

CITY OF BOULDER
CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Boulder, Colorado 80302
Tuesday, May 17, 2016
6 p.m.

AGENDA

- 1. CALL TO ORDER AND ROLL CALL**

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

- 3. CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time.
 - A.** Consideration of a motion to **approve the Feb 16, 2016 Regular Meeting Minutes**

 - B.** Consideration of a motion to **approve the May 3, 2016 Regular Meeting Minutes**

 - C.** Consideration of a motion to **accept the April 12, 2016 Study Session on Development-Related Impact Fees and Excise Taxes**

 - D.** **Second reading** and consideration of a motion to **adopt as an emergency measure Ordinance No. 8112** amending Chapter 10-7.7, **“Commercial and Industrial Energy Efficiency,”** to **clarify regulation of large industrial campuses related to reporting energy usage,** and setting forth related details

 - E.** **Second Reading** and consideration of a motion to **adopt Ordinance No. 8113** to adopt amendments to 13-1, **“Elections,”** B.R.C. 1981, to **change from the Uniform Election Code to the Municipal Election Code to streamline the process for Municipal Non-Partisan Elections,** and setting forth related details

 - F.** **Second Reading and** consideration of a motion to **adopt Ordinance No. 8114** amending Chapter 13-2, **“Campaign Financing Disclosure,”** B.R.C. 1981; Chapter 13-3, **“Campaign Activities,”** B.R.C. 1981; And Chapter 13-4, **“Complaints Related to Election Procedures and Regulations,”** B.R.C. 1981, to **Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching**

Funds from Formulas to Dollars, Clarify Issues; and setting forth related details

- G. Second Reading** and consideration of a motion to **adopt as an emergency measure Ordinance No. 8116 amending Chapter 11-1 “Water Utility,” by adding a new Subsection to Section 11-1-44 “Water User Charges,” amending the title of the section, authorizing the city manager to pay claims for damage from water main breaks** and setting forth related details
- H. Introduction, first reading and consideration of a motion to adopt as an emergency measure Ordinance No. 8118** adopting Supplement No. 127, which codifies previously adopted Ordinance Nos. 8101, 8106, and 8108, **and other miscellaneous corrections and amendments**, as an amendment to the Boulder Revised Code, 198, and setting forth related details
- I. Introduction, first reading** and consideration of a motion to order published by title only, Ordinance No. 8120 approving annual carryover and supplemental appropriations to the 2016 Budget
- J.** Consideration of a motion to call a **Special Council meeting on May 31, 2016, at 6 p.m., prior to the Study Session**, in the Council Chambers located at 1777 Broadway, Boulder
- K.** Consideration of a motion to call a **Special Council meeting June 6, 2016, at 6:30 p.m.** in the Council Chambers located at 1777 Broadway for the purpose of holding an **Executive Session, receiving legal advice and discussion regarding Municipalization Strategy**

4. POTENTIAL CALL-UP CHECK IN

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A. No Action will be taken by Council at this time.

8A. Potential Call-Ups

- 1. 2790 Dartmouth Avenue-** Utility Easement Vacation

ORDER OF BUSINESS

5. PUBLIC HEARINGS

Note: Any items removed from the Consent Agenda will be considered after any City scheduled Public Hearings

- A. Introduction, first reading and consideration of a motion to publish by title only Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License Fee,” amending Title 9 “Land Use Code,” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures,” by adding a new chapter**

11 “Cooperative Housing,” **establishing requirements for licensing housing cooperatives**

6. MATTERS FROM THE CITY MANAGER

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. **2790 Dartmouth Avenue-** Utility Easement Vacation

B. Update on Council Evaluation Process

C. Middle Income Housing Strategy Committee Membership discussion

9. PUBLIC COMMENT ON MATTERS

Public comment on any motions made under Matters

10. FINAL DECISIONS ON MATTERS

Action on motions made under Matters

11. DEBRIEF

Opportunity for Council to discuss how the meeting was conducted

12. ADJOURNMENT

This agenda and the meeting can be viewed at www.bouldercolorado.gov /City Council. Meetings are aired live on Municipal Channel 8 and the city’s Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk’s Office at 303-441-4222, 8 a.m. – 5 p.m. Monday through Friday. The Council Chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado 711 (711) or 1-(800)-659-3656. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.

Electronic presentations to City Council must be sent to City Clerk staff and will NOT be accepted after 2 p.m. the day of the meeting.

**CITY OF BOULDER
CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, February 16, 2016**

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order at 6:02 p.m.

Roll was called and Council Members Appelbaum, Brockett, Burton, Jones, Morzel, Weaver, Yates and Young responded. Council Shoemaker arrived at 6:36 p.m.

- A. **One Action 2016 Declaration** – Mayor Pro Tem Young read the declaration and presented it to the One Action group.

2. OPEN COMMENT

(Please note that public comments are a summary of actual testimony. Full testimony is available on the web at: <https://www.bouldercolorado.gov/>.)

Open Comment was opened at 6:20 p.m. and the following members of the public spoke:

1. Rob Smoke, resident, supported the “Right to Rest” bill.
2. Juliet Gopinath, resident, pooled with Martin Streim and Lisa Sundall, showed a presentation, in favor of Twin Lakes Development Request #36 and opposed Twin Lakes Development Request #34.
3. Kristin Bjornsen, resident, opposed the Twin Lakes annexation and was concerned about impact to wildlife.
4. Darren O’Connor, resident, opposed the camping ban.
5. Paul Algreen, resident, opposed the destruction of trees along the ditch line and requested that actions be postponed until further review can be done.
6. David Edwards, resident, opposed the removal of the trees along the ditch line in Gunbarrel.
7. Lora Canova, resident, spoke about the “I Have A Dream Foundation” and announced the program gave out over \$2 Million in student scholarships.
8. Jo Morgan, resident, spoke about the mobile home park in Mapleton and the need for the City to be involved.
9. Paul Kenton, resident, showed a presentation and spoke that the City should be part of the process at Mapleton Mobile Home Park.
10. John Evans, resident, opposed the Twin Lakes development and was concerned about destroying the habitat of the Great Horned Owl.
11. Amy Zuckerman, resident, opposed the camping ban ordinance.
12. Janet Streater, resident, thanked Council for touring the bus stops of RTD and appreciated the importance of bus stops continuing to service those areas.
13. Donna George, resident, pooled with Dinah McKay and Mark George, opposed the Twin Lakes Development due to density issues.
14. Sara Jane Cohen, resident, supported the “Right to Rest” bill.

There being no further speakers, Open Comment was closed at 7:16 p.m.

3. CONSENT AGENDA

- A. Consideration of a motion to approve the minutes for the December 1, 2015 City Council Regular Meeting
- B. Consideration of a motion to approve the minutes for the December 15, 2015 City Council Regular Meeting
- C. Consideration of a motion to approve the minutes for the January 26, 2016 Special Meeting
- D. Consideration of a motion to accept the January 12, 2016 Pre-Retreat Study Session Summary
- E. Second reading and consideration of a motion to adopt Ordinance No. 8080 annexing approximately 0.35 acres of land generally located at 236 Pearl St. and the northwest portion of 250 Pearl St. with an initial zoning designation of Residential - Mixed 1 (RMX-1) and Business-Transitional 2 (BT-2) respectively
- F. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8105 rezoning a 1.94 acre parcel of land located at 3000 Pearl Street A/K/A 3000 Pearl Parkway and 2170 30th Street from Business-Regional 1 (BR-1) to Mixed Use – 4 (MU-4) zoning district and a 1.08 acre parcel of land located at 2100 30th Street and 2120 32nd Street from Industrial – General (IG) to Business-Regional 1 (BR-1) zoning district
- G. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8106 amending Title 11-6, the Boulder Cable Code
- H. Introduction, first reading and consideration of a motion to adopt Emergency Ordinance No. 8104 adopting Supplement No. 126, which codifies previously adopted Ordinance Nos. 8055, 8056, 8065, 8072, 8081, 8084, 8088, and 8091, and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981

Council Member Yates moved to approve the Consent Agenda Items 3A-3H. Mayor Jones seconded the motion. The motion carried 9-0 with Council Member Brockett abstaining from Item 3F at 7:19 p.m.

4. POTENTIAL CALL-UP CHECK IN

- 8A. Potential Call-Ups
 - 1. Vacation of a 1,383 square-foot utility easement along the south portion of the property located at 340 15th Street

There was no interest in calling-up this item.

2. Site Review application for the Rêve, a mixed use development to include office, retail, restaurant, and multi-family residential units

Council was interested in calling-up this item.

5. PUBLIC HEARINGS

- A. Consideration of a motion to adopt the staff recommendation related to Options to Expand the City of Boulder's Living-Wage Resolution 926
Staff recommendations as presented in the Item memo:

1. Implement a policy requiring janitorial and landscaping service contractors with the City to meet wage rates
2. Detailed analysis to more fully determine costs and impacts of implementation in resolution 926
3. Detailed analysis to determine the cost of implementing a policy requiring service contractors in addition and for a family
4. Conduct a detailed analysis the wage rate of \$17.97 to standard part-time and temporary employee
5. Repeal the CRS law that prohibits establishing a min wage
6. Analysis of additional social policies would support self sufficiency

Karen Rahn, Human Service Director, introduced this item to Council. Staff members Jeff Yegian, Peggy Bunzli, Dave Bannon, Joe Castro, Carmen Atilano and Amy Zuckerman answered questions for Council.

The Public Hearing was opened at 8:20 p.m. and the following members of the public spoke:

1. Roxanne Bailin, resident, spoke regarding truancy for young children with low income and depressed parents. She supported the Living Wage increase.
 2. Don Grant, resident and supported the Living Wage ordinance. He spoke of a similar program in Tucson, Arizona with no harmful side effects.
 3. Nikhil Mankekar from the Human Relations Commission, spoke about contract workers wage.
 4. Mary Ann Wilner, resident, would like to include the landscaper jobs in the Living Wage benefits. She produced an email that showed the effects of the wage increase at 3 levels.
 5. Ruth Stemler, President of the League of Women Voters, supported the wage increase to \$15.67. She also supported a national standard wage.
 6. Geof Cahoon, with the Labor Council, thanked Council and wanted to strongly approve the Living Wage and self-sufficiency standard but was concerned about the effect of salary compression.
 7. Judy Nogg, resident, thanked staff/Council and supported the Living Wage.
 8. Rabbi Fred Greene, resident, supported the Living Wage and spoke about the issue of wealth.
 9. Claire Levy, resident, supported the Living Wage resolution and the move toward a self-sufficiency standard.
 10. Laurel Herndon, resident, supported the Living Wage action.
- There being no further speakers, the public hearing was closed.

Council discussed approving the resolution, ratifying what the City Manager has already done and allowing the City Manager the authority to put together the policy for contractor workers. Council wanted to consider an ordinance.

More study needs to be done regarding contractor-janitorial and landscaping workers before bringing workers “in-house” as opposed to hiring out. The City Manager will begin studying this and asked about the time frame for this project.

Council Member Weaver moved to adopt Resolution No. 926 as amended (now Resolution 1181) in the form that it was presented in attachment A. The motion was seconded by Council Member Young. The motion carried unanimously, 9:0. at 9:40 p.m.

Council Member Weaver moved to direct the City Manager to consider a wage negotiation for \$15.67 an hour and explore permanent employment for the employee classes for janitorial and landscape contractors. The motion was seconded by Council Member Morzel. The motion carried 7:2 with Council Members Appelbaum and Yates opposed at 9:46 p.m.

Mayor Jones moved to direct staff to do the 3 studies across the board and adding city employees. Council Member Weaver added a friendly amendment implementing other city plan subsidies. The motion was seconded by Council Member Brockett. The motion carried 9:0 at 9:56 p.m.

B. Consideration of a motion to approve the 2016 Revision of the Downtown Urban Design Guidelines

David Driskell introduced this item to Council; Sam Assefa and Kalani Paho presented.

The Public Hearing was opened at 9:59 p.m. and the following Board Members spoke:

1. Kate Remly, Chair of Landmarks Board, discussed the process and the revisions accepted by the working board. She suggested an extension of the deadline in order to get it right without having to make immediate changes.
2. Brian Bowen, Planning Board Chair, participated in the working group directed Council to the minutes in the packet. The directive of the Working Group was to find tolerable solutions that were compatible for everyone.
3. Jamison Brown, Chair of the Design Advisory Board, spoke that this was a thorough and robust consensus process.

The following members of the public spoke:

1. Deborah Yin, opposed approving the changes due to non-consensus within the working group.
2. Leonard May, opposed approving the changes for non-consensus within the working group and Planning Board. Asked to defer

Council's decision and go back to the working group for further consideration.

There being no further speakers, the public hearing was closed at 11:06 p.m.

Council Member Yates moved to extend the meeting. The motion was seconded by Council Member Weaver. The motion carried 7:2 with Council Members Morzel and Shoemaker opposed at 11:10 p.m.

Council Member Appelbaum moved to adopt the 2016 Downtown Urban Design Guideline as attached to the staff memo dated February 16, 2016 with the updated photograph on page 35. Council Member Yates seconded the motion. Council Member Young proposed the friendly amendment on pg. 4 of the draft 5B attachment, adding such that they "maintain mountain views publically available" and including the two small changes purposed on page 26. The motion carried 9:0 at 11:31 p.m.

C. Consideration of a motion to revise the City of Boulder's 2016 State and Federal Legislative Agenda

Policy Advisor, Carl Castillo introduced this item to Council
Council appreciated the information and updates that were sent to them.

The public hearing was opened at 11:50 and with no public comment the public hearing was closed at 11:50 p.m.

Mayor Jones moved to revise the COB 2016 State and Federal Legislative Agenda. The motion was seconded by Council Member Appelbaum. The motion carried 9:0 at 12:01 a.m.

D. Consideration of a motion to adopt Resolution No. 1180 Supporting the 2016 Renewal of the Science and Cultural Facilities District

Matt Chasansky presented the item to Council and briefed them on the status of the bill.

The Public Hearing was opened and the following persons spoke:

1. Darren O'Connor, resident, spoke regarding homelessness and presented some data on criminal bias due to trespassing and camping ban violations. He supported the "Right to Rest" bill.
2. Kathy Kucsan spoke to the allocations regarding the bill and asked for support.
3. Molly Davis, artist and resident, supported the Science and Cultural Facilities District.
4. Susan Honstein, non-resident of Boulder, supported the Arts community and wanted Boulder to get more funding.

There being no further speakers, the public hearing was closed at 12:05 a.m.

Council Member Yates moved to adopt Resolution No. 1180 supporting the 2016 Renewal of the Science and Cultural Facilities District. The motion was seconded by Council Member Appelbaum. The motion carried 9:0 at 12:05 a.m.

- 6. **MATTERS FROM THE CITY MANAGER**
- 7. **MATTERS FROM THE CITY ATTORNEY**
- 8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

- A. **Potential Call-Ups**
 - 1. **Vacation** of a 1,383 square-foot utility easement along the south portion of the property located at **340 15th Street**
 - 2. **Site Review application for the Rêve**, a mixed use development to include office, retail, restaurant, and multi-family residential units
Council Member Young moved to call up the Site Review for the Rêve a mixed use development to include office, retail, restaurant and multi-family residential units. Council Member Weaver seconded the motion. The motion failed 3:6 with Council Members Appelbaum, Brockett, Burton, Jones, Shoemaker and Yates opposed at 12:19 a.m.
- B. **Discussion of “Science Tuesday”**
Direction of Council was to approve Science Tuesdays.
- C. **Appoint Town Hall Subcommittee**
Mayor Jones and Council Members Brockett and Burton were chosen for this subcommittee.

- 9. **PUBLIC COMMENT ON MATTERS**
- 10. **FINAL DECISIONS ON MATTERS**
- 11. **DEBRIEF**
- 12. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on February 17, 2016 at 12:23 a.m.

Approved this 17th day of MAY, 2016.

APPROVED BY:

Suzanne Jones, Mayor

ATTEST:

Lynnette Beck, City Clerk

CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, May 3, 2016

1. CALL TO ORDER AND ROLL CALL

The mayor called the meeting to order at 6:01 p.m.

The roll was called the following responded, Council Member, Jones, Appelbaum, Morzel, Yate, Young, Weaver and Burton. Council Members Shoemaker and Brockett were absent.

Council Member Yates moved to approve the amended agenda. The motion was seconded by Council Member Morzel. The motion passed 7:0 with Council Members Shoemaker and Brockett absent.

A. Declaration of Historic Preservation Month

Council Member Morzel read the declaration and presented it to James Hewat, Historic Preservation Planner.

B. Update from the Small Business Development Center

Presentation by Sharon King, Executive Director

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE

(Please note that public comments are a summary of actual testimony. Full testimony is available on the web at: <https://www.bouldercolorado.gov/>.)

Open Comment was opened and the following members of the public spoke:

1. Brenda Lee, resident, spoke regarding the North TSA.
2. Rob Smoke, resident, spoke about supporting tiny houses.
3. Michelle Gabrieloff-Parish, resident, spoke about resiliency strategy.
4. Mic Biondi, resident, spoke in support of affordable housing and the use of tiny houses.
5. Patrick Murphy, resident, showed a presentation regarding Municipalization.
6. Greg Mears, resident, spoke in support of the North TSA project.
7. Nickie Kelley, resident, spoke to approve the east side of the North TSA trail.
8. Jen Watson, resident, spoke about inclusivity and opposed the camping ban.
9. Dirk Arnold, resident, spoke about the North TSA and supported the plan.
10. Jessie Dane, resident, spoke about a non-profit bicycle organization through the Bridge House.
11. Virginia Miller, resident, spoke for support of tiny houses in Boulder.
12. Judy Nogg, pooled with Danielle Levin and Sara Levin, spoke regarding exceptions for bear-resistant containers for those who cannot physically use the heavy container.

13. Isabelle Nagel-Brice, resident, spoke in support of affordable housing and tiny houses.
14. BethAnne Bane showed a presentation and spoke in support of the use of North TSA to better the East side. She wants to protect the eco system and beautify the existing the trails.
15. Gordan Bowman, resident, shared his presentation and findings to show the displacement of debris from the 2013 Flood.
16. Marcia Rickey, resident, spoke in support of the North TSA.
17. Darren O'Connor, resident, showed a presentation and spoke in support of more services for the homeless.
18. Sue Prant, resident, spoke in support of affordable housing.
19. Rose Crowley, resident, spoke in support of more safety and traffic control at the intersection of Canyon and Folsom.
20. Angelique Espinosa, resident, running for the state House of Representatives, spoke in support of affordable housing and middle income affordability.
21. Alexander Holcomb, resident, spoke in support of disc golf courses.
22. Rishi Raj, resident, read a letter he sent to the Daily Camera and spoke in opposition to the cooperative housing ordinance.
23. Andy Schultheiss, resident, spoke in support of the North TSA and the creation of affordable housing.
24. Abigail Oden, resident, spoke in support of more services for the homeless.
25. Kevin Cook, resident, spoke in opposition to the camping ban ordinance. He spoke about the Vista Village HOA and asked for the city to enforce the ordinance.
26. Kendra Carberry, resident and attorney representing Scott Peterson, spoke in favor of having a partnership with the City and about receiving payment for an outstanding invoice.
27. Julianne McCabe, resident, spoke in opposition to camping near the Boulder Creek and in support of providing more services for homeless persons.
28. Abigail Oden, resident asking for amenities for the homeless.
29. Andrea Meneghel, resident, spoke in support of affordable housing.
30. Susan Ross, resident of Vista Village, spoke in support of equity or sub-equity cooperative housing.
31. Eric Budd, resident, spoke in opposition to car travel and in support of middle income housing.

With no further speakers, Open Comment was closed at 7:25 p.m.

3. CONSENT AGENDA

- A. Consideration of a motion to approve the March 15, 2016 Regular Meeting Minutes
- B. Consideration of a motion to approve the April 7, 2016 Special Meeting Minutes

- C. Consideration of a motion to approve the April 19, 2016 Regular Meeting Minutes
- D. Consideration of a motion to accept the February 23 and March 29, 2016 Study Session Summaries on developing a Middle Income Housing Strategy
- E. Consideration of a motion to accept the April 5, 2016 Council Meeting Summary on the Update on Civic Area Master Plan Implementation, including Phase I Park Development, Analyses Related to the East and West “Bookends,” Related Projects (including the Civic Use Pad and proposed planning and engagement process for the Boulder Community Health/Broadway Campus’ redevelopment), and Proposed Next Steps
- F. Consideration of a motion to approve board appointments for the Downtown Boulder Business Improvement District
- G. Consideration of a motion to adjourn from the Boulder City Council and convene as the CAGID Board of Directors; and

Consideration of a motion to adopt Resolution No. 275 amending the 2016 Downtown Commercial District Fund (formerly CAGID Fund) Budget
- H. Items related to the Trinity Commons Project (the “Project”) at 2200 Broadway:
 - 1. Consideration of a motion to authorize the City Manager to enter into and change, as needed, the Joint Development Agreement between the Central Area General Improvement District (CAGID) and Trinity Lutheran Church of Boulder, Colorado, regarding a public/private partnership for parking at the Trinity Commons Project in downtown Boulder and to finalize, execute and change, as needed, associated and anticipated documents for the initial and final closings for the Project; and

Consideration of a motion to adjourn from CAGID Board of Directors and reconvene as Boulder City Council
 - 2. Consideration of a motion to adopt Resolution No. 1184 to endorse the Trinity Commons Project and recommend that the Board of Commissioners of the Housing Authority of the County of Boulder issue up to \$3,000,000 of Tax-Exempt Multifamily Housing Revenue Bonds in order to finance the Project
- I. Consideration of a motion to approve a BVCP land use map change for the eastern 0.25 acres of land located at 2560 28th Street from Park, Urban ad Other to Mixed Use Business

- J. Introduction, first reading, consideration of a motion to publish by title only, and adopt as an emergency measure Ordinance No. 8117 authorizing the issuance by the City of Boulder, Colorado, of its Water and Sewer Revenue Bonds, Series 2016, in the aggregate principal amount of \$35,500,000 for the purpose of providing funds to water and sewer improvements by the Utility and pay the costs of issuance of the Series 2016 Bonds; prescribing the form of said Series 2016 Bonds; providing for the sale of said Series 2016 Bonds; providing for the payment and redemption of said Series 2016 Bonds from and out of the revenues derived directly or indirectly by the City from the Water and Sewer Fee billed to customers of the City's water and sewer systems; providing other details and approving other documents in connection with said Series 2016 Bonds; and declaring an emergency and providing the effective date hereof

The City Clerk read the following into the record regarding Item 3J: "On May 3, 2016 the City of Boulder conducted a competitive bid sale of its 2016 Water and Sewer Revenue Bonds. Ten investment firms placed bids and the firm selected with the lowest total interest cost of 2.266569 was Bank of America-Merrill Lynch. Additional details from this transaction can be found in the agenda memo and ordinance related to this bond issue."

