

**Boulder City Council  
STUDY SESSION**

**Tuesday  
September 23, 2014**

**6-7:30 PM  
Smoking Ban on Selected City Properties**

**7:30-9 PM  
Facilities and Asset Management (FAM)  
Master Plan Update  
(Available Tuesday, September 16)**

**Council Chambers  
Municipal Building  
1777 Broadway**

Submit Comments to City Council  
Email: [council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)

or

Attention: Alisa Lewis, City Clerk  
PO Box 791, Boulder, CO 80306  
Fax: 303-441-4478



## **STUDY SESSION MEMORANDUM**

**To:** Members of Boulder City Council

**From:** Jane S. Brautigam, City Manager  
Maureen Rait, Executive Director of Public Works  
David Driskell, Executive Director of Community Planning and Sustainability/Interim Housing Director  
Greg Testa, Police Chief  
Tracy Winfree, Director of Public Works – Transportation  
Karen Rahn, Director of Human Services  
Mike Patton, Director of Open Space and Mountain Parks  
Molly Winter, Director of Downtown and University Hill Management Division and Parking Services  
Jeff Dillon, Interim Director of Parks and Recreation  
Sandra Llanes, Senior Assistant City Attorney  
Marni Ratzel, Senior Transportation Planner  
Vanessa Schatz, Communication Specialist II, Parks and Recreation  
Lane Landrith, Downtown and University Hill Business Coordinator  
Andy Pelster, OSMP Land and Facilities Operations Supervisor  
Curtis Johnson, Deputy Police Chief  
Jennifer Bray, Communication Specialist III, Library and Arts  
Lisa Martin, Urban Parks Manager  
Eric M. Ameigh, Public Works Projects Coordinator

**Date:** September 23, 2014

**Subject: Proposal for Smoking Ban on Selected City Properties**

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### **I. PURPOSE**

The purpose of this study session is for council to provide feedback and direction on a staff-developed proposal to ban smoking on select public properties (Attachment A). The proposal was developed in response to direction from council at its January 2014 retreat and at the Jan. 28, 2014 study session.

## II. QUESTIONS FOR COUNCIL

1. Does council have questions about the process used to date?
2. Does council have questions about the draft proposal?
3. Does council have questions about enforcement of the draft ordinance?

## III. BACKGROUND

At a study session on Jan. 28, 2014, council provided staff with general direction to develop a proposal to ban smoking in parks, on open space, and in other public places that would further council's goal of making Boulder as healthy and smoke free as possible. In addition, council directed staff to do its best to insure the proposed smoking ban would be enforceable. Staff was directed to take the eventual proposal to relevant boards and commissions before returning to council later in the year for consideration of a proposal.

During the 2<sup>nd</sup> quarter, the staff team took a draft proposal to a number of boards and commissions, including:

- Parks and Recreation Advisory Board
- Transportation Advisory Board
- Open Space Board of Trustees
- Downtown Management Commission
- University Hill General Improvement District Board
- Downtown Boulder, Inc. Board
- Downtown Business Improvement District Board
- Boulder Junction Access District Joint Commission
- Human Relations Commission

In addition, the Colorado Chautauqua Association (CCA) Board and Addressing Alcohol Concerns Together (AACT) were both consulted informally.

The [memo sent to the boards and commissions](#) contains additional background about anti-smoking efforts in Boulder and the dangers posed by smoking and exposure to second hand smoke.

## IV. BOARD AND COMMISSION FEEDBACK

Response to the proposal was generally positive. The support, however, was provided in the context of a few cautions and qualifiers. Specific concerns about the proposal that were voiced by numerous boards include:

- may be perceived to target the transient and/or homeless population;
- may reinforce a perception that Boulder is not welcoming, inclusive, or tolerant;
- if enacted, may displace smokers to other areas and may have unintended consequences;
- may not be enforceable in all locations, at all times given police staffing realities; and

- if enacted and supported by increased signage, could lead to unsightly “sign clutter.”

Some board and commission members questioned the exclusion of the golf course and the exclusion of electronic cigarettes (electronic cigarettes have since been added to the proposal following board and commission input and further staff research). There were also questions about how the proposal would be applied to the Chautauqua area.

## **V. DRAFT PROPOSAL**

### *General Considerations*

Staff considered the different mechanisms to ban smoking in the desired areas. After internal discussions, it was clear that an ordinance was preferred over a city manager rule because it is more easily enforceable by law enforcement personnel. An ordinance has a clear statute number for officers to remember. A city manager rule is enforced under a statute number which encompasses all city manager rules, but not any one rule specifically. An ordinance also carries more weight in court. For example, violation of an ordinance can result in jail time but violation of a rule cannot.

