

**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**

**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

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 2nd 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 28th Street between Arapahoe Avenue and Pearl Street and the north side of Arapahoe Avenue between Folsom and 55th 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 14th 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

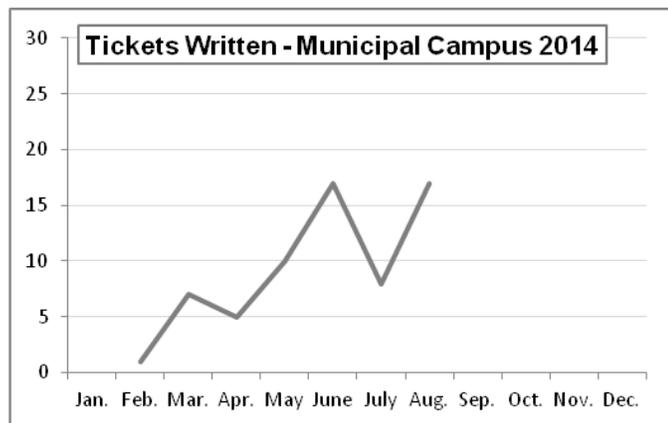
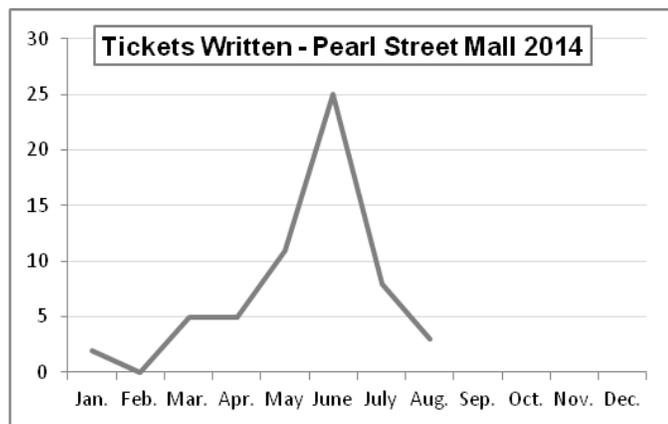
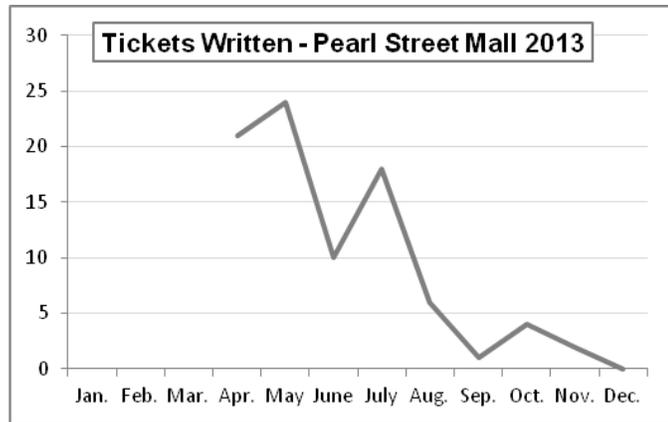
The recommendation is to repeal the rule and include it in the new ordinance in order to assist enforcement by keeping all the smoking regulations together in the code. More information on the implementation of the rule can be found in the graphs below.

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 4th 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

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
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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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- 16 (5) In a building or on property which is occupied by the state of Colorado,
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- 16 (g) within the City Municipal Campus.