Council Member Weaver moved to approve the consent agenda items 3A-3J. The motion was seconded by Mayor Jones. The motion passed 8:0 with Council Member Shoemaker absent at 7:33 p.m.

4. POTENTIAL CALL-UP CHECK IN
- 8A. Potential Call-Ups
1. 350 Ponca Place- Concept Plan Review
 2. 4655 Hanover Ave- Utility Easement Vacation

There was no interest in calling-up these properties.

5. PUBLIC HEARINGS
- A. Second Reading and consideration of a motion to adopt Ordinance No. 8115 rezoning 0.25 acres of land located at 2560 28th Street from Public zoning district to Business Community – 2 zoning district, consistent with the Boulder Valley Comprehensive Plan land use designation of Mixed Use Business

Staff member Chandler Van Schaack introduced this item to Council.

The public hearing was opened at 7:39 p.m. There being no speakers, the public hearing was closed at 7:39 p.m.

Council Member Brockett moved to adopt Ordinance No. 8115 rezoning 0.25 acres of land located at 2560 28th Street from Public zoning district to Business Community – 2 zoning district, consistent with the Boulder

Valley Comprehensive Plan land use designation of Mixed Use Business. The motion was seconded by Council Member Weaver. The motion passed 8:0 with Council Member Shoemaker absent at 7:41 p.m.

- B. Consideration of a motion to adopt Resolution No. 1182 conditionally supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines

Staff members Deryn Wagner and Carl Castillo introduced this item to Council.

Council Member Morzel gave a presentation and answered questions for the Council.

The Public Hearing was opened at 8:35 pm and the following members of the public spoke:

1. Dr. Harvey Nichols, pooled with Mike Fenerty and Shawn Shank, asked that Council work very closely with his group to safely make decisions regarding public health.
2. Ted Ziegler, was concerned about health risks and the contaminants on the site.
3. Dr. David Snow opposed the measure and did not want residents exposed.
4. Larry Hankins, former employee of Rocky Flats, warned that the area is highly contaminated.
5. Michael Ketterer, resident of Longmont, spoke in opposition.
6. Sandy Pennington, Town of Superior Trustee, urged the Council Members to follow Superior's lead and oppose this proposal.
7. Debra Williams, Town of Superior Mayor Pro Tem, asked Council to vote against this issue.
8. Peter Bottomley, current resident of Superior, urged the Council to vote against this issue.
9. W. Gale Biggs, Ph.D. in Meteorology, concluded that the most dangerous emissions would be airborne emissions. He was concerned about contaminants and possible health risks to users.
10. Kip Cheroutes, resident of Denver, supported the issue and wanted to connect trails to wildlife.
11. Mike Barrow supported the trail system connecting the greenways.
12. Steven Watts, resident and Executive Director of Boulder Mountain Bike Alliance, was excited about the 20 additional miles of trails in the area. He supported the idea of a safe access and connectivity between communities.

13. Andy Schultheiss, resident, spoke in support of the trail connections to reduce crowding and provide additional recreation opportunities.
14. Chris Allred, resident, urged Council to oppose this issue.
15. Jon Lipsky, Former FBI agent who led the raid on Rocky Flats, showed a presentation to Council and urged them to oppose the measure.
16. Patty Moss Bremkamp urged Council to vote against the proposal.
17. Anne Fenerty urged Council to oppose the measure due to the safety of the residents.
18. Rosemary Snow, resident, urged Council to get independent testers for the soil.

With no further speakers, the public hearing was closed at 9:20 p.m.

Council asked about the feasibility of hiring independent third parties to do testing of the soil and the language of the resolution.

Council Member Morzel moved to adopt Resolution No. 1182 conditionally supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines. The motion was seconded by Council Member Weaver. The motion passed 7:1 with Council Member Burton opposed and Council Member Shoemaker absent at 9:31 p.m.

- C. Second Reading and consideration of a motion adopt Ordinance No. 8116 amending Chapter 4-20 “Fees,” and by amending Section 4-20-25 adding a new subsection to impose fee on water users in single family homes and amending Chapter 11-1 “Water Utility” by adding a new Subsection to Section 11-1-44 “Water User Fees” authorizing the city manager to pay claims for damage from water main breaks and setting forth related details.

City Attorney, Tom Carr presented this item to Council.

The public hearing was opened at 10:06 p.m. There being no speakers, the public hearing was closed at 10:06 p.m.

Council discussed the water system and whether all residents should be charged, rather than only the class that might potentially benefit. The council discussed means of charging fees, dispersal of claims, liability of the City, possible insurance options available for these occurrences, and the timing impacts of this measure.

Council gave direction for the City Attorney to amend Ordinance No. 8116 and bring it back on May 17, 2016, and to proceed with claims from the two incidents that occurred this Spring. Council gave direction to the

Public Works Director for Utilities to explore the budget impact of replacing more pipe per year and to bring back a funding mechanism during the budget process.

Council Member Appelbaum moved to continue Ordinance No. 8116 to second reading. The motion was seconded by Council Member Morzel. The motion carried 8:0 with Council Member Shoemaker absent at 10:42 p.m.

- D. Consideration of a motion to adopt additional changes to the 2016 Downtown Urban Design Guidelines

Staff member Kalani Pahoia and Executive Director of Community Planning David Driskell introduced this item to Council.

Council Member Brockett moved to continue the meeting. The motion was seconded by Council Member Yates. The motion passed 7:2 with Council Members Young and Morzel opposed and Council Member Shoemaker absent at 11:02 p.m.

Council Member Brockett moved to accept the staff recommendation with an amendment to replace solar panel “unobtrusive as possible” language with “unobtrusive.” The motion was seconded by Council Member Appelbaum. The motion failed 4:4 with Mayor Jones, Council Members Morzel, Weaver, and Young opposed and Council Member Shoemaker absent at 11:12 p.m.

Council Member Morzel moved to approve Planning Board’s recommendations to adopt additional changes to the 2016 Downtown Urban Design Guidelines and incorporate in the final document with an amendment to replace solar panel “unobtrusive as possible” language with “unobtrusive.” The motion was seconded by Council Member Weaver. The motion carried 5:3 with Council Members Appelbaum, Brockett and Burton opposed and Council Member Shoemaker absent at 11:13 p.m.

6. MATTERS FROM THE CITY MANAGER

- A. Update on the implementation of the Black Bear Protection Ordinance (Ordinance No. 7962)

Urban Wildlife Conservation Coordinator Valerie Matheson introduced this item to Council.

- B. Update on Public Participation Initiative and consideration of a motion to appoint One Council Member to a Citizen Participation Planning Committee

City Manager Jane Brautigam introduced this item to Council. Council Member Morzel volunteered to be the participating member.

- C. Consideration of a motion to Create a Middle Income Housing Strategy Working Group

Executive Director of Community Planning David Driskell introduced this item to Council

Council discussed the need for a quicker process and a short list of recommendations to achieve. Council Member Appelbaum volunteered to be a part of the committee. Council Members will be Appelbaum, Burton and Shoemaker. If Council Member Shoemaker is unable, Council Member Morzel will serve instead.

- 7. MATTERS FROM THE CITY ATTORNEY
- 8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL
 - A. Potential Call-Ups
 - 1. 350 Ponca Place- Concept Plan Review
 - 2. 4655 Hanover Ave- Utility Easement Vacation

- B. Council Member Appelbaum to run for CML Executive Committee

Council Member Yates moved to support Council Member Appelbaum running for a seat on the CML Executive Board. The motion was seconded by Council Member Brockett. The motion passed 7:0 with Council Members Morzel and Shoemaker absent at 12:15 a.m.

- C. Council Member Weaver announced his invitation to participate in a Climate Commitment Meeting on May 6th.

- 9. PUBLIC COMMENT ON MATTERS
- 10. FINAL DECISIONS ON MATTERS
- 11. DEBRIEF
- 12. ADJOURNMENT at 12:16 am.

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on May 4, 2016 at 12:16 a.m.

Approved this 17th day of MAY, 2016.

APPROVED BY:

Suzanne Jones, Mayor

ATTEST:

Lynnette Beck, City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Consideration of a motion to accept the summary of the April 12, 2016 Study Session on Development-Related Impact Fees and Excise Taxes

PRESENTERS:

Jane S. Brautigam, City Manager
David Gehr, Deputy City Attorney
Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Chris Hagelin, Senior Transportation Planner
Kristin Hyser, Community Investment Program Manager
Devin Billingsley, Senior Budget Analyst
Matt Chasansky, Office of Arts & Culture Manager
Lauren Holm, Associate Planner
Chris Meschuk, Project Manager

EXECUTIVE SUMMARY

This agenda item provides a summary of the April 12, 2016, study session on Development-related Impact Fees and Excise Taxes. The purpose of this study session was to solicit council feedback on work to-date on the development related impact fees and excise tax studies prior to final reports and recommendations.

Key takeaways from the study session by component were:

Capital Facility Impact Fees

- There is a need for additional context information about the purpose of capital facility impact fees, the methodology behind calculating them, and how the funds are used to support capital infrastructure.
- Some council members questioned if affordable housing development should be paying these fees.

Multi-modal Transportation:

- A majority of Council members indicated support for the next-generation plan-based approach proposed for multi-modal transportation funding, rather than the more traditional level of service based funding approach.
- Some council members questioned if affordable housing development should be paying these fees.
- Some council members expressed interest in the credit/tiered rate system for development in areas where there is already a high level of multimodal transportation options.
- Some council members expressed interest in exploring a hybrid funding approach using an excise tax and an impact fee.

Affordable Housing Linkage Fee:

- Council members were generally supportive of the market factors that had been analyzed as a part of the draft nexus analysis.
- Council members were generally interested in exploring all of the policy considerations outlined for establishing a fee level.
- Some council members also expressed interest in exploring a goal-based approach to setting a fee level.

Public Art Requirement:

- Council members were generally supportive of public art, and furthering the funding and integration of art into the community.
- A majority of council members were supportive of transitioning further analysis of a private development requirement for art into the community cultural plan implementation efforts, following the development of the public art policy and creating of the municipal public art program.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to accept the summary (**Attachment A**) of the April 12, 2016 Study Session on Development-Related Impact Fees and Excise Taxes

NEXT STEPS

Based on the feedback from city council, staff and the consultants will be developing options on fee levels, compiling a comparative analysis of development-related fees from surrounding communities, and preparing an economic impact analysis. The technical working group will

meet on May 9, 2016. Taking into consideration the technical working group's input, materials will be developed for a council study session on June 14 to discuss and narrow the options for any fee changes. Additional context information and background on impact fee methodology will also be presented on June 14. Based on feedback from council, the narrowed options will be presented for council consideration on July 19 in a public hearing. The economic impact analysis report will be completed prior to the July 19 city council public hearing.

ATTACHMENT

A: Summary of the April 12, 2016, study session on the Development-related Impact Fees and Excise Tax Update Study

April 12, 2016 Study Session
Development-Related Impact Fees and Excise Taxes

PRESENT

City Council: Mayor Suzanne Jones, Mayor Pro Tem Mary Young, Matthew Appelbaum, Aaron Brockett, Jan Burton, Lisa Morzel, Andrew Shoemaker, Sam Weaver and Bob Yates

Staff: Jane S. Brautigam, City Manager; David Gehr, Deputy City Attorney; Susan Richstone, Deputy Director of Planning; Maureen Rait, Executive Director of Public Works; Chris Hagelin, Senior Transportation Planner; Kristin Hyser, Community Investment Program Manager; Devin Billingsley, Senior Budget Analyst; Matt Chasansky, Office of Arts & Culture Manager; Lauren Holm, Associate Planner; Chris Meschuk, Project Manager

Consultants: Julie Herlands, TischlerBise; Dwayne Guthrie, TischlerBise; David Doezema, Keyser Marston Associates

PURPOSE

The purpose of this study session is to solicit council feedback on work to-date on the development related impact fees and excise tax studies prior to final reports and recommendations, including:

1. The draft capital facilities impact fee study.
2. Utilizing an impact fee, excise tax or hybrid approach for multi-modal transportation capital funding.
3. The policy considerations to be evaluated and accounted for in setting the affordable housing commercial linkage fee.
4. Moving the public art component into the Community Cultural Plan implementation efforts, including further exploration of alternative funding approaches following the development of the public art policy and implementation plans.

SUMMARY OF COMMENTS BY DISCUSSION SECTION

Susan Richstone started off the study session by reminding the council that this project was identified in the 2015 work plan. The purpose of this meeting was to check in on progress to date, in preparation for the June 14 study session where council will be presented with a range of fee level options. Additionally, an economic impact analysis and a comparative analysis are being prepared which will help inform council's decisions. Chris Meschuk introduced the consultants and staff. Meschuk presented a brief overview of the process to-date of the Development-Related Impact Fees and Excise Taxes project including the technical working group process and public outreach, as well as a high level overview of impact fees and excise taxes.

Council asked clarifying questions about when and how these fees are charged on a project. Impact Fees are calculated and assessed during the building permit process. The fees are charged on all development (residential and non-residential) independent of geographic location within the city. The fees apply to additional square footage of the development. If the project is a redevelopment, then a credit is given at the time of calculation for the pre-existing square footage and type of use.

Capital facilities impact fees update

Presentation summary

Chris Meschuk presented the scope of work for this component, and the progress to date. This includes: updated land use assumptions, demographics and demand factors, capital facility inventories, current levels of service, impact fee methodologies based on current capital plans, and cash flow analysis for each fee component and completed draft report. Finally, the next steps were discussed. Julie Herlands from TischlerBise responded to council questions.

Feedback/comments summary

Staff clarified what Capital Facilities Impact Fees can be used for. Impact fees can only be used to fund capital projects for expansion. The revenues needed to operate the additional capital facilities need to be funded from other sources. This funding burden often falls to the General Fund which is supported to a large extent with sales and use tax. It can be viewed that the additional sales and use tax generated by new development represents its fair share of the additional ongoing operating dollars now needed.

Staff also responded to several other questions regarding the way these fees are charged. Impact fees are designed to be used to offset growth's impact on the city's capital facility infrastructure on a system-wide or citywide basis, not on a localized basis. The Parks and Recreation impact fee is a good example. Parks and Recreation impact fees are used to expand capacity at capital facilities like recreation centers and city parks. Parks and Recreation impact fees are not used to expand capacity at neighborhood or pocket parks because these parks' benefits are limited to the immediately surrounding neighborhoods. It is possible to target specific geographic locations by setting up districts and charging fees against projects located in those districts. However, this impact fee study does not include analysis of any special districts. In light of the characteristics of impact fees, impact fee studies do not need to be conducted on a project-by-project basis. Rather, impact fee studies such as this one can be done on a citywide basis and applied uniformly to development projects all over the city. These studies should be updated on a 5-10 year schedule to reflect changing demand factors as well as evolving city capital planning.

There was council discussion about the relationship between square footage and persons per unit so the fees level off at a certain point. The basis of the logarithmic relationship comes from local data regarding persons per unit.

Some council members expressed concern about increasing impact fees, and that this could further exacerbate the housing affordability problem in Boulder.

Some council members expressed a desire to see the cumulative additional costs to development resulting from revised impact fees relative to current fees especially on residential development.

Multimodal transportation

Presentation summary

Chris Hagelin presented the current spending and funding breakdowns for transportation, demonstrating that new growth's share of capital infrastructures costs is a small portion of the overall capital spending. After a brief discussion of the two part nature of the transportation process including operations & maintenance costs vs. capital costs, the presentation focused on the methodology and approach to next generation transportation impact fees. Hagelin presented the two different reports prepared by Dwayne Guthrie of TischlerBise and the differences between them. Finally, the next steps were discussed. Dwayne Guthrie was available to answer questions.

Feedback/comments summary

Staff clarified for Council that an impact fee can be enacted by the Council whereas taxes are voter approved and that the city's current DET is maximized for non-residential, but can be increased on residential development without going back to a ballot. Some Council members expressed concern that higher residential fees/tax could negatively impact affordable housing development. David Gehr explained that the original DET ballot language allows for exemptions for affordable housing.

Council members indicated support for the next-generation plan-based approach proposed for multi-modal transportation funding, rather than the more traditional level of service based funding approach.

Staff clarified for Council that excise taxes are more flexible and in a plan-based approach can cover a wider range of capital projects from both the Capital Improvement Program (CIP) and the Action Plan Investment Program. On the other hand, David Gehr explained that impact fees are less flexible, require more rigorous accounting, and can only be used for a more limited set of capital improvements from the CIP for which the city can fund the non-growth share cost of the projects.

In discussing funding options, staff explained that in a hybrid approach an impact fee could be added to the existing DET and that each would pay for different sets of capital projects. For example, the impact fee could be used primarily for street improvements while the DET would be used for multi-modal capital improvements. Some council members expressed interest in this approach.

Council questioned how the tax/fee methodologies would take into account the difference between "walkable" locations versus locations without multi-modal options. Staff explained that rather than applying geographic factors in the methodology that credits can be added afterwards to lower fees/taxes for developments located in walkable areas with high multi-modal level of service. Council also asked if credits on future sales tax or other community benefits are taken into account in the methodology. Staff responded that future sales tax revenue is not taken into account. Sales tax is the primary way of paying for on-going operations and maintenance.

Affordable housing linkage fee

Presentation summary

Kristin Hyser presented the city's current financial resources to support the creation and preservation of affordable housing including local and federal resources. This included an update on the city's progress in reaching the city's affordable housing goal to secure 10% of all dwelling units to be permanently affordable.

The presentation continued with David Doezema, Principal with Keyser Marston Associates, reviewing the results from the jobs-housing nexus analysis establishing a set of maximum supported fee levels applicable to a variety of commercial building types. Aligned with common practices the maximum fees are very substantial and are not the recommended fees. While not the recommended fee, the maximums provides a pinnacle to which a broad range of policy considerations can be applied to arrive at a fee level that is below the maximum. David presented several factors to be considered in setting fees – market factors including market strength and development feasibility and fees charged in comparative cities. His presentation included several policy-based adjustments for City Council to consider in determining fee levels – commute factor to account for the workforce already housed locally, housing needs already met through the inclusionary housing ordinance, and the current income profile of the city reflecting the income ranges living in Boulder.

Feedback/comments summary

Council members expressed support for the market factors presented and requested all of the policy considerations presented be further developed to be evaluated in the setting of the fees. Several Council members expressed interest in evaluating fee levels using a goal-based approach. A request was also made to identify fees in cities comparable to Boulder such as Austin, Portland, and Seattle.

Private sector arts requirement

Presentation summary

Matt Chasansky started the presentation off with excerpts from the Community Cultural Plan and described the process to date. David Doezema continued the presentation by describing the research that Keyser Marston Associates has done, including looking at nine comparable programs and understanding the elements needed for a land use regulation with a cash-in-lieu option. Staff's recommendation is that this component be revisited after the Public Art Policy and Municipal Funding Structure are in place in 2017-2018.

Feedback/comments summary

Council members were largely in support of continuing the work on public art in private development, but agreed it is best suited within the context of the Community Cultural Plan, with an updated public art policy and the development of a municipal program first and foremost. Council members expressed their support for public art and the role it plays in the community. Some council members expressed interest in an incentive-based model rather than additional fees or regulations.

Closing

Chris Meschuk closed the meeting by reminding council of the process and describing what the next steps for staff will be, including the next technical working group meeting, public information session, and what will be coming back to council on June 14.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Second reading and consideration of a motion to adopt as an emergency measure **Ordinance No. 8112**, an ordinance amending Chapter 10-7.7, “Commercial and Industrial Energy Efficiency,” to clarify regulation of large industrial campuses related to reporting energy usage, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

Carey Markel, Senior Assistant City Attorney

David Driskell, Executive Director of Planning, Housing + Sustainability

Kendra Tupper, Energy Services Program Manager

Elizabeth Vasatka, Business Sustainability Coordinator

Kimberlee Rankin, Sustainability Specialist II

1. EXECUTIVE SUMMARY

The purpose of this item is the second reading of amendments to update and clarify building performance regulations related to reporting large industrial campus energy usage.

On Oct. 20, 2015, City Council adopted Ord. 8017 which created a new Chapter 10-7.7, “Commercial and Industrial Energy Efficiency” addressing:

- Requirements for city-owned and private sector commercial and industrial building owners to annually rate and report building energy usage;

- Public disclosure of that energy information;
- Energy efficiency requirements that will be phased in over time; and
- Custom requirements for building owners of large industrial campuses¹ to report annual energy usage and perform energy efficiency over time.

Subsequent to Ord. 8017 adoption, staff received additional public feedback from concerned businesses related to the following issues:

- Confidentiality of data which is exempt from public disclosure;
- Practical difficulties related to energy reporting for the large industrial campuses; and
- Clarifying language.

This agenda item is for council consideration and potential adoption of Ordinance No. 8112 on second reading. Please see **Attachment A** for the proposed ordinance language, with changes from the first reading on Apr. 5, 2016. These changes have simplified the language in the ordinance. Staff recommends that this version be adopted by emergency to avoid a third reading, and to finalize before the annual reporting deadline for Large Industrial Campuses of June 1, 2016.

A City Manager Rule will also be published for public comment following ordinance adoption, and will include the implementation details for rating and reporting, energy assessments, retrocommissioning and lighting upgrades. **Attachment B** contains the current draft of the City Manager Rules.

2. STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt on second reading as an emergency measure and order published by title only Ordinance No. 8112, an ordinance amending Chapter 10-7.7, “Commercial and Industrial Energy Efficiency,” to clarify regulation of large industrial campuses related to reporting energy usage, and setting forth related details.

3. COMMUNITY SUSTAINABILITY ASSESSMENT AND IMPACTS

- Economic: Based on the benchmarking data from other cities, staff has estimated the net economic benefit of improving energy performance through these requirements to be between \$8.5 and \$14 million each year. The proposed changes will have no impact on the projected economic benefit because the requirements for energy efficiency for large industrial campuses have not changed.

¹ *Large Industrial Campus* means a facility in which three or more buildings, at least partially used for manufacturing uses, are served by a central plant or a single utility meter.

