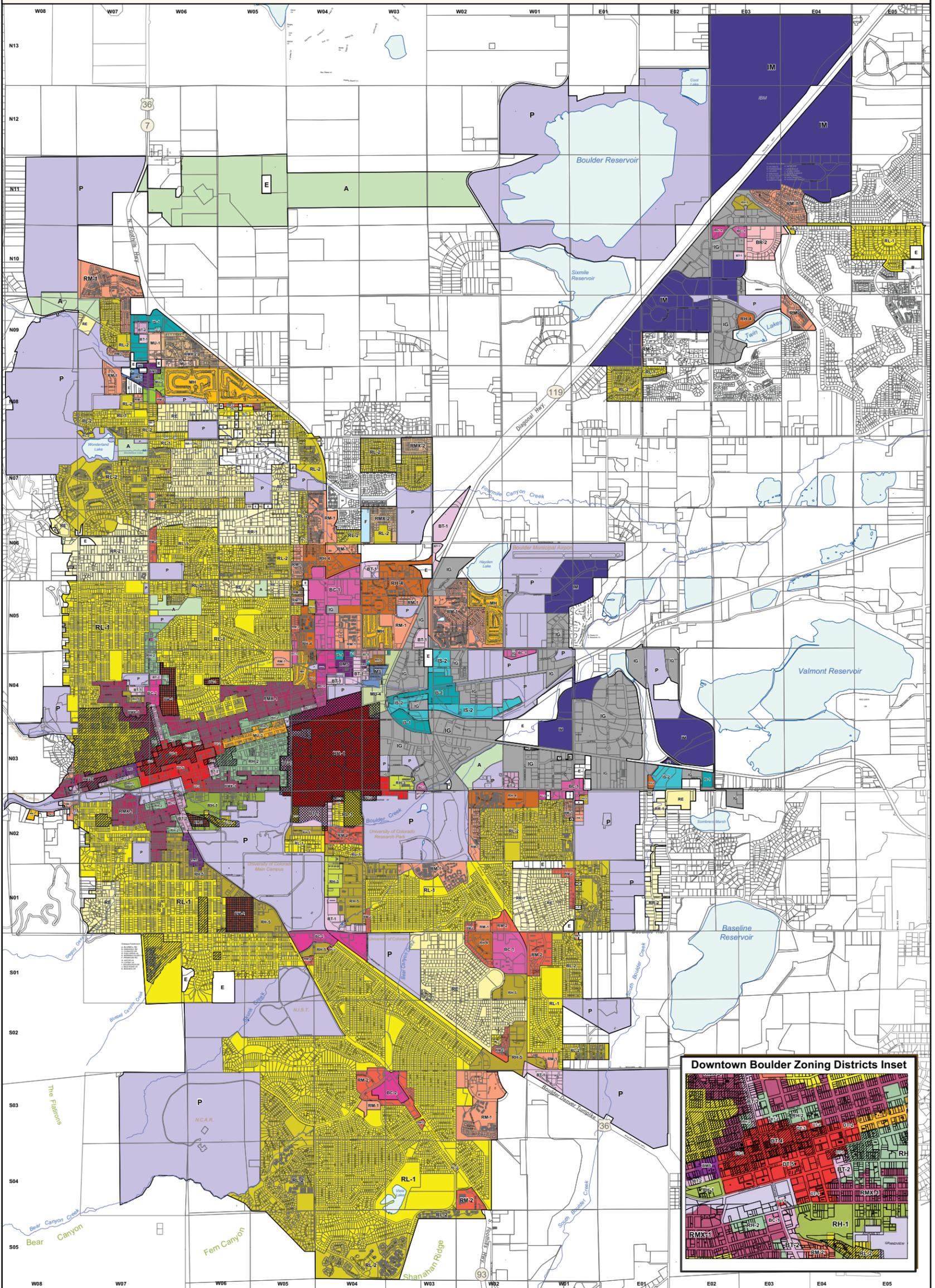
\*Use Review applications are discretionary and may be called-up by neighbors or the Planning Board. Use Review applications can also be referred to the Planning Board for decision by staff.

\*\*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 Districts

(Previous Zoning District Name in Parentheses)

#### Residential

- MH Mobile Home (MH-E)
- RE Residential - Estate (RE-E)
- RH-1 Residential - High 1 (RH-E)
- RH-2 Residential - High 2 (RH-E)
- RH-3 Residential - High 3 (RH-E)
- RH-4 Residential - High 4 (RH-E)
- RH-5 Residential - High 5 (RH-E)
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 (RL-E)
- RL-2 Residential - Low 2 (RL-E)
- RM-1 Residential - Medium 1 (RM-E)
- RM-2 Residential - Medium 2 (RM-E)
- RM-3 Residential - Medium 3 (RM-E)
- RMX-1 Residential - Mixed 1 (RMX-E)
- RMX-2 Residential - Mixed 2 (RMX-E)
- RR-1 Residential - Rural 1 (RR-E)
- RR-2 Residential - Rural 2 (RR-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-E)
- 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)

#### 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

#### Agricultural and Public

- A Agricultural (A-E)
- P Public (P-E)

### \*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
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7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
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7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
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7655	5/5/2009	7812	10/18/2011		

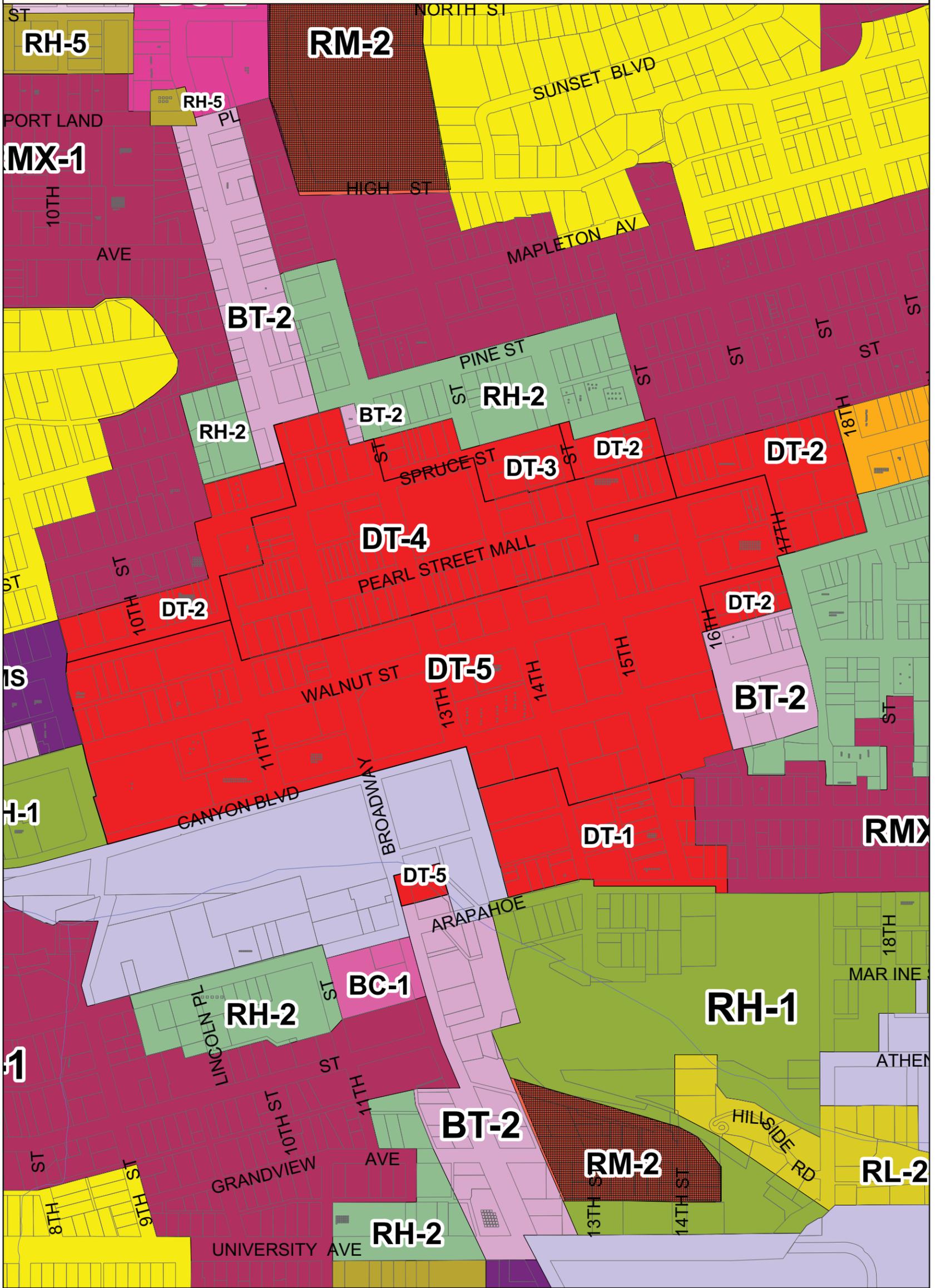


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# Downtown Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)\*



**Zoning Districts**  
(Previous Zoning District Name in Parentheses)

<p><b>Residential</b></p> <ul style="list-style-type: none"> <li>MH Mobile Home (MH-E)</li> <li>RE Residential - Estate (ER-E)</li> <li>RH-1 Residential - High 1 (HR-X)</li> <li>RH-2 Residential - High 2 (HZ-E)</li> <li>RH-3 Residential - High 3 (HR-X)</li> <li>RH-4 Residential - High 4 (HR-D)</li> <li>RH-5 Residential - High 5 (HR-E)</li> <li>RH-6 Residential - High 6</li> <li>RL-1 Residential - Low 1 (LR-E)</li> <li>RL-2 Residential - Low 2 (LR-D)</li> <li>RM-1 Residential - Medium 1 (MR-D)</li> <li>RM-2 Residential - Medium 2 (MR-E)</li> <li>RM-3 Residential - Medium 3 (MR-X)</li> <li>RMX-1 Residential - Mixed 1 (MXR-E)</li> <li>RMX-2 Residential - Mixed 2 (MXR-D)</li> <li>RR-1 Residential - Rural 1 (RR-E)</li> <li>RR-2 Residential - Rural 2 (RR1-E)</li> </ul>	<p><b>Commercial &amp; Business</b></p> <ul style="list-style-type: none"> <li>BC-1 Business - Community 1 (CB-D)</li> <li>BC-2 Business - Community 2 (CB-E)</li> <li>BCC Business - Commercial (CS-E)</li> <li>BMS Business - Main Street (BMS-X)</li> <li>BR-1 Business - Regional 1 (RB-E)</li> <li>BR-2 Business - Regional 2 (RB-D)</li> <li>BT-1 Business - Transitional 1 (TB-D)</li> <li>BT-2 Business - Transitional 2 (TB-E)</li> <li>DT-1 Downtown 1 (RB3-X/E)</li> <li>DT-2 Downtown 2 (RB2-X)</li> <li>DT-3 Downtown 3 (RB2-E)</li> <li>DT-4 Downtown 4 (RB1-E)</li> <li>DT-5 Downtown 5 (RB1-X)</li> </ul>	<p><b>Mixed Use</b></p> <ul style="list-style-type: none"> <li>MU-1 Mixed Use 1 (MU-D)</li> <li>MU-2 Mixed Use 2 (RMS-X)</li> <li>MU-3 Mixed Use 3 (MU-X)</li> <li>MU-4 Mixed Use 4</li> </ul> <p><b>Industrial</b></p> <ul style="list-style-type: none"> <li>IG Industrial - General (IG-E/D)</li> <li>IM Industrial - Manufacturing (IM-E/D)</li> <li>IMS Industrial - Mixed Services (IMS-X)</li> <li>IS-1 Industrial - Service 1 (IS-E)</li> <li>IS-2 Industrial - Service 2 (IS-D)</li> </ul> <p><b>Other</b></p> <ul style="list-style-type: none"> <li>E Enclave (E)</li> <li>Flex (F)</li> <li>Medium Density District Overlay Zone</li> <li>Designated Local Historic Districts</li> <li>Boulder Valley Regional Center</li> </ul>
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**Agricultural and Public**

- A Agricultural (A-E)
- P Public (P-E)

**\*Zoning Map Amendments:**

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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		

1" = 1000'

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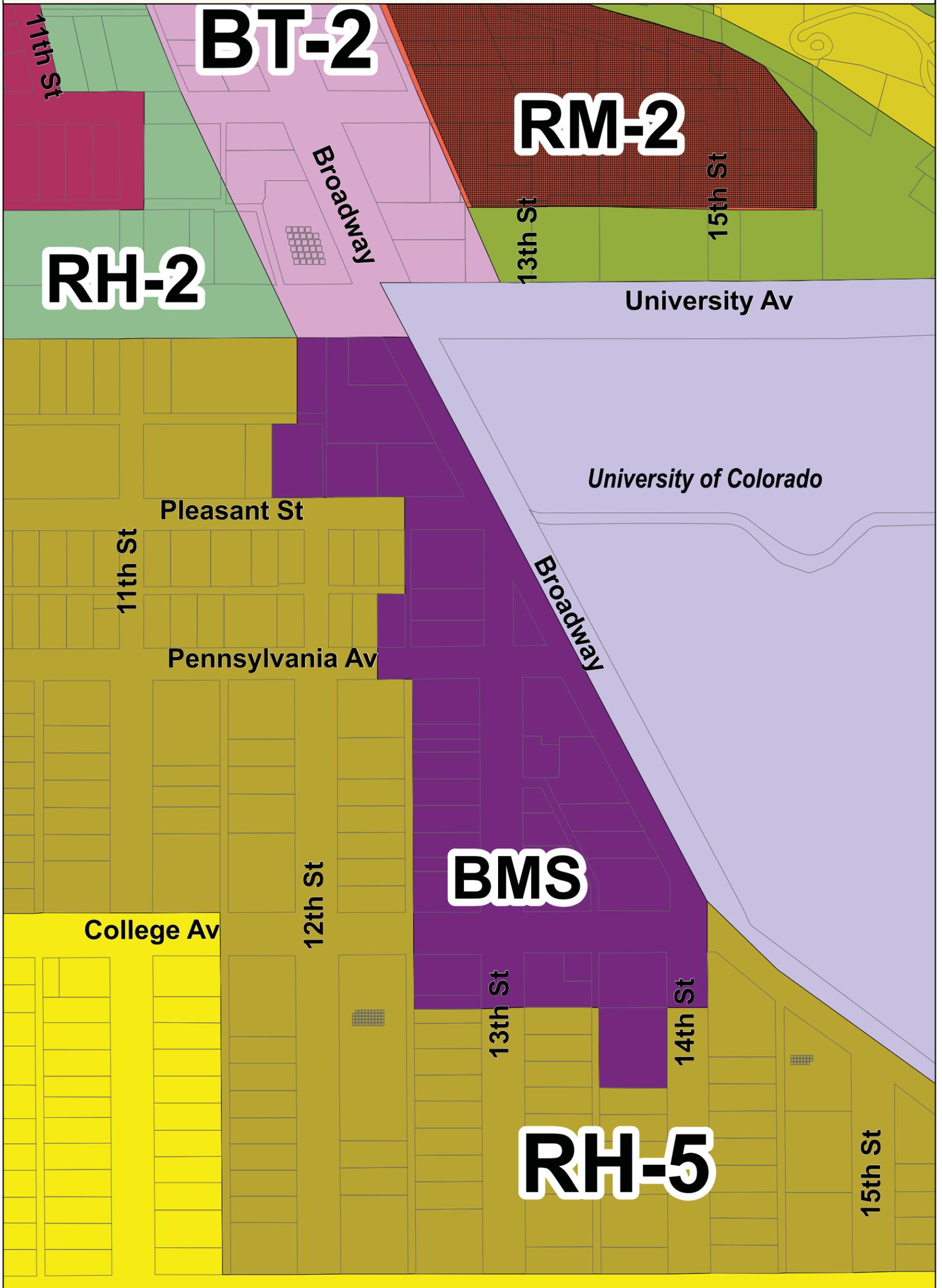
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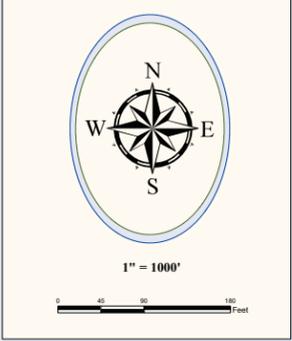
# Uni Hill Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)\*



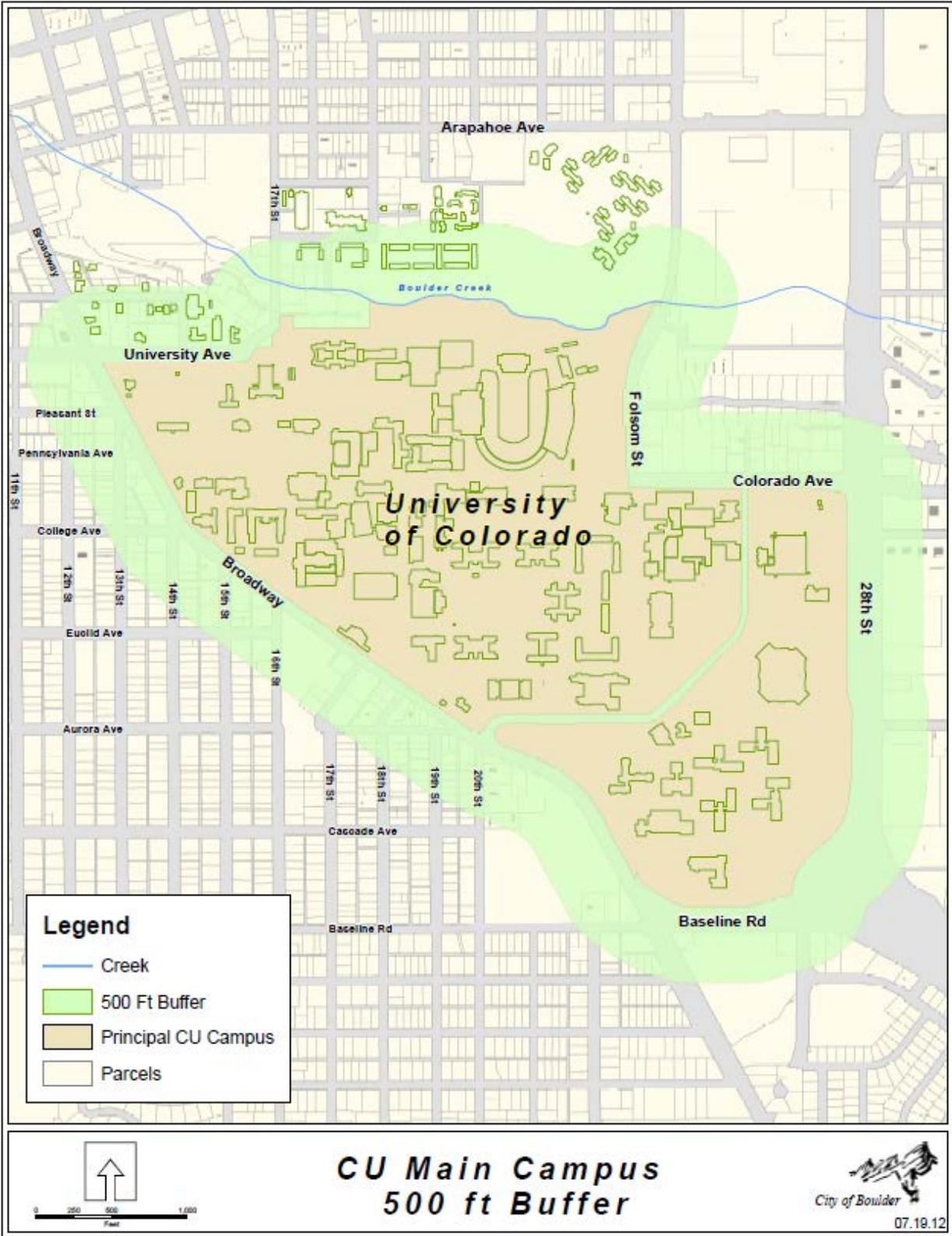
Zoning Districts <i>(Previous Zoning District Name in Parentheses)</i>		
<b>Residential</b>	<b>Commercial &amp; Business</b>	<b>Mixed Use</b>
MH Mobile Home (MH-E)	BC-1 Business - Community 1 (CB-D)	MU-1 Mixed Use 1 (MU-D)
RE Residential - Estate (ER-E)	BC-2 Business - Community 2 (CB-E)	MU-2 Mixed Use 2 (RMS-X)
RH-1 Residential - High 1 (HR-X)	BCS Business - Commercial (CS-E)	MU-3 Mixed Use 3 (MU-X)
RH-2 Residential - High 2 (HZ-E)	BMS Business - Main Street (BMS-X)	MU-4 Mixed Use 4
RH-3 Residential - High 3 (HR1-X)	BR-1 Business - Regional 1 (RB-E)	<b>Industrial</b>
RH-4 Residential - High 4 (HR-D)	BR-2 Business - Regional 2 (RB-D)	IG Industrial - General (IG-E/D)
RH-5 Residential - High 5 (HR-E)	BT-1 Business - Transitional 1 (TB-D)	IM Industrial - Manufacturing (IM-E/D)
RH-6 Residential - High 6	BT-2 Business - Transitional 2 (TB-E)	IMS Industrial - Mixed Services (IMS-X)
RL-1 Residential - Low 1 (LR-E)	DT-1 Downtown 1 (RB3-X/E)	IS-1 Industrial - Service 1 (IS-E)
RL-2 Residential - Low 2 (LR-D)	DT-2 Downtown 2 (RB2-X)	IS-2 Industrial - Service 2 (IS-D)
RM-1 Residential - Medium 1 (MR-D)	DT-3 Downtown 3 (RB2-E)	<b>Other</b>
RM-2 Residential - Medium 2 (MR-E)	DT-4 Downtown 4 (RB1-E)	E Enclave (E)
RM-3 Residential - Medium 3 (MR-X)	DT-5 Downtown 5 (RB1-X)	Flex (F)
RMX-1 Residential - Mixed 1 (MXR-E)		Medium Density District Overlay Zone
RMX-2 Residential - Mixed 2 (MXR-D)		Designated Local Historic Districts
RR-1 Residential - Rural 1 (RR-E)		Boulder Valley Regional Center
RR-2 Residential - Rural 2 (RR1-E)		
	<b>Agricultural and Public</b>	
	A Agricultural (A-E)	
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## Attachment I - Hospitality Establishments & Liquor Licences on Uni Hill