There was also a consideration of the various types of smoking devices, tobacco, and nicotine products that should or should not be included in the ban. Staff determined that the proposed ban should apply only to smoking that requires ignition for use (e.g. cigarettes, cigars, pipes, etc.) and electronic cigarettes (e-cigarettes). The use of e-cigarettes is referred to as “vaping” because it results in vapor, not smoke. Because of their novelty, research into specific health effects of e-cigarettes is evolving. Claims about e-cigarette safety or inability to impact bystanders are not yet fully verified. (See Attachment B for a Boulder County Public Health Department fact sheet on electronic cigarettes.) This approach is consistent with smoking and vaping restrictions being implemented in other municipalities.

### *Open Space and Mountain Parks (OSMP)*

The staff recommendation is to ban smoking on all OSMP properties, including trails, without exception. A lack of second hand smoke will enhance the visitor experience and an absolute prohibition on smoking will help mitigate a potential fire hazard on OSMP properties. Designated public access points to OSMP currently provide the regulatory infrastructure necessary to notify users of the smoking ban.

### *Parks and Recreation*

The recommendation is to ban smoking in all city owned, maintained, and leased park land, park property and recreation facilities with the exception of Flatirons Golf Course.

The management at Flatirons Golf Course felt certain that a smoking ban would lead to a decrease in revenue. Golf course smoking bans are almost unheard of in the state. According to staff research, there is only one golf course in Colorado that bans smoking—only on a few holes—and it is due to fire danger. Users of the golf course were surveyed on their support for a smoking ban. Those who responded were split. Golf Course Management believes the survey outcome support the concern that the golf course stands to lose a significant amount of revenue if a smoking ban is implemented.

### *Chautauqua*

A potential smoking ban at Chautauqua has been considered with the CCA in the context of the Stewardship Framework. Implementation is an issue; the lease area is not defined by streets or structures and it may be difficult for park and CCA users to understand where smoking is allowed or not. (See Attachment C for a map of the Chautauqua area.) The CCA has preliminarily indicated support for a fully smoke-free Chautauqua but the CCA board has not yet completed its deliberations on the matter. A full board discussion is planned for October. The proposal does not currently include Chautauqua.

### *Downtown*

The recommendation is to implement the ban within the boundaries of the Business Improvement District (BID). The business community, however, has made it clear that many of its employees are smokers and that accommodations should be made for them. Staff has therefore determined that alleys, for which the Boulder Revised Code has a clear definition, can and should be exempted from the ban. (See Attachment D for a map of the BID boundaries.)

Downtown Boulder Inc. surveyed its membership in June 2014 and more than 60 percent of respondents supported the draft proposal. Anecdotally, it seems the Pearl Street Mall smoking ban has been seen as a successful initiative. More information on the implementation of the Pearl Street Mall ban, as well as the municipal campus ban, can be found in the graphs below.

### *Multi-use Paths*

The recommendation is to ban smoking on all [multi-use paths](#) and within 15 feet on each side of a multi-use path. This is the most comprehensive way to enhance the user experience although there are a few factors to consider:

1. Some multi-use paths are also sidewalks, such as the east side of 28<sup>th</sup> Street between Arapahoe Avenue and Pearl Street and the north side of Arapahoe Avenue between Folsom and 55<sup>th</sup> streets. The city publicizes sidewalks designated as multi-use paths on the [Map of Bike & Pedestrian Routes](#), [Map of Sidewalks for Biking & Skateboarding](#) and [Map of Boulder's Multi-Use Path Network](#). Additionally, these sidewalks are distinguished from regular sidewalks by signage.
2. Some stretches of multi-use paths are on University of Colorado (CU) property where the city has an easement. The university is currently a smoke-free campus with only a few areas that allow smoking. Therefore, it is expected that CU will support the smoking ban on all multi-use paths. The city and CU have an intergovernmental agreement where city police can enforce local ordinances on CU (state owned) property. The city is able to enforce this ordinance regardless of the property ownership rights associated with the location. The city has general police powers granted by Colorado law to enforce its laws within the city boundaries including the CU campus.

### *Transit Facilities*

The city is coordinating with the Regional Transit District (RTD) on Boulder's proposed smoking policy. Transit stop locations are designated by signage and such signage is generally under the control of RTD. RTD is generally supportive of a smoking ban around its transit stops but would not support an ordinance that required RTD to create signage or engage in enforcement. RTD has a very limited security force whose primary focus is to deal with safety and security on mass transportation vehicles.

With respect to existing RTD mass transportation vehicles, RTD public buildings, and within 15 feet of entryways, RTD has posted no smoking signage in conformance with the Colorado Clean Indoor Air Act (state law C.R.S. 25-14-201, et seq.). RTD has no other smoking restrictions. Additionally, RTD signs the Transit Center at 14<sup>th</sup> and Walnut streets as a no smoking zone and RTD informational signage within bus shelters also includes the international ‘No Smoking’ symbol.