- Environmental: Ord. 8112 is an important step toward achieving Boulder’s proposed climate commitment goal of reducing greenhouse gas emissions 80 percent by 2050 (compared to 2005). The proposed ordinance changes will have no impact on the projected energy and emission savings because the requirements for energy efficiency for large industrial campuses have not changed.
- Social: The intent of Ord. 8112 requirements is to transform the real estate market by increasing the transparency of building energy data. The proposed changes will have no impact on this because large industrial campuses are not part of the competitive real estate market and have such specialized energy usage that there are no comparable metrics to report.

4. OTHER IMPACTS

- Fiscal: Implementation of Ord. 8112 is funded through the Climate Action Plan (CAP) tax. The estimated ongoing expenses for ordinance implementation, including staffing, are approximately \$330,000 per year. The proposed changes have no significant impact on the budget.
- Staff time: Ordinance implementation and assistance represent significant work plan items in the coming years, and have been incorporated into the existing work plans of city staff and contractors. The proposed changes will slightly reduce the amount of staff time needed for implementation by simplifying and clarifying the requirements for large industrial campuses.

5. BACKGROUND

Please refer to the [May 12, 2015](#) study session memo, and the [Sept. 1, 2015](#), [Sept. 29, 2015](#) and the [Oct. 20, 2015](#) council packets for the following background information related to building performance regulations:

- Greenhouse gas emissions from commercial and industrial buildings in Boulder;
- The city’s history with energy efficiency and rating and reporting programs;
- Estimated capital costs, operational savings, and payback estimates associated with these requirements;
- National context with information on the other cities and counties that have adopted similar requirements, as well as efforts at the federal government level;
- Coordination with other city programs and requirements, including commercial building energy codes and outdoor lighting codes;
- Estimated energy savings from existing rating and reporting programs across the country;
- Summary or ordinance provisions and compliance timeline;
- Analysis on data privacy and split incentive issues; and
- Implementation plans and proposed budget.

Council adopted Ord. 8017 on Oct. 20, 2015, which addressed the following items:

- Requirements for city owned and private sector commercial and industrial building owners to annually rate and report building energy usage;

- Public disclosure of that energy information;
- Energy efficiency requirements that will be phased in over time; and
- Custom requirements for building owners of large industrial campuses² to report annual energy usage and perform energy efficiency over time.

Upon publishing the draft City Manager Rules, the city received comments from one of the owners of a large industrial campus regarding their concerns with the energy reporting requirements for large industrial campuses. Although staff engaged with all of the large industrial campuses prior to ordinance adoption, the City Manager Rules provided more details on the implementation of the requirements, and at that point this owner had their internal legal team review the requirements in detail. After working closely with the concerned owner, one of the city’s largest primary employers, the city recognized the need to amend the existing code to address concerns with:

- Confidentiality of data which is exempt from public disclosure;
- Energy reporting requirements for the large industrial campuses; and
- A lack of clarity around some of the ordinance language.

The proposed ordinance is amended to incorporate and clarify the code in the areas of data confidentiality and energy reporting for large industrial campuses. Substantive changes are described in the [Apr. 5, 2016](#) council packet.

6. PUBLIC ENGAGEMENT AND FEEDBACK

Despite the comprehensive stakeholder engagement that was conducted in the twelve months preceding the ordinance adoption (see the [Sept. 29, 2015](#) memo for more details), additional concerns and issues arose once the regulation was in place and draft City Manager Rules had been published. Since the adoption of the ordinance, city staff has worked collaboratively with owners of large industrial campuses to understand and address their concerns around data privacy, confidentiality, and practical difficulties related to energy reporting. Staff has worked with these concerned parties over the last six months to arrive at these proposed revisions.

7. PROPOSED SECOND READING AMENDMENTS

Since the first reading of 8112, the City Attorney has amended the ordinance to reflect that the handling of confidential data and information will be addressed through one of two agreements, instead of in the ordinance itself:

1. (Attachment C) Agreement related to Annual Report required for Large Industrial Campuses
 - a. This agreement is for non-record confidential Information, *i.e.* the annual oral report that will be required for Large Industrial Campuses.
2. (Attachment D) Non Disclosure Agreement for confidential information submitted to the city

² *Large Industrial Campus* means a facility in which three or more buildings, at least partially used for manufacturing uses, are served by a central plant or a single utility meter.

- a. This agreement is directed to confidential energy usage data or “records” and sets forth how the city will treat those confidential records.

These changes have simplified the language in the ordinance. Thus, staff recommends that council amend on second reading and adopt the version of ordinance 8112 attached as Attachment A. Staff recommends that this version be adopted by emergency to avoid a third reading, and to finalize before the annual reporting deadline for Large Industrial Campuses of June 1, 2016.

ATTACHMENTS

- A: Ordinance No. 8112 as amended on second reading
- B: Proposed City Manager Rules
- C: Agreement related to Annual Report required for Large Industrial Campuses
- D: Non Disclosure Agreement for confidential information submitted to the city

ORDINANCE NO. 8112

AN EMERGENCY ORDINANCE AMENDING CHAPTER 10-7.7
“COMMERCIAL AND INDUSTRIAL ENERGY EFFICIENCY,” TO
CLARIFY REGULATION OF LARGE INDUSTRIAL CAMPUSES
RELATED TO ENERGY USAGE, AND SETTING FORTH RELATED
DETAILS.

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

Section 1. Chapter 10-7.7 is amended as follows:

Chapter 7.7 – Commercial and Industrial Energy Efficiency

10-7.7-1. – Scope.

(a) Scope. The provisions of this chapter apply to building owners or tenants of the following:

- (1) Any commercial or industrial building with at least 20,000 square feet of floor area.
- (2) All commercial or industrial portions of any mixed-use building where a total of at least 20,000 ~~gross~~-square feet of floor area is devoted to any commercial or industrial use.
- (3) Any commercial or industrial building with at least 10,000 square feet of floor area for which an initial building permit was issued on or after January 31, 2014.
- (4) Any commercial or industrial building with 5,000 ~~gross~~-square feet or more of floor area that is owned by the City of Boulder. Provided, however, no building with less than 10,000 square feet of floor area shall be subject to the provisions of Sections 10-7.7-3, “Energy Assessment,” or 10-7.7-5, “Retrocommissioning,” B.R.C. 1981.
- (5) Provided, however, no report shall be required in the first twelve months after issuance of an initial certificate of occupancy.

(b) Owners of the following buildings are exempt from the requirements of this chapter:

- (1) Any building, regardless of size, which has minimal energy use, because the building is unlit and has no heating or cooling systems.
- (2) Any building with proof of financial hardship.

1 **10-7.7-2. - Rating and Reporting Requirement.**

- 2 (a) Any owner subject to this chapter shall rate and report their buildings' energy use
3 in a manner prescribed by the city manager on the following schedule. The city
4 manager may grant a reasonable extension as may be necessary.
- 5 (1) Any building with 5,000 or more square feet owned by the city of Boulder by
6 May 1, 2016 and on or before May 1 of each year thereafter.
- 7 (2) Any building with 50,000 or more square feet of floor area by August 1, 2016
8 and on or before June 1 of each year thereafter.
- 9 (3) Any building with at least 10,000 square feet of floor area for which an initial
10 building permit was issued on or after January 31, 2014 by August 1, 2016
11 and on or before June 1 of each year thereafter.
- 12 (4) Any building with 30,000 or more square feet of floor area, but less than
13 50,000 square feet of floor area by June 1, 2018 and on or before June 1 of
14 each year thereafter.
- 15 (5) Any building with 20,000 or more square feet of floor area, but less than
16 30,000 square feet of floor area by June 1, 2020 and on or before June 1 of
17 each year thereafter.
- 18 (b) Owners of the following buildings are exempt from the rating and reporting
19 requirements:
- 20 (1) Any buildings in a large industrial campus. Such buildings are subject to the
21 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981, as
22 well as all other sections unless specifically exempted.
- 23 (2) Any ~~other~~ building whose owner applies for and receives a special exemption
24 from the city manager.
- 25 (c) Any owner who is unable to complete a report due to a tenant's refusal to provide
 requested information shall input alternative values provided by the city manager.
- (d) All owners shall maintain and make available for inspection by the city manager,
 all required records for a period of three years.
- (e) At the time any building subject to this ordinance is transferred, the seller shall
 provide to the buyer all information necessary for the buyer to rate and report for
 the entire year.

21 **10-7.7-3 Energy Assessment.**

- 22 (a) Any owner subject to the reporting requirements of this chapter shall conduct an
23 energy assessment within three years of the first reporting requirement and at least
24 once every ten years thereafter, except:
- 25 (1) Any building with a current U.S. Environmental Protection Agency ENERGY
 STAR certification;

- 1 (2) Any building with a current Leadership in Energy and Environmental Design
2 Building Operations and Maintenance certification from the U.S. Green
3 (3) Any building whose owner can demonstrate to the city manager a pattern of
4 significant and consistent improvements in energy efficiency or greenhouse
5 gas emissions;
6 (4) Any building whose owner can demonstrate to the city manager that the
7 owner conducted an equivalent energy assessment within ten years of the first
8 deadline for energy assessments, and implemented the cost effective actions
9 that were recommended;
10 (5) Any buildings in a large industrial campus. Such buildings are subject to the
11 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or
12 (6) Any other building whose owner applies for and receives a special exemption
13 from the city manager.
14 (b) The energy assessment shall be conducted by a qualified professional energy
15 assessor, as defined by the city manager.
16 (c) The owner shall provide to the city manager a summary of the energy assessment
17 report along with a statement of which recommendations from the assessment will
18 be implemented and in what timeframe.
19 (d) The city manager may establish rules regarding the recovery of costs associated
20 with energy assessments.

14 **10-7.7-4. - Required Lighting Upgrades.**

- 15 (a) Within five years of the first reporting requirement, each owner shall:
16 (1) Replace or upgrade any interior or exterior lighting fixtures identified as not
17 meeting the lighting power allowances for interior and exterior lighting, set
18 forth in the current version of the International Energy Conservation Code.
19 (2) Comply with the requirements for automatic time switch control devices,
20 occupancy sensors, and exterior lighting controls, set forth in the current
21 version of the International Energy Conservation Code.
22 (3) Comply with the maximum allowed wattage for internally illuminated exit
23 signs, set forth in the current version of the International Energy Conservation
24 Code.
25 (4) Provide to the city manager a summary of any actions taken pursuant to this
subsection.
(b) The owner of any building meeting any of the following requirements shall not be
required to comply with subsection (a):
(1) Any building with a current U.S. Environmental Protection Agency's
ENERGY STAR certification;

- 1 (2) Any building with a current Leadership in Energy and Environmental Design
2 Building Operations and Maintenance certification from the U.S. Green
3 (3) Any building whose owner can demonstrate to the city manager a pattern of
4 significant and consistent improvements in energy efficiency or reduction of
5 greenhouse gas emissions;
6 (4) Any buildings in a large industrial campus. Such buildings are subject to the
7 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or
8 (5) Any other building whose owner applies for and receives a special exemption
9 from the city manager.
10 (c) The city manager may establish rules regarding the recovery of costs associated
11 with lighting upgrades.

12 **10-7.7-5. – Retrocommissioning.**

- 13 (a) Within five years of the first reporting requirement, and every ten years thereafter,
14 each owner shall:
15 (1) Conduct retrocommissioning.
16 (2) Provide to the city manager a summary of the retrocommissioning report and
17 report any actions taken pursuant to this subsection.
18 (b) Within two years from the retrocommissioning report submittal, the owner shall
19 implement any retrocommissioning measure identified in the retrocommissioning
20 report as likely to produce energy and maintenance savings in a two year period in
21 excess of the cost of implementing the measure, less the value of any rebates.
22 (c) The retrocommissioning shall be conducted by a retrocommissioning
23 professional, as defined by the city manager.
24 (d) The city manager may establish rules regarding the recovery of costs associated
25 with retrocommissioning.
(e) The owner of any building meeting any of the following requirements shall not be
required to comply with subsections (a), (b) or (c):
(1) Any building with a current U.S. Environmental Protection Agency's
ENERGY STAR certification;
(2) Any building with a current Leadership in Energy and Environmental Design
Building Operations and Maintenance certification from the U.S. Green
Building Council;
(3) Any building whose owner can demonstrate to the city manager a pattern of
significant and consistent improvements in energy efficiency or greenhouse
gas emissions;
(4) Any buildings in a large industrial campus where multiple buildings are
served by single meters. Such buildings are subject to the provisions of
Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or

- 1 (5) Any other building whose owner applies for and receives a special exemption
2 from the city manager.

3 **10-7.7-6. – Disclosure.**

4 (a) This section applies to any owner and tenant, including those within a “Large
5 Industrial Campus.”

6 (ba) Any owner subject to provisions of this chapter shall provide to any tenant a copy
7 of any energy report or energy assessment within sixty days of receipt by the
8 owner.

9 (cb) Any tenant of an owner subject to the provisions of this chapter shall, within 30
10 days of a request, provide to the owner any information that cannot otherwise be
11 acquired by the owner and that is needed to comply with the provisions of this
12 chapter.

13 **10-7.7-7 – Confidentiality.**

14 (a) This section applies to any owner and tenant, including those within a “Large
15 Industrial Campus.”

16 (e)(ba) Any owner submitting information to the city manager that includes trade secrets,
17 privileged or confidential commercial information, and who claiming
18 confidentiality over such information shall specifically identify such confidential
19 information and provide a statement of the manner in which public disclosure
20 would cause substantial harm to the owner’s competitive position. Any
21 information submitted without such a statement may be disclosed publically.
22 Inefficient energy usage alone will not be considered confidential commercial
23 information.

24 (c) A claim of confidentiality under this section constitutes a representation to the
25 city manager that the owner has a reasonable and good faith belief that the subject
document or information is not presumed to be open for inspection, and is, in fact,
confidential under applicable law, including the Colorado Open Records Act.

(d) The city manager is authorized to enter into an agreement with any owner who,
pursuant to this Chapter, submits information, including oral information, to the
city that includes trade secrets, privileged or confidential commercial information,
and who claims confidentiality over such information. Pursuant to the agreement,
the dissemination of any such confidential information shall be limited to three
staff members employed by the city, of the city manager’s choosing.

(e) The city manager is authorized to enter into a nondisclosure agreement with any
owner who entered into an agreement pursuant to 10-7.7-7(d), which
nondisclosure agreement shall address the following subjects:

i. Sealing of confidential information submitted pursuant to this Chapter;

ii. Handling of confidential information by the city;

1 iii. Treatment of requests from the public to inspect such confidential
2 information;

3 iv. Compliance with the Colorado Open Records Act.

4 (d) When submitted to the city manager, confidential information will be sealed by
5 the city, designated as confidential and withheld from inspection by the public or
6 anyone not authorized to view such information pursuant to subsection (e) below.
7 Alternatively, confidential information may be submitted electronically through a
8 secure file transfer protocol. Whether submitted in paper or electronic format,
9 information designated as confidential will be treated as confidential and withheld
10 from the public, or other unauthorized persons. This treatment shall prevail
11 unless the confidential information is released by the owner claiming
12 confidentiality or upon final order of a court having jurisdiction.

13 (e) At the request of the owner, the city manager, and no more than three staff
14 members employed by the city of the city manager's choosing, shall have access
15 to confidential information under this section by virtue of an annual nondisclosure
16 agreement (the "Annual Nondisclosure Agreement") executed in accordance with
17 this section by the city manager and the selected staff members. Notwithstanding
18 anything in this section, the city manager and the staff members who will have
19 access to any confidential information pursuant to this Ordinance need only sign
20 one nondisclosure agreement annually. The Annual Nondisclosure Agreement
21 shall include a provision that requires the individuals signing the agreement to
22 maintain and to treat any information claimed to be confidential as confidential.
23 The city shall maintain in its files the Annual Nondisclosure Agreements and shall
24 make such agreements available for public inspection.

25 (f) Anyone afforded access to any confidential information under this section shall
take all reasonable precautions to keep the confidential information secure in
accordance with the purpose and intent of this section.

(g) When any person makes a request to inspect records that an owner has claimed
are confidential, the city manager shall determine whether the records are subject
to public inspection pursuant to the provisions of the Colorado Open Records Act.
The city manager shall use procedures that are consistent with the provisions of
the Colorado Open Records Act. The city manager shall give timely notice of the
request for inspection of records to the owner who submitted the documents or
information subject to the request and who claims that the records are
confidential. The city manager shall also provide the owner who submitted the
information to the city manager an opportunity to submit oral or written
comments regarding the public records request.

(h) Upon making a determination as to whether the requested records are subject to
public inspection, the city manager shall forthwith notify the owner claiming
confidentiality and the person requesting public inspection of city records of that
decision.

1
2 (f) If the city manager determines that the requested records are subject to public
3 inspection, the city manager, upon written request from the owner objecting to
4 such public disclosure, shall refrain from disclosure of the records for seven days
5 from the date notice is provided pursuant to subsection (g) above to allow the
6 owner objecting to such disclosure to commence judicial action to prevent public
7 inspection of the subject records.

8
9 **10-7.7-78. - Large Industrial Campus.**

10 (a) The owner of a large industrial campus shall on or before June 1, 2016 and on or
11 before June 1 in each year thereafter give permission to the local energy utility to
12 aggregate and provide to the city manager the total energy use, separated by fuel
13 type, for all large industrial campuses subject to this requirement. If the local
14 energy utility will not provide this service, the city manager may designate
15 another third party aggregator that is approved by the large industrial campuses.

16 (ba) The owner of a large industrial campus shall on or before June 1, 2016 and on or
17 before June 1 in each year thereafter submit to the city manager, ~~or to an~~
18 ~~organization designated by the city manager,~~ a report in a form approved by the
19 city manager the following information:

20 (1) A written narrative description, which will be publically disclosed, including
21 the following:

22 (A) ~~A qualitative comparison of energy usage in the reporting year with the~~
23 ~~preceding year and an explanation of the reason for any changes;~~

24 (AB) The industrial campus energy usage reduction goals and emission
25 reduction goals, both at the site and at the corporate level; and

(BC) A summary of energy efficiency or on-site renewable energy projects
implemented in the reporting year; ~~and~~

(CD) Using a formula supplied by the city manager, a calculation of the
percentage of total energy savings during the reporting year.

(2) An oral report or presentation (the "Annual Report") of the following
information provided during an annual meeting between the Large Industrial
Campus and city staff members who are identified in an agreement executed
pursuant to 10-7.7(d), B.R.C.:

(A) A qualitative comparison of energy usage in the reporting year with the
preceding year and an explanation of the reason for any substantial (more
than 2.5 percent) change; and

(BD) Using a formula supplied by the city manager, ~~a calculation of the~~
percentage of total energy savings during the reporting year. Supporting
documentation for this calculation must be disclosed to the city during this
annual meeting.

1 **10-7.7-89. – Exemptions.**

- 2 (a) This section applies to any owner and tenant, including those within a “Large
3 Industrial Campus.”
- 4 (ba) Any exemption must be approved by the city manager.
- 5 (cb) Applications to exempt any building from the requirements of this chapter must
6 be made by the building’s owner. Exemptions shall be subject to the following
7 limitations:
- 8 (1) Any exemption from annual requirements shall be for a period of one year.
9 Owners may re-apply for an additional exemption at the expiration of the
10 initial exemption period;
- 11 (2) Any exemption from the requirements of Section 10-7.7-3 and Section 10-7.7-
12 5-shall be valid for a period of ten years or until the next ten-year compliance
13 deadline, whichever is later, if the requirements for maintaining an exemption
14 in -future years, as defined in the city manager rules, are met;
- 15 (3) Any exemption from the requirements of Section 10-7.7-8(b) shall be valid for
16 a-period of ten years or until the next ten-year compliance deadline, whichever
17 is-later-;
- 18 (4) Any exemption from the requirements of Section 10-7.7-4 and Section 10-7.7-
19 8(c) shall permanently exempt the building from those requirements;
- 20 (52) Applications must be received sixty days before the ~~start of the applicable~~
21 ~~compliance period~~ compliance deadline established in this chapter;
- 22 (63) An application must demonstrate the owner has considered all reasonable
23 options that would bring the building into compliance and must explain to the
24 satisfaction of the city manager why none of these options are viable.
- 25 (de) The city manager may issue additional rules that govern the conditions under
 which an application for an exemption may be submitted and granted.
- (ed) Applications for an exemption may require submission of an application
 processing fee.

10-7.7-910 Administrative Remedy.

- (a) This section applies to any owner and tenant, including those within a “Large
 Industrial Campus.”-
- (ba) If the city manager believes that a violation of any provision of this chapter exists,
 the city manager shall issue a warning to the person alleged to be in violation.
 The person shall be given 14 days to correct the violation.
- (cb) If 14 days after a warning is issued the city manager finds that a violation of any
 provision of this chapter still exists, the ~~owner~~ city manager, after notice to the
 person and an opportunity for hearing under the procedures prescribed by Chapter
 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the
 following actions to remedy the violation:

- 1 (1) Impose a civil penalty of:
- 2 (a) \$0.0025 per square foot per day, not to exceed \$1,000 per day; ~~and~~
- 3 (b) Issue any order reasonably calculated to ensure compliance with this
chapter and Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.
- 4 (~~d~~e) If notice is given to the city manager by the owner at least forty-eight
5 hours before the time and date set forth in the notice of hearing on any
6 violation that the violation has been corrected and the city manager finds
that the violation has been corrected, the city manager may cancel the
hearing.
- 7 (~~e~~d) The city manager's authority under this section is in addition to any other
8 authority that he or she has to enforce this chapter, and election of one
remedy by the city manager shall not preclude resorting to any other
remedy as well.
- 9 (~~f~~e) The city manager may, in addition to taking other collection remedies,
10 certify due and unpaid charges to the Boulder County Treasurer for
11 collection as provided by Section 2-2-12, "City Manager May Certify
Taxes, Charges and Assessments to County Treasurer for Collection,"
B.R.C. 1981.
- 12 (~~g~~f) To cover the costs of investigative inspections, the city manager will
13 assess owners a \$250.00 fee per inspection, where the city manager
performs an investigative inspection to ascertain compliance with or
14 violations of this chapter.

15 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.

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

19 Section 4. The city council finds this ordinance is necessary for the immediate
20 preservation of public peace, health, safety, and property justifying the adoption of this ordinance
21 as an emergency measure. Passage of this ordinance immediately is necessary because the initial
22 reporting date would be prior to the effective date of the ordinance if not adopted as an
23 emergency measure. This ordinance shall become effective immediately.