### Hospitality establishments and associated liquor licenses on University Hill

Establishment	Location	Liquor License type	Meal service?	Square footage	Closing time
The Corner	1100 13 <sup>th</sup> 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	1114 13th	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 22, 2013**

**AGENDA TITLE:**

**Second reading** and consideration of three **ordinances** all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution as follows:

1. Ordinance No. 7929 amending Section 6-14, "Medical Marijuana," B.R.C. 1981;
2. Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981; and
3. Ordinance No. 7931 amending Section 5-10, "Marijuana Offenses," B.R.C. 1981.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Kathy Haddock, Senior Assistant City Attorney  
Mishawn Cook, Tax and License Manager  
Beverley Bookout, Police Officer  
Dale Goetz, Building Code Compliance Specialist  
Jeff Kessler, Police Sergeant  
Mike Whitney, Assistant City Attorney

**EXECUTIVE SUMMARY:**

This agenda item is intended to address the regulation of recreational marijuana in Boulder under the authority of Amendment 64 to the Colorado State Constitution. These matters were set for second reading on September 17, 2013 and rescheduled to October 22, 2013 due to the flood. However, on September 17, Council adopted, by emergency, Ordinance No. 7937 which designated the city manager as the Recreational Marijuana Licensing Authority and imposed a moratorium on applications for recreational marijuana businesses until January 2, 2014. The

ordinance was needed to comply with state law for the designation by October 1, 2013, and to ensure that no one was confused that the city was ready to accept applications for recreational marijuana businesses.

On September 3, 2013, at first reading, Council requested that staff prepare several changes to the ordinances that had been presented regarding medical and recreational marijuana. Those changes are addressed below.

**STAFF RECOMMENDATION:**

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

Motion to approve three ordinances as follows: Ordinance number 7929 amending Section 6-14, "Medical Marijuana," B.R.C. 1981; Ordinance number 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981, and Ordinance number 7931 amending Section 5-10 "Marijuana Offenses," B.R.C. 1981, all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution.

**FIRST READING AGENDA MEMO:**

The first reading agenda memo is located in the September 3, 2013 council meeting packet - <https://documents.bouldercolorado.gov/weblink8/0/doc/123525/Electronic.aspx>.

**PUBLIC FEEDBACK AND REQUESTS:**

Since first reading, Downtown Boulder has submitted a request to Council that recreational marijuana retail centers be prohibited on the ground level on the Pearl Street Mall to maintain the healthy and vibrant mix of retail, restaurant and professional office tenants in the downtown district. Staff's recommended ordinance includes this proposed change and extends the prohibition to the University Hill business district.

**MISCONCEPTIONS OF ACTIONS OF OTHER GOVERNMENTS:**

There was some confusion, and inaccurate statements have been made, about the state's laws and the laws of other cities. The following is a summary of some of those issues:

- The city will not receive background check results for recreational businesses until state legislation is corrected during the 2014 session. No legislative change will be effective until late in the 2014 legislative session. The 2013 law adopted, regarding recreational marijuana, made the same mistake as was made in 2011 for medical marijuana and does not specifically provide for local governments to receive background check results (This is the reason that staff recommended not processing applications until after June 1, 2014).
- The 90-day limitation in Amendment 64 for the time to process recreational applications applies only to the state; it does not apply to local governments. While Denver will start

accepting conversion applications on October 1, 2013, Denver's staff expects processing to take substantially longer than 90 days. In fact, Denver has not yet processed all of the applications for medical marijuana businesses submitted in 2010.

- While the state has indicated it will improve enforcement, nothing has been implemented. State officials have told Boulder officials that they will not be enforcing in Boulder because the city does a good job and the state resources are too limited.
- The state tracking mechanisms, including seed-to-sale (referred to as "MITS" – Marijuana Inventory Tracking Solution) and RFID (radio frequency identification), are not implemented and there is no timeframe for implementation. State officials have advised staff that the tracking information will not be shared with local governments.
- While the requirement for vertical integration of centers and cultivation facilities is being eliminated by the state for recreational marijuana starting October 1, 2014, vertical integration will remain a requirement for medical marijuana businesses.
- An industry lobbyist has provided a chart which suggests that the city is the only entity regulating in certain areas. It should be clear that most governments have not yet finalized their regulations. Thus, such comparisons may be premature. Denver has adopted its laws regarding recreational marijuana. A chart comparing some of Boulder and Denver's provisions is attached. As shown in the chart that was part of the first reading agenda memo, most cities in the area have banned recreational marijuana businesses or imposed a moratorium that extends into 2014.
- Amendment 64 was called the "Regulate Marijuana like Alcohol Act." Where the proposed ordinances differ from Chapter 6-14 regarding medical marijuana, it was because of the manner of regulation of retail liquor stores.
- Co-location of recreational and medical marijuana retail outlets has several meanings. It can be virtual or physical. It always includes the same owner of both. The state does not allow virtual separation unless the business does not allow anyone under 21 years of age on the premises. Physical separation is allowed by the state with separate entrances and exits, sales and storage areas, inventories, point of sale operations and recordkeeping. The city allows co-location with the same physical separation requirements as the state and separate licenses.

## **ANALYSIS:**

### **I. Changes to Medical Marijuana Chapter 6-14 since September 3, 2013 (Attachment A)**

State law does not have separate requirements for a MIP (marijuana-infused product manufacturer) that manufactures recreational and medical marijuana (although the state does allow a higher potency of product to be sold to a recreational marijuana store than a medical marijuana center). Therefore, staff proposes that MIPs be regulated consistently regardless of whether they are creating recreational or medical marijuana products. Thus, staff proposes that

MIP regulation be removed from Chapter 6-14 and be included only in the new Chapter 6-16. Products created at a MIP would be permitted to be sold to both recreational and medical marijuana centers in compliance with all other laws.

The definition of places open to the public in Chapter 6-14 has been revised to be parallel to the definition in proposed Chapter 6-16. Other specific changes are described in the first reading memo. The changes between first and second reading are highlighted in Ordinance No. 7929 regarding Chapter 6-14 and underline/strikeout in Ordinance No. 7930 regarding Chapter 6-16.

## **II. Changes since September 3 to New Recreational Marijuana Chapter 6-16 (Attachment B)**

a. Limitation on Businesses: Council discussed various impacts, solutions, and options related to limitations on sizes, locations, and owners of businesses. Staff's recommendation is intended to address a number of priorities previously identified by Council, including preventing a disproportionate impact on individual neighborhoods, preventing a certain use category or area of the city from being taken over by one industry, recognizing the impact of marijuana businesses on neighbors, protecting the rights of patients, protecting children and families, and promoting a vibrant marijuana industry without adversely affecting the city's economic vitality.

In balancing these priorities, the proposed ordinances contain language to implement the following:

By Location: Recreational businesses are limited to three within 500 feet of each other, and in the commercial areas downtown and on University Hill they may not be on the ground floor. The same limitation currently applies to wellness centers. The maps in **Attachment E** show 500 foot circles around each existing medical marijuana business. Staff recommends the grandfathering of existing cultivation facilities and MIPs that were not previously subject to the 500 foot limit.

By Owner: Under the proposed ordinance, an owner can hold a license for one medical marijuana wellness center, one recreational marijuana dispensary and one MIP facility (owners of retail liquor stores cannot own more than one liquor store).

By Size: Staff recommends that recreational marijuana cultivation facilities be limited to 1,000 plants. There are several reasons for this recommendation. Cultivation facilities are complicated operations. Growing marijuana commercially in our climate requires indoor facilities with powerful lamps, robust electrical and temperature control systems, complex ventilation systems and assorted chemicals. The city has regulated these businesses effectively through regular and careful inspections. Staff's original recommendation was to limit cultivation facilities to 500 plants, because a facility of that size could be inspected by one staff member from police, fire and zoning enforcement. The industry objected. Staff agreed to increase the number to 1,000 plants. Only four medical marijuana cultivation facilities have more than 1,000 plants and staff recommends that those that comply with current odor limitations and an additional fee be grandfathered.

In addition to the public safety concerns, the biggest impact on adjacent properties from marijuana businesses is the odor of marijuana plants and raw product. The staff particularly gets complaints from the Dakota Ridge neighborhood northwest of the intersection of Broadway and Lee Hill, Foothills and Pearl, and 55<sup>th</sup> and Arapahoe. The problem is exacerbated by the unregulated cultivation facilities in the enclaves near those locations. While some of the businesses have been responsive to requirements for enhanced ventilation equipment, the odor is still persistent and disturbing to the community. The odor increases with a greater numbers of plants. The odor is most apparent during the harvesting cycle of the marijuana. Most businesses harvest every quarter and the harvesting takes several weeks. Most businesses also cycle their plants so that all plants are not harvested at the same time. Thus, the 1000 plant limit also is intended to mitigate the impact of odor on the surrounding community.<sup>1</sup>

The city is also trying to mitigate the odor problem in enclaves. The proposed change to Chapter 5-10 that is in **Attachment C** is an attempt to mitigate the odor problem created by cultivation facilities in enclaves. This type of enforcement takes significant staff resources, with limited authority. The higher the density of grows, the less ability exists to determine the source of the odor with sufficient surety to enforce the city's codes. Unless the city limits the size and density of cultivation facilities, the negative impacts on the neighborhoods will increase. Further, there may be a disproportionate number of marijuana businesses in certain areas of the city preventing the city's goal of diversification of businesses. The number of complaints staff receives from the negative impacts of grows prevents staff from recommending that the size of cultivation facilities be increased.

b. Grandfathering: While staff is recommending grandfathering of existing cultivation facilities and MIPs from separation requirements and 1,000 plant limit, staff recommends against "grandfathering" existing medical marijuana dispensaries for conversion to recreational facilities. This is a new regulatory scheme and a different type of business. The city is already proposing that medical marijuana businesses be given a competitive advantage to entry by giving them an exclusive period to convert. The separation of recreational marijuana stores from schools, and from alcohol and drug rehabilitation facilities if desired by Council, is based on sound policy reasons of protecting children, and potentially those struggling with substance abuse, from recreational marijuana.

c. Time for Accepting Conversion Applications: Staff's original recommendation of the timetable to complete processing of pending applications and prepare for acceptance and processing of conversion to recreational marijuana remains staff recommendation and was intended to allow for an orderly transition and to avoid some of the confusion and delay associated with applications for medical marijuana businesses. Staff recommended a proposed schedule (a) to finish processing the pending 39 applications (26 for renewals and 13 for new medical marijuana businesses), (b) develop forms for recreational marijuana businesses, (c) stop accepting applications for new medical marijuana businesses between March 1, 2014 and September 30, 2014, (d) begin accepting and processing applications for existing medical marijuana businesses to convert to recreational marijuana businesses between June 1, 2014, and

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<sup>1</sup> Staff has not proposed the 1,000 plant limit because of an inability to count or insignificant odor issues.

September 30, 2014, and (e) begin accepting marijuana applications from those not currently licensed for medical marijuana businesses and again begin accepting applications for new medical marijuana businesses by October 1, 2014.

The date which staff proposed to stop accepting new medical marijuana licenses so that the pending applications could be completed prior to accepting recreational marijuana applications is necessary to give staff time to clear the decks. After it became clear that the state was planning to give priority to existing medical marijuana businesses, the city received a flow of new applications for medical marijuana businesses. There are 39 applications pending currently.

A time for processing only applications for conversion of medical marijuana businesses to recreational marijuana businesses would implement the Council's intent to give priority to existing medical marijuana businesses. An additional factor in the staff's recommendation was that the legislature precluded local governments from obtaining criminal history information on license applicants. The legislature intends to change this in the next legislative session. Staff's original proposal to start accepting license applications on June 1, 2014 was driven, in part, by the desire to have access to criminal history information while processing applications.

Staff has explored ways to address several council members' interest in beginning the conversion process on January 2, 2014. To accomplish this and address the goals set forth above, staff would (a) stop accepting applications for new medical marijuana businesses on November 1, 2013, and (b) accept conversion applications from only medical marijuana businesses that can commit that there will be no new business managers or change of ownership or financier until after June 1, 2014. This would allow businesses to operate with managers, owners and financiers who have already been cleared and permit the city to obtain background information on any new such person after criminal histories become available at the conclusion of the legislative session.

The obvious flaw to this proposal is that it puts a lot of pressure on staff to complete the existing applications while at the same time developing the forms for the conversion process. Hiring new staff does not necessarily solve the problem. The city relies upon its existing licensing manager and her staff to provide high quality customer service and consistency for marijuana licenses as well as all other licenses in the city. Council is proposing substantial changes regarding liquor licensing to occur during the same time period. It is important that there be consistency from application to application, but also between marijuana and alcohol regulation. Asking the licensing manager to hire and train new staff by January 1, 2014 would impose an additional burden without sufficient attendant benefit. Another flaw is that it is difficult to predict the future. While the businesses may believe that they will not have new business managers, owners or financiers on January 1, 2014, circumstances could change during the ensuing months before the legislation is changed and the city would not be able to get background check results.

d. Co-location: Staff recommends strongly against co-location of medical and recreational marijuana businesses with less than a physical separation with a separate license. Co-location of dispensaries and cultivation facilities without physical separation undermines the city's regulatory philosophy. The council adopted a wellness model to regulate medical marijuana. Thus, medical marijuana dispensaries are required to provide wellness services and have appropriate treatment facilities for those services. The model is designed to accommodate

seriously ill patients needing care. Recreational facilities are more like liquor stores or bars. Combining the two would be like opening a liquor store in a doctor's office. It would not be fair to patients to have them seek medicine in a recreational facility.

Medical marijuana cultivation facilities are limited by their association with a medical marijuana dispensary. Such facilities can only produce the plants needed to treat the patients of the dispensary. Under state law, those plants belong to the patient, not the wellness center. Recreational cultivation facilities have no such limitation. Combining the two types of facilities would make regulation difficult if not impossible. It would not be possible to tell which plants would be tied to particular patients and which were for recreational use.

There are several practical reasons why co-location presents such significant challenges:

Compliance Checks: One of the most effective enforcement tools the city can use is random compliance checks. It appears that Boulder is one of the few jurisdictions that conducts such checks. While our marijuana compliance program is relatively new, a similar program for random checks of liquor establishments has demonstrated a significant increase in compliance as follows:

Year	Number of Checks	Compliance Rate
2008	90	83%
2010	469	88%
2012	536	91%

In performing random checks, the officers must have a reason to stop someone. If the business has a dual license, the officer may not have a basis to stop someone leaving with more than one ounce of marijuana because that person could be a legitimate patient. In essence, it makes "over-service" easier and almost undetectable unless the officer witnesses the over-sale.

Auditing: Because marijuana businesses are mostly cash businesses, there are not bank records or other separate records that can be used to evaluate the self-reporting of the business. A different type of forensic audit is necessary to detect violations than a normal sales tax audit performed by the city. While the city can set up ways to attempt to require records that can be compared to more successfully enforce when the amounts of marijuana delivered to the business are recreational and limited to one ounce and taxes are required, it is much more difficult, and perhaps not possible, to do when some of the marijuana can be sold in amounts of two ounces or more, and the amount of marijuana allowed on the site of the business is different for the medical marijuana than the recreational marijuana.

Protection of Patients: Under the medical marijuana law, patients have a right to confidentiality and their records are treated with HIPAA protection. Products with a higher potency of THC are permitted in medical marijuana wellness centers than in recreational dispensaries. Boulder's wellness model requires that there be private consultation rooms for patients. A recreational dispensary does not have any of those components. As staff was preparing the regulations regarding medical marijuana, one of

the major items requested by the patients was that they were treated as patients in need of medicine rather than having to buy on the street. That request cannot be honored in a store that is selling marijuana for recreational use.

Protection of Minors: Medical marijuana is available to those over 18 years of age and to those under 18 with a parent's permission. Recreational marijuana can be sold only to those at least 21 years of age. Compliance checks for recreational marijuana businesses should mirror those used for liquor establishments. Separation of facilities will support this enforcement.

e. Advertisements: The city's requirements regarding advertisements (Section 8(p) in both Chapter 6-14 and Chapter 6-16) do cover most of the areas listed in the memorandum from Boulder County Health. The items that are not addressed are a limitation on electrical signs or banning businesses from giving samples or otherwise providing giveaways of marijuana or related products.

### **III. Ordinance Making Changes to Chapter Regarding Marijuana Offenses (Attachment C)**

There have been no changes to this ordinance from the form presented at first reading.

### **IV. Questions for Council**

While Council is free to make any changes, discussion at first reading highlighted the following questions:

1. Does Council agree with the 1,000 foot separation requirement from schools for recreational marijuana stores?
2. Should the 1,000 foot separation apply to separation alcohol and drug treatment facilities from recreational marijuana stores?
3. Does Council support the limit of 1,000 plants for any new cultivation facilities?
4. Does Council support co-location with separate licenses?
5. Does Council want to treat co-located marijuana businesses as one business for purposes of the 500 foot separation requirement?
6. Does Council support the proposed schedule for processing of pending medical marijuana applications, conversion applications, and acceptance of applications for new businesses?

**ATTACHMENTS:**

**Attachment A** - Ordinance No. 7929 Amending Section 6-14, “Medical Marijuana,” B.R.C. 1981

**Attachment B** - Ordinance No. 7930 Adding a new chapter 6-16, “Recreational Marijuana,” and a new section 4-20-67, “Recreational Marijuana Businesses,” B.R.C. 1981

**Attachment C** - Ordinance No. 7931 Amending Section 5-10, “Marijuana Offenses,” B.R.C. 1981

**Attachment D** - Chart of comparisons of Boulder and Denver provisions regarding marijuana

**Attachment E** - Maps of 500 foot radius around existing medical marijuana businesses

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ORDINANCE NO. 7929

AN ORDINANCE AMENDING CHAPTER 6-14 TO IMPLEMENT AND COMPLY WITH THE REQUIREMENTS OF AMENDMENT 64 TO THE COLORADO STATE CONSTITUTION, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Subsection 6-14-1(a)(2), B.R.C. 1981, is amended to read:

**6-14-1 Legislative Intent and Purpose.**

(a) Legislative Intent. The city council intends to regulate the use, acquisition, cultivation, production and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment.")

...  
(2) Use, distribution, cultivation, production, possession and transportation of medical marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by ~~both Colorado and~~ federal law.

Section 2. Section 6-14-2, B.R.C. 1981, is amended to add the following definitions:

**6-14-2 Definitions.**

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

...  
*Business manager* means the individual designated by the owner of the medical marijuana business as the person responsible for all operations of the business in the absence of the owner from the business premises. Business manager shall include any person with managerial authority in the business, and any person that has access to lock or unlock the safe, to unlock or lock the business, or set or disarm the alarm.

*Marijuana for this Chapter 6-14* means

- (1) The same as the term "usable form of marijuana" as set forth in the Medical Marijuana Amendment; or
- (2) May be more fully defined in any applicable state law or regulation.