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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

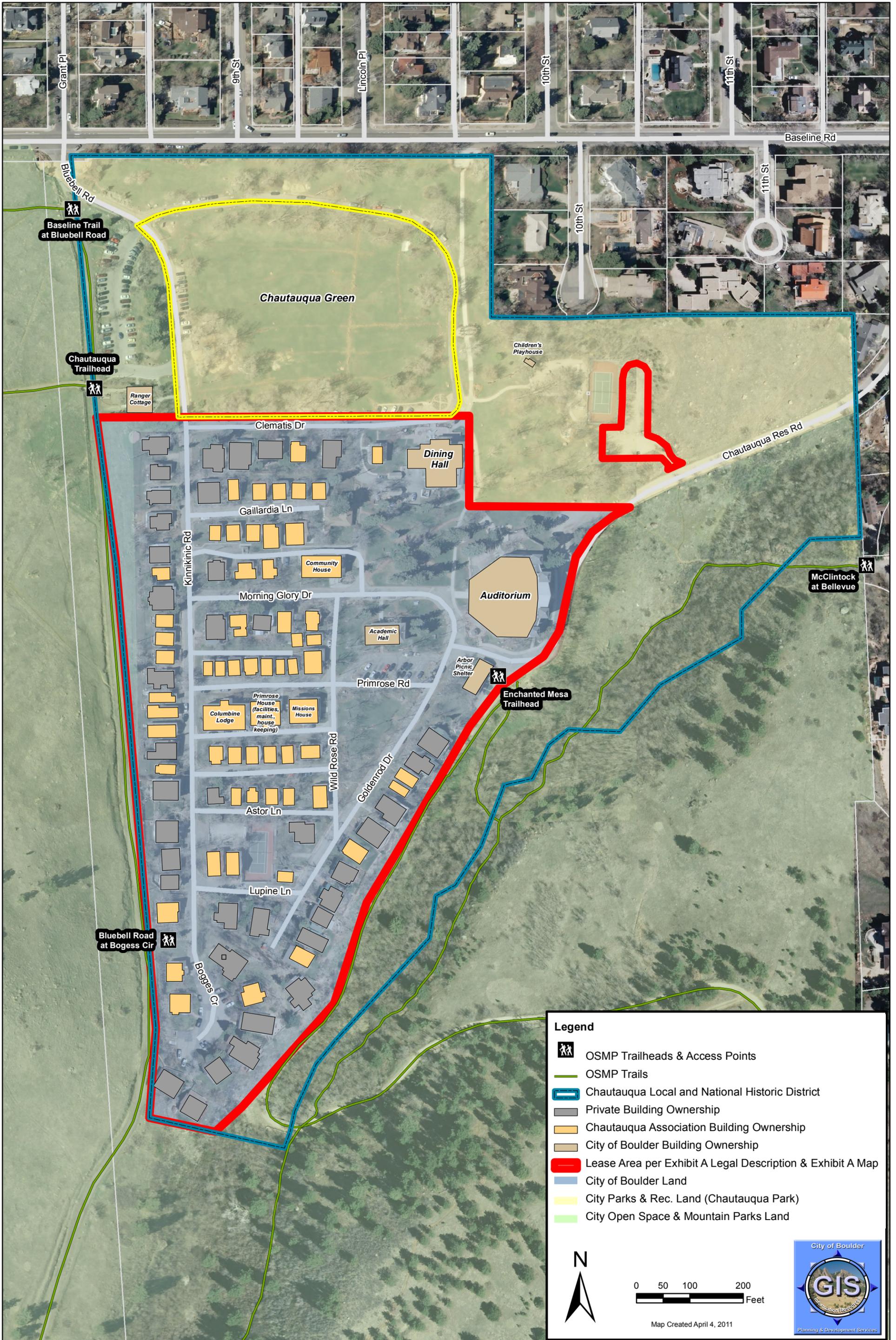
Aerosol from ENDS can contain nicotine, heavy metals, nitrosamines, and a variety of other chemicals and ultrafine particulates, depending on the liquid used and the temperature of the heating element. It dissipates faster than secondhand cigarette smoke, though exposure patterns are not well studied. 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.