24
25

1 READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY
2 MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED
3 PUBLISHED BY TITLE ONLY this 17th day of May 2016.
4

5 _____
Suzanne Jones
6 Mayor

7 Attest:

8 _____
Lynnette Beck
9 City Clerk

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City Manager Rules for Building Performance Ordinance

I. Definitions

- A. “ASHRAE Energy Assessment Standard” means Procedures for Commercial Building Energy Audits as published by the American Society of Heating Refrigerating, and Air-conditioning Engineers Inc. (ASHRAE) in 2011, and as updated periodically. It is expected that ASHRAE will soon adopt Standard 211, Standard for Commercial Building Energy Audits to replace this resource. If that occurs, Standard 211 will serve as the new basis for requirements for energy assessments.
- B. “Base Building Systems” mean the systems or sub-systems of a building that use Energy and/or impact Energy consumption including but not limited to: Primary HVAC (heating, ventilation, air conditioning) systems; Conveying systems; Domestic hot water systems, and; Electrical and lighting systems. Base Building Systems shall not include equipment used for Industrial Processes.
- C. “City Manager” means, city manager or the city manager’s delegee.
- D. “Cost Effective” means any investment or project with a predicted Payback Period of five years or less.
- E. “Current Facility Requirements” means the Owner’s current operational needs and requirements for a building and systems including but not limited to space temperature and humidity set points, operating hours, ventilation, filtration and any integrated requirements such as controls, personnel training, warranty review, and service contract review.
- F. “Energy” means electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- G. “Energy Assessment” means a systematic evaluation to identify modifications and improvements to building equipment and systems which use Energy.
- H. “Energy Assessment Report” means a report prepared and certified by an Energy Assessor on the approved list on the Project Website, covering the scope provided by the City Manager.
- I. “Energy Performance Score” means the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the City Manager that compares the Energy usage of the building to that of similar buildings.
- J. “ENERGY STAR” means the U.S. Environmental Protection Agency program related to improving Energy efficiency in buildings and products.

- K. “ENERGY STAR Portfolio Manager” means the Internet-based tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide.
- L. “Energy Use Intensity (EUI)” means the total kBtUs (1,000 British Thermal Units) used per square foot of floor area.
- M. “Industrial Processes” means any business related process supported by mechanical or electrical systems other than Base Building Systems.
- N. “Large Industrial Campus” means a facility in which three or more buildings, at least partially used for Manufacturing uses, are served by a central plant or single utility meter.
- O. “Manufacturing” means any building which has a primary use of assemblage, processing, and/or Manufacturing products from raw materials or fabricated parts OR one that has the majority of its Energy usage come from process loads.
- P. “Owner” means any person who is a commercial or industrial building Owner, or is an Owner's representative, such as a property manager, who has charge of, or controls any building or parts thereof.
- Q. “[Partners for a Clean Environment](#)” (PACE) is a joint program with the City and County of Boulder that provides free expert advisor services, financial incentives and a certification program to help businesses measure and gain recognition for their Energy, waste, water, and transportation achievements. EnergySmart is PACE’s Energy service program.
- R. “Payback Period” means the length of time required to recover the capital cost (less rebates and incentives) of an investment through operational savings.
- S. “Project Website” means www.BoulderBuildingPerformance.com, the website maintained by the City Manager for the implementation of these requirements.
- T. “Rating and Reporting Tool” means the U.S. Environmental Protection Agency’s Internet-based tool, ENERGY STAR Portfolio Manager, and any additional tool adopted by the City Manager for this purpose.
- U. “Retrocommissioning” means identifying and correcting building system issues to achieve optimal building performance, in a manner specified by the City Manager.
- V. “Retrocommissioning Measure” means a corrective action or facility improvement identified during the investigation or evaluation phase of Retrocommissioning.
- W. “Retrocommissioning Report” means a report prepared and certified by a Retrocommissioning Professional on the approved list on the Project Website, covering the scope provided by the City Manager.
- X. “Site Energy” means the amount of Energy consumed by a building as reflected in utility bills or other documentation of actual Energy use.

- Y. “Source Energy” means all the Energy used in delivering Energy to a building, including power generation and transmission and distribution losses, to perform a specific function, such as but not limited to space conditioning, lighting, or water heating.

II. Rating and Reporting Requirements and Process (B.R.C. 10-7.7-2)

By December 1st of the year preceding the first rating and reporting requirement set forth in B.R.C. 10-7.7-2, the building Owner (or designated representative) must go to the Project Website to claim their building by assigning a point of contact (for each building) for this program and verifying that the building information is correct.

Building Owners, subject to B.R.C. 10-7.7-2 shall annually input, into the Rating and Reporting Tool, data which accurately reflects the total Energy consumed by each of their buildings, along with all other descriptive information required by the Rating and Reporting Tool, for the previous calendar year and report this information to the City of Boulder in accordance with procedures specified on the Project Website. Submittals will be subject to a quality control review and will be rejected if data input errors are found. In that case, building Owners will have 30 days to correct the errors and resubmit the data into the Rating and Reporting Tool.

A. Information Reported to City

The information reported to the city, and publically disclosed after a two-year grace period, may include, but need not be limited to:

1. Property address;
2. Primary use type;
3. Floor area;
4. Site Energy Use Intensity (EUI);
5. Source EUI;
6. Annual Energy consumption;
7. Annual greenhouse gas emissions;
8. The Energy Performance Score that compares the Energy use of the building to that of similar buildings, where available; and
9. Compliance or noncompliance with the Building Performance Ordinance (Ordinance 8071).

B. Options for Demonstrating Compliance

Manufacturing buildings that are not part of a Large Industrial Campus (*see* Section Large Industrial Campus Requirements) have the option of complying with this requirement via two

alternative methods. Owners can track their Energy use through either of the following tools, and email a summary of this information to the City Manager:

1. The ENERGY STAR [Energy Tracking Tool](#), developed and maintained by the U.S. Environmental Protection Agency (available for any type of Manufacturing facility); or
2. For specific types of Manufacturing plants and buildings, the U.S. Environmental Protection Agency has developed and maintains an Excel-based ENERGY STAR [Energy Performance Indicators tool](#). This tool tracks annualized Energy use, cost, greenhouse gas emissions, and a sector-specific Energy Performance Score on a scale of 1 to 100.

III. Energy Assessments Requirements and Process (B.R.C 107.7-3)

The Energy Assessment must meet or exceed the following requirements per the ASHRAE Energy Assessment Standard:

1. Buildings < 50,000 square feet (sf): ASHRAE Level I assessment (the free Energy Assessments offered by the city's [Partners for a Clean Environment](#) program meet these requirements); and
2. Buildings \geq 50,000 sf: ASHRAE Level II¹ assessment.

For Manufacturing buildings or Large Industrial Campuses, an electrical utility's process efficiency assessments and studies can meet this requirement, if the scope is approved by the City Manager. The assessment must cover everything in the required scope for Energy Assessments below:

A. Required Scope for Energy Assessments

1. Any service provider bidding on a Level II Energy Assessment shall conduct a preliminary site visit which shall cover the following:
 - a. The preliminary site visit will scope and price the Energy Assessment and should include an evaluation of the costs and benefits of implementing the Retrocommissioning requirements in the Building Performance Ordinance;
 - b. If the service provider does not recommend implementing the Retrocommissioning requirements, the service provider should explain the basis for failing to recommend implementation of Retrocommissioning. Such explanation must be submitted to the City Manager when requesting any applicable exemption; and
 - c. If the service provider does recommend implementing the Retrocommissioning requirements, the service provider should provide the building Owner with a cost estimate for the Energy Assessment with and without Retrocommissioning.

¹ ASHRAE Level II requirements related to comparing to Level I results are not required.

2. Level I and Level II Energy Assessments shall cover the following:
 - a. Building envelope and infiltration;
 - b. Plug loads;
 - c. Base Building Systems; and
 - d. Industrial Processes (if these processes are responsible for 25 percent or more of total Energy use).

B. Required Scope for Energy Assessment reports

An Energy Assessment Report shall include everything required by the ASHRAE Energy Assessment Standard, and the following:

1. Level I Energy Assessment report:
 - a. Summary of the need and opportunities for Retrocommissioning, including identification of operations and maintenance problems and needs. Provide justification if there is no anticipated benefit from the required Retrocommissioning scope;
 - b. Energy and energy cost savings estimate if EUI were to meet the criteria for ENERGY STAR certified (if applicable);
 - c. Statement of whether or not the building's lighting systems and controls meets each lighting requirement in the Building Performance Ordinance; and Summary of applicable rebates.
2. Level II Energy Assessment report:
 - a. Summary of the need and opportunities for Retrocommissioning, including identification of operations and maintenance problems and needs. Provide justification if there is no anticipated benefit from the required Retrocommissioning scope;
 - b. Statement of whether or not the building's lighting systems and controls meets each lighting requirement in the Building Performance Ordinance;
 - c. Table of practical measures, with the following:
 - i. Capital costs;
 - ii. Applicable rebates and incentives;
 - iii. Annual energy use and energy cost savings (including reduction in demand charges);

- iv. Annual maintenance cost savings;
 - v. Payback Period;
 - vi. Recommended implementation timeline of each measure; and
 - vii. Recommended measurement and verification (M&V) method for each measure.
- d. A recommended package of measures that would allow the building to achieve ENERGY STAR certification, if applicable. For buildings that are not eligible to receive an Energy Performance Score, recommend a package of measures to reduce annual Energy costs by at least 25 percent; and
 - e. A summary of applicable rebates, incentives, and financing options offered at the federal, state and local levels.

C. Required Qualifications for Energy Assessors

The assessment must be performed by a qualified Energy Assessor who has been authorized by the City Manager to perform or directly supervise individuals performing Energy Assessments and to certify Energy Assessment Reports required by this ordinance. An Energy Assessor must complete the online verification and approval process described on the Project Website and shall meet at least one of the following qualifications:

1. A registered design professional (either a Professional Engineer or Registered Architect), with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings;
2. A contractor approved by the local utility to perform Energy Assessments of equivalent scope on similar types of buildings as part of the utility's Energy efficiency programs;
3. A Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE), with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings;
4. A Building Energy Assessment Professional (BEAP) certified by ASHRAE, with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings; or
5. Other credentials based on review and approval of the City Manager.

Upon completion of the online verification and approval process, the Energy Assessor will be listed on an approved list of Energy Assessors on the Project Website.

*The relevant years of experience or approval by other entities must be consistent with the ASHRAE Level of audit that will be performed. For instance, a licensed Professional Engineer

with three years of experience performing ASHRAE Level I audits would be qualified to perform the required Energy Assessment for only buildings smaller than 50,000 sf.

D. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required Energy Assessments through to their tenants, those costs must be amortized over a 10-year period, rather than passed through in a bulk assessment in a single year.

E. Submitting Proof of Compliance to the City

A qualified Energy Assessor must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning required submissions.

IV. Lighting Requirements and Process (B.R.C. 10-7.7-4)

A. Requirements Within Five Years of First Report

In accordance with B.R.C., 10-7.7-4, within five years of the first reporting requirement, each Owner shall:

1. Replace or upgrade any interior or exterior lighting fixture that does not meet the lighting power allowances set forth in the most current version of the International Energy Conservation Code (IECC);
2. Comply with the most recent versions of the IECC requirements for automatic time switch control devices, occupancy sensors, and exterior lighting controls; and
3. Replace or upgrade internally illuminated exit signs that are not in compliance with the most current version of the IECC.

B. Compliance

Owners, or a representative of the Owner, shall demonstrate compliance as follows:

1. Interior Lighting Power
 - i. Calculate the building's maximum lighting power using either the Building Areas Method or Space-by-Space Method and compare to the maximum allowable levels identified in the most recent IECC requirements.
2. Exterior Lighting Power
 - i. Calculate the building's maximum exterior lighting power and compare to the maximum allowable level identified in the applicable table (Table 405.6.2(2)) in the IECC requirements. The total exterior lighting power for all exterior building lighting is the sum of the base site allowance plus the

individual allowances for areas that are to be illuminated for the applicable lighting zone.²

C. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required lighting upgrades through to their tenants, those costs must be amortized over the length of the predicted payback period (as determined by the lighting contractor), rather than passed through in a bulk assessment in a single year.

D. Submitting Proof of Compliance to the City

The Owner, or a representative on their behalf, must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning the required submissions.

V. **Retrocommissioning Requirements and Process (B.R.C. 10-7.7-5)**

A. Scope of Retrocommissioning

If the Retrocommissioning is conducted through a local energy utility program, the scope for that will satisfy the requirements of the ordinance, as long as it addresses both electricity and natural gas consuming equipment and controls.

If the Retrocommissioning is conducted outside of a local energy utility program, the scope of the Retrocommissioning (RCx) shall include the activities below. A monitoring-based commissioning approach may be used to investigate and evaluate building systems as part of the Retrocommissioning process.

Activity	Bldgs ≥ 50,000 sf	Bldgs < 50,000 sf	Activity Description
Develop a RCx Plan	✓		Develop a plan that outlines the activities, roles and responsibilities, schedule and documentation requirements of the RCx process.
Review and Optimize Equipment Scheduling (existing controls)	✓	✓	Any time of day schedules that are programmed in a building management system (BMS), programmable thermostat or time clock system shall be reviewed and, if necessary, corrected to ensure they reflect the current facility requirements.
Review BMS Sequence of Operations	✓	✓	The current BMS sequence of operations shall be reviewed to ensure they are appropriate for the current facility requirements.

² From IECC 2015 Table C405.5.2(1): Areas predominantly consisting of residential zoning, neighborhood business districts, light industrial with limited nighttime use and residential mixed use areas.

Activity	Bldgs \geq 50,000 sf	Bldgs < 50,000 sf	Activity Description
Review BMS Temperature, Pressure and Airflow Setpoints	✓	✓	The current BMS setpoints shall be reviewed to ensure they reflect the sequence of operations and current facility requirements. If needed, adjust the setpoints to meet the current facility requirements.
Test BMS Automatic Reset Functionality	✓	✓	Any automatic reset function that is currently programmed in the building management system shall be tested to confirm proper operation per the sequence of operations. An automatic reset function may include but is not limited to supply air temperature reset, static pressure reset, and chilled water supply temperature reset.
Pre-functional Checks on all major equipment	✓		Visually check all equipment identified in the RCx plan as ones to be functionally tested to ensure proper equipment and component assemblies are in proper condition and sensors are properly calibrated.
Comprehensive Functional Testing on all major base building equipment	✓		Perform functional testing on all major Base Building Systems to verify the sequence of operations and proper component functionality to include but not be limited to damper and valve actuation, motor modulation, on/off commands, lighting occupancy sensors and controls, etc.
Boiler Combustion Testing	✓		A combustion efficiency test shall be conducted for each boiler serving a Base Building System.
Review Economizer Functionality	✓	✓	If economizer functionality exists and is included in the sequence of operations, perform functional testing to verify proper operation during economizer conditions including proper damper controls. If economizer is not functioning properly, adjust sequence of operations and setpoints, adjust and or/replace damper linkage and actuator motors for proper operation and current facility requirements.
Sensor Calibration Checks (All Critical Sensors)	✓		Each critical sensor that is part of an HVAC control sequence shall be tested to ensure proper calibration. For each sensor that is out of calibration, recalibrate or replace the sensor.
Sensor Calibration Checks (OAT & RAT Only)		✓	All outside air temperature (OAT) sensors and return air temperature (RAT) sensors that are part of an HVAC control sequence shall be tested to ensure proper calibration. For each sensor that is out of calibration, recalibrate or replace the sensor.
Check Coils for Cleanliness	✓	✓	Visually inspect hot water, chilled water, steam and DX coils for cleanliness. If coils are visually loaded, clean all coils as appropriate.
Boiler/Furnace Tune-Up	✓	✓	Perform a tune-up on any boilers or furnaces serving Base Building Systems.

Activity	Bldgs \geq 50,000 sf	Bldgs $<$ 50,000 sf	Activity Description
Review & Adjust Domestic Hot Water Temperatures	✓	✓	Review current domestic hot water temperature setpoints and compare to current facility requirements. If needed, adjust the setpoints to meet the current facility requirements.
Check Air Filters	✓	✓	All air filters shall be checked to verify that the pressure drop across the filters are within the manufacturer's recommended limits.
Install Programmable Thermostats if no controls exist	✓	✓	If there is no central building Energy management system, and no programmable thermostats, install programmable thermostats in every regularly occupied thermal zone.

B. Required Implementation of Measures

The ordinance requires that within two years from the Retrocommissioning deadline, the Owner shall implement any Retrocommissioning Measure identified in the report with a predicted Payback Period of two years or less.

C. Required Scope for a Retrocommissioning Report

If the Retrocommissioning is conducted through a local energy utility program, the report produced for that will satisfy the requirements of the ordinance.

If the Retrocommissioning is conducted outside of a local energy utility program, then the Retrocommissioning Report shall include the following:

1. Summary of building use (with square footage breakdown) and typical operation;
2. Summary of building systems including mechanical, electrical and controls systems;
3. Summary of the results for each completed activity required in the Retrocommissioning scope; and
4. Table of recommended Retrocommissioning Measures that clearly indicates those measures that must be implemented per the ordinance requirements. The table should include the following, for each measure:
 - a. Capital costs;
 - b. Applicable rebates and incentives;
 - c. Annual energy savings (including reduction in demand charges);
 - d. Annual maintenance savings;

- e. Payback Period (note that any measure with a Payback Period of two years or less, must be implemented within two years); and
- f. Recommended implementation timeline of each measure.

D. Required Qualifications for Retrocommissioning Professionals

The Retrocommissioning must be performed by a qualified Retrocommissioning Professional who has been authorized by the City Manager to perform or directly supervise individuals performing Retrocommissioning and to certify Retrocommissioning Reports required by this ordinance. A Retrocommissioning Professional must complete the online verification and approval process described on the Project Website and shall meet one or more of the following qualifications:

1. A contractor approved by the local utility to perform Retrocommissioning of equivalent scope on similar types of buildings as part of the utility's Energy efficiency programs;
2. Licensed Professional Engineer with three or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
3. Hold relevant certification(s) with Associated Air Balance Council, National Environmental Balancing Bureau, Association of Energy Engineers, Building Commissioning Association, University of Wisconsin or the American Society of Heating, Refrigeration, and Air-Conditioning Engineers as a commissioning authority with three or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
4. An individual or firm with five or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
5. Other credentials based on review and approval of the City Manager.

Upon completion of the online verification and approval process, the Retrocommissioning Professional will be listed on an approved list of Retrocommissioning Professionals on the Project Website.

E. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required Retrocommissioning through to their tenants, those costs must be amortized over a 10-year period (for the study), rather than passed through in a bulk assessment in a single year. If the Owner chooses to pass the costs of the required Retrocommissioning measure implementation through to their tenants, those costs must be amortized over the length of the predicted payback period (as determined by the Retrocommissioning Professional), rather than passed through in a bulk assessment in a single year.

F. Submitting Proof of Compliance to the City

A qualified Retrocommissioning Professional must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning the required submissions.

VI. **Large Industrial Campus Requirements (B.R.C. 10-7.7-8)**A. How To Calculate the Percentages of Total Energy Savings

1. Calculate/measure the calendar year Energy savings* in electricity consumption = X1 kWh.
2. Calculate/measure the calendar year Energy savings* in fuel (oil & gas) consumption = Y1 MMBtu.
3. Get the total actual calendar year electricity consumption = X2 kWh.
4. Get the total actual calendar year fuel consumption = Y2 MMBtu.
5. Get the total actual calendar year Energy cost = A \$K.
6. Get the total actual calendar year electricity cost = B \$K.
7. Get the total actual calendar year fuel cost = C \$K.

The Energy savings as a percent of the total Energy (electricity and fuel) consumption for "xxxx" year is calculated by the following formula:

$$\{(B/A) * (X1)/X2 + (C/A) * (Y1/Y2)\} * 100 = \text{Percent Energy Conservation for the Year}$$

* The Energy savings from a project can be counted for 12 months. For example, a project saving 12,000 kWh annually (1,000 kWh/month) that is implemented on November 1, 2015 would have 2,000 kWh in 2015 and 10,000 kWh of "carryover" savings in 2016.

** This calculation can be annualized over years to account for significant investments and savings that may have been made in prior years.

B. Energy Assessment Requirements

Owners of Large Industrial Campuses are required to conduct an Energy Assessment that covers at least 75 percent of the total Energy usage on the Large Industrial Campus. If the Large Industrial Campus does not have the monitoring systems necessary to identify the consumption source of 75 percent of the total Energy usage, the entire site must be included in the assessment.

The assessment must meet or exceed the requirements of a Level II assessment per the ASHRAE Energy Assessment Standard. An electrical utility's process efficiency assessments and studies can meet this requirement, if the scope is approved by the City Manager, and if the assessment

covers at least 75 percent of the total Energy usage. The assessment and report must cover everything required for the Level II assessments, described above in Section III.

C. Lighting Requirements and Process

Please refer to Section IV.

D. Submitting Proof of Compliance to the City

The Owner, or a representative of the Owner, must demonstrate to the City Manager, orally or in writing, that the Owner has complied with these requirements.

VII. Exemptions (B.R.C. 10-7.7-9)

An Owner can request an exemption as set forth in B.R.C. 10-7.7-9 through the form available on the Project Website. A building owner can apply for one of the exemptions to the efficiency requirements within three years of the compliance deadline for the requirements (e.g., if the deadline is June 1, 2019, an owner could apply as soon as June 1, 2016).

If an Owner applies for an exemption to the Energy Assessment requirements set forth in B.R.C. 10-7.7-3 because they conducted an equivalent Energy Assessment within 10 years of the first deadline for Energy Assessments, they must demonstrate to the City Manager that they implemented the Cost Effective actions that were recommended.

A. Maintaining an Exemption in Future Years

If an exemption is granted for having a current U.S. Environmental Protection Agency ENERGY STAR certification, or a current Leadership in Energy and Environmental Design (LEED) Building Operations and Maintenance certification from the U.S. Green Building Council, the Owner must maintain that exemption in the following ways.

If the exemption is granted for an ENERGY STAR certification:

1. The exemption will be valid as long as the ENERGY STAR score of the building is in the certified range (minimum of 75), as submitted through the rating and reporting requirement, with an actual re-certification required every 10 years.
2. If the building's score falls below the certified range (below 75), the owner will be required to get a free Level I energy assessment through the city's Partners for a Clean Environment (PACE) Program to help diagnose the cause of the increased energy use. The owner will then have one more rating and reporting cycle to improve their ENERGY STAR score above 75 – if they fail to do so, the exemption will no longer be valid, and the owner will have to comply with all future efficiency requirements.