The recommendation is to ban smoking within fifteen feet of all transit stop passenger waiting areas, including bus stop benches and shelters. Transit-related amenities on public streets such as benches and shelters are not always under RTD control, but maintained by the local jurisdiction. RTD recommends that additional signage be installed on these assets to assist with public information and enforcement of the no smoking policy. RTD is amenable to allowing signage at its stops of a mutually agreeable size and in a mutually agreed upon location. The signage would be furnished, installed and maintained by the city. RTD also would want to review the size and placement of any no-smoking signage produced by Boulder to ensure the message, along with RTD’s signage regarding routes and services, are all clearly visible. Staff is exploring a decal displaying the international No Smoking symbol supplemented by “within 15 feet” to install on benches and shelters.

#### *Leased Facilities*

The Dairy Center for the Arts, Boulder History Museum and BMoCA are already prohibited from smoking inside their buildings but they also support expanding the smoking ban to the surrounding property outside. As mentioned above, the city is working on a holistic approach to address a smoking ban with the Colorado Chautauqua Association per the Stewardship Framework. The Chautauqua Park and lease area is not included in the smoking ban ordinance at this time.

#### *Municipal Campus Smoking Ban Rule*

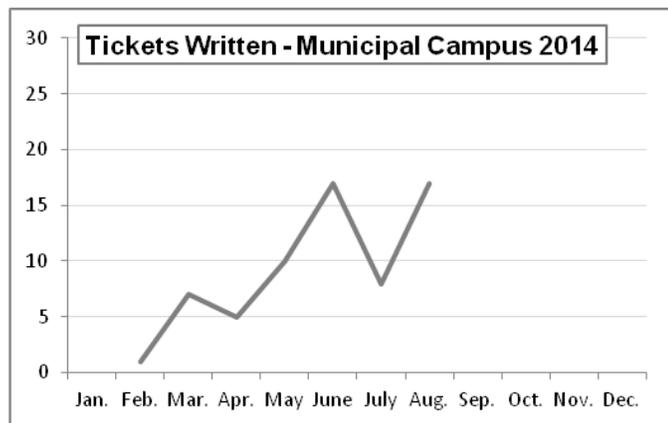
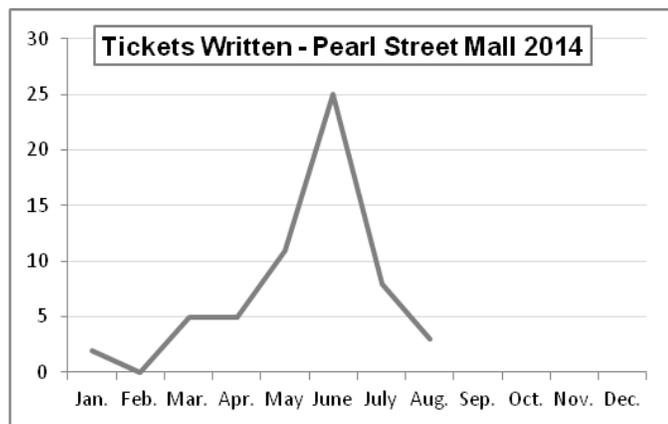
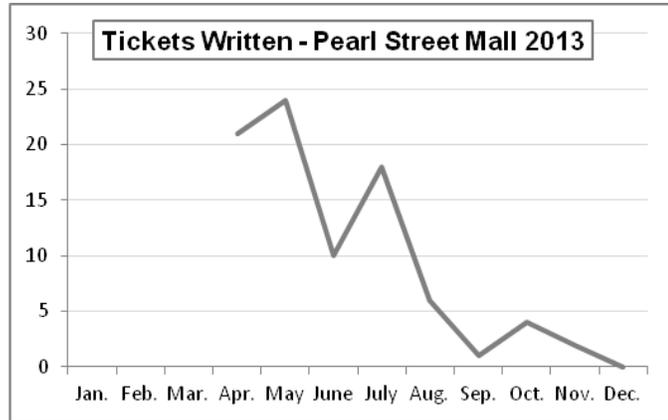
The recommendation is to repeal the rule and include it in the new ordinance in order to assist enforcement by keeping all the smoking regulations together in the code. More information on the implementation of the rule can be found in the graphs below.

### *Smoking Ban Enforcement*

The Police Department would begin enforcement with an education and warning period to inform individuals of the new areas covered by the ban. After a sufficient amount of time has passed and it can reasonably be assumed that the community understands where smoking is prohibited, officers would have the discretion to issue summonses to people violating the ordinance. Officers would have individual discretion on whether they choose to issue a summons or give a warning at any time after the education period has ended. The Police Department would respond to complaints about smoking as call priorities allow and would proactively conduct enforcement when possible. This approach is fully consistent with the one taken in the enforcement of the Pearl Street Mall smoking ordinance and the city manager's rule regarding smoking on the municipal campus.