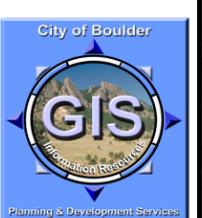
Chautauqua Map



- 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



STUDY SESSION MEMORANDUM

TO: Members of Boulder City Council

FROM: Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Joe Castro, Facilities and Fleet Manager

DATE: September 23, 2014

SUBJECT: Study Session: Facilities and Asset Management (FAM) Master Plan Update

I. PURPOSE AND SUMMARY

This memorandum is intended to provide City Council with an update about the Facilities and Asset Management (FAM) Master Plan. Staff is developing a 2015 update to the [2005 FAM Master Plan](#), which will include the following key components to guide facilities and asset management through 2025:

- an investment and strategy program in accordance to the city's business plan;
- goals, objectives and performance measures; and
- integration with the city's Sustainability Framework, Climate Commitment, other approved department and area master plans

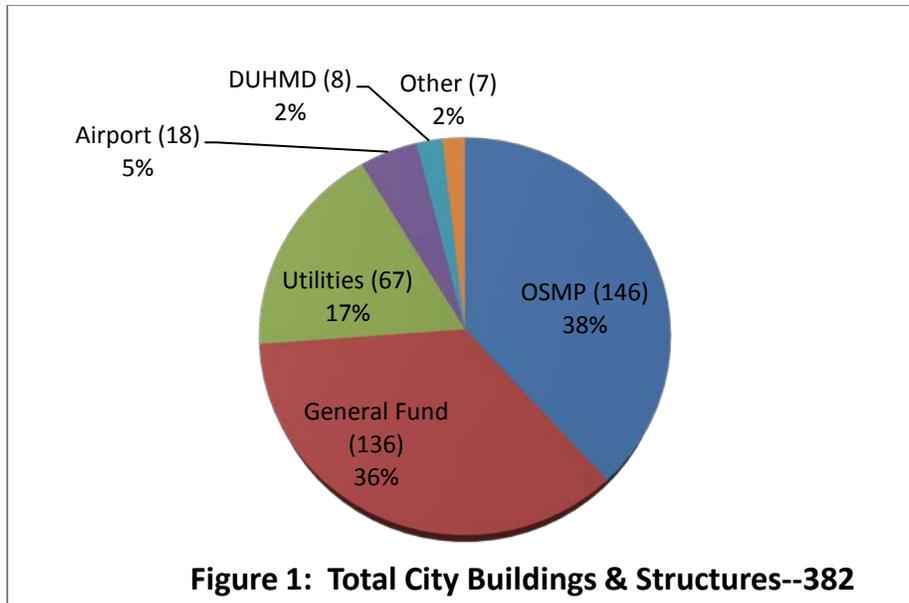
A few issues require City Council feedback at this time to guide the 2015 FAM Master Plan update: energy management, projected climate change impacts to city facilities, operations and office space studies, and environmental remediation. Following this discussion and direction from council, staff will complete the 2015 FAM Master Plan Update and schedule its review with related city boards and commissions in the fourth quarter of 2014.

II. QUESTIONS FOR COUNCIL

1. Does council have any questions regarding the projected climate change impacts to city facilities?
2. Does council have any questions about the operations and office space studies, or the capital projects being planned and evaluated?
3. Does council support staff scheduling for council consideration the proposed annexation of the Valmont Butte property (as Area III of the Boulder Valley Comprehensive Plan), with the intent to landmark the historic mill buildings, preserve previously undisturbed areas in their natural state, and make the remaining areas of the property available for low-impact municipal uses such as material stockpiling, storage and renewable energy generation?
4. Does council have any other questions involving the management of the city's facilities?

III. BACKGROUND

Initially adopted in 1996, the [FAM Master Plan](#) focuses on major challenges related to General Fund facilities, with the goal of establishing proven methods of facility management. The second update to the master plan was in 2005. The Facilities and Asset Management workgroup, part of the Development & Support Services Division of the Public Works Department, was formed in 1994 to support the management of city facilities. In 2003, the Facility Manager position was expanded to include the management of Fleet Services. Of the city's total 382 buildings and structures, FAM directly maintains 135 General Fund buildings and structures with a current replacement value (CRV) of more than \$105 million. **Figure 1** shows the breakdown of city buildings and structures by fund. FAM also assists other departments with facility management practices, facility construction, energy management, leases, and project management services, serving as a model for other departments. A full listing of city buildings and structures is at [Attachment A](#).