If the exemption is granted for a LEED for Existing Buildings Operations and Maintenance certification:

1. The exemption will be valid as long as the LEED Certification is valid (re-certification is required every 5 years through LEED to stay current).
2. If the building loses its LEED certification, the exemption will no longer be valid, and the owner will have to comply with all future efficiency requirements.

If the exemption is granted for showing a significant pattern of continuous reductions in greenhouse gas emissions, or for one of the exemptions specific to Large Industrial Campuses:

1. The exemption will be valid for the first round of efficiency requirements following when the exemption is granted. For example, if this exemption is granted on June 1, 2016, the building owner would be exempt from the required Energy Assessment in 2019 and the required Retrocommissioning and Lighting Upgrades in 2021. The owner would be subject to the next round of requirements starting in 2029 when the next Energy Assessment would be required.

AGREEMENT PURSUANT TO CHAPTER 10-7.7(d), B.R.C

THIS AGREEMENT (this “Agreement”), effective as of ___ day of _____, 2016, is between the City of Boulder, a Colorado home rule municipal corporation (the “City”) and _____. The City and _____ may hereinafter be referred to individually as a “Party” or collectively as the “Parties.”

WHEREAS, pursuant to Chapter 10-7.7 of the Boulder Revised Code, Commercial and Industrial Energy Efficiency, the City regulates commercial and industrial energy efficiency and requires city-owned and private sector commercial and industrial building owners to annually rate and report building energy usage and to phase in energy efficiency requirements over time. Such regulation also includes public disclosure of commercial and industrial energy information; and

WHEREAS, pursuant to Chapter 10-7.7 (d), B.R.C., the city manager is authorized to enter into an agreement with any owner who, pursuant to Chapter 10-7.7, submits information to the city that includes trade secrets, privileged or confidential commercial information, and who claims confidentiality over such information.

WHEREAS, pursuant to Chapter 10-7.7(d), B.R.C., the dissemination of any such confidential information is limited to three staff members employed by the city, of the city manager’s choosing.

NOW, THEREFORE, the Parties agree as follows:

1. Dissemination of confidential information under this agreement and under a nondisclosure agreement executed in accordance with Chapter 10-7.7-7(e), B.R.C. is limited to the following three staff members employed by the city:

- A.
- B.
- C.

2. No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and signed by duly authorized representatives of each Party.

3. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the Parties. This Agreement may not be assigned by one Party without the other Party’s prior written consent.

4. If any provision of this Agreement shall be held by a court or competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect to the greatest extent permitted by law.

5. This Agreement shall be governed by the laws of the State of Colorado, U.S.A., without regard to its conflicts of law principles.

6. Each Party has read this Agreement, understands it and agrees to be bound by its terms and conditions.

By: _____

Title:

STATE OF _____)

) ss.

COUNTY OF _____)

Acknowledged before me, a notary public, this _____ day of _____ 2016,
by.

Witness my hand and official seal.

My commission expires:

Notary Public

(SEAL)

CITY OF BOULDER

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (this “Agreement”), effective as of ___ day of _____, 2016, is between the City of Boulder, a Colorado home rule municipal corporation (the “City”) and _____ (“Owner”). The City and Owner may hereafter be referred to individually as a “Party” or collectively as the “Parties.”

BACKGROUND

A. Pursuant to Chapter 10-7.7 of the Boulder Revised Code, Commercial and Industrial Energy Efficiency, the City regulates commercial and industrial energy efficiency and requires City-owned and private sector commercial and industrial building owners to annually rate and report building energy usage and to phase in energy efficiency requirements over time. Such regulation also includes public disclosure of commercial and industrial energy information.

B. Owner is private sector commercial and industrial building owner.

C. Owner asserts that certain energy usage information submitted to the City is trade secrets, privileged or confidential commercial information,

NOW, THEREFORE, the Parties agree as follows:

1. Records maintained by the City are subject to public disclosure pursuant to the Colorado Open Records Act (“CORA”). Owner asserts that its energy usage information constitutes confidential business records (“Confidential Information”) and is exempt from public disclosure pursuant to C.R.S. §24-72-204 of CORA.

2. Owner shall inform the City of the confidential nature of information submitted to the City Manager pursuant to Chapter 10-7.7 of the B.R.C. The Confidential Information will be sealed by the City, designated as confidential and withheld from inspection by the public or anyone not authorized to view such information. Alternatively, and upon notification to the City, Confidential Information may be submitted to the City electronically through a secure file transfer protocol. Whether submitted in paper or electronic format, information designated as confidential will be treated as confidential and withheld from the public, or other unauthorized persons. This treatment shall prevail unless the Confidential Information is released by the Owner claiming confidentiality or upon final order of a court having jurisdiction.

3. The restrictions on use and disclosure of Confidential Information disclosed hereunder shall survive for a period of three (3) years from the date of last disclosure of any such Confidential Information.

4. City staff members afforded access to any Confidential Information under this nondisclosure agreement shall take all reasonable precautions to keep the Confidential Information secure.

5. When any member of the public makes a request to inspect the Confidential Information, the City Manager shall give notice of the request for inspection of records to the Owner.

6. The City Manager, upon written request from the Owner objecting to such public disclosure, shall refrain from disclosure of the records for three days from receipt of the request to inspect records, to allow the Owner objecting to (a) to seek an appropriate protective order or other remedy, (b) to consult with the City with respect to resisting or narrowing the scope of such request or legal process, or (c) to waive compliance, in whole or in part, with the terms of this Agreement The Owner shall be responsible, to the extent it so chooses, to prevent any disclosure under the Colorado Open Records Act.

7. The Owner shall indemnify the City for its costs and attorneys fees related to a request for inspection of records.

8. The restrictions on the use or disclosure of the Confidential Information shall not apply to any information:

- a. Which is independently developed by the City as evidenced by documentation in its possession; or
- b. Which is lawfully received from another source free of restriction and without breach of this Agreement by the City; or
- c. After it has become generally available to the public without breach of this Agreement by the City; or
- d. Which at the time of disclosure to the City was known to the City free of restriction as evidenced by documentation in its possession; or
- e. Which Owners agrees in writing is free of such restrictions.

9. Neither this Agreement nor the disclosure or receipt of Confidential Information hereunder shall constitute or imply any promise or intention by either Party to enter into any transaction or business relationship, nor is it an inducement for either Party or its affiliated companies to spend funds or resources or purchase or provide products or services, nor is it any commitment by either Party or its affiliated companies with respect to the present or future marketing of any product or service. No such agreement will be binding unless and until stated in a separate writing signed by authorized representatives of both Parties.

10. The restrictions on use and disclosure of Confidential Information disclosed hereunder shall survive for a period of three (3) years from the date of last disclosure of any such Confidential Information. Either Party may terminate this Agreement upon thirty (30) days advance written notice to the other.

11. The restrictions on disclosure of Confidential Information under this Agreement shall not preclude the City, on the advice of counsel, from complying with applicable law, regulation, other governmental requirement or other demand under lawful process, including a discovery request in a civil litigation, if the City first gives Owner notice of the required disclosure and cooperates with Owner's expense, in seeking reasonable protective arrangements. In no event shall the City be required to take any action which, on the advice of the City's counsel, could result in the imposition of any sanctions or other penalties by a court or government body.

12. No amendment or modification of this Agreement shall be valid or binding on the Parties unless made in writing and signed by duly authorized representatives of each Party.

13. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the Parties. This Agreement may not be assigned by one Party without the other Party's prior written consent.

14. If any provision of this Agreement shall be held by a court or competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect to the greatest extent permitted by law.

15. No forbearance, failure or delay in exercising any right, power or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power or privilege. This Agreement is binding upon and inures to the benefit of the Parties and their heirs, executors, legal and personal representatives, successors and assigns, as the case may be.

16. The Parties agree that there shall be no monetary damages for breach of this Agreement, and that such damages shall exclude, without limitation, direct damages or any other special, indirect, punitive or consequential damages of any kind.

17. This Agreement shall be governed by the laws of the State of Colorado, U.S.A., without regard to its conflicts of law principles.

18. Each Party has read this Agreement, understands it and agrees to be bound by its terms and conditions.

By: _____
Title:

STATE OF _____)
) ss.
COUNTY OF _____)

Acknowledged before me, a notary public, this _____ day of _____ 2016,
by.

Witness my hand and official seal.
My commission expires:

Notary Public

(SEAL)

CITY OF BOULDER

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney's Office



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: MAY 17, 2016

AGENDA TITLE: Second Reading and consideration of a motion to adopt Ordinance No. 8113 to Adopt Amendments to 13-1, "Elections," B.R.C. 1981, to Change from the Uniform Election Code to the Municipal Election Code to streamline the process for Municipal Non-Partisan Elections, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk

EXECUTIVE SUMMARY

This ordinance amends the city's provisions regarding elections and brings them in line with the Municipal Election Code rather than Uniform Election Code (state election laws). The Uniform Election Code has been used by the city for several years. This will eliminate the need for regular code changes and streamline the election process, particularly for elections that may not be coordinated with the county, such as elections for general improvement districts or special elections.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Second Reading and Consideration of Motion to Adopt Ordinance No. 8113 to amend Chapter 13-1, "Elections," B.R.C. 1981, To Change from the Uniform Election Code to the Municipal Election Code to Streamline the Process for Municipal Non-Partisan Elections, and Setting Forth Related Details.

BACKGROUND

Colorado law has two separate election codes: the Uniform Election Code for partisan and state elections and the Municipal Election Code for municipal elections. The city adopted the state election code with numerous amendments to delete references to partisan elections and other non-applicable provisions, updated the chapter each year as the legislature adopted amendments, and prepared a master copy for use that included both codes. Staff has not kept up with the annual amendments for several years. Staff recommends simplifying the process by adopting the municipal election code which will not require regular updates and will allow the city to conduct special elections and elections for general improvement districts.

As a practical matter, for the annual November elections, there will be no change because those elections are coordinated with the county and not run directly by the city. The Municipal Election Code allows the city to adopt the Uniform Code by ordinance for any particular election, so if ever appropriate, the council could decide without amending the code to use the state code. The Municipal Election Code would most often be used for non-coordinated elections, such as special elections or elections for special improvement districts. The change will allow the staff to run those elections with less staff time and cost, and eliminate the need for routine changes to the city's code as the state makes changes.

The changes in the ordinance are to implement the changes from the Uniform Election Code to the Municipal Election Code. The deletion of former section 13-1-6 regarding Submission of Citizen Petitions for Comment is deleted because it conflicts with the charter. Charter Section 38B governs this procedure and makes it mandatory that the form be submitted for comment prior to circulation.

FIRST READING QUESTIONS

Q: Why are we switching from the state to the municipal election code?

A: To give the city flexibility in its conduct of elections that are not coordinated with the county, such as special elections or general improvement district elections. The change will also allow the city, rather than the county, to determine precincts, polling places, and the manner of voting for non-coordinated elections. This flexibility will allow the city the opportunity to evaluate the options for particular elections to better serve the residents and reduce costs for elections.

Q: What are the differences between the Uniform Election Code and the Municipal Election Code?

The Uniform Election Code is at CRS Chapter 1, Parts 1-41, and consists of 542 pages and the Municipal Election Code is at CRS 31-10-101, *et seq.* and consists of 79 pages in the official codification of the statutes. The state election code was adopted to govern statewide elections conducted through the Colorado Secretary of State's office by 65 different counties. The state code must address partisan elections and primaries, and

specify the means for the constant back and forth between the Secretary of State's office and the county clerks that are the election officials for each election.

Because of these differences, when adopting the state election code, the city code had to eliminate several sections and revise others for city elections.¹ For instance, the city adoption had to include language changing definitions; sections of the statute were revised directing the secretary of state and county election official to take certain action (which the city does not have the power to do); and adding portions of the municipal code into the city code for local issues such as cancelling elections, specific charter requirements, and initiative, referendum and recall. The city code should have been updated every year that the legislature makes changes in the state code. By adopting the Uniform Election Code, the city had to defer to the intent of the state legislature when construing its election laws, rather than the intent of the city council.

The municipal election code is adopted for municipal elections run by the city clerk. The Colorado Municipal League monitors any efforts to change the Municipal Election Code very carefully to make sure it does not negatively affect municipal elections, and proposes changes when helpful to cities. The municipal code allows a city to adopt the state code by ordinance or resolution for any particular election if that is more appropriate for a specific election, but does not require code changes for council to authorize the use of the Uniform Election Code for a particular election. The Municipal Code does not require the city to coordinate elections with the county, but allows it to. The case law interpreting the Municipal Code is applicable to cities, while the case law interpreting the Uniform Code interprets requirements for statewide and partisan elections which can increase the cost of a local election.

Q: What differences will voters experience in adopting the Municipal Election Code?

A: For November elections coordinated with the county, the voters will not experience any differences. For those elections that are required to be coordinated with the county, the procedures will be the same. The differences would become apparent in case of a special city election or an election for a district that does not include the whole city. For instance the precincts may be different than those established by the county, the voting may be by paper ballot or use of different machines than Boulder County uses. The difference will be more prominent in the flexibility allowed by the city council and staff to make adjustments to the conduct of those elections that better suit the smaller area participating in the election and the costs of the election.

RECOMMENDED ACTION

Staff recommends adoption of the ordinance to simplify the city's law regarding elections.

ATTACHMENTS: Ordinance No. 8113

¹ See current BRC 13-1-2 that is being eliminated for how these issues were addressed by adopting the Uniform Election Code.

ORDINANCE NO. 8113

AN ORDINANCE AMENDING CHAPTER 13-1, "ELECTIONS," B.R.C. 1981; TO CHANGE FROM THE UNIFORM ELECTION CODE TO THE MUNICIPAL ELECTION CODE TO STREAMLINE THE PROCESS FOR MUNICIPAL NON-PARTISAN ELECTIONS; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-1, "Elections" B.R.C. 1981, is amended to read:

Chapter 13-1: Elections

13-1-1. Legislative Intent.

- (a) The purpose of this chapter is to establish procedures for regular and special elections of the home rule City of Boulder. Such procedures are intended to be consistent with the Municipal Uniform Election Code of 1965 as adopted by the state of Colorado, except as necessary to comply with provisions of the charter or to meet a specific need of the City as determined by the city council.
- ~~(b) The purpose of this chapter in adopting by reference sections 1-2-228, 1-4-913, part 2 of article 1-11, and article 13 of title 1, C.R.S., which form a part of the Uniform Election Code, is to make it clear that such provisions apply to city elections. Adoption does not create a separate municipal offense or municipal court proceeding. Proceedings under such statutes, including, without limitation, contests of municipal elections and criminal prosecutions, shall be brought and heard in the district court or county court as specified by state law, and control of the criminal prosecution of the enumerated election offenses shall remain with the district attorney or the attorney general of the state.~~
- ~~(c) The purpose of this chapter is to set the date upon which a proposed ballot measure is final for its submission to the voters for purposes of complying with the intent and spirit of § 1-45-117, C.R.S. Such date is the final vote by city council on the final reading of the ordinance submitting the ballot measure to the voters. That date is set in order to allow for the distribution of information by the city and input by the public without limitation until the finalization and submission of the ballot measure for the ballot.~~

1 **13-1-2. ~~Adoption Incorporation of Municipal~~ Uniform Election Code of 196592, as
2 Amended, With Modifications.**

3 ~~(a) The Municipal Uniform Election Code of 196592, 31-10-101, et seq 1-1-101 through 1-13-~~
4 ~~803, C.R.S., as amended through June 6, 2006, as it may be amended, is adopted by reference and~~
5 ~~incorporated so as to have the same force and effect as if printed in full in this code, except as~~
6 ~~specifically amended by the charter or provisions of this chapter. Unless the context or~~
7 ~~ordinance requires otherwise general municipal elections as defined in Sec 22 of the charter shall~~
8 ~~be held as specified for regular municipal elections in the Municipal Election Code.~~

9 ~~(b) The council finds that certain modifications to the Uniform Election Code of 1992, as~~
10 ~~amended, are in the best interest of the residents of the City and therefore adopts the following~~
11 ~~modifications:~~

12 ~~(1) Section 1-1-102, C.R.S., is repealed and reenacted to read:~~

13 ~~1-1-102. Applicability.~~

14 ~~(1) This election code applies to all municipal general and special elections of the City, including~~
15 ~~without limitation recall elections. Except as otherwise provided in the Boulder Revised Code,~~
16 ~~1981, or any uncodified ordinance specific to the situation, this election code also applies to~~
17 ~~general improvement district elections, and to any elections required by the Constitution of the~~
18 ~~State of Colorado for which no specific provision is made by any law of the City.~~

19 ~~(2) The Uniform Election Code of 1992 was adopted by the General Assembly of the State of~~
20 ~~Colorado to cover many elections other than municipal elections. Accordingly, many provisions~~
21 ~~of the Uniform Election Code are inapplicable to municipal elections. The sections and parts of~~
22 ~~sections which appeared most clearly to be inapplicable to municipal elections have been~~
23 ~~specifically not adopted, either by calling them not adopted, repealed, or repealed and reenacted~~
24 ~~to read, in adopting by reference the Uniform Election Code of 1992. However, other provisions~~
25 ~~of the Uniform Election Code of 1992 which are also inapplicable to municipal elections have~~
~~not been specifically called out as being inapplicable. Adoption by reference of such provisions~~
~~does not mean that the city council was of the opinion that such provisions are applicable to~~
~~municipal elections, and in such cases their applicability shall be determined by the intent of the~~
~~Colorado General Assembly.~~

~~(3) This election code is applicable both to coordinated elections involving the participation of~~
~~the county clerk and elections of other political jurisdictions, and to municipal elections which~~
~~the City may choose to conduct on its own, as the city council may from time to time specify in~~
~~any ordinance calling a special election or otherwise.~~

1 ~~(4) To the extent that any provision of this election code conflicts with the charter, such~~
2 ~~provision is inapplicable.~~

3 ~~(2) Section 1-1-104(2.6) Definitions:~~

4 ~~"Ballot measure" means a ballot issue or a ballot question that has been approved by the city~~
5 ~~council for submittal to the voters at an election.~~

6 ~~(3) Section 1-1-104(8), C.R.S., is repealed and reenacted to read:~~

7 ~~"Designated election official" means the city clerk.~~

8 ~~(4) Section 1-1-104(17), C.R.S., is repealed and reenacted to read:~~

9 ~~"General election" means the election specified in Charter Section 22 to be held on the first~~
10 ~~Tuesday in November of every odd-numbered year.~~

11 ~~(5) Section 1-1-104(18), C.R.S., is repealed and reenacted to read:~~

12 ~~"Governing body" means the city council, including without limitation the city council sitting as~~
13 ~~the board of directors of a general improvement district.~~

14 ~~(6) Section 1-1-104(34.5), C.R.S., is repealed and reenacted to read:~~

15 ~~"Referred measure" includes any ballot question or ballot issue submitted by the city council to~~
16 ~~the qualified electors of the city pursuant to Charter Sections 37 through 54 or Section 1-41-103,~~
17 ~~C.R.S.~~

18 ~~(7) Section 1-1-104(46), C.R.S., is repealed and reenacted to read:~~

19 ~~"Special election" means an election other than a general election as specified in the charter,~~
20 ~~including without limitation Sections 22, 41, 47, and 58.~~

21 ~~(8) Sections 1-1-104(1), (5), (6), (9), (9.5), (19), (20), (22), (23), (24), (25), (26), (31), (32), (39),~~
22 ~~(40), (41), (42), and (45), C.R.S., are repealed.~~

23 ~~(9) Sections 1-1-109(1) and 1-1-110(3), C.R.S., are repealed and reenacted to read:~~

24 ~~(1) Except as otherwise provided by this election code, by some other specific provision of the~~
25 ~~Boulder Revised Code, 1981, or by the ordinance calling a particular election, the secretary of~~
~~state shall approve all the forms required by this election code, which forms shall be followed by~~
~~county clerk and recorders, election judges, and other election officials. Forms concerning~~

1 ~~nominations for city council, initiative, referendum, and recall petitions, and any other forms~~
2 ~~governed by the charter are included among the forms which are "otherwise provided" by this~~
3 ~~election code.~~

4 ~~(2) As the chief election official for the county, the county clerk and recorder shall be the chief~~
5 ~~designated election official for all coordinated elections. If the City or its general improvement~~
6 ~~districts request that its election be coordinated with any other election, it shall certify the ballot~~
7 ~~content to the county clerk and recorder prior to the fifty fifth day before the election. Nothing in~~
8 ~~this section shall authorize the city clerk or the county clerk and recorder to take any action at~~
9 ~~variance with the requirements of the charter.~~

10 ~~(10) Section 1-1-202, C.R.S., is repealed and reenacted to read:~~

11 ~~1-1-202. Commencement of Terms.~~

12 ~~The terms of city councilmembers shall commence as specified in charter section 5.~~

13 ~~(11) Section 1-2-104, C.R.S., is repealed and reenacted to read:~~

14 ~~1-2-104. Additional Qualifications.~~

15 ~~Qualifications for voting in elections concerning general improvement districts of the City shall~~
16 ~~be as specified in Chapter 8-4, "General Improvement Districts," B.R.C. 1981, and in the~~
17 ~~ordinance establishing the specific district.~~

18 ~~(12) Section 1-4-501, C.R.S., is repealed and reenacted to read:~~

19 ~~1-4-501. Electors Eligible to Hold Municipal Office.~~

20 ~~Qualifications of electors eligible to hold municipal office are those set forth in charter section 4.~~

21 ~~(13) Section 1-4-805, C.R.S., is repealed and reenacted to read:~~

22 ~~1-4-805. Nomination of Municipal Officers.~~

23 ~~Nomination of municipal officers is governed by charter sections 23 through 28 and 30.~~

24 ~~(14) Section 1-4-901, C.R.S., is repealed and reenacted to read:~~

25 ~~1-4-901. Recall.~~

1 Recall elections shall be conducted when required and under the procedures specified in charter
2 sections 55 through 62. The conduct of such elections shall be in accordance with those
3 provisions of this election code not inconsistent with the charter.

4 (15) Repealed.

5 (16) Section 1-4-1001, C.R.S., is repealed and reenacted to read:

6 1-4-1001. Withdrawal from candidacy.

7 Withdrawal from nomination shall be governed by charter section 29.

8 (17) Section 1-5-203, C.R.S., is amended to add a new subsection (4) to read:

9 (4) Certification of Ballot for Elections Which are Not Coordinated.