1 Marijuana business means a recreational marijuana business or a medical marijuana  
2 business.

3 Marijuana establishment shall have the same meaning as marijuana establishment in Chapter  
4 6-16.

5 Marijuana warehouse means a marijuana establishment that is not a licensed medical  
6 marijuana business or a licensed recreational marijuana business. No marijuana warehouses  
7 are allowed in the city.

8 ...

9 Medical marijuana-infused product means a marijuana-infused product as defined in  
10 Chapter 6-16 of this code. product infused with medical marijuana that is processed for use  
11 or consumption, including, without limitation, edible products, concentrates, ointments and  
12 tinctures.

13 Medical marijuana-infused product manufacturer means a licensed marijuana-infused  
14 product manufacturer as defined in Chapter 6-16 of this code medical marijuana businesses  
15 that produces medical marijuana infused products.

16 ...

17 Place open to the general public means any property owned, leased or used by a public  
18 entity, and any place on private property retail malls, business open to the public, common  
19 areas of buildings, private clubs, and vehicles, those portions of any private property upon  
20 which the public has an express or implied license to enter or remain, and any place visible  
21 from such places. Place open to the general public shall not include any fenced area of a  
22 private residence regardless of whether it can be seen from a place open to the public.

23 ...  
24 Section 3. Section 6-14-5(a)(3)(A) and (13), B.R.C. 1981, are is amended and a new  
25 Subsection (14) is added to read:

**6-14-5 Application.**

(a) Application Requirements. An application for a medical marijuana business license shall be made to the City on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule or regulation. In addition to the information required by chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:

...

(3) A statement of whether or not any of the named owners, members, business managers, financiers, primary caregivers or persons named on the application have been:

1 (A) Denied an application for a medical marijuana business license pursuant to this  
2 chapter, for a recreational marijuana license pursuant to Chapter 6-16, or any similar state  
or local licensing law, rule or regulation, or had such a license suspended or revoked.

3 ... (6) An operating plan for the proposed medical marijuana business, including the  
4 following information:

5 (D) For cultivation facilities and medical marijuana-infused product manufacturers, a  
6 plan that specifies the methods to be used to prevent the growth of harmful mold and  
7 compliance with limitations on discharge into the wastewater system of the City as set  
8 forth in Chapter 11-3, "Industrial and Prohibited Discharges," B.R.C. 1981.

9 (E) For a medical marijuana-infused product manufacturer, a plan that specifies all means  
10 to be used for extraction, heating, washing or otherwise changing the form of the medical  
11 marijuana plant, and verification of compliance with all applicable laws for ventilation  
12 and safety measures for each process. The City shall require the medical marijuana  
13 business to obtain a report from an industrial hygienist to verify that the plan submitted,  
14 and the improvements to be constructed, adequately protect the business and adjacent  
15 properties and persons and comply with all applicable laws.

16 (13) A description of all toxic, flammable or other materials regulated by a federal, state or  
17 local government that would have with authority over the business if it was not a marijuana  
18 business, that will be used or kept at the medical marijuana business, the location of such  
19 materials and how such materials will be stored.

20 (14) A description of the process(es) used to extract or distill marijuana from its source and  
21 the process used to incorporate marijuana into all products produced, including verifying  
22 compliance of all processes regulated by a federal state or local government that would have  
23 authority over the business if it was not a marijuana business.

24 (15) A statement of the amount of the projected daily average and peak electric load  
25 anticipated to be used by the business and certification from the landlord and utility provider  
that the premises are equipped to provide the required electric load, or necessary upgrades  
will be performed prior to final inspection of the premises.

(16) For applications for a medical marijuana-infused product manufacturer, the location of  
the cultivation facility in the city owned by the licensee.

(17) No applications for new medical marijuana businesses shall be accepted between March  
1, 2014 and October 1, 2014.

1  
2 Section 4. Add a new Subsection (14) to Section 6-14-6(a) to read:

3 **6-14-6 Persons Prohibited as Licensees and Business Managers**

4 (a) It shall be unlawful for any of the following persons to have an ownership or a financial  
5 interest in a medical marijuana business, and no license provided by this chapter shall be issued  
6 to or held by, and no medical marijuana business shall be managed by:

7 (14) Any person applying for a license to operate a medical marijuana center who has  
8 been licensed to operate another medical marijuana center in the city pursuant to this  
9 chapter:

10 **Section 5.** Section 6-14-7(e) and (f), B.R.C. 1981, is amended to read:

11 **6-14-7 Locations of Medical Marijuana Businesses.**

12 ...  
13 (c) No Recreational Marijuana Business in Building with Residences or Residential Zone  
14 Districts. It shall be unlawful to operate a medical marijuana business in a building which  
15 contains a residence, or within a dwelling unit within any zone district, or within a residential  
16 zone district- or on the premises of a development within a mixed-use zone district that includes  
17 a residence, as such districts are described in Table 5-1 of section 9-5-2, "Zoning Districts,"  
18 B.R.C., 1981.

19 ...  
20 (f) Separation From Schools, Day Care Centers or Other Medical Marijuana Uses. No medical  
21 marijuana business license shall be issued for the following locations:

22 (1) Within five hundred feet of any elementary, junior high, middle or high school or state  
23 licensed day care center. Distances shall be measured by the City on official maps as the  
24 radius from the closest points on the perimeter of the applicant's property to the closest point  
25 of the property of the school or day care center. This restriction shall not apply to a medical  
marijuana business that is licensed by the City on November 1, 2012.

26 (2) Within one thousand feet of the real property comprising a public or private elementary,  
27 vocational, or secondary school or a public or private college, junior college, or university, or  
28 a playground, or housing facility owned by a public housing authority. This restriction shall  
29 not apply to a medical marijuana business that was held a valid licensed by from the City on  
30 March 5, 2013.

31 (3) Within five hundred feet of three other marijuana businesses, except that this limitation  
32 shall not apply in Industrial zones.

1 (A) Distances shall be measured by the City on official maps as the radius from the ~~elosest~~  
2 closest points on the perimeter of the applicant's property to the closest point of the  
property of any other medical marijuana business.

3 (B) To determine the proximity to other medical marijuana businesses and the priority of  
4 applications, businesses shall have priority in the following order:

5 (i) Businesses that are open and operating;

6 (ii) Businesses whose applications have been approved; ~~and~~

7 (iii) Applications for medical marijuana business licenses that have been submitted by  
the applicant and declared complete by the City; and;

8 (iv) No other applications shall be considered "businesses" for this determination.

9  
10 ~~(h) Limitations on Medical Marijuana-Infused Product Manufacturers. No medical~~  
11 ~~marijuana-infused product manufacturer shall be allowed in the city unless the same licensee has~~  
12 ~~a medical marijuana cultivation facility located in the city.~~

13 Section 5-6 Section 6-14-8(b) and (p) are amended to read:

14 **6-14-8 Requirements Related to Operation of Medical Marijuana Businesses.**

15 ...  
16 (b) Restriction on Access to Restricted Area: Age Limitations. No person, other than a patient,  
17 licensee, employee, or a contractor under eighteen years of age shall be in the restricted area.  
No patient shall be allowed entry into the restricted area without showing a valid picture ID and  
evidence that the person is a patient, unless the person is accompanied by a parent or guardian.

18 ...  
19 (p) Advertisement. A medical marijuana business may not advertise in a manner that is  
20 inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not  
21 advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors.  
Advertisement that promotes medical marijuana for recreational or any use other than for  
medicinal purposes shall be a violation of this code. The following conditions shall apply:

22 (1) Any person licensed as a medical marijuana center or a medical marijuana-infused  
23 products manufacturer shall include in any advertisement for medical marijuana or any  
24 medical marijuana-infused product the following language: "For registered Colorado medical  
25 marijuana patients only." Provided, however, this language shall not be required to be  
displayed upon any sign identifying a medical marijuana center, as permitted by  
subparagraph (2)(a) below.

(2) Except as otherwise provided in this paragraph, it shall be unlawful for any person  
licensed under this article or any other person to advertise any medical marijuana or medical

1 marijuana-infused product anywhere in the City where the advertisement is in plain view of  
2 or in a place open to the general public, including advertising utilizing any of the following  
3 media: any billboard or other outdoor general advertising device as defined by the zoning  
4 code; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill,  
5 leaflet or flier directly handed to any person in a public place, left upon a motor vehicle or  
6 posted upon any public or private property ~~without the consent of the property owner~~. The  
7 prohibition set forth in this paragraph shall not apply to:

8 a. Any sign located on the same zone lot as a medical marijuana center which exists  
9 solely for the purpose of identifying the location of the medical marijuana center and  
10 which otherwise complies with this code and any other applicable city laws and  
11 regulations;

12 b. Any advertisement contained within a newspaper, magazine or other periodical of  
13 general circulation within the City or on the internet; or

14 c. Advertising which is purely incidental to sponsorship of a charitable event by a  
15 medical marijuana center or a medical marijuana-infused products manufacturer.

16 (3) It is an affirmative defense if a medical marijuana business employee provided another  
17 individual, upon request, a business card for the purpose of providing that person's name and  
18 business affiliation, including, without restriction, title, mailing address, email address and  
19 telephone number.

20 Section 67. Section 6-14-9(g) is amended to read:

21 **6-14-9 Right of Entry – Records to be Maintained.**

22 (g) Reporting of Energy Use and Renewable Energy Credit (REC) Purchases. The records to be  
23 maintained by each medical marijuana business shall include without limitation records showing  
24 on a monthly basis the use and source of energy and the number of certified Renewable Energy  
25 Credits (RECs) purchased, or the subscription level for another renewable energy acquisition  
program approved by the city manager. A statement of the projected daily average peak electric  
load anticipated to be used by the business and certification from the building owner or landlord  
and utility provider that the premises are equipped to provide the required electric load, or  
necessary upgrades will be performed. Such records shall include all statements, reports or  
receipts to verify the items included in the report of the business. By application for a medical  
marijuana business license from the city, the medical marijuana business grants permission to  
providers of the energy or point of origin of the RECs or other renewable energy acquisition  
program to disclose the records of the business to the city. For medical marijuana business that  
cultivate medical marijuana the report shall include the number of certified Renewable Energy  
Credits (RECs) purchased, or the subscription level for another renewable energy acquisition  
program approved by the city manager.

1           Section 78. Section 6-14-13(a)(1) is amended and a new Subsection (33) is added to  
2 read:

3  
4       **6-14-13 Prohibited Acts.**

5       (a) Prohibited Acts. It shall be unlawful for any person to:

6           (1) Cultivate, distribute, possess, produce, smoke, use or ingest marijuana for recreational  
7 use in plain view of, or in a place open to the general public.

8           ... (33) Label or distribute a marijuana-infused product that is not labeled as required by this  
9 code or other applicable law.

10           Section 79. This ordinance is necessary to protect the public health, safety, and welfare  
11 of the residents of the city, and covers matters of local concern.

12           Section 810. The city council deems it appropriate that this ordinance be published by  
13 title only and orders that copies of this ordinance be made available in the office of the city clerk  
14 for public inspection and acquisition.

15  
16           INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
17 TITLE ONLY this 3<sup>rd</sup> day of September 2013.

18  
19           \_\_\_\_\_  
20           Mayor

21           Attest:

22           \_\_\_\_\_  
23           City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this 22<sup>nd</sup> day of October, 2013.

5 \_\_\_\_\_  
Mayor

6 Attest:

7 \_\_\_\_\_  
8 City Clerk

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ORDINANCE NO. 7930

AN ORDINANCE ADDING A NEW CHAPTER 6-16, "RECREATIONAL MARIJUANA," B.R.C. 1981 AND ADDING A NEW SECTION 4-20-67, "RECREATIONAL MARIJUANA BUSINESSES," B.R.C. 1981 TO IMPLEMENT AND COMPLY WITH THE REQUIREMENTS OF AMENDMENT 64 TO THE COLORADO STATE CONSTITUTION, AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new chapter 6-16, B.R.C. 1981, is added to read:

**Title 6: Health and Safety and Sanitation**

**Chapter 6-16: Recreational Marijuana**

**6-16-1 Legislative Intent, Findings, and Purpose.**

(a) Legislative Intent and Findings. The city council intends to regulate the use, possession, cultivation, production and distribution of marijuana in a manner that is consistent with Article XVIII, Section 16 of the Colorado Constitution (the "Recreational Marijuana Amendment", also known as Amendment 64.) and finds that the provisions of this Chapter 6-16 are directly and demonstrably related to the operation of marijuana establishments in a manner to minimize negative impacts on the community.

- (1) The city adopts this law to apply to all recreational marijuana operations in the city under the Recreational Marijuana Amendment, or any recreational marijuana business permitted under the state law.
- (2) Marijuana use, distribution, cultivation and production can have an impact on health, safety, and community resources and the Code is intended to permit marijuana cultivation, distribution, production and testing where it will have a minimal impact, and potential negative impacts are minimized.
- (3) Use, distribution, cultivation, production, possession and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "Level 1 Controlled Substance" by federal law.
- (4) The General Assembly has indicated that it will adopt enabling legislation that will provide for local licensing, however the anticipated state law is not intended to address the local impacts of marijuana operations, making it appropriate for local regulation of marijuana operations.

- 1 (5) Nothing in this chapter is intended to promote or condone the production,  
2 distribution or possession of marijuana in violation of any applicable law.
  - 3 (6) This chapter is to be construed to protect the public over marijuana business  
4 interests. Operation of a recreational marijuana business is a revocable privilege  
5 and not a right in the city. There is no property right for an individual or business  
6 to have marijuana in the city.
  - 7 (7) Marijuana businesses are a heavily regulated industry in the city, and the city has  
8 a zero tolerance policy for violations of this chapter.
  - 9 (8) This chapter is not intended to replace the Medical Marijuana law in Chapter 6-14  
10 of this Code, and any person may apply for and operate a medical marijuana  
11 business pursuant to Chapter 6-14 without complying with this chapter.
  - 12 (9) This chapter is intended to specify the time place and manner restrictions for  
13 operating a recreational marijuana business in the city as specified in the  
14 Recreational Marijuana Amendment.
  - 15 (10) The operation of a marijuana business without a license from the city as provided  
16 in this chapter is prohibited within the city.
  - 17 (11) The experience of the city in processing and enforcing medical marijuana  
18 business licensing evidences that the provisions herein are capable and worthy of  
19 being carried out in practice by a reasonably prudent businessperson.
  - 20 (12) The Colorado Administrative Procedures Act, Article 4 of Title 24 of the  
21 Colorado Revised Statutes (the “APA”), does not apply to local governments and  
22 the state has not been able to resource the process thereof in a timely manner.  
23 The procedures herein for issuance and enforcement of a recreational marijuana  
24 business license are consistent with the requirements of the APA and have been  
25 determined by the Boulder District Court to provide the level of due process  
required by the United States and Colorado Constitutions.
  - (13) A licensee is not acting in his or her capacity as an owner, employee, or agent of a  
licensed marijuana establishment if the licensee is operating in violation of this  
chapter or any other applicable law.
  - (14) The City Council has determined to allow marijuana establishments in the city on  
the condition that the establishments are operated in compliance with this chapter  
rather than banning marijuana establishments in the city as permitted by the  
Recreation Marijuana Amendment.
- (b) Purpose. The purpose of this chapter is to protect the public health, safety and welfare of the residents, businesses, and property in the city by prescribing the manner in which recreational marijuana businesses can be conducted in the city. Further, the purpose of this chapter is to:

- 1 (1) Provide for a means of cultivation, production, and distribution of marijuana to  
2 persons permitted to obtain, possess and use marijuana for recreational purposes  
under the Recreational Marijuana Amendment.
  - 3 (2) Protect public health and safety through reasonable limitations on business  
4 operations as they relate to noise, air and water quality, food safety, neighborhood  
5 and public safety, security for the business and its personnel, and other health and  
6 safety concerns.
  - 7 (3) Promote lively street life and high quality neighborhoods by limiting the  
8 concentration of any one type of business in specific areas.
  - 9 (4) Impose fees for licensing recreational marijuana businesses in an amount  
10 sufficient for the city to recover its costs of the licensing program.
  - 11 (5) Adopt a mechanism for monitoring compliance with the provisions of this  
12 chapter.
  - 13 (6) Create regulations that address the particular needs of the residents and businesses  
14 of the city and coordinate with laws that may be enacted by the state regarding  
15 recreational marijuana.
  - 16 (7) Facilitate the implementation of the Recreational Marijuana Amendment without  
17 going beyond the authority granted by it.
  - 18 (8) Support Boulder's Sustainability and Climate Action Plan goals by requiring  
19 renewable sources for energy use to grow recreational marijuana.
  - 20 (9) Issue recreational marijuana business licenses only to individuals and entities that  
21 have demonstrated an intent and ability to comply with this chapter without  
22 monitoring by city officials.
  - 23 (10) Protect public safety and residential areas by limiting the areas of the city where  
24 more than six marijuana plants may be grown.
  - 25 (11) Exclude from the definition of a *recreational marijuana business* the private  
possession, production and recreational use of marijuana by an individual or the  
private possession, production, distribution and recreational use of marijuana by  
an individual, in the person's residence, to the extent permitted by Article XVIII,  
Section 16 of the Colorado Constitution.
  - (12) Designate the city manager as the recreational marijuana licensing authority  
responsible for licensing recreational marijuana for the City of Boulder.
- (c) Relationship to State Law. The provisions in this chapter that are different from the applicable state law are consistent with the city's responsibility to protect the public health, safety and welfare as authorized by applicable law, and by the home rule authority granted to the city by Article XX of the Colorado Constitution and the Charter of the City. The city intends that

1 both state law and this chapter apply within the city. Where this chapter conflicts with the state  
2 law, this chapter shall apply.

3 (d) Adoption of this chapter 6-16 is not intended to waive or otherwise impair any portion of  
4 the local option available under the Recreational Marijuana Amendment.

5 **6-16-2 Definitions.**

6 The following words and phrases used in this chapter have the following meanings unless the  
7 context clearly indicates otherwise:

8 *Advertise* means the act of drawing the public's attention, whether on print, signs or  
9 electronic means, to a recreational marijuana business in order to promote the sale of  
10 marijuana by the business.

11 *Business manager* means the individual designated by the owner of the recreational  
12 marijuana business as the person responsible for all operations of the business in the  
13 absence of the owner from the business premises. Business manager shall include any  
14 person with managerial authority in the business, and any person that has access to lock  
15 or unlock the safe, to lock or unlock the business, or set or disarm the alarm.

16 *Cultivation* or *cultivate* means (i) all phases of growth of marijuana from seed to harvest;  
17 or (ii) preparing, packaging or repackaging, labeling or relabeling of marijuana prior to  
18 consumption or incorporation into a recreational marijuana-infused product.

19 *Cultivation facility* means a licensed recreational marijuana business that produces and  
20 harvests marijuana plants for distribution by a licensed recreational marijuana center or a  
21 licensed recreational marijuana-infused product manufacturer. Except as included in this  
22 definition, a cultivation facility may not operate any production on its premises.

23 *Distribute* or *distribution* means the actual, constructive or attempted transfer, delivery,  
24 sale or dispensing of marijuana to another, with or without remuneration.

25 *Fermented malt beverage* has the same meaning as its meaning under the Colorado Beer  
Code, C.R.S. 12-46-103.

*Financier* means any person who lends money or otherwise provides assets to any person  
applying for a license or who has been issued a license under this chapter. Financier shall  
not include a bank, savings and loan association, credit union or industrial bank  
supervised and regulated by an agency of the state or federal government.

*Licensee* means the recreational marijuana business named on the recreational marijuana  
business license, and all individuals named in the recreational marijuana business license  
application or later reported to the city, including without limitation, owners, business  
managers, financiers and individuals owning any part of an entity that holds a financial or  
ownership interest in a recreational marijuana business.

1 Mall means the downtown Boulder business improvement district boundaries set forth in  
2 Appendix 8-B of Title 8 of this code.

3 *Malt, vinous and spirituous liquor* has the same meaning as its meaning under the  
4 Colorado Liquor Code, C.R.S. 12-47-108.

5 *Marijuana* for this Chapter 6-16 means:

- 6 (i) The same as set forth in the Recreational Marijuana Amendment; or
- 7 (ii) As may be more fully defined in any applicable state law or regulation.

8 *Marijuana accessories* shall have the same meaning as in the Recreational Marijuana  
9 Amendment.

10 *Marijuana business* means any medical marijuana business as defined in Chapter 6-14  
11 or recreational marijuana business as defined in this chapter.

12 *Marijuana establishment* means a recreational marijuana business that has a license from  
13 the state and the city to operate.

14 *Marijuana testing facility* means a recreational marijuana business that has been licensed  
15 as a marijuana testing facility by the state that is in good standing, and has a license in  
16 good standing with the city.