IV. ISSUES

A. Energy Management

FAM manages the citywide Energy Performance Contract, which had projected annual energy cost savings of approximately \$670,000 (from the city’s \$3 million total energy costs), a 24 percent reduction (8,216 metric tons) of greenhouse gas emissions, and 2.8 million gallons of water saved. **Table 1** shows the greenhouse gas emissions from the 2008 baseline for city facilities compared to actual inventories using the International Council for Local Environmental Initiatives (ICLEI) protocol. More information is available on the city’s [Energy Efficiency Upgrades at City Facilities](#) Web page. Climate Commitment discussions during the Nov. 12, 2014 Study Session will further guide city actions to improve energy efficiency and expand renewable energy.

Table 1: Greenhouse Gas Emissions – City Operations

Buildings and Facilities	2008 Baseline	2011	2012
Metric Tons (mtons) of CO2	16,128	12,978	10,679
Percent Reduction from 2008	--	20%	34%
All Electricity (mtons)	29,530	22,530	20,540
Percent Reduction from 2008	--	24%	30%

Centralized management of the city's facilities and fleet also has its advantages with supporting an electrical vehicle program. The city currently has 16 Level 2 (220-volt) charging stations and five electric vehicles, with nine of the charging stations and one electric vehicle available for public use. All but three of the charging stations are connected to solar photovoltaic (PV) systems, with two stations operating completely off-grid and one with a battery storage system.

B. Climate Change Impacts to Facilities

In July 2014, staff hired the Institute of Climate and Civil Systems (iCliCS) to identify climate change impacts to city facilities. iCliCS was founded by University of Colorado Boulder researchers based on 10 years of research on risk analysis and climate change. Their for-profit firm, [Resilient Analytics](#), is based in Boulder and described as follows:

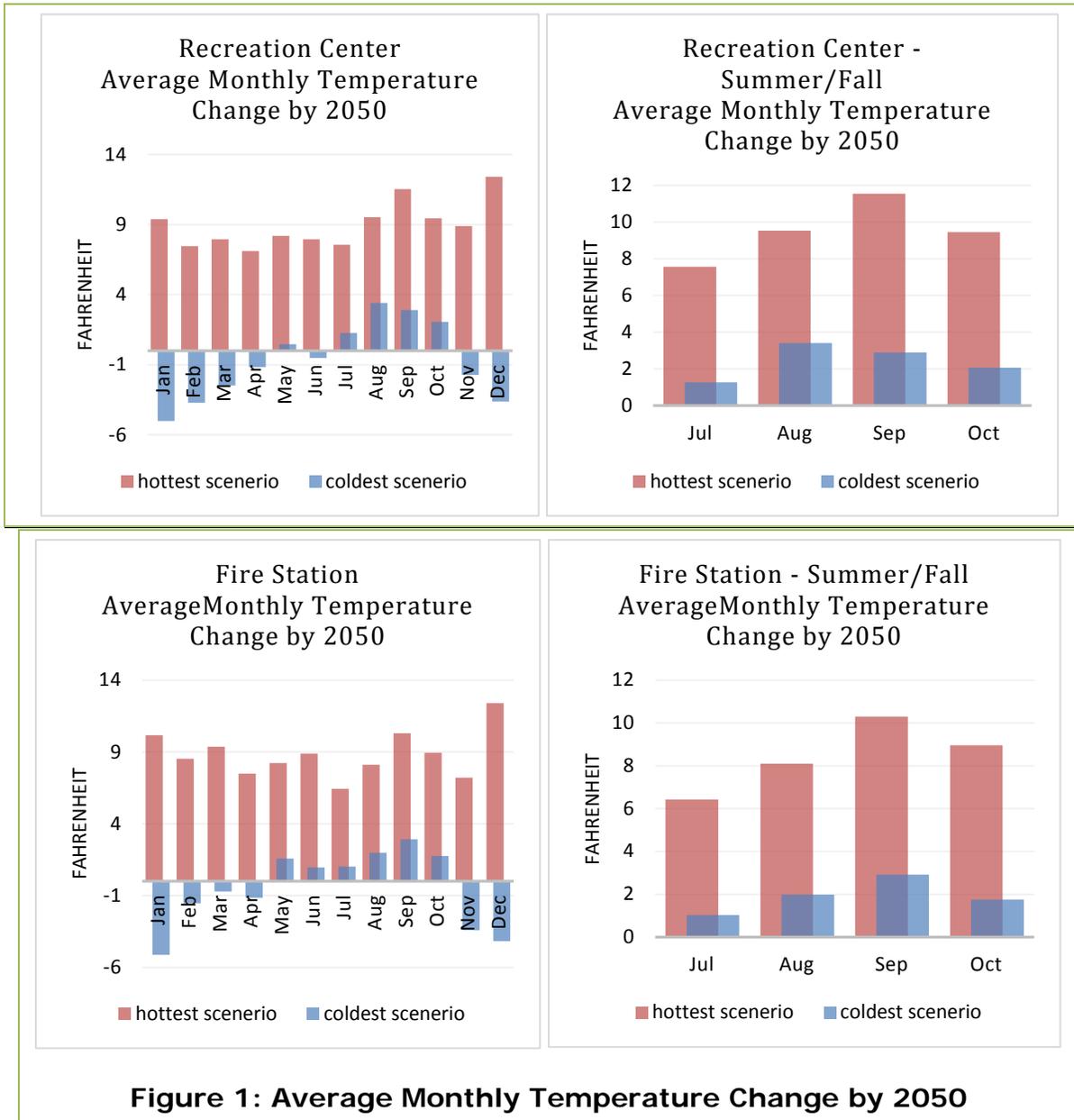
Resilient Analytics is the creator of the Infrastructure Planning Support System (IPSS), the most advanced and detailed climate and infrastructure risk analysis system available. Climate change is a global challenge that affects all regions, all economic levels and all aspects of life. At the core of this impact is the potential effect on civil infrastructure systems - the foundation on which modern society operates. From transportation, buildings and water systems to power and communications systems, civil infrastructure is the foundation on which daily activities are dependent. IPSS provides policy makers with the information required to plan for the resiliency and long-term health of these systems.

The IPSS-produced climate change projections for the City of Boulder were developed using data from General Circulation Models (GCMs). The 22 GCMs are approved by the Intergovernmental Panel on Climate Change (IPCC) and provide data for future climate change scenarios through the year 2100. The data used in this analysis include the available A2, A1B and B1 scenarios for each GCM, which represent different scenarios of future development based on the accepted definitions of the IPCC's Fourth Assessment Report. In total, 54 GCMs are used in the IPSS analysis. Each of these climate models contains predictions for precipitation, humidity and temperature.

Temperature Projections

The City of Boulder is divided into two climate zones from north to south, roughly along Baseline Road at the 40th parallel. For the study, iCliCS selected two city facilities – the East Boulder Community Center in the south zone and the new Wildland Fire Station in the north zone. By 2050, the 54 GCMs predict that monthly average temperatures will increase by a maximum of 20 degrees, while the minimum predicted values are similar to historic data, meaning that no climate models predict lower average temperatures by 2050. As shown in **Figure 2**, the year-round monthly average temperatures in 2050 (as estimated by the hottest and coldest model predictions), show a potential increase of more than 6 degrees Fahrenheit throughout the year. The coldest scenario predicts colder winter months, but predicts more than a 2-degree increase in the summer months.