No summonses were issued on Pearl Street Mall during the first three months of 2013 as it was an education and outreach period. Instead of summonses, officers provided warnings and let area users know that smoking was no longer allowed. With the exception of two spikes in activity during the warmer months (once in July 2013 and once in June 2014), the number of summonses issued has been on a fairly steady downward trajectory since early 2013 when the Pearl Street Mall smoking ban was put in place.

Similar to the early months of the Pearl Street Mall smoking ban, officers did not issue any summonses in January of 2014 for violation of the city manager rule banning smoking on the municipal campus. That month was used to inform area users that smoking was no longer allowed. Since that time, the issuance of summonses has been on the rise.



It is important to note that signage is not required in order to enforce an ordinance (by contrast, signage is required in order to enforce a city manager rule). Therefore, if signage is used as an implementation tool, there is an opportunity to go beyond serving notice and to make the signage educational. Staff will share examples of different types of signage during the study session presentation.

## **NEXT STEPS**

If council supports moving forward with some form of the proposed ordinance, a first reading will be scheduled during the 4<sup>th</sup> quarter of this year.

## **ATTACHMENTS**

A: Draft Ordinance

B: Electronic Cigarette Fact Sheet from Boulder County Health Department

C: Chautauqua Area Map

D: Business Improvement District Map



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

AN ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981, ADDING A NEW SECTION 6-4-3.5 "SMOKING PROHIBITED IN PUBLIC PLACES," AND SETTING FORTH RELATED DETAILS.

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

**Section 1.** Chapter 6-4, "Regulation of Smoking," B.R.C. 1981, is amended as follows:

**6-4-1. Legislative Intent.**

The purpose of this chapter is to protect the public health, safety, and welfare by [prohibiting smoking in designated public places and](#) prohibiting smoking in buildings open to the public or serving as places of work, except in certain buildings or parts of buildings where the council has determined that smoking should not be prohibited, and fixing the requirements of property owners in this regard. In addition, this chapter regulates access of minors to tobacco products.

**6-4-2. Definitions.**

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

"Bar" means any indoor area that is operated and licensed as a tavern liquor license under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages.

"Building" means any structure enclosed for protection from the weather, whether or not windows or doors are open. If a person leases or possesses only a portion of a building, the term "building" applies to the leasehold or possessory interest as well.

["City Municipal Campus" as used in this Chapter shall mean the entire area between the east curb line of 13<sup>th</sup> Street, to the east curb line of 9<sup>th</sup> Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this definition shall not apply to moving vehicles on Broadway or 13<sup>th</sup> Street or, unless otherwise prohibited by this Chapter, to individuals smoking on real property that is privately owned.](#)

"Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from both the onsite sale of tobacco products and the rental of onsite humidors. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales both from the onsite sale of tobacco products and the rental of onsite humidors, shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition, regardless of sales figures.

1 "Dwelling," as used in this chapter, means any place used primarily for sleeping overnight and  
2 conducting activities of daily living, not including a hotel or motel room or suite or bed and  
breakfast.

3 "Downtown Boulder Business Improvement District" is as depicted in Appendix 8-B of Chapter  
4 8-6.

5 "Electronic smoking device" means an electric or battery-operated device, the use of which  
6 resembles conventional smoking, which can be used to deliver substances, including, but not  
7 limited to, nicotine, tobacco, or marijuana, to the person using such device. Electronic smoking  
8 device shall include, without limitation, an electronic cigarette, cigar, cigarillo, pipe, or hookah.  
9 Electronic smoking device shall not include any product approved by the food and drug  
10 administration as a drug or medical device that is used in accordance with its purpose.

11 "Enclosed area," as used in this chapter, means an area which contains a structure made up of a  
12 roof and two or more walls regardless of the composition of the walls or roof. This includes, but  
is not limited to, the following: park shelters, event tents, bus shelters, patio awnings and  
canopies.

13 "Entryway" means the outside of any doorway leading into and exiting from a building or  
14 enclosed area. "Entryway" also includes the area of public or private property within fifteen feet  
of the doorway.

15 "Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by  
16 Ordinance No. 4543 and any successor ordinance.

17 "Public" as used in this Chapter shall mean any property that is city owned; city maintained; city  
18 owned and leased to others; designated by the city as a path or trail for bicycles or pedestrians; or  
19 a transit stop as defined in this section.

20 "Public conveyance" means any motor vehicle or other means of conveyance licensed by the  
21 Public Utilities Commission of the state for the transportation of passengers for hire, and  
includes, without limitation, busses, taxicabs, limousine services, and airport passenger services.