17 *Marijuana warehouse* means a marijuana establishment that is not licensed by the city as  
18 a medical marijuana business or a licensed recreational marijuana business. No  
19 marijuana warehouses are allowed in the city.

20 Minor means a person under 21 years of age.

21 *Place open to the general public* means any property owned, leased or used by a public  
22 entity, and any place on private property open to the public, common areas of buildings,  
23 private club, vehicles, those portions of any private property upon which the public has  
24 an express or implied license to enter or remain, and any place visible from such places.  
25 Place open to the general public shall not include any fenced area of a private residence  
regardless of whether it can be seen from a place open to the public

*Possess or possession* means having physical control of an object, or control of the  
premises in which an object is located, or having the power and intent to control an  
object, without regard to whether the one in possession has ownership of the object.  
Possession may be held by more than one person at a time. Use of the object is not  
required for possession. The owner of a recreational marijuana business shall be  
considered in possession of the recreational marijuana business at all times. The business  
manager of a recreational marijuana business shall be considered in possession of the  
recreational marijuana business at all times that the business manager is on the premises  
of the business or has been designated by the owner as the business manager in the  
absence of the owner in accordance with this chapter.

1 *Premises* means a distinct and definite location, which may include a building, a part of a  
2 building, a room, or any other defined contiguous area.

3 *Private club* means any location, other than a residence of a person at the residence, or a  
4 marijuana establishment.

5 *Produce or production* means (i) combining marijuana with any other substance for  
6 distribution, including storage and packaging for resale; or (ii) preparing, compounding,  
7 processing, encapsulating, packing or repackaging, labeling or relabeling of marijuana or  
8 its derivatives, whether alone or mixed with any amount of any other substance.  
9 Production shall not include packaging or repackaging labeling or relabeling of marijuana  
10 if no production has occurred and such packaging and labeling qualify as cultivation.

11 *Recreational marijuana* means any marijuana intended for recreational use which meets  
12 all requirements for recreational marijuana contained in Chapter 6-16 of this code, the  
13 Recreational Marijuana Amendment, and any other applicable law.

14 *Recreational marijuana amendment* means Article XVIII, Section 16 of the Colorado  
15 Constitution

16 *Recreational marijuana business* means (a) any person that cultivates, produces,  
17 distributes, possesses, transports or makes available more than six marijuana plants or  
18 one ounce of marijuana, or (b) any person that sells any amount of marijuana or (c) any  
19 person who possesses marijuana openly or publicly. The term *recreational marijuana*  
20 *business* shall not include the private cultivation, possession, production or use within a  
21 person's residence of no more than (a) six plants in an enclosed, locked space, or (b) one  
22 ounce of marijuana, or (c) the marijuana produced by no more than six plants on the  
23 premises where the plants were grown if the plants were grown in an enclosed locked  
24 space.

25 *Recreational marijuana center* means a licensed recreational marijuana business that  
distributes marijuana to any person or to recreational marijuana-infused product  
manufacturers or to another recreational marijuana center.

*Recreational marijuana-infused product* means a product infused with marijuana that is  
processed for use or consumption, including, without limitation, edible products,  
concentrates, ointments, tinctures and any item defined as a "marijuana product" in the  
Recreational Marijuana Amendment.

~~Recreational m~~*Marijuana-infused product manufacturer* means a licensed ~~recreational~~  
marijuana business that produces ~~recreational~~-marijuana-infused products.

*Recreational marijuana local licensing authority* means the city manager. The city  
manager shall be the local licensing authority responsible for processing applications  
under this chapter for the purpose of any state law that requires the city to designate a  
local licensing authority and the recreational marijuana amendment.

1 *Recreational marijuana plant* means a marijuana seed and all parts of the growth  
2 therefrom including, without limitation, roots, stalks and leaves so long as the flowers,  
3 roots, stalks and leaves are all connected and in a growing medium. For purposes of this  
chapter, any part of the plant removed is considered harvested and no longer part of a  
recreational marijuana plant, but marijuana.

4 *Restricted area* means the portion of a recreational marijuana business premises within  
5 which the licensee defines on its application it intends to cultivate, distribute, possess or  
6 produce recreational marijuana and which area is clearly identified as the restricted area  
on the floor plan submitted with the recreational marijuana business license application  
for the business.

7 *University hill commercial area* means the area described as the University Hills General  
8 Improvement District in Appendix 8-A of Title 8 of this code.

9 *Violation of any law or violated any law* means a plea or finding of a violation of any law  
10 in a criminal, civil or administrative proceeding, whether part of a plea agreement,  
settlement agreement, or determination by an arbitrator, hearing officer, court or jury.

11 **6-16-3 License Required.**

12 (a) License Required. It shall be unlawful for any person to operate a recreational marijuana  
13 business without obtaining a license to operate pursuant to the requirements of this chapter and a  
license in good standing from the state.

14 (b) Additional Licenses and Permits May be Required. The license requirement set forth in  
15 this chapter shall be in addition to, and not in lieu of, any other licensing and permitting  
16 requirements imposed by any other federal, state or local law, including, by way of example, a  
17 retail sales and use tax license, a retail food establishment license or any applicable zoning or  
building permit.

18 (c) License Does Not Provide any Exception, Defense or Immunity from other Laws. The  
19 issuance of any license pursuant to this chapter does not create an exception, defense or  
20 immunity to any person in regard to any potential criminal liability the person may have for the  
production, distribution or possession of marijuana.

21 (d) Separate License Required for Each Location. A separate license shall be required for  
22 each premise from which a recreational marijuana business is operated. No two or more  
different businesses, including recreational marijuana businesses may be treated as one premise.  
23 Unless higher performance is required by applicable law, there must be a minimum of a one-hour  
fire separation wall between a recreational marijuana business and any adjacent business.

24 (e) License Non-Transferable; Exceptions. A recreational marijuana business license is not  
25 transferable or assignable, including without limitation, not transferable or assignable to a  
different premise, to a different type of business (including another marijuana business), or to a

1 different owner or licensee. A recreational marijuana business license is valid only for the owner  
2 named thereon, the type of business disclosed on the application for the license, and the location  
3 for which the license is issued. The licensees of a recreational marijuana business license are  
4 only those persons disclosed in the application or subsequently disclosed to the city in  
5 accordance with this chapter.

6 (f) Conversion of Licenses to Different Marijuana Business. A license for a marijuana  
7 establishment may not be converted to a license for a medical marijuana business. A license for  
8 a medical marijuana business for which an application was submitted before October 1, 2013,  
9 may be converted to the same type of marijuana establishment by complying with the  
10 requirements of this chapter for a renewal of a marijuana license and paying the application fee  
11 specified in Section 4-20-67 of this code. The license for the medical marijuana business must  
12 be surrendered to the city before the recreational marijuana business license will be issued.

#### 9 **6-16-4 General Provisions.**

10 (a) General Licensing Provisions. The general procedures and requirements of licenses, as  
11 more fully set forth in Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, shall apply to  
12 recreational marijuana business licenses. To the extent there is any conflict between the  
13 provisions of this chapter and Chapter 4-1, the provisions of this chapter shall control for  
14 recreational marijuana business licenses.

15 (b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall  
16 not provide an exception, immunity or defense to criminal prosecution under any applicable law,  
17 except in the Boulder Municipal Court for a violation of this chapter as specifically provided  
18 herein.

19 (c) Insurance Required. The insurance specified in section 4-1-8, "Insurance Required,"  
20 B.R.C. 1981, is required for a license under this chapter.

21 (d) Costs of Inspection and Clean-Up. In the event the city incurs costs in the inspection,  
22 clean-up, surrender of plants, or any other requirements to remove marijuana of any recreational  
23 marijuana business, or any person cultivating, producing, distributing or possessing marijuana,  
24 the business and responsible person shall reimburse the city all actual costs incurred by the city  
25 for such inspection or clean-up.

(e) Decisions on Application or Revocation Final. The decision of the city manager on an  
application for a recreational marijuana business license or revocation thereof pursuant to this  
chapter shall be the final decision of the city subject only to judicial review pursuant to Colorado  
Rule of Civil Procedure 106(a)(4), unless the notice of the decision includes an opportunity for a  
hearing as provided in Section 1-3-3 of this code. No defense or objection may be presented for  
judicial review unless it is first presented to the city manager prior to the effective date of the  
decision.

1 (f) Forfeiture of License. In the event that a recreational marijuana business does not  
2 commence operations within 30 days of issuance of a license from the city, the license shall be  
deemed forfeited, and the business may not commence operations.

3 (g) Landlord Duty. It shall be unlawful for the owner of a building to lease space or allow the  
4 use of any portion of the building by a recreational marijuana business unless the tenant has a  
5 valid recreational marijuana business license or has applied for and not been denied a  
6 recreational marijuana business license or no marijuana is located on the premises until a license  
7 has been issued by the city. In the event that the city has an articulable reason to believe that a  
8 recreational marijuana business is being operated in a building, it shall be unlawful for the owner  
of the building to refuse to allow the city access to the portion of the building in which the  
suspected recreational marijuana business is located to determine whether any marijuana is on  
the premises.

9 (h) Time Periods for Accepting Applications for Recreational Marijuana Businesses.

10 (i) No applications for conversion of a medical marijuana business to a recreational  
11 marijuana business shall be accepted before June 1, 2014.

12 (ii) No applications for a new recreational marijuana business (that is not a  
13 conversion from a medical marijuana business for which the application was submitted  
before October 1, 2013) shall be accepted before October 1, 2014.

14 **6-16-5 Application.**

15 (a) Application Requirements. An application for a recreational marijuana business license  
16 shall be made to the city on forms provided by the city manager for that purpose. The applicant  
17 shall use the application to demonstrate its compliance with this chapter and any other applicable  
law, rule or regulation. In addition to the information required by Chapter 4-1, "General  
Licensing Provisions," B.R.C. 1981, the application shall include the following information:

18 (1) Name and address of the owner or owners of the recreational marijuana business  
19 in whose name the license is proposed to be issued.

20 A. If an owner is a corporation, the name and address of any officer or  
21 director of the corporation and of any person holding issued and  
outstanding capital stock of the corporation.

22 B. If an owner is a partnership, association or company, the name and address  
23 of any person holding an interest therein and the managing members. If a  
24 managing member is an entity rather than an individual, the same  
25 disclosure shall be required for each entity with an ownership interest until  
a managing member that is a natural person is identified.

1 C. If an owner is not a natural person, the organizational documents for all  
2 entities identified in the application, identification of the natural person  
3 that is authorized to speak for the entity and contact information for that  
4 person.

5 (2) Name and address of:

6 A. Any business managers of the recreational marijuana business, if the  
7 business manager is proposed to be someone other than the owner;

8 B. All financiers of the recreational marijuana business; and

9 C. All agents of the recreational marijuana business who either (I) act with  
10 managerial authority, (II) provide advice to the recreational marijuana  
11 business for compensation, or (III) receive periodic compensation totaling  
12 \$1,000 or more in a single year for services related to the recreational  
13 marijuana business. It shall be an affirmative defense that the undisclosed  
14 person was an attorney, accountant, bookkeeper, mail delivery person, or  
15 other contractor performing services for the business that are unrelated to  
16 the cultivation, production, or distribution of recreational marijuana.

17 (3) A statement of whether or not any of the named owners, members, business  
18 managers, financiers, or persons named on the application have been:

19 A. Denied an application for a marijuana business license pursuant to this  
20 chapter, Chapter 6-14 of this code, or any similar state or local licensing  
21 law, rule or regulation, or had such a license suspended or revoked.

22 B. Denied an application for a liquor license pursuant to Title 12, Article 47  
23 or Article 46, C.R.S., or any similar state or local licensing law, or had  
24 such a license suspended or revoked.

25 C. Violated any law, other than a traffic offense, or completed any portion of  
a sentence due to a violation of any law.

D. Convicted of driving or operating other machinery under the influence of  
alcohol, drugs or medication, driving while impaired or driving with  
excessive alcohol content in violation of § 42-4-1301, C.R.S., or any  
comparable law, or a misdemeanor related to abuse of alcohol or a  
controlled substance.

(4) Proof of ownership or legal possession of the restricted area for a recreational  
marijuana business for the term of the proposed license. If the recreational  
marijuana business is not the owner of the premises of the business, the applicant

1 shall provide written authorization to the city from the owner to enter the property  
2 for inspection of the premises on a form approved by the city.

3 (5) Proof of insurance as provided in Section 4-1-8, "Insurance Required," B.R.C.  
4 1981.

5 (6) An operating plan for the proposed recreational marijuana business, including the  
6 following information:

7 A. A description of the products and services to be provided by the  
8 recreational marijuana business.

9 B. A dimensioned floor plan, clearly labeled, showing:

10 (i) The layout of the structure and the floor plan in which the  
11 recreational marijuana business is to be located;

12 (ii) The principal uses of the floor area depicted on the floor plan,  
13 including but not limited to the areas where underage persons will  
14 be permitted, private consulting areas, storage areas, retail areas,  
15 and restricted areas where recreational marijuana will be located;

16 (iii) Areas where any services other than the distribution of recreational  
17 marijuana are proposed to occur in the premises; and

18 (iv) The separation of the areas that are open to persons who are  
19 underage from those areas open to persons qualified to use  
20 marijuana.

21 C. A neighborhood responsibility plan that demonstrates how the business  
22 will fulfill its responsibilities to the neighborhood, including neighborhood  
23 outreach, methods for future communication and dispute resolution.

24 D. For cultivation facilities and recreational marijuana-infused product  
25 manufacturers, a plan that specifies the methods to be used to prevent the  
growth of harmful mold and compliance with limitations on discharge into  
the wastewater system of the city as set forth in Chapter 11-3, "Industrial  
and Prohibited Discharges," B.R.C. 1981.

E. For a recreational marijuana-infused product manufacturer or a  
recreational marijuana testing facility, a plan that specifies all means to be  
used for extraction, heating, washing, or otherwise changing the form of  
the recreational marijuana plant, or testing any marijuana, and verification  
of compliance with all applicable laws for ventilation and safety measures  
for each process. The city shall require the recreational marijuana

1 business to obtain a report from an industrial hygienist to verify that the  
2 plan submitted, and the improvements to be constructed, adequately  
3 protect the business and adjacent properties and persons and comply with  
4 all applicable laws.

5 F. The maximum amount of marijuana or marijuana-infused products that  
6 may be on the business premises.

- 7 (7) A security plan indicating how the applicant will comply with the requirements of  
8 this chapter and any other applicable law, rule or regulation. The security plan  
9 includes specialized details of security arrangements and will be protected from  
10 disclosure as provided under the Colorado Open Records Act, § 24-72-  
11 203(2)(a)(VIII), C.R.S. If the city finds that such documents are subject to  
12 inspection, it will attempt to provide at least twenty-four-hour notice to the  
13 applicant prior to such disclosure.
- 14 (8) A lighting plan showing the lighting outside of the recreational marijuana  
15 business for security purposes and compliance with applicable city requirements.
- 16 (9) A zoning confirmation form from the city, to ascertain within a radius of one-  
17 quarter mile from the boundaries of the property upon which the recreational  
18 marijuana business is located, the proximity of the property to any school or other  
19 facility identified in this chapter, or state licensed child care center, to any other  
20 marijuana business or to any residential zone district or a mixed-use development  
21 containing one or more residences.
- 22 (10) Fingerprints and personal histories as may be specified on forms provided by the  
23 city manager. This requirement shall apply to all owners, business managers, and  
24 financiers employed by or under contract to provide services to the recreational  
25 marijuana business, including all individuals who have an interest as described  
herein of any portion of the recreational marijuana business, directly or as an  
agent, or a member, partner or officer of a corporation, partnership, association or  
company, and the reports from the Colorado and Federal Bureaus of Investigation  
for each person.
- (11) A plan for disposal of any recreational marijuana or recreational marijuana-  
infused product that is not sold in a manner that protects any portion thereof from  
being possessed or ingested by any person or animal.
- (12) A plan for ventilation of the recreational marijuana business that describes the  
ventilation systems that will be used to prevent any odor of recreational marijuana  
off the premises of the business. For recreational marijuana businesses that grow  
recreational marijuana plants, such plan shall also include all ventilation systems  
used to control the environment for the plants and describe how such systems  
operate with the systems preventing any odor leaving the premises. For  
recreational marijuana businesses that produce recreational marijuana infused

1 products, such plan shall also include all ventilation systems used to mitigate  
2 noxious gases or other fumes used or created as part of the production process.

3 (13) A description of all toxic, flammable or other materials regulated by a federal,  
4 state or local government that would have authority over the business if it was not  
5 a marijuana business, that will be used, kept, or created at the recreational  
6 marijuana business, the location of such materials and how such materials will be  
7 stored.

8 (14) A description of the process(es) used to extract or distill marijuana from its source  
9 and the process used to incorporate marijuana into all products produced,  
10 including verifying compliance of all processes regulated by a federal state or  
11 local government that would have authority over the business if it was not a  
12 marijuana business.

13 (15) A statement of the amount of the projected daily average and peak electric load  
14 anticipated to be used by the business and certification from the landlord and  
15 utility provider that the premises are equipped to provide the required electric  
16 load, or necessary upgrades will be performed prior to final inspection of the  
17 premises.

18 (16) For applications for a recreational marijuana-infused product manufacturer, the  
19 location of the cultivation facility which will supply the marijuana for processing  
20 in the city owned by the licensee.

21 (b) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner,  
22 member, business manager, financier, or other person named on the application contains  
23 information regarding violations of any law, or previous denial or revocation of a license, that  
24 person may include with the license application any information regarding such violation, denial  
25 or revocation. Such information may include, but is not limited to, evidence of rehabilitation,  
character references and educational achievements, and other regulatory licenses held without  
compliance violations, especially those items pertaining to the period of time between the  
applicant's last violation of any law and the date of the application.

(c) Fee Required. Unless the state has forwarded the application fee pursuant to Colorado  
Constitution art. XVIII, § 16(5)(g)(II) to the city, the applicant shall submit the application fee  
set forth in Section 4-20-67, B.R.C., 1981 to the city. In addition to the application fee, in the  
event a recreational marijuana business license application is approved by the city, such license  
shall not be issued until the applicant has provided the license fee for the first year of the license  
in the amount required by Section 4-20-67, B.R.C. 1981, and any other applicable fees.

(d) Inspection. An inspection of the proposed recreational marijuana business by the city  
shall be required prior to issuance of a license. Such inspection shall occur after the premises are  
ready for operation, but prior to the stocking of the business with any recreational marijuana, and  
prior to the opening of the business to the public. The inspection is to verify that the business

1 facilities are constructed and can be operated in accordance with the application submitted and  
2 the applicable requirements of the code and any other applicable law, rule or regulation.

3 (e) Complete Application. For purposes of this chapter an application shall not be considered  
4 complete until the city manager has (i) determined that all requirements of the application have  
5 been provided to the city, (ii) received the reports from the fingerprint cards of each person  
6 required to submit such cards from the Colorado and Federal Bureaus of Investigation, (iii)  
7 received the local share of \$2,500 for the application fee from the state and (iv) obtained all other  
8 information the city manager determines necessary to make a decision whether to approve or  
9 deny the license application, or approve it with conditions.

10 (f) Approval Requirements. The city manager may issue a recreational marijuana business  
11 license if the inspection, background checks and all other information available to the city verify  
12 that the applicant has submitted a full and complete application, has made improvements to the  
13 business location consistent with the application, is prepared to operate the business with other  
14 owners and managers as set forth in the application, and has submitted the annual operating fee,  
15 all in compliance with this Code and any other applicable law, rule or regulation. The city  
16 manager will deny any application that does not meet the requirements of this chapter or any  
17 other applicable law, rule or regulation or that contains any false or incomplete information. The  
18 conditions of an approval of a recreational marijuana business license shall include, at a  
19 minimum, operation of the business in compliance with all of the plans and information made  
20 part of the application.