The rainfall models in this study have also been reviewed by Public Works/Utilities staff. The Sept. 30, 2014 Study Session on Flood Management will address issues involving climate change and flood protection.



The highlights of the iCliCS climate study, [Attachment B](#), are summarized below.

- Climate adaptation of windows by 2020 would significantly reduce energy costs for both facilities.

East Boulder Community Center

- By 2050, energy costs will increase between 3 and 18 percent above current costs, depending on the model used.
- By 2075, energy costs will increase by 6 to 26 percent above current costs.

- Increases in humidity will necessitate heating, ventilation and air conditioning (HVAC) updates as early as 2040.

Wildland Fire Station

- By 2050, energy costs will increase between 2 to 16 percent above current costs.
- By 2075, energy costs will increase between 3 to 20 percent above current costs.
- Increases in humidity will necessitate HVAC updates as early as 2025.

In the [2005 FAM Master Plan](#), the Action Plan goal for annual funding is 2.5 percent of each facility’s current replacement value (CRV) for operations and maintenance (O&M), which includes energy costs. For replacement and renovation (R&R), the goal is annual funding for 2 percent of the CRV. For the 2014 budget, the funding levels are 1.83 percent for O&M and 2.49 percent for R&R.

With the iCliCS climate change predictions, staff will be determining other city facilities to be studied for modeling increased energy costs and then identify risk-based changes to the current funding model to account for potentially higher energy costs and earlier replacement and upgrades of HVAC systems and other building systems. Information about those impacts will be presented to council in 2015 as part of the FAM Master Plan Update.

B. City Operations and Office Space

FAM has performed various office space studies to identify standards and needs for city facilities. In terms of total square feet of a facility, there is a deficiency between what the city has available and what the International Facility Managers Association (IFMA) nationwide averages and other local area governments provide, as shown in **Table 2**. Total square feet accounts for all interior space and includes common areas such as restrooms, hallways, meeting rooms and mechanical rooms.

Table 2: Total Square Feet Comparisons and Guidelines

Agency	City & County Total Square Feet Per Person
International Facility Managers Association	434
Local Area Governments	360 (average)
- Denver Webb Building (2002 construction)	349
- Aurora Municipal Center (2003 construction)	356
- Lakewood Municipal Center (2000 construction)	471
	(Use 360 square feet per person for planning)
City of Boulder Downtown (January 2013)	238
With Leased 31,000 Square Feet (October 2014)	299

Along with having adequate floor area to provide city services, amenities should facilitate excellent customer service by presenting a welcoming and professional reception for both internal and external customers. Some of the items to support these goals are listed below.

- *Signage and wayfinding.*
- *Surface finishes* – the FAM Action Plan provides refinishes every 10 years, whereas the Vision Plan includes refinishes at seven-year intervals. When refinishing and refurbishing, FAM will use light colors for better illumination at lower lighting levels.
- *Full Americans with Disabilities Act (ADA) accommodations* – accessible parking, elevators, restrooms and wider corridors.
- *Safety and security* – security enhancements, lighting and keycards.
- *Energy efficiency* – set temperature controls, reduce/eliminate plug loads, and day-lighting tactics, including minimizing the height of systems furniture and partitions.
- *Alternate mode accommodations* – secure bike parking, showers and lockers.
- *Wellness* – accessible cardio and resistance training facilities.
- *Alternative vehicles* – increase availability of electric vehicles and charging stations.
- *Hotel offices* – provide offices for temporary use.
- *Informal gathering locations.*
- *Food* – preparation areas, refrigeration, coffee and vending machines.
- *Art component* – the percentage of construction costs dedicated to public art will be identified as part of the Community Cultural Plan update.

1. Downtown City Office Spaces

With the space guidelines established, the first space analysis was accomplished in 2013 in support of the Civic Area Master Plan. Through this planning effort, the city identified a shortfall of 30,000 square feet for city services in the downtown area. Along with the shortfall was the determination that city facilities in the high-hazard flood zone should be removed, which includes the Park Central and New Britain buildings (a total of 35,000 square feet), along with 377 parking spots at the Main Boulder Public Library, Municipal Building, Park Central and New Britain. A Municipal Center Technical Analysis and Space Study is planned in 2015 as part of the Civic Area implementation.