22 "Smoke" or "smoking" means the lighting of any cigarette, cigar, ~~or~~ pipe, or activation of an  
23 electronic smoking device, or the possession of any lighted cigarette, cigar, ~~or~~ pipe, or activated  
24 electronic smoking device regardless of its composition.

25 "Tobacco product" means cigarettes, cigars, cheroots, stogies, periques, and other products  
containing any measurable amount of tobacco, granulated, plug cut, crimp cut, ready rubbed, and  
other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other  
chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other  
kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for  
smoking in a cigarette, pipe, electronic smoking device or otherwise, or both for chewing and  
smoking. Tobacco also includes cloves, marijuana, and any other plant matter or product that is  
packaged for smoking.

1 "Tobacco store" means a retail business open to the public where alcohol is not sold, if more than  
2 eighty-five percent of its gross revenue from that location is from the retail sale of cigarettes and  
tobacco products or products related to the use of cigarettes and tobacco products.

3 "Transit Stop" as used in this chapter, means a public conveyance passenger waiting area  
4 designated by signage attached to a post and the public right of way around the stop, including  
but not limited to the bus shelter, and bench.

5 **6-4-3. Smoking Prohibited Within Buildings and Enclosed Areas.**

6 No person shall smoke within any building or enclosed area except in one of the  
7 following locations:

- 8 (1) In any dwelling. This exception does not extend to a lobby, common  
9 elevator, common hallway or any other common area of a building  
containing attached dwelling units;
- 10 (2) In a hotel/motel room or bed and breakfast guest room rented to one or  
11 more guests if the total percentage of such smoking rooms in such  
12 hotel/motel or bed and breakfast does not exceed twenty-five percent. This  
exception does not extend to a lobby, common elevator, common hallway  
or any other common area of a hotel/motel or bed and breakfast;
- 13 (3) In a tobacco store;
- 14 (4) In a cigar-tobacco bar which existed as of December 31, 2005, provided  
15 that it does not expand its size or change its location from the size and  
location in which it existed as of December 31, 2005;
- 16 (5) In a building or on property which is occupied by the state of Colorado,  
17 the United States government, Boulder County or the Boulder Valley  
School District which was not designated as a smoke free area by the  
18 manager of such area. The city council urges such governmental entities to  
designate smoke free areas in order to promote full access by the public  
19 and protect the health of employees;
- 20 (6) In private homes, private residences and private automobiles; not to  
21 include any such home, residence or vehicle being used for child care or  
day care or a private vehicle being used for the public transportation of  
children or as part of health care or day care transportation; or
- 22 (7) In a limousine under private hire.

23 Unless excepted under subsection (a) of this section, the prohibitions of this  
24 chapter apply to all buildings or enclosed areas which serve as places of work, but  
25 this subsection (b) neither enlarges nor diminishes the meaning of subsection (a)  
of this section.

1 Nothing in this chapter shall prevent an owner, lessee, principal manager or  
2 person in control of any place, including, without limitation, any motor vehicle,  
3 outdoor area or dwelling, from prohibiting smoking completely in such place, and  
4 no person shall fail to abide by such a private prohibition.

5 **6-4-3.5. Smoking Prohibited in Public Areas.**

6 No person shall smoke in a public area:

- 7 (a) in the Downtown Boulder Business Improvement District including the Mall but  
8 excluding alleys;
- 9 (b) on any park, parkland, or facility other than Flatirons Golf Course or Chautauqua  
10 unless otherwise prohibited by a sign;
- 11 (c) on any open space and mountain parks property;
- 12 (d) on any trail, path or multi-use path and within fifteen feet of curtilage to any trail,  
13 path or multi-use path;
- 14 (e) within twenty-five feet of a library facility;
- 15 (f) within fifteen feet of a transit stop; and
- 16 (g) within the City Municipal Campus.

17 ~~**6-4-5.5 Smoking Prohibited on the Mall.**~~

18 ~~No person shall smoke on the Mall.~~

19 **6-4-6. Signs Required to Be Posted.**

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

- 24 (1) Where smoking is prohibited in the entire establishment, a sign using the words  
25 "No Smoking" or the international no-smoking symbol shall be posted  
conspicuously either on all public entrances or in a position clearly visible on  
entry into the building, enclosed area or establishment.
- (2) Where certain areas are designated as smoking areas pursuant to this chapter, a  
sign using the words "No Smoking Except in Designated Areas" shall be posted  
conspicuously either on all public entrances or in a position clearly visible on  
entry into the building or establishment.