#### 21 **6-16-6 Persons Prohibited as Licensees and Business Managers.**

22 (a) It shall be unlawful for any of the following persons to have an ownership or a financial  
23 interest in a recreational marijuana business, and no license provided by this chapter shall be  
24 issued to or held by, and no recreational marijuana business shall be managed by:

- 25 (1) Any person until the annual fee for the license has been paid;
- (2) Any person not of good moral character;
- (3) Any corporation, any of whose officers, directors or stockholders are not of good moral character;
- (4) Any partnership, association or company, any of whose officers or members holding an interest therein, or a managing member, are not of good moral character;
- (5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good moral character;
- (6) Any person, unless such person's character, record and reputation are satisfactory to the city manager;

- 1 (7) Any natural person who is under twenty-one years of age;
- 2 (8) Any person who operates or manages a recreational marijuana business contrary  
3 to the provisions of this chapter, any other applicable law, rule or regulation, or  
4 conditions imposed on land use or license approvals, or contrary to the terms of  
5 the plans submitted with the license application, as such plans may be amended as  
6 provided in this chapter, or has operated a business in violation of any law;
- 7 (9) Any person applying for a license to operate a recreational marijuana center who  
8 has been licensed to operate another recreational marijuana center in the city  
9 pursuant to this chapter;
- 10 (10) Any person applying for a license to operate a marijuana-infused product  
11 manufacturer facility who has been licensed to operate another marijuana-infused  
12 product manufacturer facility in the city pursuant to this chapter;
- 13 (11) A person licensed pursuant to this article who, during a period of licensure, or  
14 who, at the time of application, has failed to remedy an outstanding delinquency  
15 for taxes owed, or an outstanding delinquency for judgments owed to a  
16 government;
- 17 (12) A sheriff, deputy, police officer, or prosecuting officer, or an officer or employee  
18 of the state licensing authority or a local licensing authority;
- 19 (13) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2),  
20 C.R.S. has been revoked by the state health agency;
- 21 (14) A person that is a licensee for the application location that is currently  
22 licensed as a retail food establishment or a wholesale food registrant.

23 (b) In making the evaluation of the good moral character of an individual identified on an  
24 application or amendment thereof, the city manager shall consider the following:

- 25 (1) An applicant's violation of a law shall not, by itself, be grounds for denying an  
application;
- (2) Verification of, or lack of ability to verify, items disclosed by the individual;
- (3) When an individual has a history of violation of any law, or a history including  
denial, revocation or suspension of a license, the types and dates of violations; the  
evidence of rehabilitation, if any, submitted by the individual; whether the  
violations of any laws are related to moral turpitude, substance abuse or other  
violations of any laws that may directly affect the individual's ability to operate a  
recreational marijuana business; or whether the violations of any law are  
unrelated to the individual's ability to operate such a business;

- 1 (4) The evidence or lack of evidence regarding the ability of the individual to refrain  
2 from being under the influence of intoxicating or controlled substances while  
performing regular tasks and operating a recreational marijuana business;
- 3 (5) Rules adopted by the city manager to implement this chapter;
- 4 (6) Law, rules and regulations applicable to evaluation of other types of licenses  
5 issued by governments that consider the good moral character of the applicants;  
and
- 6 (7) Any additional information the city manager may request of the individual if the  
7 individual has a violation of any laws, evidence of substance abuse issue, or items  
8 disclosed by the individual which require additional information in order for the  
city manager to make a determination regarding issuance of the license.

9 **6-16-7 Locations of Recreational Marijuana Businesses.**

10 (a) Fixed Location Required. It shall be unlawful to operate a recreational marijuana  
11 business or to grow recreational marijuana outside of a locked enclosed space within a building.  
All recreational marijuana business licenses shall be issued for a specific fixed location within an  
12 enclosed building. The portion of such premises upon which the floor plan shows recreational  
marijuana may be produced, dispensed or possessed shall be considered the "restricted area"  
13 portion of the business premises.

14 (b) Location – Permitted Use in Zoning District. A recreational marijuana business license  
15 may be issued only if the business qualifies as a use permitted as a matter of right in the zone  
district where it is proposed to be located as follows:

- 16 (1) as "personal service" for a recreational marijuana center; or
- 17 (2) as "greenhouse/nursery" for a cultivation facility; or
- 18 (3) as "manufacturing ≤15,000 square feet" for a cultivation facility or for a  
19 recreational marijuana-infused product manufacturer.

20 (c) No Recreational Marijuana Business in Building with Residences or Residential Zone  
Districts. It shall be unlawful to operate a recreational marijuana business in a building which  
21 contains a residence, or within a dwelling unit within any zone district, or within a residential  
zone district or on the premises of a development within a mixed-use zone district that includes a  
22 residence, as such districts are described in Table 5-1 of Section 9-5-2, "Zoning Districts,"  
B.R.C., 1981.

23 (d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any  
24 person to permit retail sales within a recreational marijuana business that is not a licensed  
recreational marijuana center.  
25

1 (e) Separation From Schools and Other Facilities. No recreational marijuana business  
2 license shall be issued for the following locations:

3 (1) Within 1,000 feet of any public or private elementary, vocational, secondary  
4 school, or a college, university, or a state licensed day care center. Distances shall  
5 be measured by the city on official maps as the radius from the closest points on  
6 the perimeter of the applicant's property to the closest point of the property of the  
7 school or named facility.

8 (2) Within 500 feet of three other marijuana businesses.

9 A. Distances shall be measured by the city on official maps as the radius from  
10 the closet points on the perimeter of the applicant's property to the closest  
11 point of the property of any other recreational marijuana business.

12 B. To determine the proximity to other recreational marijuana businesses and  
13 the priority of applications, businesses shall have priority in the following  
14 order:

15 (i) Licensed medical marijuana businesses;

16 (ii) Marijuana establishment;

17 (iii) Businesses for either medical or recreational business whose  
18 applications have been approved but licenses not yet issued;

19 (iv) Applications for medical or recreational marijuana business  
20 licenses that have been submitted by the applicant and declared  
21 complete by the city;

22 (v) No other applications shall be considered "businesses" for this  
23 determination.

24 C. Businesses that convert from a medical marijuana business pursuant to  
25 section 3(f) of this chapter are not subject to this limitation. This  
exception is not transferrable.

(3) On the street level of the mall or the university hill commercial area.

(f) Limitations on Dual Licenses. A recreational marijuana business license may not be  
issued for any location which also is a part of the restricted area of a business holding a  
beverages license pursuant to Section 4-2-3, "Authority to Issue City Licenses," B.R.C. 1981 or a  
marijuana business license under this chapter or Chapter 6-14 "Medical Marijuana."

(g) Limitations on Recreational Marijuana Centers. The following shall be the minimum  
requirements for a recreational marijuana center:

- 1 (1) The area of the business is  $\leq 3,000$  square feet, and the restricted area components  
2 of the required security and all paper and electronic records are 1,000 square feet  
3 or less;
- 4 (2) The business does not sell or distribute anything other than marijuana and  
5 marijuana products or marijuana accessories;
- 6 (3) There is a separate reception area for verification of age.

7 (h) Limitations on Recreational Marijuana-Infused Product Manufacturers. No recreational  
8 marijuana-infused product manufacturer shall be allowed in the city unless the same licensee has  
9 a recreational marijuana cultivation facility that provides at least 70% of the marijuana used by  
10 the manufacturer located in the city.

### 11 **6-16-8 Requirements Related to Operation of Recreational Marijuana Businesses.**

12 (a) Onsite Use Prohibited. No marijuana shall be smoked, eaten or otherwise consumed or  
13 ingested within the recreational marijuana business.

14 (b) Restriction on Access to Restricted Area. No person under twenty-one years of age shall  
15 be in the business premises~~restricted area~~. No person shall be allowed entry into the business  
16 premises ~~restricted~~ area without showing a valid picture identification~~ID~~. The business shall  
17 have an electronic scanner able approved by the police department to verify the legitimacy of the  
18 identification and maintain records for enforcement, as approved by the city manager~~ID~~.

19 (c) Display of Licenses Required. The name and contact information for the owner or owners  
20 and any business manager of the recreational marijuana business, the recreational marijuana  
21 business license and the sales tax business license shall be conspicuously posted in the business.

22 (d) Business Conducted Within Building. Any and all cultivation, production, distribution,  
23 possession, storage, display, sales or other distribution of marijuana shall occur only within the  
24 restricted area of a recreational marijuana business and shall not be visible from the exterior of  
25 the business.

(e) Owner or Business Manager Required on Premises. No recreational marijuana business  
shall be managed by any person other than the licensee or the business manager listed on the  
application for the license or a renewal thereof. Such licensee or business manager shall be on  
the premises and responsible for all activities within the licensed business during all times when  
the business is open or in the possession of another person. In the event the licensee intends to  
employ a business manager that was not identified on the license or renewal application, the  
licensee shall report the name of such business manager to the city, and such business manager  
shall submit to the city, at least thirty days prior to commencing serving as the business manager,  
an application containing all of the information required by this chapter and on the license  
application. Such licensee shall report to the city any change in business managers at least thirty

1 days prior to employing an additional business manager, and no more than five days after a  
2 business manager is released from such position.

3 (f) Hours of Operation. A recreational marijuana center shall be closed to the public, and no  
4 sale, or other distribution of marijuana shall occur upon the premises or via delivery from the  
5 premises, between the hours of 7:00 p.m. and 8:00 a.m.

6 (g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law  
7 for fertilization or production of edible produce shall be used on any marijuana cultivated,  
8 produced, or distributed by a recreational marijuana business. A recreational marijuana business  
9 shall comply with all applicable law regarding use of pesticides including without limitation,  
10 Chapter 6-10, "Pesticide Use," B.R.C. 1981.

11 (h) Ventilation Required. A recreational marijuana business shall be ventilated so that the  
12 odor of marijuana cannot be detected by a person with a normal sense of smell at the exterior of  
13 the recreational marijuana business or at any adjoining use or property.

14 (i) Renewable Energy Usage Required. A recreational marijuana cultivation facility shall  
15 directly offset 100% of its electricity consumption through the purchase of renewable energy in  
16 the form of Windsource, a verified subscription in a Community Solar Garden or renewable  
17 energy generated onsite, or an equivalent that is subject to approval by the city.

18 (j) Limitations on Inventory. The recreational marijuana business shall not maintain any  
19 more marijuana within the premises than the amount stated on the business' license application  
20 to the state and city. No plants shall be located in a recreational marijuana center or a  
21 recreational marijuana-infused product manufacturer. In addition, the establishment shall not  
22 maintain any more marijuana within the restricted area than:

23 Cultivation facility: 1,000 plants

24 MIP: 600 pounds of marijuana that has not been incorporated into a product and  
25 150 pounds of recreational marijuana infused products.

Testing facility: 100 pounds of raw marijuana and  
100 pounds of marijuana infused product

Medical marijuana cultivation facilities licensed and in good standing on October 1, 2013 that  
have identified more than 1,000 plants on the application for renewal submitted prior to October  
1, 2013 are excepted from the 1,000 plant limit and may have up to the number of plants  
included on the renewal application submitted prior to October 1, 2013.

(k) Reporting Requirements. A recreational marijuana business shall report to the  
recreational marijuana licensing authority each of the following within the time specified. If no  
time is specified, the report shall be provided within 72 hours of the event.

- 1 (1) transfer or change of financial interest, business manager, or financier in the  
2 license to the city at least thirty days before the transfer or change.
- 3 (2) sales and taxable transactions and file sales and use tax reports to the city  
4 monthly.
- 5 (3) a violation of any law by any licensee or applicant of a recreational marijuana  
6 business.
- 7 (4) a notice of potential violation of any law related to the licensee.
- 8 (5) any report that the recreational marijuana business is required to provide to the  
9 state.
- 10 (6) reports of all criminal activities or attempts of violation of any law at the  
11 recreational marijuana business or related thereto shall be reported to the Boulder  
12 Police Department within 12 hours of occurrence.

11 (l) No Sales Except Directly to User; No Deliveries. All sales of recreational marijuana  
12 shall be made in person in the restricted area of a recreational marijuana center. All sales shall  
13 be in person, directly to the purchaser. No sales shall be made via telephone, internet or other  
14 means of remote purchase. Deliveries shall occur only in person to the purchaser at the time of  
15 purchase in the restricted area of a recreational marijuana center.

16 (m) Delivery Between Recreational Marijuana Businesses. It shall be unlawful for any person  
17 to transport recreational marijuana, except as specifically allowed by applicable law, unless the  
18 recreational marijuana being transported meets the following requirements:

- 19 (1) All recreational marijuana-infused products are hand-packaged, sealed and  
20 labeled as provided in this chapter and the products stored in closed containers  
21 that are labeled as provided in this section.
- 22 (2) All recreational marijuana in a usable form is packaged and stored in closed  
23 containers that are labeled as provided in this section.
- 24 (3) Each container used to transport recreational marijuana is labeled with the amount  
25 of recreational marijuana or recreational marijuana-infused products, or the  
number and size of the plants, in the container. The label shall include the name  
and address of the recreational marijuana business that the recreational marijuana  
is being transported from and the name and address of the recreational marijuana  
business that the recreational marijuana is being transported to. The label shall be  
shown to any law enforcement officer that requests to see the label.
- (4) Unless otherwise specifically allowed by applicable law, recreational marijuana  
may be transported with proper bill of sale completed before transport only:

- 1 (A) From a cultivation facility to a recreational marijuana center or  
2 recreational marijuana-infused product manufacturer, and which  
3 recreational marijuana business is owned by the same person as owns the  
4 cultivation facility; or
- 5 (B) Between one recreational marijuana center to another center; or
- 6 (C) Between a recreational marijuana infused product manufacturer and a  
7 recreational marijuana center.
- 8 (5) The recreational marijuana must be accompanied by the manifest and  
9 confirmation e-mail from the state in accordance with state requirements for  
10 transportation of recreational marijuana.
- 11 (6) The recreational marijuana must be accompanied by the e-mail receipt  
12 confirmation from the Boulder Police Department in accordance with the rules  
13 therefore established by the police department.
- 14 (7) When determining and reporting the route for delivery, licensees should select the  
15 most direct route that provides efficiency and safety.
- 16 (8) Transport may occur only during the hours allowed for operation of the center.
- 17 (n) Disposal of Recreational Marijuana and Marijuana Byproducts. All recreational  
18 marijuana and any product containing a usable form of marijuana must be made unusable and  
19 unrecognizable prior to removal from the business in compliance with all applicable laws. This  
20 provision shall not apply to licensed law enforcement, including without limitation the Boulder  
21 Police Department and the Boulder Fire Department.
- 22 (o) Possession of Mature Flowering Plants. No more than one-half of the recreational  
23 marijuana plants within a recreational marijuana business may be mature, flowering plants.
- 24 (p) Advertisement. A recreational marijuana business may not advertise in a manner that is  
25 misleading, deceptive, false or is designed to appeal to minors. The following conditions shall  
apply:
- (1) Except as otherwise provided in this subsection (1), it shall be unlawful for any  
person licensed under this article or any other person to advertise any recreational  
marijuana or recreational marijuana-infused product anywhere in the city where  
the advertisement is in plain view of, or in, a place open to the general public,  
including advertising utilizing any of the following media: any billboard or other  
outdoor general advertising device as defined by the zoning code; any sign  
mounted on a vehicle, any hand-held or other portable sign; or any handbill,  
leaflet or flier directly handed to any person in a public place, left upon a motor

1 vehicle, or posted upon any public or private property. The prohibition set forth  
2 in this paragraph (1) shall not apply to:

- 3 A. Any sign located on the same zone lot as a recreational marijuana center  
4 which exists solely for the purpose of identifying the location of the  
5 recreational marijuana center and which otherwise complies with this  
6 Code and any other applicable city laws and regulations; or
- 7 B. Any advertisement contained within a newspaper, magazine, or other  
8 periodical of general circulation within the city or on the internet; or
- 9 C. Advertising which is purely incidental to sponsorship of a charitable event  
10 by a recreational marijuana center or a recreational marijuana-infused  
11 products manufacturer.

- 12 (2) It is an affirmative defense if a recreational marijuana business employee  
13 provided another individual, upon request, a business card for the purpose of  
14 providing that person's name and business affiliation, including without  
15 restriction title, mailing address, email address, and telephone number.

16 (q) The owner or a business manager of a recreational marijuana business is required to  
17 respond by phone or email within 24 hours of contact by a city official concerning its  
18 recreational marijuana business at the phone number or e-mail address provided to the city as the  
19 contact for the business. Each 24 hour period during which an owner or manager does not  
20 respond to the city official shall be considered a separate violation.

21 (r) Separation of Cultivation Facility and Recreational Marijuana-Infused Product  
22 Manufacturer. A cultivation facility and manufacturer are separate marijuana businesses  
23 requiring separate licenses and separate premises. In addition to all other application  
24 requirements for separate premises, each business shall

- 25 (1) have separate operations, ventilation, security, and fire suppression systems, and  
separate access from a public area; and
- (2) be divided within a building from floor to roof. Unless higher performance is  
required by applicable law, there must be a minimum of a one-hour fire separation  
between a recreational marijuana business and any adjacent business;
- (3) obtain delivery documents and manifests for movement of any marijuana between  
the cultivation facility and the manufacturer.

(s) Additional Requirements for Testing or Production of Recreational Marijuana.

- (1) No recreational marijuana business may use metals, butane, propane, or other  
solvent or flammable product, or produce flammable vapors to process marijuana  
unless the process used and the premises are verified as safe and in compliance  
with all applicable codes by a qualified industrial hygienist.

1 (2) The city shall require the business to obtain verification from a qualified industrial  
2 hygienist that the manner in which the business is producing recreational  
3 marijuana complies with all applicable laws and does not produce noxious or  
4 dangerous gases or odors or otherwise create a danger to any person or entity in or  
5 near the businesses.

6 (t) Packaging at a Recreational Marijuana Center. Provided that recreational marijuana has  
7 been delivered to a recreational marijuana center from a cultivation facility packaged and labeled  
8 as provided in this chapter, employees at a recreational marijuana center may package and label  
9 any marijuana that results from the sale of recreational marijuana in amounts less than as  
10 packaged for delivery to the center.

11 (u) Packaging of Marijuana-Infused Product. Unless the actual amount of marijuana in a  
12 marijuana-infused product is contained on the label of the packaged product, any product over  
13 one ounce shall be presumed to have more than one ounce of marijuana in the product.

14 (v) Scanner for proof of age. The business shall verify the proof of age of every person  
15 entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that  
16 is capable of quickly and reliably confirming the validity of an identification using computer  
17 processes that contains all of the components approved by the city manager.

#### 18 **6-16-9 Right of Entry – Records to be Maintained.**

19 (a) Records to Be Maintained. Each licensee shall keep a complete set of books of account,  
20 invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills,  
21 correspondence, bank statements including cancelled checks and deposit slips and all other  
22 records necessary to show fully the business transactions of such licensee. Receipts shall be  
23 maintained in a computer program or by pre-numbered receipts and use for each sale. The  
24 records of the business shall clearly track recreational marijuana product inventory purchased  
25 and sales and disposal thereof to clearly track revenue from sales of any recreational marijuana  
from other paraphernalia or services offered by the recreational marijuana business. The licensee  
shall also maintain inventory records evidencing that no more recreational marijuana was within  
the recreational marijuana business than allowed by applicable law. All such records shall be  
open at all times during business hours for the inspection and examination of the city or its duly  
authorized representatives. The city may require any licensee to furnish such information as it  
considers necessary for the proper administration of this chapter. The records shall clearly show  
the source, amount, price and dates of all marijuana received or purchased, and the amount,  
price, and dates for all recreational marijuana sold.

(b) Separate Bank Accounts. The revenues and expenses of the recreational marijuana  
business shall not be commingled in a checking account or any other bank account with any  
other business or individual person's deposits or disbursements.

1 (c) Disclosure of Records. By applying for a recreational marijuana business license, the  
2 licensee is providing consent to disclose the information required by this chapter. Any document  
3 that the applicant considers eligible for protection under the Colorado Open Records Act shall be  
4 clearly marked as confidential, and the reasons for such confidentiality shall be stated on the  
5 document. In the event that the licensee does appropriately submit documents so as not to be  
6 disclosed under the Colorado Open Records Act, the city shall not disclose it to other parties who  
7 are not agents of the city, except law enforcement agencies. If the city finds that such documents  
8 are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the  
9 applicant prior to such disclosure.

7 (d) Audits. The city may require an audit to be made of the books of account and records of a  
8 recreational marijuana business on such occasions as it may consider necessary. Such audit may  
9 be made by an auditor to be selected by the city that shall likewise have access to all books and  
10 records of the recreational marijuana business. The expense of any audit determined necessary  
11 by the city shall be paid by the recreational marijuana business.

10 (e) Consent to Inspection. Application for a recreational marijuana business license or  
11 operation of a recreational marijuana business, or leasing property to a recreational marijuana  
12 business constitutes consent by the applicant, and all owners, managers and employees of the  
13 business, and the owner of the property to permit the city manager to conduct routine inspections  
14 of the recreational marijuana business to ensure compliance with this chapter or any other  
15 applicable law, rule or regulation. The owner or business manager on duty shall retrieve and  
16 provide the records of the business pertaining to the inspection, including the security tapes from  
17 the cameras required by the security plan. For purposes of Rule 241 of the Colorado Rules of  
18 Municipal Procedure and Section 2-6-3(e) of this Code, inspections of recreational marijuana  
19 businesses and recordings from security cameras in such businesses are part of the routine policy  
20 of inspection and enforcement of this chapter for the purpose of protecting the public safety,  
21 individuals operating and using the services of the recreational marijuana business, and the  
22 adjoining properties and neighborhood, as provided in Section 6-14-1. Application for a  
23 recreational marijuana business license constitutes consent to inspection of the business as a  
24 public premise without a search warrant, and consent to seizure of any surveillance records,  
25 camera recordings, reports or other materials required as a condition of a recreational marijuana  
license without a search warrant.