10 To the extent not inconsistent with the charter, the city clerk shall certify the ballot at least fifty
11 days before any election which is not a coordinated election. The ballot certified shall comply
12 with Charter Section 31, and shall also include any ballot issues or ballot questions to be
13 submitted to the eligible voters.

14 (18) Section 1-5-205, C.R.S., is amended by the addition of a sentence to read:

15 With respect to the election of a member or members of the city council, the city clerk shall also
16 publish the notice required by and containing the information contained in charter section 31.

17 (19) Repealed.

18 (20) Section 1-5-208, C.R.S., is repealed and reenacted to read:

19 1-5-208. Election May be Canceled or Ballot Questions Withdrawn.

20 (1) Except for initiative, initiated referendum, and recall elections, if the only matter before the
21 electors is the consideration of ballot issues or ballot questions, no later than twenty-five days
22 before an election conducted as a coordinated election in November, and at any time prior to any
23 other election, the city council may by resolution cancel the election or withdraw one or more
24 such issues or questions from the ballot. The ballot issues and ballot questions shall be deemed to
25 have not been submitted and votes cast on the ballot issues and ballot questions shall either not
be counted or shall be deemed invalid by action of the city council.

1 ~~(2) If the electors are to consider the election of persons to the city council and ballot issues or~~
2 ~~ballot questions, the city council may remove any or all of the ballot issues or questions by~~
3 ~~following the procedures set forth in subsection (1) of this section.~~

4 ~~(3) Unless otherwise provided by an intergovernmental agreement pursuant to 1-7-116, C.R.S.,~~
5 ~~upon receipt of an invoice, the City shall within thirty days pay all costs accrued by the county~~
6 ~~clerk and recorder and any coordinating political subdivision attributable to the canceled election~~
7 ~~and any removed ballot questions or issues.~~

8 ~~(4) The designated election official shall provide notice by publication of the cancellation of an~~
9 ~~election and a copy of the notice shall be posted at each polling place of the City, in the city~~
10 ~~clerk's office, and in the office of the county clerk and recorder.~~

11 ~~(21) Section 1-5-406, C.R.S., is repealed and reenacted to read:~~

12 ~~1-5-406. Content of Ballots.~~

13 ~~The designated election official shall provide printed ballots for every election. The official~~
14 ~~ballots shall be printed and in the possession of the designated election official at least thirty days~~
15 ~~before the election. Every ballot shall contain the names of all duly nominated candidates for city~~
16 ~~council, except those who have died or withdrawn, and the ballot shall contain no other names.~~
17 ~~The names of the candidates shall be printed upon the ballot in alphabetical order by surname as~~
18 ~~provided in charter section 34.~~

19 ~~(22) Section 1-5-407, C.R.S., "Form of Ballots" is amended and reenacted to include a new~~
20 ~~subsection (10) to read as follows: Mail ballots shall be considered ballots on demand for~~
21 ~~purposes of subsection (1.6) so that ballot stubs shall not be required.~~

22 ~~(23) Sections 1-6-105 and 106, C.R.S., are repealed and reenacted to read:~~

23 ~~1-6-105. Appointment of Election Judges for Non-partisan Elections.~~

24 ~~(1) For coordinated elections, election judges shall be appointed by the county clerk as provided~~
25 ~~by state law. For other elections, no later than fifteen days before the election, the city clerk shall~~
26 ~~appoint election judges for the City or the district for which the election is to be held. The term~~
27 ~~of office for such judges shall end with the end of the judge's duties with respect to the election~~
28 ~~for which appointed.~~

29 ~~(2) For coordinated elections, any person who has been appointed by a county clerk and~~
30 ~~recorder, who has filed an acceptance, and who has attended a class of instruction may be~~
31 ~~appointed as an election judge for non-partisan elections. For other elections, any person who has~~

1 ~~been appointed by the city clerk, who has filed an acceptance, and who has attended a class of~~
2 ~~instruction may be appointed as an election judge for such election.~~

3 ~~1-6-106. Certification of Appointment~~

4 ~~For coordinated elections, thirty days before the election the county clerk and recorder shall~~
5 ~~certify the list appointing the election judges and shall mail one acceptance form to each person~~
6 ~~appointed. For other elections, fifteen days before the election the city clerk shall certify the list~~
~~appointing the election judges and shall mail one acceptance form to each person appointed.~~

7 ~~(24) Section 1-7-902, C.R.S., is repealed and reenacted to read:~~

8 ~~1-7-902. Preparation of Fiscal Information.~~

9 ~~The city manager shall be responsible for providing to the designated election official the fiscal~~
10 ~~information which must be included in the ballot issue notice for a referred measure.~~

11 ~~(25) Section 1-7.5-104, C.R.S., is repealed and reenacted to read:~~

12 ~~1-7.5-104. Mail Ballot Elections.~~

13 ~~If the city council determines that an election shall be by mail ballot, the designated election~~
14 ~~official shall conduct the election by mail ballot in accordance with this article. The designated~~
15 ~~election official shall give appropriate weight to the comments of the secretary of state~~
16 ~~concerning the City's mail ballot plan, but may conduct the election despite disapproval of all or~~
~~a part of such plan by the secretary of state.~~

17 ~~(26) Section 1-7.5-107, C.R.S., is amended by the addition of a sentence to read:~~

18 ~~With respect to the election of a member or members of the city council, the city clerk shall also~~
19 ~~publish the notice required by and containing the information contained in charter section 31.~~

20 ~~(27) Sections 1-10-201, 202, and 203, C.R.S., are repealed and reenacted to read:~~

21 ~~1-10-201. Canvassing.~~

22 ~~The general canvassing and election board shall be appointed and conduct its business as~~
23 ~~provided in charter section 32. The city clerk shall forward all election returns to the city council~~
24 ~~for canvassing pursuant to charter section 32. This canvassing board shall also act as the~~
~~canvassing board for the City portion of a coordinated election.~~

25 ~~(28) Repealed.~~

1 ~~(29) Section 1-11-103, C.R.S., is repealed and reenacted to read:~~

2 ~~1-11-103. Certificates of Election.~~

3 ~~Certificates of election shall be issued as provided by charter section 32.~~

4 ~~(30) Article 1-12, C.R.S., is repealed and reenacted to read:~~

5 ~~1-12-101. Recalls and Vacancies.~~

6 ~~Recalls shall be initiated and conducted as provided in Charter Sections 55 through 62.~~
7 ~~Vacancies shall be filled as provided in Charter Section 8.~~

8 ~~(31) Section 1-13-107, C.R.S., is amended to add a subsection (b) to read:~~

9 ~~(b) The secretary of state is not authorized by this section to take any action or enforce any~~
10 ~~regulation which is inconsistent with this election code as adopted by the home rule City of~~
11 ~~Boulder or with the charter.~~

12 ~~(32) The following sections, parts, and articles of the Colorado Revised Statutes are not adopted~~
13 ~~by reference, and are not applicable to City elections: Sections 1-1-112, 201 and 203, 1-2-203,~~
14 ~~209, 210, 218.5, 219, 222, 701, 702 and 703; Article 1-3; Article 1-4 except parts 9, 10, and 11;~~
15 ~~Sections 1-4-902 through 908, 910, and 912, 1-4-1002 and 1003, 1-4-1103; 1-5-101, 103, 207,~~
16 ~~301, 402, 403, 404, 601.5, 605.7 and 608.2; 1-6-102, 103, 103.5, 103.7, 104, 109, 110, 111; 1-7-~~
17 ~~105 and 106; Part 2 of Article 1-7, Sections 1-7-407; Section 1-8-114.5; Part 1 of Article 1-10; 1-~~
18 ~~10.5-102; 1-11-101 through 108, 1-11-203, 1-11-204 through 211, and Part 3 of Article 1-13.~~

17 **13-1-3. Responsibility of the City Manager.**

18 The city manager shall administer the requirements of this chapter and comply with all laws
19 regulating the conduct of elections.

20 ~~**13-1-4 Absentee Ballot Cards.**~~

21 ~~Whenever an electronic voting system is used in a municipal election and official ballots are in~~
22 ~~the form of ballot cards to be read by electronic vote counting equipment, official absentee~~
23 ~~ballots may also be in the form of ballot cards.~~

23 ~~**13-1-5 Duplication of Absentee Ballots for Counting.**~~

24 ~~(a) Whenever an electronic voting system is used in a municipal election and whenever an~~
25 ~~absentee ballot is not suitable for counting on the electronic vote counting equipment because~~

1 such ballot was cast in pencil or ink or is in the form of a paper ballot, a true duplicate copy of
2 the ballot may be made and counted in the manner provided in this section.

3 (b) By means of a vote recorder or punching device, the judges of election of the precinct
4 selected by the city manager to receive the absentee ballots shall make such duplicate copy by
5 punching an unused ballot card provided to the judges for that purpose. One such judge shall
6 read aloud the vote on the original handwritten ballot and another judge shall punch the
7 duplicate. A third judge shall watch the duplication process and shall check its accuracy.

8 (c) An election judge shall label any duplicate ballot so made as a duplicate ballot and shall
9 record the serial number of the duplicate ballot on the original handwritten absentee ballot.

10 (d) If a judge makes an inaccurate duplicate ballot, the judge shall label such ballot "void" and
11 place it in a separate envelope provided by the city manager for that purpose. The judges shall
12 make a new duplicate ballot and label it in the same manner as provided in this section and shall
13 record the serial number of any new duplicate ballot on the original handwritten absentee ballot.

14 (e) The election judges shall retain all original handwritten absentee ballots and place them in a
15 separate envelope provided by the city manager for that purpose.

16 (f) The election judges shall substitute any duplicate ballot made under this section for the
17 original ballot and shall present such duplicate for counting on the electronic vote counting
18 equipment at the counting center after 7:00 p.m. on election day in the same manner as other
19 ballots from city election precincts are counted.

20 (g) No election judge shall make any duplicate ballot under this section before the time otherwise
21 allowed by law for the counting of absentee ballots.

22 (h) Whenever election judges of the absentee voter precinct use the duplicate ballot process
23 authorized by this section, such judges shall make a written statement, in addition to any other
24 statements or certificates otherwise required by law to be made, showing the number of duplicate
25 ballots made and not marked "void" together with the serial numbers thereof and the number of
26 duplicate ballots made and marked "void" together with the serial numbers thereof and shall
27 return such statement to the city manager with other election papers and supplies.

28 (i) When absentee ballots are duplicated and counted as authorized by this section, the absentee
29 precinct judges shall not be required to make or post an abstract of the count of votes.

30 (j) All provisions of the election laws of the city that are not inconsistent or in conflict with this
31 section continue to apply to all elections where the duplicate ballot process authorized by this
32 section is used. Any provisions of the election laws of the city that are inconsistent or in conflict
33 with the provisions of this section do not apply to elections where the duplicate ballot process

1 provided in this section is used. Nothing in this section shall be construed to prohibit the use of a
2 manual system of counting absentee ballots.

3 ~~(k) The city manager is authorized to institute other procedures not inconsistent with the~~
4 ~~provisions of this section that are designed to promote efficiency and accuracy in the duplication~~
5 ~~process authorized by this section.~~

6 ~~**13-1-6 Submission of Citizen Petitions for Comment Prior to Circulation.**~~

7 ~~The proponents of an initiative, referendum, or charter amendment petition may submit a draft~~
8 ~~thereof to the city manager before circulating the petition. No later than fifteen days after the~~
9 ~~date of receiving such petition draft, and after consulting with the city attorney, the manager~~
10 ~~shall provide written comments to the proponents concerning any problems encountered in the~~
11 ~~format or contents of the draft. The proponents may either disregard the comments or alter the~~
12 ~~petition draft in response thereto.~~

13 ~~**13-1-47. Initiative and Referendum.**~~

14 All aspects of the exercise of the initiative and referendum power reserved to the people by
15 the charter of the city of Boulder shall be governed exclusively by the provisions of the charter,
16 this code, and any other applicable ordinance of the city, and no statute of the state purporting to
17 regulate in any way the exercise of the initiative or referendum shall govern the exercise of the
18 initiative or referendum, except for those criminal provisions of state law not in conflict with any
19 provision of the charter or this code which prohibit fraud or deception in the circulation or
20 signing of initiative or referendum petitions, or respecting affidavits concerning said petitions.
21 This section does not apply to initiatives concerning the amendment or abolition of the charter.

22 ~~**13-1-58. Special Provisions Concerning Filling Council Vacancies by Special Election.**~~

23 The electors of the city approved an amendment to charter section 8 in November 1996. That
24 amendment changed the method of filling vacancies on the city council from an appointment
25 system to an election system. This section establishes the term of a person elected by special
election to fill a council vacancy, ~~and makes such adjustments to the provisions of the Uniform
Election Code of 1992, as adopted with amendments by this title, as are useful in adapting that
code to the exigencies of special elections to fill vacancies, which must be conducted on a
compressed time frame.~~

(a) The term of a council member elected in a special election held pursuant to charter section 8
to fill a council vacancy shall expire at 10:00 a.m. on the third Tuesday in November
following the next general municipal election.

(b) The city council may, in the resolution calling for a special election to fill a council vacancy, specify a number of days before the election that the early voters' polling place shall be open which is less than that specified in section 1-8-202, C.R.S., as adopted by reference, and may also specify additional hours during which such early voters' polling place shall be open. But such a provision is only effective for a special election which is not conducted as a coordinated election.

13-1-679. Fixing of Ballot Title for Purposes of § 1-45-117, C.R.S.

For purposes of § 1-45-117, C.R.S., ballot titles for city ballot measures shall be considered fixed upon the final vote of the council after final reading of a motion, resolution, or ordinance which officially submits a specific ballot measure in the form it is to appear on the ballot for a vote of the electors at the next election. The date the election is called for consideration of city ballot measures shall not change the date upon which the ballot title is fixed as provided in this section.

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of April, 2016.

Mayor

Attest:

City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

2 BY TITLE ONLY this 17th day of May, 2016.

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Mayor

6 Attest:

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City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: MAY 17, 2016

AGENDA TITLE: Second Reading and Consideration of a Motion to Adopt Ordinance No. 8114 Amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981; Chapter 13-3, "Campaign Activities," B.R.C. 1981; And Chapter 13-4, "Complaints Related To Election Procedures And Regulations," B.R.C. 1981, to Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; and Setting Forth Related Details.

PRESENTERS

Jane S. Brautigam, City Manager
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk

EXECUTIVE SUMMARY

In the 1990s, the voters approved an initiative regarding campaign finance in city elections. Since that time, the United States Supreme Court has adopted limitations on campaign finance laws, particularly with respect to issue campaigns, and the state of Colorado has eliminated registration of political committees. The initiative was to require disclosure of campaign activities that involve the expenditure of funds, but is written to include campaigning using technology that does not involve the expenditure of funds. This ordinance is to change these chapters of the code without changing the intent of the voters. This memo is to answer first reading questions.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Second Reading and Consideration of a Motion to Adopt Ordinance No. 8114 Amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981; Chapter 13-3, "Campaign Activities," B.R.C. 1981; And Chapter 13-4, "Complaints Related To Election Procedures And Regulations," B.R.C. 1981, to Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; and Setting Forth Related Details.

DESCRIPTION OF SPECIFIC AMENDMENTS

The proposed ordinance adds definitions for those terms that have raised questions in the past. The reference to "clerk" has been changed to "manager" except where clerk is specified in the charter. Following are more detailed explanations of the changes that may not be self-explanatory.

- Eliminates any implication that any campaigning done without cost (such as text, Facebook, tweets, etc.) is required to be disclosed under this section of the code.
- Clarifies the requirements that do not apply to non-candidate issues because decisions of the United States and Colorado Supreme Court have limited the amount that governments can put requirements or restrictions on campaigning for or against issues.
- The definition of "political committee" and Section 13-2-12 are eliminated since the state no longer maintains the records upon which these sections relied. The only way for transparency of expenditures by organizations is to require that they establish unofficial candidate committees or issue committees.
- "Financial" has been eliminated for the description of the disclosures required by candidates and incumbents in Section 13-2-3 and 13-2-4 because the disclosures required do not include dollar amounts, only the employers and other sources of funds that may affect a candidate's or incumbent's opinion on an issue.
- Sections 13-2-6 and 13-2-7 regarding unofficial candidate committees and issue committees have been amended by adding a new subsection to each explicitly stating that these types of committees cannot be combined. While the existing language seems to make that clear, there has been some confusion. Because there are different contribution limits for issues and candidates, combining committees allows for intermingling of contributions and expenditures that circumvents the purpose of the initiative and prevents transparency.
- Subsection (c) was added to Section 13-2-7 because some issue committees were changing their purposes after they had received donations. Without a limitation on those changes, donations could be used for purposes not intended by the donors.
- Subsection (f) was added to Sections 13-2-8, 13-2-9 and 13-2-11 to require committees to provide the city clerk's office with back-up support documents for what they entered on the city's website as total contributions and expenditures.

The city clerk's office performs audits of the committees, and the back-up information is necessary for those audits.

- Subsection (d) of Section 13-2-13 was eliminated because it is not practical to include the statement on tweets or other communications with limited characters.
- For eligibility for matching funds, the initiative had included a formula which was in the Code and based on the number of registered voters of the city as of the day after the date set by state law for the purging of registration records of the election year. The state law does not require purging of registration records any longer. The formula has been replaced with "\$20,000" to reflect the amount the formula allows. That replacement is in Sections 13-2-19 and 13-2-20(b)(1).
- Section 13-2-20 was amended so that the number of contributors does not have to be manually calculated.
- Subsection (b)(4) was eliminated from 13-2-21 because carryover funds are not permitted.

FIRST READING QUESTIONS

Q: What was the per-registered-voter amount and the minimum number of supporters needed up to in 2015?

A: CFR Election Parameters for 2015 General Municipal Election

To determine each year's formula, we request from Boulder County the number of registered voters. This number is then multiplied by the annual adjusted \$0.150 per-voter base (\$0.150 was approved in the 1999 initiative) as indicated for inflation in the Denver-Boulder-Greeley CPI.

For the 2015 candidate election, there were 90,267 registered voters, and the adjusted per voter base was \$0.221, resulting in an expenditure limit of \$19,909. The matching fund amount is 50% and requires the candidate to raise 10% of the expenditure limit from contributors. Ten percent is \$1,991, and must be reached with contributions not to exceed \$25 per person (or 80 contributions of \$25 to reach \$1,991).

Q: Why are the amount per campaign and minimum number of people numbers rather than formulas?

A: The formulas were not easy to calculate and most people were surprised at how high the dollar amount and number of voters are when they do the calculations. It seemed more transparent to put in the numbers, and council can adjust the dollar amount and contributor numbers when appropriate. In addition, the state no longer purges voter registration records, so the formula artificially inflates because it was devised to be based on registration records that were purged regularly.

Q: What do the added subsections in 13-2-9 and 13-2-11 mean? Do they require audited financial statements?

A: Audited financial statements are not necessary. The addition is for the supporting documents to be provided to the city clerk so that spot audits can be done. As the campaign reporting is all done on the program and visible to the public, only totals are provided. In order to audit those total amounts, without this language, the city clerk has to call each candidate for the more detailed information. The additions standardize the process for all committees and prevent unnecessary work by the staff and the committee treasurer.

Q: Didn't we adopt a floor dollar amount below which neither incumbents nor candidates had to disclose interests?

Yes. The floor is \$1000 and it is in Section 13-2-3(b)(2). This section was amended substantially and this clarification added to the code in the amendments made by Ordinance No. 7968 adopted in 2014.

ATTACHMENTS
Ordinance No. 8114

ORDINANCE NO. 8114

AN ORDINANCE AMENDING CHAPTER 13-2, "CAMPAIGN FINANCING DISCLOSURE," B.R.C. 1981; CHAPTER 13-3, "CAMPAIGN ACTIVITIES," B.R.C. 1981; AND CHAPTER 13-4, "COMPLAINTS RELATED TO ELECTION PROCEDURES AND REGULATIONS," B.R.C. 1981, TO MAKE CHANGES TO CONFORM TO RECENT SUPREME COURT CASES AND CHANGES TO STATE LAW, CHANGE THE CAMPAIGN LIMITS FOR MATCHING FUNDS FROM FORMULAS TO DOLLARS, CLARIFY ISSUES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, is amended to read:

Chapter 13-2: Campaign Financing Disclosure

13-2-1. Legislative Intent.

(a) The purposes of this chapter include assisting electors in the city in making informed election decisions by requiring financial disclosure ~~information~~ from candidates for city office and committees supporting or opposing such candidates and city ballot issues.

(b) The limitations on contributions are intended to assure the public that:

(1) Excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process; and

(2) Large campaign contributions will not be used to buy political access or to influence governmental actions.

(c) Public campaign financing is intended to assure the public that access to large amounts of money will not be a prime requirement for participation in the political process.

(d) The provisions of this chapter concerning financial disclosure are exclusive and supersede any state statute on the subject, whether in conflict herewith or not, including, without

1 limitation, article 1-45, C.R.S., unless the provisions of such statute are expressly made
2 applicable by reference in this chapter.

- 3 (e) The reporting requirements are necessary to gather the data to detect violations.
- 4 (f) The provisions of this chapter have been modeled on the Federal Election Campaign Act and
5 the Colorado Fair Campaign Practices Act, and in accordance with an initiative passed by the
6 people of the city in 1999. Modifications have been made where necessary to meet specific
7 needs of the city, to clarify and make more specific various requirements, and to comply with
8 the evolving law in this area.
- 9 (g) The city council finds that at this time it is not necessary to require candidates and their
10 candidate committees to report expenditures over \$200.00 as frequently as such reporting is
11 necessary for unofficial candidate committees and independent expenditures in order to serve
12 the purposes of this chapter. Candidates are necessarily subject to intense scrutiny throughout
13 the campaign, and are required to file financial disclosures shortly after becoming candidates.
14 They become candidates no later than seventy-one days before the election under the charter.
15 Candidate committees file their statement of organization at the beginning of the campaign,
16 and thus are a formed ongoing entity which is well known. Unofficial candidate committees
17 can be formed at any time, and individuals can make independent expenditures at any time,
18 so within twenty-one days of the election more frequent reporting of larger expenditures is
19 required of them. Council, like the United States Congress, finds that a twenty-four-hour
20 reporting period is not unreasonable in that immediate pre-election time, especially where
21 mail ballots are used.
- 22 (h) The purpose of this chapter is to provide for transparency in the expenditure of monies spent
23 on campaigns and not to regulate speech. Making an endorsement supporting or opposing a
24 candidate or ballot ~~proposition~~measure, or solicitation of such an endorsement by a
25 candidate, committee, or other person, is not regulated by this title. However, the
expenditures for publishing endorsements, and any contributions for support or opposition to
a candidate or ballot ~~proposition~~measure other than the endorsement itself, are regulated by
this title in the same way as other contributions and expenditures.