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- (3) In tobacco stores, a sign shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment using the words "Smoking Permitted: children under eighteen years of age must be accompanied by a parent or guardian."
- (4) A sign using the words "No Smoking within fifteen feet of the entryway" shall be posted conspicuously on all entryways of buildings, enclosed areas or establishments.
- (5) The requirements of this section do not apply to an exempt dwelling [or any public areas designated in section 6-4-3.5.](#)

**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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY

2 TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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\_\_\_\_\_  
Mayor

5 Attest:

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

8 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

9 PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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\_\_\_\_\_  
Mayor

13 Attest:

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

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2 conducting activities of daily living, not including a hotel or motel room or suite or bed and  
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7 limited to, nicotine, tobacco, or marijuana, to the person using such device. Electronic smoking  
8 device shall include, without limitation, an electronic cigarette, cigar, cigarillo, pipe, or hookah.  
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10 administration as a drug or medical device that is used in accordance with its purpose.

11 "Enclosed area," as used in this chapter, means an area which contains a structure made up of a  
12 roof and two or more walls regardless of the composition of the walls or roof. This includes, but  
is not limited to, the following: park shelters, event tents, bus shelters, patio awnings and  
13 canopies.

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15 enclosed area. "Entryway" also includes the area of public or private property within fifteen feet  
of the doorway.

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18 "Public" as used in this Chapter shall mean any property that is city owned; city maintained; city  
19 owned and leased to others; designated by the city as a path or trail for bicycles or pedestrians; or  
20 a transit stop as defined in this section.

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22 Public Utilities Commission of the state for the transportation of passengers for hire, and  
includes, without limitation, busses, taxicabs, limousine services, and airport passenger services.

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25 electronic smoking device regardless of its composition.

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27 containing any measurable amount of tobacco, granulated, plug cut, crimp cut, ready rubbed, and  
28 other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other  
29 chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other  
30 kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for  
31 smoking in a cigarette, pipe, electronic smoking device or otherwise, or both for chewing and  
32 smoking. Tobacco also includes cloves, marijuana, and any other plant matter or product that is  
33 packaged for smoking.

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2 eighty-five percent of its gross revenue from that location is from the retail sale of cigarettes and  
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11 more guests if the total percentage of such smoking rooms in such  
12 hotel/motel or bed and breakfast does not exceed twenty-five percent. This  
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- 14 (4) In a cigar-tobacco bar which existed as of December 31, 2005, provided  
15 that it does not expand its size or change its location from the size and  
location in which it existed as of December 31, 2005;
- 16 (5) In a building or on property which is occupied by the state of Colorado,  
17 the United States government, Boulder County or the Boulder Valley  
School District which was not designated as a smoke free area by the  
18 manager of such area. The city council urges such governmental entities to  
designate smoke free areas in order to promote full access by the public  
19 and protect the health of employees;
- 20 (6) In private homes, private residences and private automobiles; not to  
21 include any such home, residence or vehicle being used for child care or  
day care or a private vehicle being used for the public transportation of  
children or as part of health care or day care transportation; or
- 22 (7) In a limousine under private hire.

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of this section.

1 Nothing in this chapter shall prevent an owner, lessee, principal manager or  
2 person in control of any place, including, without limitation, any motor vehicle,  
3 outdoor area or dwelling, from prohibiting smoking completely in such place, and  
4 no person shall fail to abide by such a private prohibition.

5 **6-4-3.5. Smoking Prohibited in Public Areas.**

6 No person shall smoke in a public area:

- 7 (a) in the Downtown Boulder Business Improvement District including the Mall but  
8 excluding alleys;
- 9 (b) on any park, parkland, or facility other than Flatirons Golf Course or Chautauqua  
10 unless otherwise prohibited by a sign;
- 11 (c) on any open space and mountain parks property;
- 12 (d) on any trail, path or multi-use path and within fifteen feet of curtilage to any trail,  
13 path or multi-use path;
- 14 (e) within twenty-five feet of a library facility;
- 15 (f) within fifteen feet of a transit stop; and
- 16 (g) within the City Municipal Campus.

17 ~~**6-4-5.5 Smoking Prohibited on the Mall.**~~

18 ~~No person shall smoke on the Mall.~~

19 **6-4-6. Signs Required to Be Posted.**

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

- 24 (1) Where smoking is prohibited in the entire establishment, a sign using the words  
25 "No Smoking" or the international no-smoking symbol shall be posted  
conspicuously either on all public entrances or in a position clearly visible on  
entry into the building, enclosed area or establishment.
- (2) Where certain areas are designated as smoking areas pursuant to this chapter, a  
sign using the words "No Smoking Except in Designated Areas" shall be posted  
conspicuously either on all public entrances or in a position clearly visible on  
entry into the building or establishment.