20 (f) Reporting of Source, Quantity and Sales. The records to be maintained by each  
21 recreational marijuana business shall include the source and quantity of any marijuana  
22 distributed, produced or possessed within the premises. Such reports shall include, without  
23 limitation, for both acquisitions from wholesalers and retail sales transactions, the following:

- 22 (1) Date, weight, type of marijuana and dollar amount or other consideration of  
23 transaction; and
- 24 (2) For wholesale transactions, the Colorado, and city if any, sales and use tax license  
25 number of the seller; and
- (3) The amount of marijuana within the restricted area.

1 (g) Reporting of Energy Use and Renewable Energy Credit (REC) Purchases. The records to  
2 be maintained by each recreational marijuana business shall include without limitation records  
3 showing on a monthly basis the use and source of energy and the number of certified Renewable  
4 Energy Credits (RECs) purchased, or the subscription level for another renewable energy  
5 acquisition program approved by the city manager. A statement of the projected daily average  
6 peak electric load anticipated to be used by the business and certification from the building  
7 owner or landlord and utility provider that the premises are equipped to provide the required  
8 electric load, or necessary upgrades will be performed. Such records shall include all statements,  
9 reports or receipts to verify the items included in the report of the business. By application for a  
10 recreational marijuana business license from the city, the recreational marijuana business grants  
11 permission to providers of the energy or point of origin of the RECs or other renewable energy  
12 acquisition program to disclose the records of the business to the city. For recreational  
13 marijuana business that cultivate recreational marijuana the report shall include the number of  
14 certified Renewable Energy Credits (RECs) purchased, or the subscription level for another  
15 renewable energy acquisition program approved by the city manager.

#### 10 **6-16-10 Requirements Related to Monitoring and Security of Restricted Areas and 11 Inventory.**

11 All components of the security plan submitted with the application, as it may be amended, shall  
12 be in good working order, monitored and secured 24-hours per day. A separate security system  
13 is required for each business. The security plan must include, at a minimum, the following  
14 security measures:

14 (a) Cameras. The recreational marijuana business shall install and use security cameras to  
15 monitor and record all areas of the premises (except in restrooms), and where persons may gain  
16 or attempt to gain access to marijuana or cash maintained by the recreational marijuana business.  
17 Cameras shall record operations of the business to the off-site location, as well as all potential  
18 areas of ingress or egress to the business with sufficient detail to identify facial features and  
19 clothing. Recordings from security cameras shall be maintained for a minimum of forty days in  
20 a secure off-site location in the city or through a service over a network that provides on-demand  
21 access, commonly referred to as a “cloud.” The off-site location shall be included in the security  
22 plan submitted to the city and provided to the Boulder Police Department upon request, and  
23 updated within 72 hours of any change of such location.

20 (b) Use of Safe for Storage. The recreational marijuana business shall install and use a safe  
21 for storage of any processed marijuana and cash on the premises when the business is closed to  
22 the public. The safe shall be incorporated into the building structure or securely attached thereto.  
23 For recreational marijuana infused products that must be kept refrigerated or frozen, the business  
24 may lock the refrigerated container or freezer in a manner authorized by the city in place of use  
25 of a safe so long as the container is affixed to the building structure.

23 (c) Alarm System. The recreational marijuana business shall install and use an alarm system  
24 that is monitored by a company that is staffed twenty-four (24) hours a day, seven (7) days a  
25 week. The security plan submitted to the city shall identify the company monitoring the alarm,  
including contact information, and updated within 72 hours of any change of monitoring  
company.

1 **6-16-11 Requirements for Public Health and Labeling.**

2 (a) Recreational Marijuana-Infused Products. The production of any recreational marijuana-  
3 infused product shall be at a recreational marijuana-infused product manufacturer that meets all  
4 requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food  
5 Protection Act. The production of any product containing recreational marijuana shall comply  
6 with all health and safety standards thereof. The licensee shall comply with all applicable state  
7 and local health regulations related to the production, preparation, labeling and sale of prepared  
8 food items as if the recreational marijuana infused products were food items.

9 (b) Labeling and Packaging Requirements. All recreational marijuana sold or otherwise  
10 distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser  
11 that it contains marijuana and specifies the amount of marijuana in the product, and that the  
12 marijuana is intended for use solely by a person lawfully possessing recreational marijuana. The  
13 label shall be in compliance with all applicable requirements of the state.

14 (c) The product shall be packaged in a sealed container that cannot be opened without  
15 obvious damage to the packaging.

16 **6-16-12 Compliance with Other Applicable Law.**

17 (a) Application of State Law. Except as may be provided otherwise in this chapter, or rules  
18 adopted pursuant to this chapter or interpretations by the city, any law or regulation adopted by  
19 the state governing the cultivation, production, possession or distribution of marijuana for  
20 recreational use shall also apply to recreational marijuana businesses in the city. Provided  
21 however, if a state law or regulation permits what this chapter prohibits, this chapter shall  
22 prevail. Compliance with any applicable state law or regulation that does not permit what this  
23 chapter prohibits shall be deemed an additional requirement for issuance or denial of any license  
24 under this chapter, and noncompliance with any applicable state law or regulation is unlawful  
25 and shall be grounds for revocation or suspension of any license issued under this chapter. No  
recreational marijuana business shall continue operations in violation of an additional state law  
or regulation, which does not permit what this chapter prohibits, applicable within the city after  
the effective date of the state law or regulation.

(b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal  
Prohibition. If the state prohibits the cultivation, production, possession or other distribution of  
marijuana through recreational marijuana businesses, or if a recreational marijuana business is  
denied a recreational marijuana business license or has such license revoked pursuant to § 12-  
43.3-101, et seq., C.R.S. or if a court of competent jurisdiction determines that the federal  
government's prohibition of the cultivation, production, possession or other distribution of  
marijuana through recreational marijuana businesses supersedes state law, any license issued  
pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no  
ground for appeal or other redress on behalf of the licensee.

1 (c) Revocable Privilege. A recreational marijuana business license is a revocable privilege,  
2 and no applicant therefore or holder thereof shall be deemed to have acquired any property  
3 interest therein.  
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1 **6-16-13 Prohibited Acts.**

- 2 (a) Prohibited Acts. It shall be unlawful for any person to:
- 3 (1) Cultivate, distribution, possess, produce, smoke, use or ingest marijuana in plain  
4 view of, or in a place open to the general public.
- 5 (2) Smoke, use or ingest on the premises of the recreational marijuana business (1)  
6 marijuana, (2) fermented malt beverage, (3) malt, vinous and spirituous liquor, or  
7 (4) a controlled substance, except in compliance with the directions on a legal  
8 prescription for the person from a doctor with prescription writing privileges.
- 9 (3) Operate or be in physical control of any recreational marijuana business, liquor  
10 establishment, vehicle, aircraft or motorboat while under the influence of alcohol  
11 or marijuana, or other intoxicant.
- 12 (4) Possess more than six marijuana plants without a recreational marijuana business  
13 license for a cultivation facility.
- 14 (5) Possess more than one ounce of a usable form of marijuana without a recreational  
15 marijuana business license for a center or a recreational marijuana-infused  
16 product manufacturer.
- 17 (6) Obtain marijuana for remuneration from a person who is not licensed as a  
18 recreational marijuana business.
- 19 (7) Possess or operate a recreational marijuana business in violation of this chapter.
- 20 (8) Produce, distribute or possess more marijuana than allowed in this chapter, or  
21 than disclosed in the application to the state for a recreational marijuana business  
22 license, or other applicable law.
- 23 (9) Distribute marijuana for remuneration without a recreational marijuana business  
24 license or outside of the restricted area of the recreational marijuana business.
- 25 (10) Possess recreational marijuana, or own or manage a recreational marijuana  
business, or own or manage a building with a recreational marijuana business,  
where there is possession of recreational marijuana, by a person who is not  
lawfully permitted to possess recreational marijuana.
- (11) Possess or operate a recreational marijuana business in a location or in a manner  
for which a recreational marijuana business license is prohibited by the terms of  
this chapter.
- (12) Operate a recreational marijuana business without a recreational marijuana  
business license from the city.

- 1 (13) Operate a recreational marijuana business in a manner that is not consistent with  
2 the items disclosed in the application for the recreational marijuana business, or is  
in violation of any plan made part of the license application.
- 3 (14) Operate a recreational marijuana business without disclosing, in the application  
4 for a recreational marijuana business license or an amendment thereto, an agent  
5 who either (I) acts with managerial authority, (II) provides advice to the  
6 recreational marijuana business for compensation, or (III) receives periodic  
7 compensation totaling \$1,000 or more in a single year for services related to the  
8 recreational marijuana business. It shall be an affirmative defense that the  
9 undisclosed person was an attorney, accountant, bookkeeper, or mail delivery  
person.
- 10 (15) Own or manage a recreational marijuana business where distribution occurs of a  
11 marijuana-infused product that was produced in a manner that is not in  
12 compliance with this chapter.
- 13 (16) Operate a recreational marijuana business without a recreational marijuana  
14 business license prior to passing the inspection required by this chapter.
- 15 (17) Make any changes, or for the licensee to allow any changes, to the items included  
16 in the plans submitted with the license application and approved by the city, or the  
17 individuals identified in the application, without prior approval of the city.
- 18 (18) Attempt to use or display a recreational marijuana business license at a different  
19 location or for a different business entity than the location and business entity  
20 disclosed on the application for the issued license.
- 21 (19) Own or manage a recreational marijuana business in which another person  
22 cultivates, produces, distributes or possesses marijuana, in violation of this  
23 chapter or any other applicable law.
- 24 (20) Allow an owner or business manager that has not been disclosed to the city as  
25 required by this chapter to operate the business.
- (21) Own, manage or possess a recreational marijuana business where marijuana is  
outside of the restricted area portion of such business.
- (22) Possess a number of flowering plants that is more than one-half of the recreational  
marijuana plants that are lawfully possessed by a person.
- (23) Dispose of marijuana or any byproduct of marijuana containing marijuana in a  
manner contrary to this chapter.
- (24) Distribute a marijuana plant to any person.
- (25) Deliver or transport marijuana to a person or between recreational marijuana  
businesses in a manner contrary to this chapter or other law.

- 1 (26) Refuse to allow inspection of a recreational marijuana business upon request of a  
2 city employee. Any licensee, owner, business manager, or operator of a  
3 recreational marijuana business, or the owner of the property where a recreational  
4 marijuana business is located, may be charged with this violation.
- 5 (27) Advertise or publish materials or display signs that are in violation of this code.
- 6 (28) Violate any provision of this code or any condition of an approval granted  
7 pursuant to this code or any law, rule or regulation applicable to the use of  
8 recreational marijuana or the operation of a recreational marijuana business.
- 9 (29) Permit any other person to violate any provision of this code or any condition of  
10 an approval granted pursuant to this code, or any law, rule or regulation  
11 applicable to the use of recreational marijuana or the operation of a recreational  
12 marijuana business.
- 13 (30) Lease any property to a recreational marijuana business that has marijuana on the  
14 property without a recreational marijuana business license from the city.
- 15 (31) Operate a private club where marijuana is possessed or used by any person at the  
16 private club.
- 17 (32) Remove marijuana harvested from a plant from the enclosed locked space where  
18 the plant was grown, except as provided in this chapter.
- 19 (33) Distribute marijuana within a recreational marijuana center to any person who  
20 shows visible signs of intoxication from alcohol, marijuana, or other drugs.
- 21 (34) Permit a minor on the premises of the business.

22 (b) Prima Facie Evidence. Prima facie indicia of impairment or being under the influence of  
23 marijuana includes bloodshot eyes, watery eyes, eyelid tremors, green particulate on tongue,  
24 dilated pupils, or dry mouth, or any other indicators of impairment.

#### 25 **6-16-14 Suspension or Revocation of License; Imposition of Fines.**

(a) A recreational marijuana business license may be suspended or revoked for any of the  
following violations:

- (1) Conviction of the business, a licensee or any owner, business manager, or  
financier of any violation of this chapter or any other law, rule or regulation  
applicable to the use of recreational marijuana or operation of a recreational  
marijuana business;
- (2) Misrepresentation or omission of any material fact, or false or misleading  
information, on the application or any amendment thereto, or any other  
information provided to the city related to the recreational marijuana business;

- 1 (3) Violation of any law by which, if occurring prior to submittal of the application,  
2 could have been cause for denial of the license application;
- 3 (4) Distribution of recreational marijuana, including, without limitation, delivery or  
4 transporting marijuana, in violation of this chapter or any other applicable law,  
5 rule or regulation;
- 6 (5) Operation of a recreational marijuana business in violation of the specifications of  
7 the license application, any conditions of approval by the city, or any violation of  
8 this chapter or any other law, rule or regulation applicable to the use of  
9 recreational marijuana or operation of a recreational marijuana business;
- 10 (6) Failure to maintain, or provide to the city upon request, any books, recordings,  
11 reports or other records required by this chapter;
- 12 (7) Failure to timely notify the city and to complete necessary city forms for changes  
13 in financial interest, business managers, financier or agent;
- 14 (8) Temporary or permanent closure, or other sanction of the business, by the city, or  
15 by the county or State Public Health Department or other governmental entity  
16 with jurisdiction, for failure to comply with health and safety provisions of this  
17 chapter or otherwise applicable to the business or any other applicable law;
- 18 (9) Revocation or suspension of another recreational marijuana business license or  
19 any other license issued by the city, the state, or any other jurisdiction held by any  
20 licensee of the recreational marijuana business;
- 21 (10) Failure to timely correct any violation of any law, or comply with any order to  
22 correct a violation of any law within the time stated in the notice or order.

23 (b) In the event a business or licensee is charged with violation of any law, upon which a  
24 final judgment would be grounds for suspension or revocation of the license, the city may  
25 suspend the license pending the resolution of the alleged violation.

(c) Civil Penalties for violations of this chapter may be imposed by the city against the  
business or any licensee up to \$5,000 per licensee per occurrence.

(d) If the city revokes or suspends a license, the business may not move any marijuana from  
the premise except under the supervision of the Boulder Police Department.

### **6-16-15 Term of License – Renewals – Expiration of License.**

(a) Term of License. A recreational marijuana business license shall be valid for one year.  
The license shall expire on date stated on the license, but no more than twenty-four months, to  
facilitate the administration by the city of renewals and coordinate with the date for renewal of  
the state license of such licenses.

1 (b) Renewal of License. The licensee shall apply for renewal of the recreational marijuana  
2 business license at least forty-five days before the expiration of the license. The licensee shall  
3 apply for renewal using forms provided by the city. If the applicant fails to apply for renewal at  
4 least 45 days before the expiration of the license, but does apply for renewal prior to expiration  
of the license, the city may process the renewal application if the application submits a late filing  
fee of \$5,000 at the time of submittal of the renewal application.

- 5 (1) The renewal license fee, and late fee if applicable, shall accompany the renewal  
6 application. Such fee is nonrefundable.
- 7 (2) In the event there has been a change to any of the plans identified in the license  
8 application which were submitted to and approved by the city with the application  
or an earlier renewal, the renewal application shall include specifics of the  
changes or proposed changes in any of such plans.
- 9 (3) In the event any person who has an interest as described in the disclosures made  
10 to the city pursuant to this chapter, or any business manager, financier, agent as  
11 defined herein or employee has been charged with or accused of violations of any  
12 law since such disclosure, the renewal application shall include the name of the  
violation, the date of the violation, the court and case number where the violation  
was filed and the disposition of the violation with the renewal application.
- 13 (4) In the event the business license has been suspended or revoked or a licensee has  
14 received any notice of violation of any law, the renewal application shall include a  
copy of the notice, suspension, or revocation.
- 15 (5) The renewal application shall include verification that the business has a valid  
16 state license and the state license is in good standing.
- 17 (6) The renewal application shall include a summary report for the previous twelve  
18 months showing the amount of marijuana purchased, the amount of marijuana  
19 sold, the forms in which marijuana was sold, the police report numbers or case  
numbers of all police calls to the recreational marijuana business, and for calls  
resulting in a charge of a violation of any law, the charge, case number and  
disposition of any of the charges.
- 20 (7) The city shall not accept renewal applications after the expiration of the license,  
21 but instead shall require the applicant to file a new license application.
- 22 (8) In the event there have been allegations of violations of this code by any of the  
23 licensees or the business submitting a renewal application, the city may hold a  
24 hearing pursuant to Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, prior to  
25 approving the renewal application. The hearing shall be to determine whether the  
application and proposed licensees comply with this chapter and whether the  
operation of the business has been in compliance with this code. If the city does  
not hold a hearing and the application and the licensees do not meet the  
requirements of this chapter, or the business has been operated in the past in

1 violation of this code, the renewal application may be denied or issued with  
2 conditions, and the decision shall be final subject to judicial review as provided in  
Section 16-4-4(e).

3 (c) Nonpayment of Tax. In the event a recreational marijuana business that has been open  
4 and operating and submitting monthly sales and use tax returns to the city ceases providing sales  
5 and use tax returns to the city for a period of three months or longer, the recreational marijuana  
6 business license shall be deemed to have expired and a new license shall be required prior to  
reopening at the location of the business.

7 (d) Expiration of License. Expiration of a recreational marijuana business license for any  
8 reason including without limitation, pursuant to subsection (c) above shall be considered an  
inactive local license as described in § 12-43.3.312, C.R.S.

9 **6-16-16 City Manager Authorized to Issue Rules.**

10 The city manager may adopt rules and regulations that the city manager determines are  
11 reasonably necessary to implement the requirements of this chapter.

12 Section 2. A new section 4-20-67, B.R.C. 1981, is added to read:

13 **4-20-67 Recreational Marijuana Businesses.**

14 Application and license fees for recreational marijuana businesses shall be up to the  
following amounts:

- |        |   |                 |
|--------|---|-----------------|
| 15 (a) | Application fee for conversion of licenses under Chapter 6-14,<br>16 B.R.C. 1981 (to be received from the state before application is<br>deemed complete):                          | \$ 250          |
| 17 (b) | Application fee for new recreational marijuana licenses not<br>18 converted from medical marijuana businesses (to be received<br>from state before application is deemed complete): | \$2,500         |
| 19 (c) | Criminal background check fee, per person checked:  | Actual<br>Costs |
| 20 (d) | License fee, per year:  | \$4,075         |
| 21 (e) | Renewal application fee, per year:  | \$3,480         |
| 22 (f) | Application for a new business manager:   | \$ 150          |
| 23 (g) | Business entity changes or addition of financiers:  | \$2,000         |
| 24     |   |                 |
| 25     |   |                 |

1 (h) Modification of premises: \$3,000

2 The application fee and costs and renewal fee paid are nonrefundable. The new license fee may  
3 be refunded if the new license application is denied. No fee will be refunded in the instance of  
4 suspension or revocation.

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

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

9 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
10 TITLE ONLY this 3<sup>rd</sup> day of September 2013.

13 \_\_\_\_\_  
Mayor

14 Attest:

15 \_\_\_\_\_  
16 City Clerk

17 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
18 PUBLISHED BY TITLE ONLY this 22<sup>nd</sup> day of October, 2013.

21 \_\_\_\_\_  
22 Mayor

23 Attest:

24 \_\_\_\_\_  
25 City Clerk

ORDINANCE NO. 7931

AN ORDINANCE ~~AMENDING~~ADDING SECTION 5-10-6,  
“MARIJUANA ODOR EMISSIONS,” B.R.C. 1981, AND  
SETTING FORTH RELATED DETAILS.

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

Section 1. Adding 5-10-6 to read:

**5-10-6 Marijuana Odor Emissions**

- (a) No person, tenant, occupant, or property owner shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another’s property.
- (b) Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standard of a reasonable person of normal sensitivity.
- (c) A marijuana odor emission shall be deemed to interfere with reasonable and comfortable use and enjoyment of property if the city manager receives three (3) or more complaints from individuals representing separate households, rooming units, or places of business within the city relating to a single marijuana odor source.
- (d) No person shall be convicted of a violation of this section unless the city manager has delivered or posted a written warning, in the previous 12 months, that conduct violating this section is occurring or has occurred ~~and, 14 or more days following the warning, the marijuana odor emission is repeated or continued.~~

- (1) Fourteen~~(1)~~ The person, tenant, occupant, or property owner must abate the marijuana odor emission within 7 days after the warning is delivered or posted.
- ~~(2)~~(2) Seven or more days after a warning is posted or delivered, a separate violation of this section occurs on each day that the marijuana odor emission repeats or continues.
- ~~(2)~~(3) The warning shall cite this section.
- ~~(3)~~(4) The warning may be delivered personally or posted on the property.
- ~~(4)~~(5) It shall be presumed that a person charged under this section received the warning if the warning was either (i) delivered to the property owner, a tenant, or an occupant; or if the warning was (ii) posted on the property.