2. Police Department Space Study

The 2013 [Police Master Plan](#) identified a Vision Plan initiative to conduct a study to evaluate the size and design of police facilities for effectiveness and efficiency. That study began in May 2014 with Trestle Strategy Group and is expected to be completed in December 2014. Preliminary results are shown in [Attachment C](#) and summarized below:

- ❖ The Public Safety Building is currently operating beyond its functional capacity, with deficiencies in property and evidence storage, special equipment storage, vehicle parking, office and meeting spaces, and locker and gym accommodations.

- ❖ The total space deficiency is 25,000 square feet, with the current facility size at 71,000 square feet.
- ❖ Parking demand is 263 spaces, which is 50 short of the current available parking.
- ❖ The most operationally efficient and cost-effective option is to construct an addition to the facility with a new parking structure.

Future growth also needs have to be factored in, along with preliminary planning review of an addition to the site in order to complete the study. The goal is to have a concept design and costs prepared for a major capital bond initiative in either 2016 or 2017.

3. Fire-Rescue Department Space Needs

The Fire-Rescue Department overview section in the [Draft 2015-2020 Capital Improvement Program \(CIP\)](#) lists unfunded capital needs relating to the replacement or remodel of all seven fire stations. The [Fire-Rescue Master Plan](#), accepted by council in June 2012, calls for the evaluation of space needs for current fire stations. The city anticipates conducting a full evaluation of all fire stations in the future, as called for in this plan.

Moving Fire Station #3 out of the 100-year flood plain has been identified as the top priority related to the city's fire station replacement and remodel needs. The city has evaluated several potential sites for relocation of Fire Station #3 and has completed preliminary cost estimates for relocation. These are included in the Fire-Rescue Department overview section of the Draft 2015-2020 CIP. As a major capital bond initiative is evaluated, potentially for 2016 or 2017, the relocation of Fire Station #3 can be included in a proposed list of capital bond projects for council consideration. A space needs and concept design is being initiated in support of this evaluation.

4. Municipal Service Center (MSC) Plan

In the [2005 FAM Master Plan](#), the Municipal Service Center (MSC) plan showed the timing and impacts of Pollard Friendly Motor Company moving to a portion of the MSC. With the construction of Boulder Junction, Pollard has until the end of October 2014 to exercise its option for 6.6 acres of land at the southern end of the MSC, adjacent to Pearl Parkway, in July 2014 (see [Attachment D](#)). Prior to Pollard's move, the city sold 1.9 acres of adjacent property in 2012 and Eco-Cycle vacated 2.2 acres in January 2014 and moved to 6400 Arapahoe Ave. The western parcel, which is currently leased by the city for container and vehicle storage, will be vacated in January 2015. Planning is underway to identify where Public Works operational needs will be located on the site. Future needs for Park Operations and Forestry are also being considered.

C. Environmental Remediation

1. Valmont Butte Voluntary Clean Up Program (VCUP)

The city has been working in a responsible manner with previous property owners at its Valmont Butte property to remediate the hazardous materials left on the site from historic operations, at a cost of \$6.4 million. Activities at the Valmont Butte site include remediation of the site under the State of Colorado's Voluntary Cleanup Program (VCUP) and revision by the Colorado Department of Public Health and Environment (CDPHE) of the existing environmental covenants to assure future land use is protective of the remedy. The city's [Valmont Butte](#) website has the history and numerous documents for the VCUP.