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- (3) In tobacco stores, a sign shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment using the words "Smoking Permitted: children under eighteen years of age must be accompanied by a parent or guardian."
- (4) A sign using the words "No Smoking within fifteen feet of the entryway" shall be posted conspicuously on all entryways of buildings, enclosed areas or establishments.
- (5) The requirements of this section do not apply to an exempt dwelling [or any public areas designated in section 6-4-3.5.](#)

**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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY

2 TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

3

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\_\_\_\_\_  
Mayor

5 Attest:

6

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

8 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

9 PUBLISHED BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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\_\_\_\_\_  
Mayor

13 Attest:

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

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## Electronic Nicotine Delivery Systems (ENDS)

ENDS, including electronic cigarettes (i.e. e-cigarettes, or e-cigs) typically contain a battery-operated heating device that vaporizes a nicotine-containing solution, creating an aerosol that is then inhaled. They may be either disposable or refillable. Using ENDS is commonly referred to as vaping, and the aerosol is often referred to as vapor. Products come in over 7,000 flavors, including food and candy flavors, such as chocolate, strawberry, mint, and piña colada.



### HEALTH RISKS

The safety and efficacy of ENDS have not been fully studied, though the World Health Organization has determined that there is sufficient evidence for negative implications in brain development and cautions against use by children, youth, women of reproductive age, and pregnant women. These products are not considered to be safe or effective replacements for other tobacco products.

Recent studies have found that ENDS can contain as much nicotine as a regular cigarette – or more. The liquid nicotine solution is very toxic and can potentially be spilled onto skin or accidentally swallowed.

- Cartridges generally contain up to 20 mg of nicotine. The lethal dose of nicotine for small children is approximately 10 mg.

Consistency in the manufacturing of ENDS and e-juice or e-liquid is a concern. Inconsistencies that could impact health have been found, including differing levels of nicotine from one cartridge to another in the same product.

- U.S. Food and Drug Administration (FDA) analysis of ingredients in a small sample of cartridges from two leading brands found that one contained diethylene glycol, a toxic chemical used in antifreeze, and several others contained carcinogens, including nitrosamines.
- Some electronic devices claim to be nicotine-free. In tests of several of them, however, all but one had measurable levels of nicotine present.
- Refillable ENDS may make it possible to refill cartridges with liquid marijuana or other substances, including homemade e-liquids. Serious injuries have occurred when the devices were modified or filled with liquids that were not compatible with the heating element temperature.

## LAWS & REGULATIONS

E-cigarettes are not currently regulated by the FDA. They do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes. It is illegal for youth under 18 to buy or possess them in Colorado; it is also illegal for adults to sell or give them to anyone under 18.

## AS NICOTINE REPLACEMENT THERAPY

Nicotine replacement therapy (NRT) is for temporary use as a smoking cessation aid. FDA-approved NRT exists in a variety of forms, including: dermal patches, gum, lozenges, and inhalers. These products all have standardized amounts of nicotine, and undergo rigorous quality control.

ENDS are marketed as a means to avoid discomfort from smoke-free laws, and to continue nicotine use in places where traditional smoking is not allowed. They are not subject to quality control requirements, and have been demonstrated to have wide variability across brands and products, including containing levels of nicotine significantly different from the labelled amount. Continuous exposure to nicotine deepens addiction, and makes quitting nicotine more difficult for current tobacco users. Watching someone else use ENDS has been found to trigger cravings in former smokers, and may increase relapse.

*“If large numbers of adult smokers become users of both traditional cigarettes and e-cigarettes — rather than using e-cigarettes to quit cigarettes completely — the net public health effect could be quite negative.” Dr. Tim McAfee, Director of the Office on Smoking and Health, Center for Disease Control and Prevention (CDC)*