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(e) No person who receives a warning at a marijuana cultivation facility shall be convicted of a violation if all of the following conditions are met:

- (1) A warning is issued pursuant to subsection (d) of this section for the person's property, and the subject property is licensed as a marijuana cultivation facility by the city or the state;
- (2) Seven or fewer days after the warning is posted or delivered, the person submits a written document to the city manager which explains (i) why the marijuana odor emissions cannot be abated within 7 days feasibly and (ii) how the person plans to abate the marijuana odor emission in the following 90 days; and
- (3) The written document described in paragraph (2) was submitted fewer than 90 days before the date of violation charged in the summons and complaint.

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 3<sup>rd</sup> day of September, 2013.

\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED  
2 PUBLISHED BY TITLE ONLY this 22nd day of October, 2013.

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Mayor

Attest:

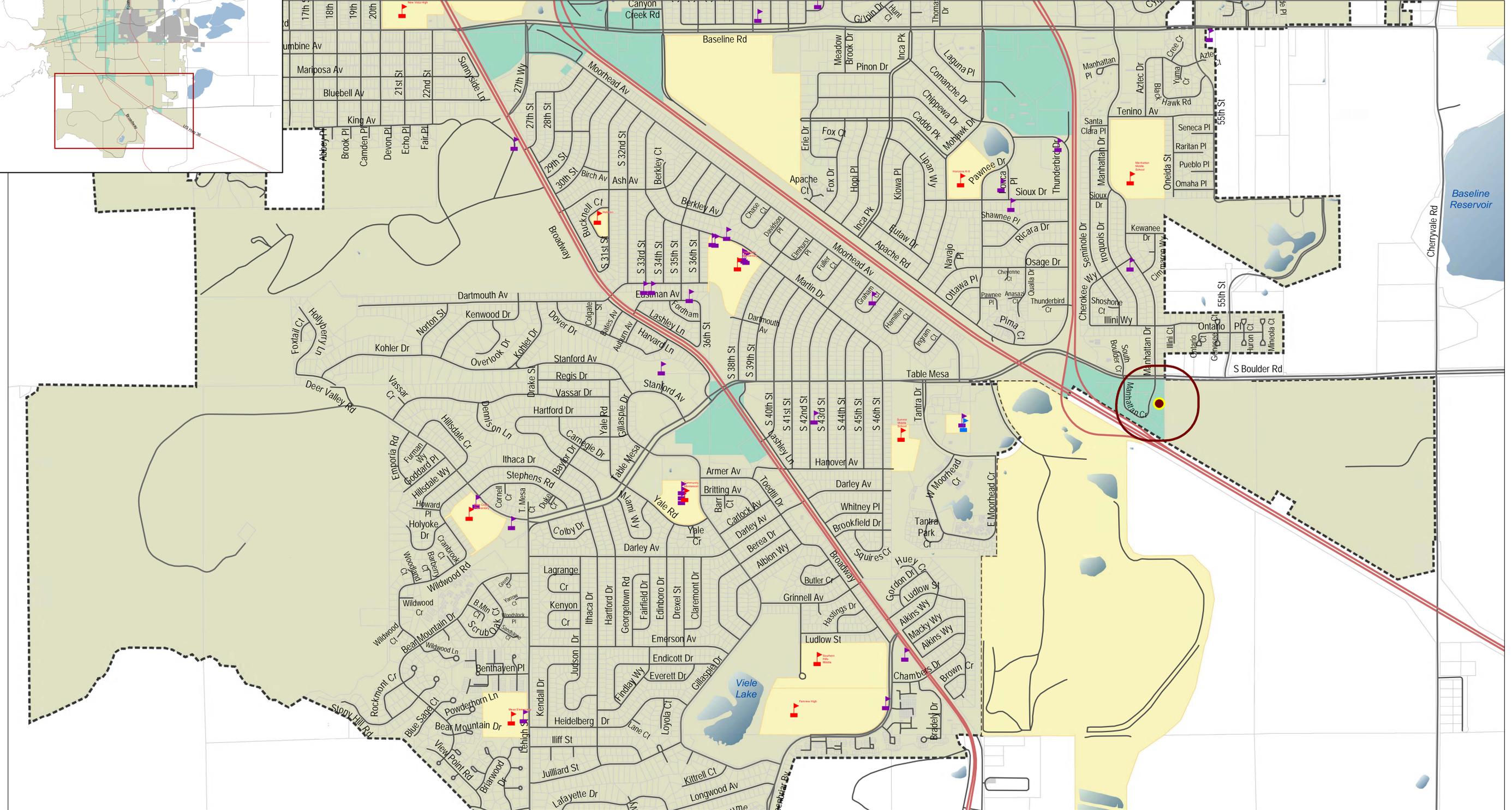
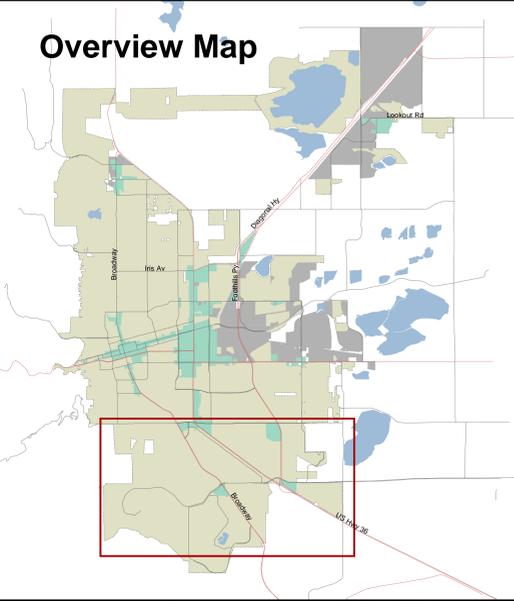
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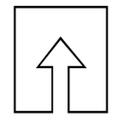
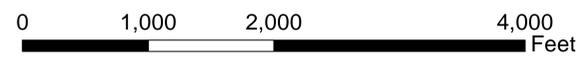
<b>Comparison of Boulder and Denver Provisions Regarding Marijuana</b>				
	<b>Denver</b>	<b>Boulder - MMB</b>	<b>Staff Recommendation for RM</b>	<b>Notes</b>
Distance from other marijuana businesses	1,000 feet (wellness center only)	500 feet (wellness centers only)	500 feet	Denver measurement changed from route of pedestrian access to straight line; Boulder is straight line for marijuana
Distance from alcohol or drug treatment facility	1,000 feet	None	No objection to citizen request	citizen request for 1,000 feet of separation
Distance from school or child care	1,000 feet	500 feet	1,000 feet	Increase recommended because of federal enforcement
Grandfathered if established by:	7-1-10	11-1-12	10-1-13	
New recreational businesses apps accepted:	1-1-16	N/A	10-1-14	Boulder allows 15 months before Denver
Prerequisites to qualification for MMB conversion	MMB must be licensed by 10-1-13	N/A	MMB must be licensed by 3-1-14	Abatement period for conversion to new apps Boulder = 8 months Denver = 27 months
Time to process conversion application	More than 90 days	N/A	30 days	Boulder able to do timely because it has processed all MMB applications and at least one renewal if each business
Public hearing required for recreational stores	Yes - Issues at hearing are character of applicants, effect on competition, impact on neighborhood, desires of neighborhood	No	No	Note: Nederland also added a public hearing requirement
Co-location	Virtual if limit MMB to 21 or older; physical to serve patients under 21	N/A	Physical separation allowed with separate license and compliance with land use requirements	

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Overview Map

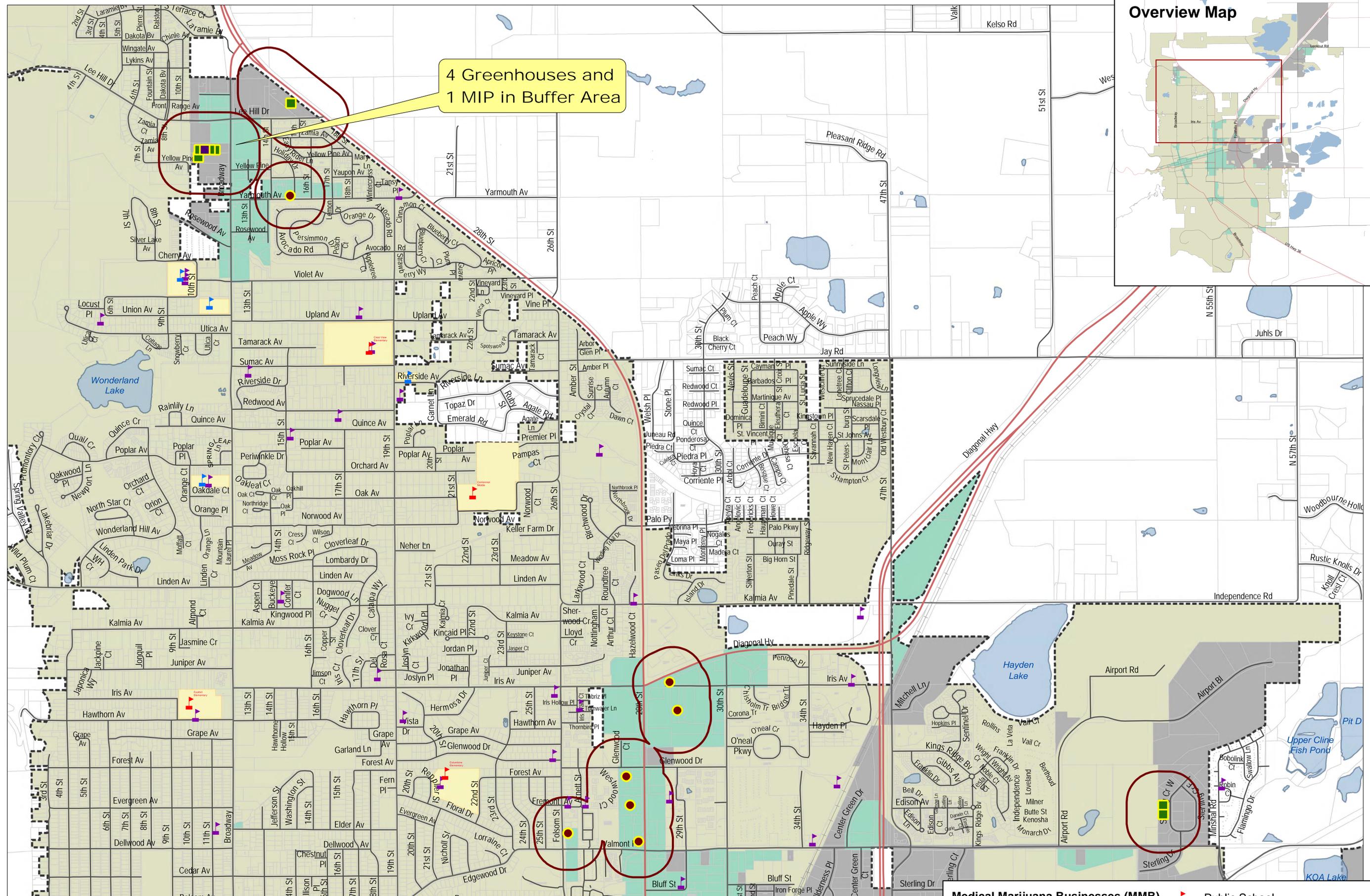
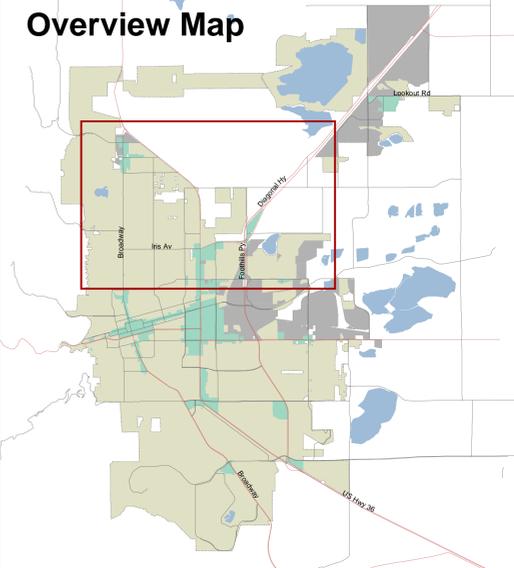


City of Boulder, Colorado  
Medical Marijuana Business Locations  
South of Baseline Rd



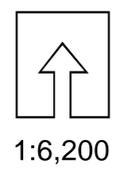
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- Medical Marijuana Businesses (MMB)**
  - Cultivation Facility
  - MIP Manufacturing
  - Medical Marijuana Center
  - 500ft MMB Property Buffer
  - City Limits
- Zoning Districts**
  - MMB Personal Service Allowed
  - Industrial Zone
- Public School**
- Private School**
- Licensed Child Day Care**

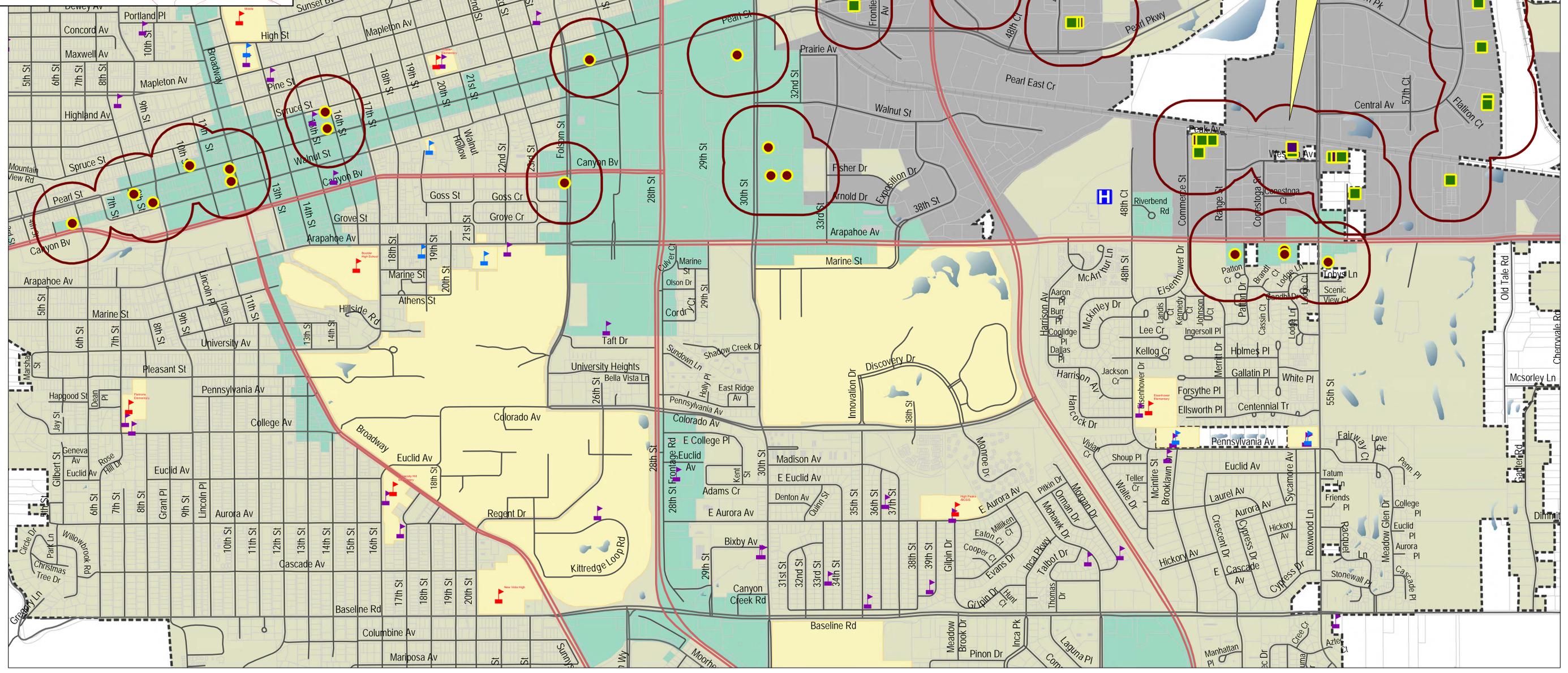
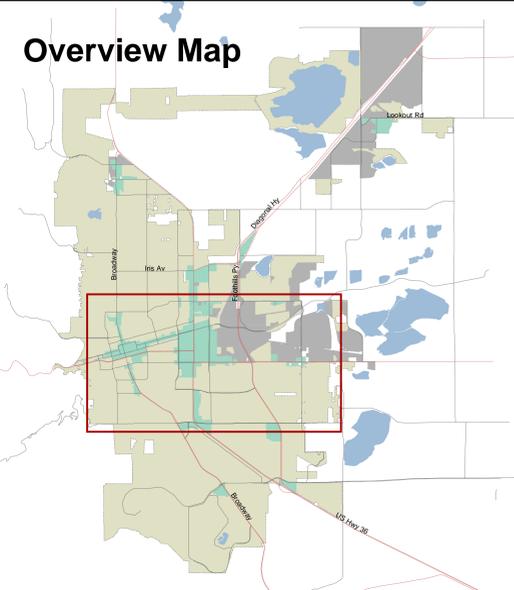


4 Greenhouses and 1 MIP in Buffer Area

**City of Boulder, Colorado**  
**Medical Marijuana Business Locations**  
**North of Valmont**



- |   |                              |
|---|------------------------------|
| <b>Medical Marijuana Businesses (MMB)</b> | Public School                |
| Cultivation Facility                      | Private School               |
| MIP Manufacturing                         | Licensed Child Day Care      |
| Medical Marijuana Center                  | <b>Zoning Districts</b>      |
| 500ft MMB Property Buffer                 | MMB Personal Service Allowed |
| City Limits                               | Industrial Zone              |

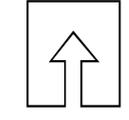
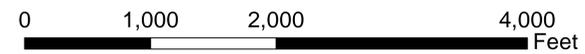


10 Greenhouses and 1 MIP in Buffer Area

2 Greenhouses and 1 MIP in Buffer Area

7 Greenhouses and 3 MIPs in Buffer Area

City of Boulder, Colorado  
Medical Marijuana Business Locations  
North of Baseline Rd and South of Valmont Rd