The Valmont Butte VCUP is complete, with a No Action Determination (NAD) approval received from the CDPHE on Feb. 24, 2014. Amended environmental covenants were signed on May 12, 2014, for the residual contaminant levels on the property at the consolidated tailings pile and the historic mill buildings (see [Attachment E](#)). Use of these areas has been restricted by the following conditions:

- No habitable structures are allowed within the tailings pile;
- Preparation of a management plan prior to work on the tailings pile or mill buildings;
- Preserving the overall integrity of the tailings pile; and
- Compliance with radon guidelines and exposure limits.

As required by the August 2011 Boulder County Limited Impact Land Use Review, within four months after the CDPHE's revisions to the environmental covenants, the city will submit the mill site for landmark designation, with exclusions of specific areas deemed not to meet the Land Use Code's criteria for historic landmark designation. The balance of the property will be submitted within a year. City staff will also be discussing an extension and annexation proposal with Boulder County land use staff.

At this time, the city is examining annexation of the Valmont Butte property with a redesignation of land use from "commercial/light industrial" to "public." Staff's intent is continue the historical designation of the mill buildings under the city's process, expand the open space to include the 12 acres of undisturbed historic areas, and keep the remaining 25 acres available for a future, low-impact city use such as material/equipment storage and renewable energy production, as well as the existing radio communications use (see [Attachment F](#)).

2. 13th Street Plaza Voluntary Clean Up Program (VCUP)

The 13th Street Plaza, Dushanbe Teahouse, and parking lot behind the teahouse are located at the site of a former manufactured gas plant (MGP), which was developed in 1902 to generate electric power for residents and businesses in Boulder. The MGP was first owned or operated by the Boulder Gaslight and Fuel Company, then the Federal Gas Company and, finally, by the Public Service Company of Colorado (PSCo). Operation of the MGP was discontinued sometime between 1952 and 1954, and PSCo demolished all

above-grade features associated with the MGP in 1962. Site ownership changed hands multiple times from 1962 to 1975, and the site was vacant or used as a parking lot during this time. The city purchased the site, which is proximate to the Municipal Building and other city amenities, in two transactions in 1975.

Since 2010, the city has performed various record and site investigations to support a Voluntary Clean Up Program application to the Colorado Department of Health and Environment (CDPHE), which was approved on Oct. 22, 2013. Remediation activities were initiated on Jan. 28, 2014 and continued through the completion of backfilling efforts on April 17, 2014. Remediation activities included: shallow and deep excavation, transportation and disposal of impacted soil, removal of hazardous non-aqueous phase liquids (NAPL), removal of impacted groundwater, and removal of the remaining MGP infrastructure (including two oil tanks, the reservoir, the relief holder, and the main holder foundation and associated pipe containment). This historic MGP infrastructure is illustrated on [Attachment G](#). Concrete, bricks, surface paving, and various pipes were also removed during excavation activities and disposed of as non-hazardous solid waste. The interim report is available on the city's [13th Street Plaza](#) Web page. The city is continuing with pilot studies to determine the effectiveness of in-situ remediation and is seeking reimbursement from other responsible parties.

CONCLUSION / NEXT STEPS

After receiving feedback from council regarding this update, city staff will complete the studies and analyses. Climate Commitment discussions with council on Nov. 12, 2014 will also guide the 2015 FAM Master Plan Update.

The anticipated schedule for future actions involving the 2015 FAM Master Plan Update is provided below.

- **Fourth Quarter 2014** - Boards and commissions: Parks and Recreation Advisory Board, Library Commission, Arts Commission, and Environmental Advisory Board
- **Second Quarter 2015** - Planning Board Consideration
- **Second Quarter 2015** - City Council Consideration

ATTACHMENTS

[A: City Facilities Listing](#)

[B: Institute of Climate and Civil Systems Study – The Impact of Climate Change: Vulnerability, Adaptation and Risk Analysis Two Buildings in Boulder, Colorado](#)

[C: Preliminary Public Safety Building Space Needs Assessment](#)

[D: Municipal Service Center Master Plan](#)

[E: Valmont Butte Mill Buildings](#)

[F: Valmont Butte Area Map](#)

[G: 13th Street Plaza Map](#)