## SECONDHAND AEROSOL

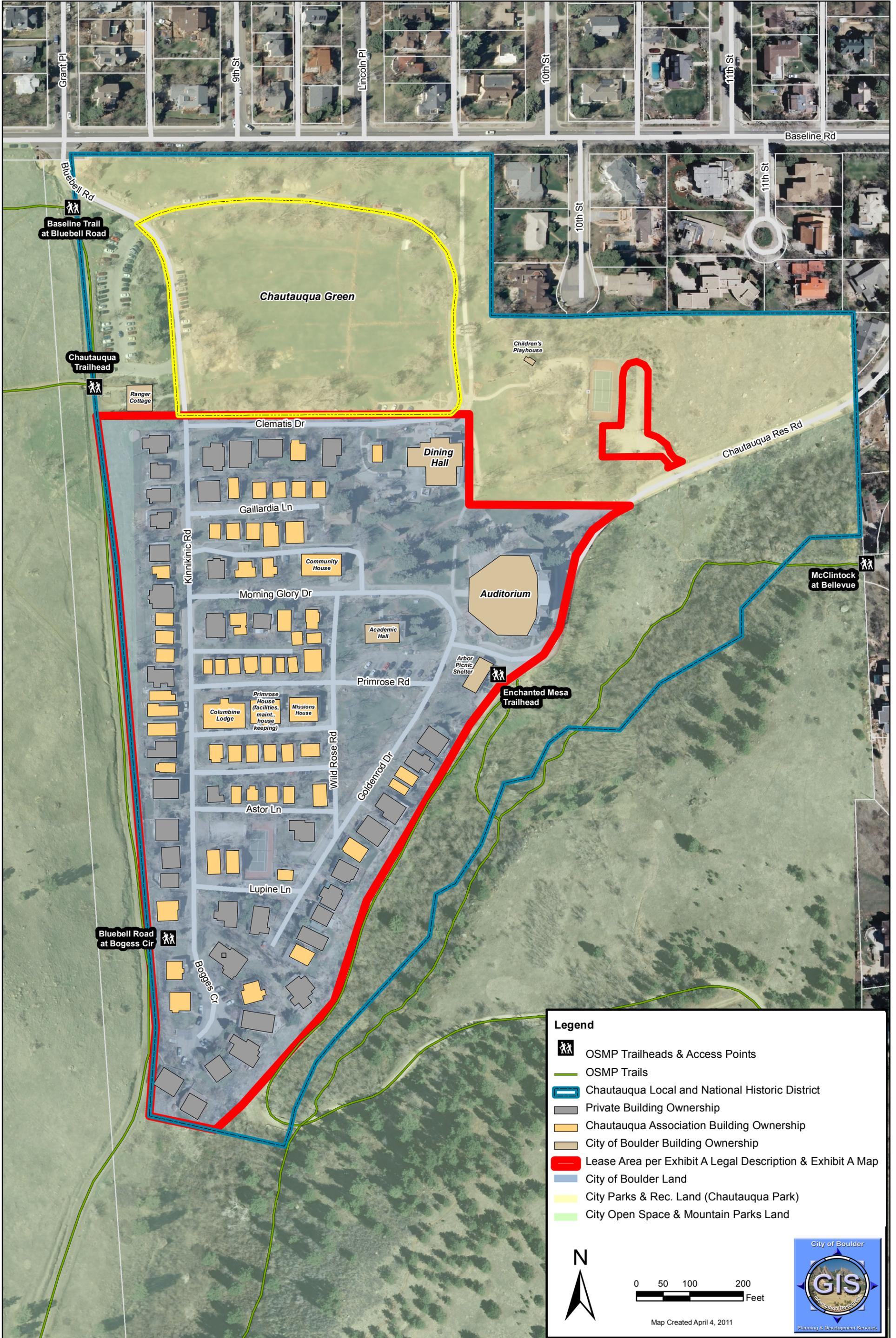
Aerosol from ENDS can contain nicotine, heavy metals, nitrosamines, and a variety of other chemicals and ultrafine particulates, depending on the liquid used and the temperature of the heating element. It dissipates faster than secondhand cigarette smoke, though exposure patterns are not well studied. One study has demonstrated that bystanders were exposed to the same level of nicotine as the user, through secondhand aerosol. Though it may be marketed as water vapor, ENDS aerosol has consistently been demonstrated to contain more than water.

## YOUTH

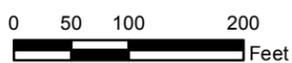
Unrestricted advertising, appealing flavors, messages of freedom, rebellion, and discretion, low prices, and ready availability have led to over a quarter of a million middle and high school students that had never smoked a cigarette using e-cigarettes in the United States in 2013. Of those, almost half reported that they intended to use conventional cigarettes in the next year, according to the CDC. Youth respond strongly to advertising, price, and behavior modeling from parents, peers, and community members.

To learn more about ENDS, and other tobacco-related products and issues, please contact Boulder County Tobacco Education and Prevention Partnership (TEPP) staff at 303.413.7524.

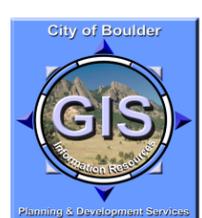
# Chautauqua Map



- Legend**
- OSMP Trailheads & Access Points
  - OSMP Trails
  - Chautauqua Local and National Historic District
  - Private Building Ownership
  - Chautauqua Association Building Ownership
  - City of Boulder Building Ownership
  - Lease Area per Exhibit A Legal Description & Exhibit A Map
  - City of Boulder Land
  - City Parks & Rec. Land (Chautauqua Park)
  - City Open Space & Mountain Parks Land



Map Created April 4, 2011



Pine St

Spruce St

Pearl St

Walnut St

Canyon Blvd

Broadway

10th St

11th St

13th St

14th St

15th St

16th St

17th St

18th St

19th St

20th St

9th St

BID



City of Boulder