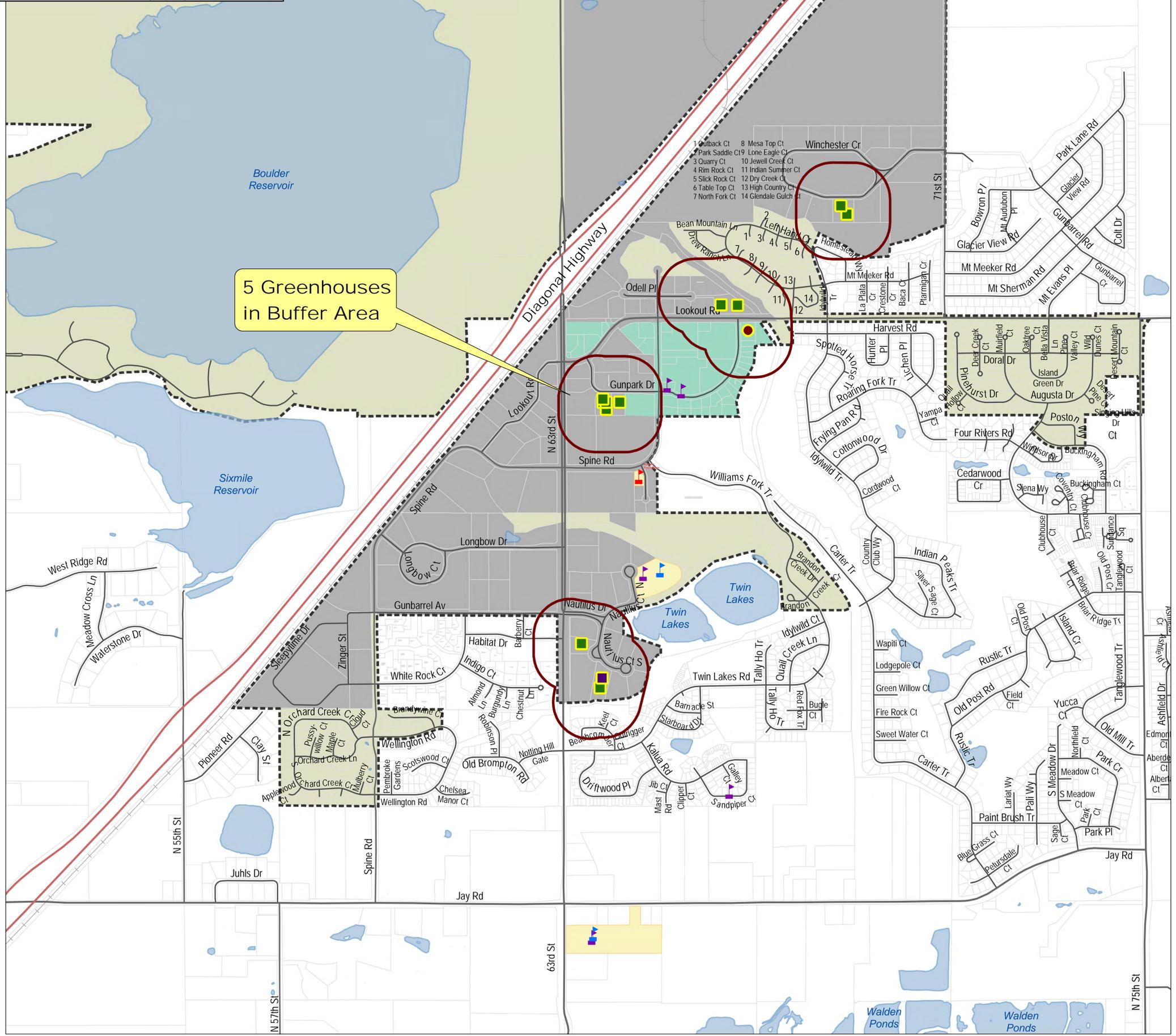
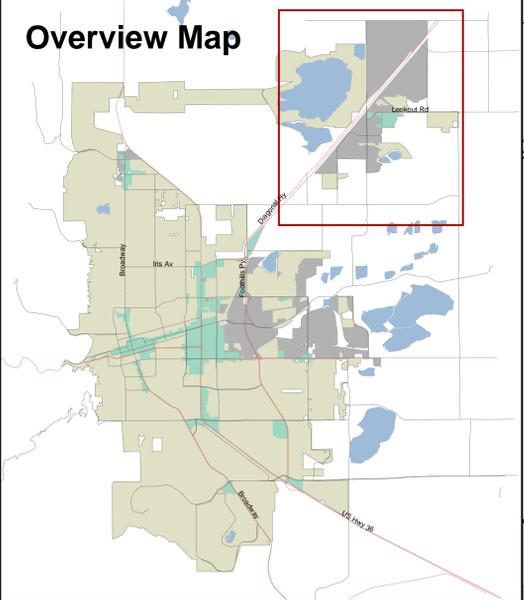


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- Medical Marijuana Businesses (MMB)**
  - Cultivation Facility
  - MIP Manufacturing
  - Medical Marijuana Center
  - 500ft MMB Property Buffer
  - City Limits
- Zoning Districts**
  - MMB Personal Service Allowed
  - Industrial Zone
- Public School**
- Private School**
- Licensed Child Day Care**



Overview Map

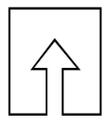


5 Greenhouses  
in Buffer Area

- 1 Outback Ct
- 2 Park Saddle Ct
- 3 Quarry Ct
- 4 Rim Rock Ct
- 5 Slick Rock Ct
- 6 Table Top Ct
- 7 North Fork Ct
- 8 Mesa Top Ct
- 9 Lone Eagle Ct
- 10 Jewell Creek Ct
- 11 Indian Summer Ct
- 12 Dry Creek Ct
- 13 High Country Ct
- 14 Glendale Gulch Ct

City of Boulder, Colorado  
Medical Marijuana Business  
Locations in Gunbarrel

0 1,000 2,000 4,000 Feet



1:6,000

- Medical Marijuana Businesses (MMB)**
- Cultivation Facility
  - MIP Manufacturing
  - Medical Marijuana Center
  - 500ft MMB Property Buffer
  - City Limits
- Zoning Districts**
- MMB Personal Service Allowed
  - Industrial Zone
- Other Features**
- Public School
  - Private School
  - Licensed Child Day Care



## **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 involved 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.

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**2013**  
**Study Session Calendar**

<b>Date</b>	<b>Topic</b>	<b>Time</b>	<b>Televised</b>
<b>11/26/13</b>	<b>No Meeting</b>		
12/10/13	Hold for CMO		
<b>12/24/13</b>	<b>No Meeting</b>		

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**October 29, 2013**

**Start Time: 4:30 PM - Sister City Dinner 6:00 PM Business Meeting**

**Location: Council Chambers, 1777 Broadway**

Agenda Section	Item Name	Time
<b>SPECIAL PRESENTATION:</b>	Flood Update/Recognitions	45 Minutes
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	October 15 Minutes	10 Minutes
	Resolution: Fire and Police Money Purchase Plan Agreement	
	Second Reading: Electric Assist Bicycles Pilot Demo Project	
	Historic Preservation Plan	
	First reading Jewish Commons Annexation	
	If necessary: 3rd Reading Alcohol Changes	TBD
	If necessary: 3rd reading of marijuana items	TBD
<b>MATTERS FROM CITY MANAGER:</b>	Economic Sustainability Strategy Adoption	1 Hour
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>	Board and Commission Subcommittttee Checkin	15 minutes
<b>CALL-UPS:</b>		
	<b>Total Estimated Meeting Time (Hours)</b>	<b>2.92</b>

November 12, 2013

Start Time: 5:00 PM - Administrative Hearing

Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time
Administrative Hearing	Platform of Mayor and Mayor Pro Tem	1 Hour
<b>Total Estimated Meeting Time (Hours)</b>		<b>1.00</b>

November 19, 2013

Start Time: 10:00 AM Special Meeting - Oath of Office

Location: Library Auditorium, 1001 Arapahoe Ave

Agenda Section	Item Name	Time
	Certification of Election Results and Oath of Office for new members	1 Hour
<b>Total Estimated Meeting Time (Hours)</b>		<b>1.00</b>

November 19, 2013

Start Time: 6:00 PM Business Meeting

Location: Library Auditorium, 1001 Arapahoe Ave

Agenda Section	Item Name	Time
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	1st Reading Food Vehicle Follow Up to April 16, 2013 IP	10 Minutes
	First reading of an emergency ordinance BRC Supplement 118	
	First Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone)	
	Continued Second Reading Proposed Changes to Demolition Ordinance No. 7885	
	First Reading of the Second Adjustment to Base Ordinance	
<b>PUBLIC HEARINGS:</b>	2nd Reading Grandview Bungalow Relocation Project	1 Hour
<b>MATTERS FROM CITY MANAGER:</b>	Municipalization Exploration Update	10 Minutes
	Evaluation Committee: Six Month Check-in	10 Minutes
	Legislative Agenda	1 Hour
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>		
<b>CALL-UPS:</b>		
<b>Total Estimated Meeting Time (Hours)</b>		<b>3.25</b>

December 3, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>	Second adjustment to Base - CAGID Resolution	10 Minutes
	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	
<b>PUBLIC HEARINGS:</b>	Second Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone)	15 Minutes
	Second Reading Jewish Commons Annexation	1 Hour
	Second Reading E-Bikes Pilot Program Ordinance	1.5 Hours
<b>MATTERS FROM CITY MANAGER:</b>	Legislative Agenda	1 Hour
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>		
<b>CALL-UPS:</b>		
	<b>Total Estimated Meeting Time (Hours)</b>	<b>4.67</b>

December 17, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
<b>OPEN COMMENT:</b>		45 Minutes
<b>CONSENT:</b>		10 Minutes
<b>PUBLIC HEARINGS:</b>	2nd Reading Food Vehicle Follow Up to April 16, 2013 IP	1 Hour
	Second Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC	1 Hour
<b>MATTERS FROM CITY MANAGER:</b>	Municipalization Exploration Project Update	2 Hours
<b>MATTERS FROM CITY ATTORNEY:</b>		
<b>MATTERS FROM MAYOR AND MEMBERS:</b>		
<b>CALL-UPS:</b>		
	<b>Total Estimated Meeting Time (Hours)</b>	<b>4.92</b>

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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.

**Next Tier Priorities:**

**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**

<b>GOAL: Boulder's Energy Future</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – based on the strategies approved by Council in 1<sup>st</sup> Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables</li> <li>▪ Study Session</li> </ul>

<b>GOAL: Climate Action Plan</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Boulder Canyon Hydroelectric Project</li> <li>▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools</li> <li>▪ Energy Efficiency:               <ul style="list-style-type: none"> <li>○ Launch of 2013 program priorities</li> <li>○ Upgrades in City Buildings – employee education and outreach project (IP)</li> </ul> </li> <li>▪ Disposable Bag Fee – implementation plan and revised budget (IP)</li> <li>▪ Transportation Master Plan (TMP) –</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session)</li> <li>▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems</li> <li>▪ Electric/ Hybrid vehicles – project closeout</li> <li>▪ Energy Efficiency – finalize Market Innovations approach (Study Session)</li> <li>▪ Solar/ Wind Generation Facility Code Changes</li> <li>▪ SmartRegs – code changes</li> </ul>	<ul style="list-style-type: none"> <li>▪ CEES – adopt Energy Rating and Reporting Ordinance</li> <li>▪ Climate Commitment – policy integration with TMP and ZWMP</li> <li>▪ Energy Efficiency – launch Market Innovations competition</li> <li>▪ Zero Waste Master Plan (ZWMP) – draft</li> </ul>	<ul style="list-style-type: none"> <li>▪ Climate Commitment – policy integration with TMP and ZWMP</li> <li>▪ Energy Efficiency               <ul style="list-style-type: none"> <li>○ Upgrades in City Buildings – results of employee education and outreach (IP)</li> </ul> </li> <li>▪ SmartRegs – options for quality control of rental housing inspections</li> </ul>



initial results of Transportation Funding Task Force (Study Session)			
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**GOAL: Affordable Housing**

1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<ul style="list-style-type: none"> <li>▪ ADU/ OAU – study results (IP)</li> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> <li>▪ Density and Distribution of affordable and special needs housing - report</li> <li>▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process</li> <li>▪ Mobile Homes Parks – legislative agenda</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy               <ul style="list-style-type: none"> <li>○ Stakeholder engagement process</li> <li>○ Study Session</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Housing Strategy issues - stakeholder engagement process</li> </ul>

**GOAL: Civic Area Plan**

1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<ul style="list-style-type: none"> <li>▪ Board and community input</li> <li>▪ Council participation in Ideas Competition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Council direction on preferred option(s) and strategies</li> <li>▪ Draft plan               <ul style="list-style-type: none"> <li>○ Development</li> <li>○ Community input</li> <li>○ Study Session</li> </ul> </li> <li>▪ Municipal Space Study Final Report</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder Civic Area vision and plan               <ul style="list-style-type: none"> <li>○ Study session</li> <li>○ Public hearings on adoption</li> </ul> </li> </ul>	



**NEXT TIER PRIORITIES**

<b>GOAL: University Hill Revitalization</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ 2013 action priorities confirmed by Council at January retreat</li> <li>▪ Hill Residential Service District – update</li> <li>▪ Innovation District - update</li> </ul>	<ul style="list-style-type: none"> <li>▪ Action on other priorities</li> <li>▪ Hill Residential Service District – 1<sup>st</sup> reading of petition</li> </ul>	<ul style="list-style-type: none"> <li>▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process</li> </ul>	

<b>GOAL: Addressing Homelessness</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ City and Community Efforts – Denver sleeping ordinance (IP)</li> <li>▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP)</li> <li>▪ Work plan check in and priority – Council retreat</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs</li> <li>▪ Ten Year Plan to Address Homelessness – progress update (IP)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis and recommendations regarding banning panhandling on street corners</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ten Year Plan to Address Homelessness – progress update (IP)</li> </ul>

<b>GOAL: Boulder Junction Implementation</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ Depot Square implementation – update</li> <li>▪ MU-4 zone change - consideration</li> <li>▪ TDM District Implementation Update (IP)</li> <li>▪ Update on potential policy issues related to key public improvements and city owned site (as needed)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Update on potential policy issues related to key public improvements and city owned site (as needed)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Boulder Junction Access District Parking – update</li> <li>▪ TDM Access District implementation - IP</li> </ul>	



**OTHER**

<b>GOAL: Other City Goals and Work Plan Items</b>			
<b>1<sup>st</sup> Quarter</b>	<b>2<sup>nd</sup> Quarter</b>	<b>3<sup>rd</sup> Quarter</b>	<b>4<sup>th</sup> Quarter</b>
<ul style="list-style-type: none"> <li>▪ 13<sup>th</sup> Street Plaza - IP</li> <li>▪ 28<sup>th</sup> Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up</li> <li>▪ Acquisition Plan Update - OSMP</li> <li>▪ Alcohol/ Land Use Code Changes – options and recommendations</li> <li>▪ Boating on Barker Reservoir</li> <li>▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities</li> <li>▪ BVCP Area III Planning Reserve Amendments (if approved by County)</li> <li>▪ Chautauqua Guiding Principles, Next Steps –update on progress</li> <li>▪ Civic Use Task Force – update from Council members</li> <li>▪ Cultural Master Plan</li> <li>▪ Design and Construction Standards Update – consideration of minor updates</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Hogan Pancost – annexation and site review</li> <li>○ Wonderland Creek Townhouses – potential call up</li> <li>○ 28<sup>th</sup> and Canyon (Eads/ Golden Buff) – potential call up</li> <li>○ Landmark Lofts II (970 28<sup>th</sup> Street) – potential call up</li> </ul> </li> <li>▪ East Arapahoe Study – potential action on limited zoning changes</li> <li>▪ Economic Sustainable Strategies –</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access and Parking Management Strategies – study session</li> <li>▪ Alcohol Land Use Code Changes - action</li> <li>▪ Baseline Underpass East of Broadway CEAP – Call up</li> <li>▪ Bike Parking Ordinance Updates</li> <li>▪ Capital Improvement Bond Projects status update - IP</li> <li>▪ Capital Projects – carry over and first supplemental</li> <li>▪ Critical Facilities Ordinance – public hearing and motion</li> <li>▪ Education Excise Tax – consideration of City Manager funding recommendations</li> <li>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities</li> <li>▪ Human Rights Ordinance – proposed changes regarding age discrimination</li> <li>▪ Integrated Pest Management Program Changes - IP</li> <li>▪ International Building and Energy Codes – public hearing</li> <li>▪ North Boulder Subcommunity Plan - IP</li> <li>▪ Old Hire Fire and Police Pension Plans – Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ 2014 Budget Process</li> <li>▪ Access and Parking Management strategies (update)</li> <li>▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP)</li> <li>▪ Capital Improvement Program – study session</li> <li>▪ Carter Lake Pipeline – thru CIP process</li> <li>▪ Contractor Licensing – proposed changes (IP)</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Blue Spruce Auto (4403 Broadway) – potential call up</li> <li>○ Boulder Outlook Hotel Redevelopment (800 28<sup>th</sup> Street) – potential call up</li> <li>○ Colorado Building Parking Lot (1301 Walnut) - ordinances</li> <li>○ 1000 Alpine – potential call up</li> <li>○ 3085 Bluff – potential call up</li> <li>○ 3390 Valmont (Former Sutherlands Site) – potential call up</li> </ul> </li> <li>▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility</li> <li>▪ FAM Master Plan – study session</li> <li>▪ Harbeck-Bergheim House – Future Use Options (IP)</li> <li>▪ North Trail Study Area – study</li> </ul>	<ul style="list-style-type: none"> <li>▪ Access and Parking Management Strategies – update</li> <li>▪ Agriculture Plan (OSMP) – public hearing</li> <li>▪ Capital Improvement Program – adoption of CIP; 2<sup>nd</sup> budget supplemental</li> <li>▪ Contractor Licensing – consideration of proposed changes</li> <li>▪ Design and Construction Standards Update – consideration of additional changes</li> <li>▪ Development Review Projects:               <ul style="list-style-type: none"> <li>○ Village Shopping Center Hotel (26<sup>th</sup> and Canyon) – potential call up</li> </ul> </li> <li>▪ East Arapahoe Study – check in on project scope and work plan (3/4Q)</li> <li>▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP)</li> <li>▪ FAM Master Plan – consideration of acceptance</li> <li>▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up</li> <li>▪ Human Relations Commission Work Plan update - IP</li> <li>▪ Human Services Fund allocations - IP</li> <li>▪ Light Response Vehicle Pilot Program - IP</li> <li>▪ OSMP Natural Resources Overarching Issues – Study session</li> </ul>



<p>study session</p> <ul style="list-style-type: none"> <li>▪ Education Excise Tax Allocation of Funds – refine RFP criteria</li> <li>▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP)</li> <li>▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities</li> <li>▪ Hazardous Materials Management IGA</li> <li>▪ Hydroelectric operations and opportunities - IP</li> <li>▪ Keep It Clean IGA</li> <li>▪ Mobile Food Vending – options for ordinance changes</li> <li>▪ Multi-hazard mitigation plan – possible consent item</li> <li>▪ Nuisance Mosquito Control Pilot Project Evaluation - IP</li> <li>▪ 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</li> <li>▪ Police Department Master Plan – Study Session</li> <li>▪ State of the Court Presentation</li> <li>▪ Sustainable Streets &amp; Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy</li> <li>▪ Transportation Funding (SS)</li> <li>▪ TMP Update – additional direction</li> </ul>	<ul style="list-style-type: none"> <li>▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> <li>○ Temporal Regulations</li> <li>○ Penalties for violations</li> <li>○ Multi-modal access and parking opportunities</li> <li>○ Analysis of trail network and distribution of activities</li> </ul> </li> <li>▪ Parks and Recreation Master Plan</li> <li>▪ Pearl Street Mall Code Changes</li> <li>▪ Police Department Master Plan</li> <li>▪ Randolph Center Condominium Declaration</li> <li>▪ Recirculation of wastewater – CU Williams Village North (IP if necessary)</li> <li>▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion</li> <li>▪ Smoking Ban on Pearl Street Mall - IP</li> <li>▪ Snow and Ice Control Evaluation – study session</li> <li>▪ Transportation Funding – study session</li> <li>▪ TMP Update – additional direction</li> <li>▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion</li> <li>▪ Water budgets – commercial, industrial and institutional – Council direction</li> <li>▪ Water supply status – IP</li> </ul>	<p>session or dinner discussion</p> <ul style="list-style-type: none"> <li>▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process</li> <li>▪ Parks and Recreation Master Plan</li> <li>▪ Regional Trail Connections (OSMP) – IP</li> <li>▪ South Boulder Creek Flood Mitigation Study – public hearing and motion</li> <li>▪ Transportation Demand Management Toolkit - IP</li> <li>▪ Valmont Butte Future Use Discussions – study session</li> <li>▪ Water Conservation Futures Study</li> <li>▪ Youth Opportunities Funding allocations - IP</li> </ul>	<p>on remaining topics</p> <ul style="list-style-type: none"> <li>▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance</li> <li>▪ Water budgets – commercial, industrial and institutional – consideration of changes</li> </ul>
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<ul style="list-style-type: none"> <li>▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired)</li> <li>▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update</li> <li>▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up</li> <li>▪ Zero Waste Master Plan Update</li> </ul>			
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**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 – 1<sup>ST</sup> AND 2<sup>ND</sup> QUARTER 2012**

**TOP PRIORITIES:**

**GOAL: BOULDER'S ENERGY FUTURE**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder's energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city's Boulder Canyon Hydroelectric Facility.

**GOAL: CLIMATE ACTION PLAN**

**FIRST AND SECOND QUARTER  
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

## **GOAL: AFFORDABLE HOUSING**

### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

## **GOAL: CIVIC CENTER MASTER PLAN**

### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



## NEXT TIER PRIORITIES:

### **GOAL: UNIVERSITY HILL REVITALIZATION**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

### **GOAL: ADDRESSING HOMELESSNESS**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

### **GOAL: BOULDER JUNCTION IMPLEMENTATION**

#### **FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS**

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30<sup>th</sup> 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 29<sup>th</sup> 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. 16<sup>th</sup> 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<sup>1</sup>***

- 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 28<sup>th</sup> Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

**Key:**

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

## **COUNCIL MEMBERS**

Matthew Appelbaum	Mayor
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 (1 <sup>st</sup> alternate), Castillo (2 <sup>nd</sup> 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) Mayoral Appointment	Becker (appointed through 2015)
Charter Committee	Morzel, Cowles, Ageton, Karakehian
Civic Use Pad/ 9 <sup>th</sup> 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