21 **13-2-2. Definitions.**

22 The following terms used in this chapter and Chapter 13-3, "Campaign Activities," B.R.C. 1981,
23 have the following meanings unless the context clearly indicates otherwise:

24 "Ballot measure~~proposition~~" means any amendment to the city charter, and any initiative,
25 referendum, or recall for which a ~~petition committee has submitted the proposed petition form to~~
~~the city or for which~~ petitions have been properly certified by the city ~~clerk~~manager for

1 submission to the city council, or any ordinance or issue put to a vote of the electors of the City
2 of Boulder under the provisions of the city charter. For purposes of this chapter only, "ballot
3 measure" also includes any initiative, referendum, or recall for which a petition committee has
4 submitted a proposed petition to the city manager. Such term does not include any ballot issue
placed on the ballot by the United States, the State of Colorado, or any political subdivision
thereof other than the city.

5 "Candidate" means any person whose petition of nomination for city council, whether at a
6 regular, special, or recall election, has been certified as sufficient by the city clerk pursuant to
charter section 26.

7 "Candidate committee" means a person, including the candidate, or persons with the common
8 purpose of receiving contributions or making expenditures under the authority of a candidate.
9 The term "official candidate committee" is synonymous with "candidate committee."

10 "Committee" means a candidate committee, an unofficial candidate committee, and an issue
11 committee, unless the context indicates that it can mean only one or two of these types of
committees.

12 "Contribution" means:

- 13 (a) Any payment, loan, pledge, or advance of money, including, without limitation, checks
14 received but not deposited or payments made by credit card, or guarantee of a loan, made
15 to or for the benefit of any candidate or committee;
- 16 (b) Any payment made to a third party for the benefit of any candidate or committee,
17 including, without limitation, the use of a credit card to secure such benefit;
- 18 (c) Anything of value given, directly or indirectly, to a candidate for the purpose of
19 promoting the candidate's election, including, without limitation, commercial services
such as banking, printing, and mailing services; or
- 20 (d) With regard to a contribution for which the contributor receives compensation or
21 consideration of less than equivalent value to such contribution, including, without
22 limitation, items of perishable or non-permanent value, goods, supplies, services, or
23 participation in a campaign-related event, an amount equal to the value in excess of such
compensation or consideration; or
- 24 (e) A contribution in kind.

25 "Contribution" does not include services provided without compensation by individuals
volunteering their time on behalf of a candidate or committee.

1 "*Contribution in kind*" means the fair market value of a gift or loan of any item of real or
 2 personal property, other than money, made to or for any candidate or committee for the purpose
 3 of influencing the passage or defeat of any issue or the election or defeat of any candidate.
 4 Personal services are a contribution in kind by the person paying compensation therefor. In
 5 determining the value to be placed on contributions in kind, a reasonable estimate of fair market
 6 value shall be used by the candidate or committee. "Contribution in kind" does not include an
 7 endorsement of a candidate or an issue by any person, nor does it include the payment of
 8 compensation for legal or accounting services rendered to a candidate if the person paying for
 9 the services is the regular employer of the individual rendering the services and the services are
 10 solely for the purpose of ensuring compliance with the provisions of this title.

11 "*Expenditure*" means the payment, distribution, loan, or advance of any money by any
 12 candidate or committee, whether in cash, by check, as a credit card charge, or otherwise.
 13 "*Expenditure*" also includes the payment, distribution, loan, or advance of any money by a
 14 person for the benefit of a candidate or committee that is made with the prior knowledge and
 15 consent of an agent of the candidate or committee. An expenditure occurs when the actual
 16 payment is made or when a contract is agreed upon, whichever comes first. Consent may be
 17 implied from collaboration and need not be express.

18 "*Fair market value*" means the amount a willing buyer and a willing seller would pay for the
 19 product or service when neither was under any obligation to do so.

20 "*Independent expenditure*" means an expenditure by any person for the purpose of expressly
 21 advocating the election or defeat of a candidate or candidates, which expenditure is not
 22 controlled by, coordinated with, or made upon consultation with any candidate or candidate
 23 committee or any agent of such candidate or committee. "Independent expenditure" does not
 24 include expenditures made by persons, ~~other than political parties and political committees,~~ in
 25 the regular course and scope of their business, including political messages sent solely to
 members.

 "*Issue*" is synonymous with "ballot ~~measure~~proposition."

 "*Issue committee*" means any two or more natural persons who collaborate together, or any
 corporation, partnership, commission, association, or any other organization or group of persons,
 that accepts contributions or makes expenditures for the purpose of opposing or supporting a
 ballot ~~proposition~~measure at a city election, regardless of whether or not it has obtained the
 consent of the sponsors of the ballot ~~proposition~~measure.

 "*Loan*" means providing something of value, including money, to another, with a promise,
 express or implied, that money will be paid in the future for the item of value.

1 "*Official candidate committee*" - see definition of "candidate committee."

2 "~~*Political committee*~~" means any two or more natural persons who collaborate together, or
3 any corporation, partnership, commission, association, or any other organization or group of
4 persons, that accepts contributions or makes expenditures for the purpose of opposing or
5 supporting a candidate for city council or a city ballot proposition, and which, because of
6 campaign activities concerning other candidates, other ballot measures, or both, is required under
7 the Fair Campaign Practices Act found in state law to file statements and reports with the
8 secretary of state or the county clerk and recorder. It is the intention of this chapter to reduce the
9 burden on such committees of following two separate sets of filing and reporting requirements,
10 while still protecting the public purposes served by filing and reporting. However, no candidate
11 committee or other committee, the expenditures of which are in any way, directly or indirectly,
12 controlled by, coordinated with, or made upon consultation with any candidate or candidate
13 committee or agent thereof shall be deemed a political committee eligible for these different
14 requirements.

15 "*Published*" means a writing presented for distribution in exchange for money or other item
16 of value.

17 "*Solicitation*" means a written or oral or other endeavor to obtain, seek or plead for money or
18 other item of value.

19 "*Unofficial candidate committee*" means any two or more natural persons who collaborate
20 together, or any corporation, partnership, commission, association, or any other organization or
21 group of persons, that accepts contributions or makes expenditures for the purpose of expressly
22 advocating the election or defeat of a clearly identified candidate for city council. An unofficial
23 candidate committee ceases to be independent if its expenditures are in any way, directly or
24 indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
25 candidate committee or agent thereof.

20 **13-2-3. Candidate's Interest Financial Disclosure Statement.**

21 (a) The purpose of this section is to provide members of the public and other council members
22 with information regarding financial dealings of candidates and council members that might
23 affect their ability to make impartial decisions. When reporting information regarding the
24 activities of a third party, a reporting person is required to report only information about which
25 he or she has actual knowledge.

26 (b) Any person required to file a financial disclosure statement required by this chapter shall file
27 a statement on a form provided by the city clerk, as follows:

28 (1) The reporting person's employer and occupation;

- 1 (2) The source of any income in excess of \$1,000 per year, including, without limitation,
2 other household income, capital gains, whether or not taxable, dividends, interest, wages,
3 salaries, rents, profits, and retirement accounts;
- 4 (3) The name, location, and nature of activity of any business entities or enterprises, with
5 holdings of real or personal property or with business dealings in the area encompassed
6 by the Boulder Valley Comprehensive Plan, in which the reporting person or other
7 household member has any financial interest or is actively engaged as an officer, director,
8 or partner, and the nature of the reporting person's or other household member's interest
9 or activity. A reporting person or other household member is not required to report any
10 financial interest in any business entity in which the reporting person's or other household
11 member's only interest is through an investment in an excepted investment. A charitable
12 donation is not a financial interest;
- 13 (4) The location of any real property within Boulder County in which the reporting person or
14 other household member has an interest or, if the reporting person or other household
15 member has a reportable interest in an entity or enterprise disclosed pursuant to Paragraph
16 (b)(3) above, in which the entity or enterprise has any interest and the nature of such
17 interest;
- 18 (5) Any other information that the reporting person feels would be helpful or should be
19 disclosed; and
- 20 (6) Notwithstanding any other provision of this chapter, no reporting person or other
21 household member is required to disclose any confidential relationship protected by law.

22 **13-2-4. - Filing Dates and Disclosure Periods — Candidates and Incumbents.**

- 23 (a) On or before September 10, any candidate having filed a petition of nomination shall file a
24 statement of ~~financial-interest~~ disclosure as set forth in Section 13-2-3, "~~Financial-Interest~~
25 Disclosure Statement," B.R.C. 1981. The candidate shall file a supplemental report if there is
any material change in the information reported after the date of filing within fifteen days after
the material change.
- (b) On or before April 15 of each year, every member of the city council shall file a statement of
~~financial-interest~~ disclosure as set forth in Section 13-2-3, "~~Financial-Interest~~ Disclosure
Statement," B.R.C. 1981. Council members shall report any material changes to the
information reported, except information reported pursuant to Paragraph 13-2-3(b)(2) of this
chapter, within fifteen days of the end of the calendar quarter in which the material change
occurred.
- (c) Each ~~financial-interest~~ disclosure statement shall include all information current on the date
of filing, except information required by Paragraph 13-2-3(b)(2) of this chapter shall be
reported as of the end of the previous calendar year.

13-2-5. Statement of Organization of Official Candidate Committee.

1 (a) No more than three days after a candidate's petition of nomination for city council has been
2 certified as sufficient by the city ~~clerk~~ manager pursuant to charter section 26, the candidate
3 shall file a statement of organization of the committee formed to assist the candidate in being
4 elected to city council. This statement shall be filed even if the candidate has not formed a
5 committee, and shall be amended later if a committee is formed or the information required
6 changes. The statement of organization shall include:

7 (1) The name and address of the candidate;

8 (2) The name and address of the committee;

9 (3) The names and addresses of all persons acting as officers of the candidate's campaign or
10 of the committee, including committee chairpersons; and

11 (4) The name and address of the committee's campaign treasurer.

12 (b) A candidate may be the treasurer and hold any position in the candidate's own campaign
13 committee. A candidate is deemed to have a committee even if there is none, but this does
14 not increase the reporting requirements. No candidate shall be deemed to have more than one
15 candidate committee, and if more than one committee acts under the authority of or in
16 coordination with a candidate, all shall be deemed the candidate's committee and shall file
17 combined reports as required by this title and all shall jointly be subject to the limitations of
18 this title.

19 (c) The committee treasurer shall file a statement of any changes in the information required by
20 Subsection (a) of this section no more than three days after such change.

21 (d) Expenditures by any person on behalf of a candidate that are, in any way, directly or
22 indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
23 the candidate's official committee or agent thereof shall be considered a contribution to the
24 candidate and are subject to the contribution limitations contained in this chapter. If such an
25 expenditure is made by an unofficial candidate committee, all contributions to that committee
shall be deemed contributions to the candidate for purposes of contribution limitations. Such
expenditures also count toward the expenditure limit of any candidate receiving public
funding under this chapter.

13-2-6. Statement of Organization of Unofficial Candidate Committee.

(a) No more than three days after an unofficial candidate committee accepts a contribution or
makes or obligates itself to make an expenditure, the treasurer of the committee shall file a
statement of organization that includes:

- 1 (1) The name and address of the committee;
- 2 (2) The candidate or candidates the committee is supporting or opposing, or both if that is the
- 3 case;
- 4 (3) The names and addresses of all persons acting as officers of the committee, including
- 5 committee chairpersons; and
- 6 (4) The name and address of the committee's campaign treasurer.

7 (b) The committee treasurer shall file a statement of any changes in the information required by

8 this section no more than three days after such change.

9 (c) Expenditures by any unofficial candidate committee on behalf of a candidate that are, in any

10 way, directly or indirectly, controlled by, coordinated with, or made upon consultation with

11 any candidate or the candidate's committee or agent thereof shall be considered a

12 contribution to the candidate and subject the candidate and the contributor to any applicable

penalties contained in this chapter. Such expenditures also count toward the expenditure limit

of any candidate who has received public funding under this chapter.

13 (d) Unofficial candidate committees which make expenditures on behalf of any candidate who

14 has received public funding under this chapter shall keep records of the time, place, and

15 general subject matter of all consultation with any person, other than a member of the

16 committee who is not affiliated with any other candidate or official or unofficial candidate

17 committee, concerning the substance, venue, and timing of the expenditure, which records

18 shall be given to the city manager by the committee treasurer if the manager makes a demand

19 for same. The manager is authorized to make such a demand any time the manager has a

reasonable suspicion that the expenditures were controlled by, or coordinated with, or made

upon consultation with any candidate or candidate's committee or other unofficial candidate

committee or agent thereof.

20 (e) Unofficial candidate committees cannot be combined with other unofficial candidate

21 committees or issue committees.

22 **13-2-7. Statement of Organization of Issue Committee.**

23 (a) No more than three days after an issue committee accepts a contribution or makes an

24 expenditure, ~~or~~ and three days after ballot certification if the committee has accepted

25 contributions or made expenditures in anticipation of ballot ~~proposition~~ measure certification, the

treasurer of the committee shall file a statement of organization that includes:

- (1) The name and address of the committee;

1 (2) The ballot ~~proposition~~ measure or measures ~~propositions~~ being supported or opposed by
2 the committee;

3 (3) The names and addresses of all persons acting as officers of the committee, including
4 committee chairpersons; and

5 (4) The name and address of the committee's treasurer.

6 (b) The committee treasurer shall file a statement of any changes in the information required by
7 this section no more than three days after such change.

8 (c) Once an issue committee files a statement of organization, it cannot add or change the ballot
9 measure(s) supported or opposed.

10 (e) Issue committees cannot be combined with an unofficial candidate committee.

11 **13-2-8. Statement of Contributions and Expenditures of Official Candidate Committee.**

12 (a) The candidate, or the treasurer of each official candidate committee, shall file statements of
13 contributions and expenditures according to the following schedule:

14 (1) Three days after the candidate's petition of nomination for city council has been certified
15 as sufficient by the city clerk pursuant to charter section 26, which statement shall cover
16 all contributions and expenditures made in anticipation of candidacy;

17 (2) On the forty-second day prior to the election.

18 (3) On the twenty-eighth day prior to the election;

19 (4) One the twenty-first day prior to the election; and

20 (5) On the fourteenth day prior to the election.

21 (b) The statement shall contain:

22 (1) The names and addresses of each person making contributions ~~to the filer's knowledge,~~
23 and the amount, dates, and nature of such contributions since the last report required to be
24 filed by this chapter, unless the statement is the first one required;

25 (2) The cumulative total value of the contributions received;

1 (3) The names and addresses of each person to whom an expenditure has been made and the
2 amount, date, and purpose of such expenditure since the last statement required by this
chapter, unless the statement is the first one required;

3 (4) The cumulative total value of all expenditures made; and

4 (5) A statement of all anonymous contributions received, together with their disposition,
5 from the last statement required by this chapter, unless this statement is the first one required.

6 (c) By 5:00 p.m. on the Thursday before the election, the candidate or the treasurer of each
7 official candidate committee shall file a statement of contributions and expenditures,
8 providing the information required by Subsection (b) of this section, together with
9 anticipated contributions and expenditures for the remainder of the campaign, if any, before
or after the election.

10 (d) On or before the thirtieth day after the election, the candidate or the treasurer of each official
11 candidate committee shall file a final statement of contributions and expenditures, stating the
12 information required by Subsection (b) of this section and, if a balance remains on the
13 candidate's or committee's books, the intended disposition of that balance. If such a balance
remains, the candidate and treasurer shall file a final statement sixty days after the election
showing the actual disposition of that balance.

14 (e) The candidate and the candidate's committee shall comply with the disclosure requirements
15 of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate
to Contain Sponsor's Name," B.R.C. 1981.

16 (f) Copies of documents supporting the contributions and expenditures included in any
17 statements required by this section shall be provided to the city manager at the time of
18 submitting the statement.

19 **13-2-9. Statement of Contributions and Expenditures of Unofficial Candidate Committee.**

20 (a) The treasurer of each unofficial candidate committee shall file statements of contributions
21 and expenditures according to the following schedule:

22 (1) Three days after the committee accepts a contribution or makes or obligates itself to make
an expenditure, which statement shall cover all contributions and expenditures made;

23 (2) On the forty-second day prior to the election;

24 (3) On the twenty-eighth day prior to the election;

1 (4) On the twenty-first day prior to the election; and

2 (5) On the fourteenth day prior to the election.

3 (b) The statement shall contain:

4 (1) The names and addresses of each person making contributions to the treasurer's
5 knowledge, and the amount, dates, and nature of such contributions since the last report
6 required to be filed by this section, unless the statement is the first one required;

7 (2) The cumulative total value of the contributions received;

8 (3) The names and addresses of each person to whom an expenditure has been made and the
9 amount, date, and purpose of such expenditure since the last statement required by this
10 section, unless the statement is the first one required;

11 (4) The cumulative total value of all expenditures made; and

12 (5) A statement of all anonymous contributions received, together with their disposition,
13 from the last statement required by this section, unless this statement is the first one
14 required.

15 (c) By 5:00 p.m. on the Thursday before the election, the treasurer of each unofficial candidate
16 committee shall file a statement of contributions and expenditures, providing the information
17 required by Subsection (b) of this section, together with anticipated contributions and
18 expenditures for the remainder of the campaign, if any, before or after the election.

19 (d) In addition, if an unofficial candidate committee makes an expenditure in excess of \$200.00,
20 the treasurer of the committee shall file a statement of independent expenditure giving the
21 names and addresses of each person to whom such an expenditure has been made, and the
22 amount, date, and purpose of such expenditure, on the following schedule:

23 (1) On or before the twenty-first day before the election: Within three business days after
24 obligating funds for the first such expenditure.

25 (2) On or after the twenty-first day but more than twenty-four hours before the election, and
including any reportable expenditure not previously reported: Within twenty-four hours
after obligating funds for such expenditure.

(3) On or before the thirtieth day after the election: Notice of any independent expenditure in
excess of \$200.00 made on the day before or the day of the election.

1 (4) A statement due on a weekend or holiday shall be filed on the next business day.

2 (e) On the thirtieth day after the election, the treasurer of each unofficial candidate committee
3 shall file a final statement of contributions and expenditures, stating the information required
4 by Subsection (b) of this section and, if a balance remains on the committee's books, the
5 intended disposition of that balance. If such a balance remains, the candidate and treasurer
6 shall file a final statement sixty days after the election showing the actual disposition of that
7 balance.

8 (f) Unofficial candidate committees shall comply with the disclosure requirements of Section
9 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain
10 Sponsor's Name," B.R.C. 1981.

11 (f) Copies of documents supporting the contributions and expenditures included in any
12 statements required by this section shall be provided to the city manager at the time of
13 submitting the statement.

14 **13-2-10. Independent Expenditures – Applies to Natural Persons and Unofficial Candidate**
15 **Committees.**

16 (a) Any natural person making an independent candidate expenditure in excess of \$200.00 shall
17 deliver notice in writing to the city ~~clerk~~ manager of such independent expenditure, as well as
18 the amount of such expenditure, and a detailed description of the use of such independent
19 expenditure, within three business days after obligating funds for such expenditure.
20 Thereafter, notice of additional expenditure obligations in excess of \$200.00 shall be
21 delivered to the ~~clerk~~ manager on the twenty-first day before the election. Notice of each
22 subsequent independent expenditures in excess of \$200.00 up to twenty-four hours before the
23 election but not previously reported shall be delivered to the ~~clerk~~ manager within twenty-
24 four hours after obligating funds for the independent expenditure. On or before the thirtieth
25 day after the election, notice of any independent expenditure in excess of \$200.00 made on
the day before or the day of the election shall be delivered to the ~~clerk~~ manager. The notice
shall specifically state the name of the candidate or candidates whom the independent
expenditure is intended to support or oppose. Each independent expenditure shall be reported
as a separate item in each notice.

(b) Any natural person making an independent expenditure in excess of \$200.00 shall comply
with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising
Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

(c) Expenditures by any natural person on behalf of a candidate that are, in any way, directly or
indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
the candidate's committee or agent thereof shall be considered a contribution to the candidate

1 and subject the candidate and the contributor to any applicable penalties contained in this
2 chapter. Such expenditures also count toward the expenditure limit of any candidate who has
3 received public funding under this chapter.

- 4 (d) Individuals who make an independent expenditure on behalf of any candidate who has
5 received public funding under this chapter shall keep records of the time, place, and general
6 subject matter of all consultation with any person about the substance, venue, and timing of
7 the expenditure, which records shall be given to the city manager if the manager makes a
8 demand for same. The manager is authorized to make such a demand any time the manager
9 has a reasonable suspicion that the expenditures were controlled by or coordinated with or
10 made upon consultation with any candidate or candidate's committee or agent thereof.

11 **13-2-11. Statement of Contributions and Expenditures of Issue Committee.**

- 12 (a) The treasurer of each issue committee shall file a statement of contributions and expenditures
13 according to the following schedule:

- 14 (1) Three days after the committee accepts a contribution or makes or obligates itself to make
15 an expenditure, and three days after ballot certification if the committee has accepted
16 contributions or made expenditures in anticipation of ballot ~~proposition~~measure
17 certification;
- 18 (2) On the forty-second day prior to the election;
- 19 (3) On the twenty-eighth day prior to the election;
- 20 (4) On the twenty-first day prior to the election; and
- 21 (5) On the fourteenth day prior to the election.

- 22 (b) The statement shall contain:

- 23 (1) The names and addresses of each person making contributions to the treasurer's
24 knowledge, and the amount, dates, and nature of such contributions since the last report
25 required to be filed by this section, unless the statement is the first one required;
- (2) The cumulative total value of the contributions received;
- (3) The names and addresses of each person to whom an expenditure has been made and the
amount, date, and purpose of such expenditure since the last statement required by this
section, unless the statement is the first one required;

1 (4) The cumulative total value of all expenditures made; and

2 (5) A listing of the amount of each individual anonymous contribution, together with the
3 total of all anonymous contributions received from the last statement required by this
4 section, unless this statement is the first one required.

5 (c) By 5:00 p.m. on the Thursday before the election, the treasurer of each issue committee shall
6 file a statement of contributions and expenditures, providing the information required by
7 Subsection (b) of this section, together with anticipated contributions and expenditures for
8 the remainder of the campaign, if any, before or after the election.

9 (d) On the thirtieth day after the election, the treasurer of each issue committee shall file with the
10 city manager a final statement of contributions and expenditures, stating the information
11 required by Subsection (b) of this section and, if a balance remains on the committee's books,
12 the intended disposition of that balance. If such a balance remains, the candidate and
13 treasurer shall file a final statement sixty days after the election showing the actual
14 disposition of that balance.

15 (f) Copies of documents supporting the contributions and expenditures included in any
16 statements required by this section shall be provided to the city manager at the time of
17 submitting the statement.

18 **~~13-2-12 Political Committee Filing and Reporting Requirements.~~**

19 ~~A political committee which is, by virtue of its support for or opposition to a candidate for a
20 political office other than that of city council of the city, or for a ballot proposition appearing on
21 the ballot of an entity other than the city, required to file, and does file with the secretary of state
22 or the county clerk and recorder, or both, the disclosures required by § 1-45-108, C.R.S., and
23 complies with the reporting and filing requirements of § 1-45-109, C.R.S., and disposes of
24 unexpended campaign contributions pursuant to § 1-45-106, C.R.S., is exempt from the separate
25 filing and reporting and unexpended campaign contribution requirements of this chapter. But
such a committee shall file with the city manager, within three days of its first acceptance of a
contribution or expenditure in support of or opposition to a candidate for city council or a city
ballot proposition, a full and correct copy of its registration statement as filed with the secretary
of state pursuant to § 1-45-108(3), C.R.S., and the most recent other report or disclosure which it
has filed with the secretary of state or any county clerk and recorder, and shall thereafter file with
the manager full and correct copies of every disclosure or report on the same day it files such a
document with either state official, plus an expenditure report conforming with Section 13-2-9,
"Statement of Contributions and Expenditures of Unofficial Candidate Committee," or 13-2-11,
"Statement of Contributions and Expenditures of Issue Committee," B.R.C. 1981, as applicable,
segregating, insofar as possible, expenditures made on the city election.~~

1 **13-2-123. Election Materials and Advertising Supporting or Opposing Candidate to**
2 **Contain Sponsor's Name.**

3 All persons composing, presenting, using, or distributing information which expressly
4 opposes or supports any candidate or candidates shall include therein the name of the person who
5 is responsible for sponsored the composition, presentation, use, or distribution of such
6 information. This requirement includes all electronic, social media, paper, audio, or visual forms
7 of distribution.

8 **13-2-134. Solicitation for Candidate Campaign Funds.**

9 Whenever any person makes an expenditure for the purpose of soliciting any contribution
10 through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct
11 mailing, or any other type of general public political advertising for the purpose of financing
12 communications expressly advocating the election or defeat of a clearly identified candidate,
13 such communication:

- 14 (a) If authorized by a candidate or committee or any agent thereof, shall clearly state that the
15 communication has been so authorized;
- 16 (b) If paid for by other persons but authorized by a candidate or committee, or its agents, shall
17 clearly state that the communication is paid for by such other persons and authorized by such
18 candidate or committee, or its agents; or
- 19 (c) If not authorized by a candidate or committee, or its agents, shall clearly state the name of the
20 person who paid for the communication and state that the communication is not authorized
21 by any candidate or committee.
- 22 (d) ~~Each candidate and committee shall include on the face or front page of all electronic or
23 paper materials soliciting contributions the following notice:
24 "A copy of our report is filed with the City Clerk of the City of Boulder, Colorado."~~

25 **13-2-145. Filing, Preservation, and Public Inspection of Statements.**

- (a) Persons required by this chapter to prepare and file statements shall do so on the basis of
information that is complete and current at least as of 5:00 p.m. on the second calendar day
before the filing date.
- (b) Persons required by this chapter to file statements or deliver notices shall file such statements
or notices with the city manager on forms that the manager provides and preserve such
records for a period of six months from the date of the election.

1 (c) The city manager shall preserve all statements filed under this chapter for a period of six
2 months from the date of the election or, in the case of a successful candidate, until six months
3 after the person finally leaves office, or as specified in the City's Records Retention
4 Schedule, whichever is longer. Such statements constitute a part of the public records of the
5 city and shall be available for public inspection during normal business hours.

6 **13-2-156. Notice of Disclosure Requirements and Enforcement.**

7 The city manager shall administer the provisions of this article and shall:

- 8 (a) Publish a summary of the filing and reporting required of candidates and committees and
9 independent expenditures in a newspaper of general circulation in the city on the forty-fifth
10 day before each regular municipal election, or as soon thereafter as practicable after the
11 calling of a special election, and again two weeks after each municipal election;
- 12 (b) Prepare and make available the forms to be used in filing the statements required by this
13 chapter;
- 14 (c) Prepare and provide to each candidate or organization, upon its first filing with the manager,
15 a checklist of the statements required and the specific calendar date each is due;
- 16 (d) Keep a record of persons or organizations to whom the forms and checklists were given and a
17 record of the date such filings were received;
- 18 (e) Upon concluding on the basis of such records, complaints, or other information that a
19 candidate or organization has not filed the required statements or has filed incomplete or
20 incorrect statements, immediately notify, either verbally or in writing, the person required to
21 file that such person must file the missing statement or provide the information within
22 seventy-two hours of the manager's notice; and
- 23 (f) As soon as practical after any candidate signs a contract with the city for matching funds, the
24 manager shall publish notice of that fact electronically on the election page of the city's
25 website.

26 **13-2-167. Contribution Limitation – Applies to Official and Unofficial Candidate**
27 **Committees Candidates Only.**

28 No candidate for city council, or candidate committee, or unofficial candidate committee,
29 shall solicit or accept any contribution, including any "in-kind" contribution, that will cause the
30 total contributions from any person to exceed \$100.00 to that candidate with respect to any single
31 election. The recipient of any contribution which would cause the total amount of contributions
32 to a candidate from a single person to exceed \$100.00 shall promptly return any such excess to

1 the donor. The candidate and the candidate's committee shall be treated as one, and a
2 contribution to one is counted as a contribution to the other. Contributions to unofficial candidate
3 committees are separately subject to the \$100.00 limitation.

4 **13-2-178. Anonymous Contributions.**

5 (a) Anonymous contributions to any candidate or candidate committee, or unofficial candidate
6 committee, may not be retained or expended by the candidate or committee. Anonymous
7 contributions also may not be retained or expended by a political committee insofar as it is
8 reasonably possible to discern from the contribution that it was intended to support that
9 committee's efforts to elect or defeat a candidate. If anonymous contributions are received by
10 a candidate or committee, they shall be disposed of as follows:

11 (1) If the candidate has accepted public financing under this chapter, all anonymous
12 contributions to the candidate or the candidate's committee shall be forwarded to the city
13 ~~clerk~~ manager with the next required report, noted in the report, and deposited in the
14 general fund of the city.

15 (2) Unofficial candidate committees, ~~political committees,~~ and candidates and candidate
16 committees of candidates who have not accepted public financing under this chapter shall
17 donate anonymous contributions to any charitable organization recognized by the Internal
18 Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or to the
19 city, and the distribution of such funds shall be indicated on the next report required to be
20 filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of
21 Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures
22 of Unofficial Candidate Committee," B.R.C. 1981.

23 (3) If an anonymous contribution is donated to a charitable organization recognized by the
24 Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code, the
25 candidate or committee shall retain the envelope or other container in which it arrived,
together with any other material which arrived with it, and a photocopy of the
contribution itself (showing only the amount and serial number of any bills), shall retain
such information as candidate or committee records for at least six months after the
election, and shall make such records available to the city manager upon request.

(b) If an anonymous contribution is received by an issue committee, the treasurer shall retain the
envelope or other container in which it arrived, together with any other material which
arrived with it, and a photocopy of the contribution itself (showing only the amount and
serial number of any bills), shall retain such information as committee records for at least six
months after the election, and shall make such records available to the city manager upon
request.

1 **13-2-189. Unexpended Campaign Contributions.**

2 Unexpended contributions to candidates or committees (including issue committees) may be
3 donated to any charitable organization recognized by the Internal Revenue Service pursuant to
4 section 501(c)(3) of the Internal Revenue Code or returned to the contributor, and the
5 distribution of such funds shall be indicated on the final report of the committee required to be
6 filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of Official
Candidate Committee," ~~or 13-2-9, "Statement of Contributions and Expenditures of Unofficial
Candidate Committee," B.R.C. 1981, or 13-2-11 "Statement of Contributions and Expenditures"~~
7 of Issue Committee.

8 **13-2-1920. Public Matching Funds.**

- 9 (a) The city will allocate and provide matching funds, up to fifty percent of the expenditure limit
10 as herein defined, to any city council candidate who meets the eligibility requirements set out
11 in Section 13-2-20, "Eligibility for Matching Funds," B.R.C. 1981. The expenditure limit
12 shall be set at ~~\$20,000~~\$0.15 per registered city voter as of the day after the date set by state
13 ~~law for the purging of registration records of the election year. This limit shall be adjusted~~
14 ~~based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor,~~
15 ~~Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal~~
16 ~~to the percentage change for the preceding two years. Only actual currency or its equivalent~~
17 ~~shall be matched with public funds. Neither loans nor in-kind contributions nor amounts~~
18 ~~exceeding \$100.00 from the candidate's personal wealth shall be eligible for matching funds.~~
- 19 (b) After meeting the eligibility requirements, any candidate may request matching funds from
20 the city no more frequently than once per week in amounts no less than \$500.00. The final
21 request for matching funds must be submitted to the city no later than fourteen days before
22 the election, but may be for less than \$500.00.

23 **13-2-201. Eligibility for Matching Funds.**

24 A candidate who meets the following requirements shall be eligible to receive matching
25 funds:

- 26 (a) The candidate raises at least ten percent of the expenditure limit from a minimum of 80
27 individual contributors. No more than \$25.00 of each contribution may be counted toward
28 the ten percent; and
- 29 (b) The candidate signs a contract with the city committing to the following:
 - 30 (1) Agrees to limit his or her expenditures to ~~\$20,000~~\$0.15 per registered voter of the city as
31 ~~of the day after the date set by state law for the purging of registration records of the election~~

1 year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of
2 the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which
3 includes the city, in an amount equal to the percentage change for the preceding two years;

4 (2) Agrees to contribute to his or her campaign no more than twenty percent of the
5 expenditure limit from his or her own personal wealth; and

6 (3) Agrees to return at least fifty percent of any unexpended funds to the city, but not more
7 than the matching funds received; ~~and~~

8 (4) ~~Agrees to treat any carryover funds from a previous campaign as funds from the
9 candidate's personal wealth, subject to the limits of such funds.~~

10 **13-2-212. Violations and Penalty.**

11 (a) Criminal Acts and Penalties: No person shall:

12 (1) File any statement required by this chapter that the person knows contains false
13 information;

14 (2) Fail to file a required statement within seventy-two hours of having been notified by the
15 city manager pursuant to Subsection 13-2-16(e), B.R.C. 1981;

16 (3) Fail to provide required information necessary to complete a required statement within
17 seventy-two hours of having been notified by the city manager pursuant to subsection 13-
18 2-16(e), B.R.C. 1981;

19 (4) Knowingly misstate or misrepresent the name of the person who financed the
20 composition, presentation or distribution of information as required by section 13-2-13,
21 "Election Materials and Advertising Supporting or Opposing Candidate to Contain
22 Sponsor's Name," B.R.C. 1981; or

23 (5) Fail to comply with any of the other requirements of this chapter;

24 (6) Any person convicted of a violation of this subsection is subject to a fine not to exceed
25 \$1,000.00.

(b) Civil Remedies:

(1) For the purposes of this subsection, "this ordinance" means those provisions adopted by
the people in the 1999 regular municipal election as placed on the ballot in Ordinance No.

1 6097, including, without limitation, any contract entered into pursuant to subsection 13-2-
2 21(b), B.R.C. 1981.

3 (2) Any registered elector of the city may bring a civil action including, without limitation,
4 an action for injury, and may sue for injunctive relief to enjoin violations or to compel
5 compliance with this ordinance consistent with paragraph (b)(3) of this section, provided
6 such person first files with the city attorney a written request for the city attorney to
7 commence action. The request shall include a statement of grounds for believing a cause
8 of action exists. The city attorney shall respond within ten days after receipt of the
9 request indicating whether the city attorney intends to file a civil action. If the city
10 attorney indicates in the affirmative and files suit within thirty days thereafter, no other
11 civil action for the same violation may be brought unless the action brought by the city
12 attorney is dismissed without prejudice.

13 (3) Any candidate or candidate committee who knowingly accepts a contribution in excess of
14 \$100.00 or exceeds the expenditure limit in violation of the contract with the city and this
15 ordinance is liable in a civil action initiated by the city attorney or by a registered elector
16 of the city for an amount up to \$500.00 or three times the amount by which the
17 contribution or expenditure limit is exceeded, whichever is greater.

18 (4) In determining the amount of civil liability, the court may take into account the
19 seriousness of the violation and culpability of the defendant.

20 (5) The city attorney shall enforce all provisions of this ordinance.

21 (6) The city council is empowered to create an advisory committee and other enforcement
22 procedures as it deems appropriate to implement this ordinance.

23 Section 2. Chapter 13-3, "Campaign Activities," B.R.C. 1981, is amended to read:

24 **Chapter 13-3: Campaign Activities**

25 **13-3-1. Legislative Intent.**

The purpose of this chapter is to regulate election campaign activities in municipal elections. The provisions of this chapter have been modeled on portions of the Federal Election Campaign Act, 2 U.S.C. sections 435 and 441. Modifications have been made where necessary to meet specific needs of the city. The provisions of this chapter concerning municipal election campaign activities are exclusive, and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S.

1
2 **13-3-2. Campaign Advertising Requirements.**

3 No person who sells space in a newspaper or magazine to a candidate or committee to use in
4 connection with a municipal election may charge an amount for such space which exceeds the
5 amount charged for comparable use of such space for other purposes.

6 ~~**13-3-3 Contributions by City Contractors.**~~

7 ~~It shall be unlawful for any person who enters into any contract with the city or any department
8 or agency thereof either for the rendition of personal services or furnishing any material,
9 supplies, or equipment to the city or any department or agency thereof, or for selling any land or
10 building to the city or any department or agency thereof, if payment for the performance of such
11 contract or payment for such material, supplies, equipment, land, or building is to be made in
12 whole or in part from funds appropriated by the city council, at any time between the
13 commencement of negotiations for and the later of completion of performance under or the
14 termination of negotiations for such contract or furnishing of material, supplies, equipment, land,
15 or buildings, directly or indirectly to make any contribution of money or other things of value, or
16 to promise expressly or impliedly to make any such contribution to any candidate or committee
17 or to any person for any political purpose or use in any city election; or knowingly to solicit any
18 such contribution from any such person for any such purpose during any such period.~~

19 ~~**13-3-4.3 Contributions in Name of Another Prohibited.**~~

20 No person shall make a contribution in the name of another person or knowingly permit such
21 person's name to be used to effect such a contribution, and no person shall knowingly accept a
22 contribution made by one person in the name of another person.

23 ~~**13-3-4.5. Limitation on Contribution of Currency.**~~

24 No person shall make contributions of coin or paper currency of the United States or of any
25 foreign country to or for the benefit of any candidate or committee, which, in the aggregate,
exceed \$100.00 with respect to any campaign in which such candidate or committee is
participating for a municipal election.

~~**13-3-6.5. Misrepresentation of Campaign Authority.**~~

No candidate or political committee or any agent thereof shall make any fraudulent
misrepresentation as speaking or writing or otherwise acting for or on behalf of any other
candidate or committee on a matter which is damaging to such other candidate or committee; or

1 willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to
2 do so.

3 Section 3. Chapter 13-4, "Complaints Related to Election Procedures and Regulations,"
4 B.R.C. 1981, is amended to read:
5

6 **Chapter 13-4: Complaints Related to Election Procedures and Regulations**

7 **13-4-1. Legislative Intent.**

8 The provisions of this chapter are intended to assist with the enforcement of the regulatory
9 provisions of chapters 13-2, "Campaign Financing Disclosure," and 13-3, "Campaign Activities,"
10 B.R.C. 1981. The procedures set forth in this chapter are not exclusive and shall supplement
11 other applicable enforcement provisions.

11 **13-4-2. Allegation of Election Code Violation.**

12 (a) A request for action stating that any provision of chapter 13-2, "Campaign Financing
13 Disclosure" or chapter 13-3, "Campaign Activities," B.R.C. 1981, of this title has been
14 violated may be submitted to the city ~~clerk~~manager. The request for action shall be in writing
15 and must be submitted no later than forty-five days following any election in which it is
16 alleged that the misconduct occurred. The request for action shall:

- 16 (1) Request that the city attorney file a civil action;
- 17 (2) Identify the particular provisions of chapter 13-2, "Campaign Financing Disclosure," or
18 13-3, "Campaign Activities," B.R.C. 1981, that allegedly were violated;
- 19 (3) State the factual basis for that allegation;
- 20 (4) Identify any relevant documents or other evidence; and
- 21 (5) Identify any witnesses or persons with relevant knowledge.

22 (b) The city ~~clerk~~manager will notify the party named in the request for action (the "respondent")
23 and may provide the respondent an opportunity to provide information or otherwise respond
24 to the allegations of the request for action.

25 **13-4-3. Initial Review of Request for Action.**

1 The city ~~clerk~~manager will evaluate the request for action and all information in the
 2 ~~clerk~~manager's possession related to the request for action to determine whether there is probable
 3 cause to believe that further investigation would disclose a violation by the respondent. The city
 4 ~~clerk~~manager may, at the ~~clerk~~manager's discretion, consult with the city attorney or delegated
 5 legal counsel regarding this review. Such determination shall be made based upon the request for
 6 action, any information provided by the person who filed the request for action or the party
 7 named in the request for action, and upon such additional information as the ~~clerk~~manager may
 8 determine to be pertinent.

9 **13-4-4. Denial of Request for Action by City ~~Clerk~~Manager.**

10 If the city ~~clerk~~manager determines that no probable cause exists that further investigation
 11 would disclose a violation by the respondent, the city ~~clerk~~manager shall close the file with
 12 regard to the matter. In that event, the city ~~clerk~~manager shall so notify both the complainant and
 13 the respondent. Such notice shall be sufficient if it is accomplished by depositing it with the
 14 United States Postal Service addressed to the last known address of the complainant and the
 15 respondent. The city ~~clerk~~manager may also determine that the violation, if any, can be cured
 16 after exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign Financing
 17 Disclosure," B.R.C. 1981, and, if the violation is cured, may deny the request for action on that
 18 basis without further review.

19 **13-4-5. Determination by City ~~Clerk~~Manager Final.**

- 20 (a) A determination by the city ~~clerk~~manager that there is no probable cause that further
 21 investigation would disclose a violation by the respondent shall be final. Cure of a violation
 22 through exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign
 23 Financing Disclosure," B.R.C. 1981, also shall be final. No appeal or review from such
 24 determinations shall be permitted, and the city attorney will not bring any civil or criminal
 25 enforcement action against a party in either circumstance.
- (b) A determination by the city ~~clerk~~manager that there is probable cause that investigation will
 disclose a violation by the respondent shall also be final. No defect in the city ~~clerk~~manager's
 determination shall constitute a defense at any hearing held by a city ~~clerk~~manager or at any
 judicial enforcement proceeding.

26 **13-4-6. Power of City ~~Clerk~~Manager to Hold Hearings.**

27 The city ~~clerk~~manager is empowered to receive evidence and make recommendations with
 28 regard to any request for action. The purpose of such hearings will be to determine whether
 29 sufficient evidence of a violation by the respondent exists to warrant bringing a civil or criminal
 30 action. The city ~~clerk~~manager may schedule hearings, mandate the appearance of witnesses
 31 through the issuance of subpoenas and mandate the provision of documents through the issuance

1 of subpoenas for documents. Subpoenas for documents may be directed to any custodian of
2 records or to any other person possessing or controlling such records.

3 **13-4-7. Hearing Procedures.**

4 The following procedures shall be used by the city clerkmanager in any hearing:

- 5 (a) The city clerkmanager shall fix the date, time, duration, and place of each hearing;
- 6 (b) The complainant and the respondent may each be represented by counsel or other authorized
7 representative;
- 8 (c) The city clerkmanager may receive and consider testimony under oath, as well as evidence of
9 witnesses by affidavit, giving such evidence only such weight as seems proper after
10 consideration of any objection made to its admission;
- 11 (d) The legal rules of evidence need not be strictly applied by the city clerkmanager. The city
12 clerkmanager shall accept or reject evidence based upon the city clerkmanager's evaluation of
13 the reliability of that evidence; and
- 14 (e) The city clerkmanager may refer to the provisions in chapter 1-3, "Quasi-Judicial Hearings,"
15 B.R.C. 1981, relating to quasi-judicial hearings, for guidance with respect to procedures that
16 may be utilized at any hearing held pursuant to this section. However, final decisions
17 regarding such procedures shall be determined by the city clerkmanager in conformity with
18 the intent of these provisions and in a manner consistent with general principles of due
19 process.

17 **13-4-8. Negative Determination by City ClerkManager.**

18 If, upon completion of the city clerkmanager's evaluation of evidence, the city clerkmanager
19 determines that there is insufficient evidence of a violation by the respondent to warrant bringing
20 a civil or criminal action, the investigation shall be terminated concerning that respondent. In that
21 event, the city clerkmanager shall notify both the complainant and the respondent of this
22 determination. Such notice shall be sufficient if it is deposited with the United States Postal
23 Service addressed to the last known address of the complainant and the respondent.

22 **13-4-9. Power of City ClerkManager to Issue Remedial Order or Warning Letter.**

23 If, upon completion of the hearing process, the city clerkmanager determines that sufficient
24 evidence exists to bring a civil or criminal action, the city clerkmanager may direct the
25 respondent to take remedial actions including, without limitation, the following:

- 1 (a) Filing a corrected disclosure form;
- 2 (b) Publishing corrective advertising;
- 3 (c) Refunding any private contributions obtained under false pretenses; and
- 4 (d) Refunding to the city any public monies inappropriately obtained for the financing of
- 5 election activities.

6 The city ~~clerk~~manager may also issue the respondent a warning letter. The city attorney may
7 bring a civil action following compliance with a remedial order as described in subsections (a)
8 through (d) of this section for the purpose of incorporating the terms of the order into a consent
9 decree. Otherwise, a warning letter or compliance by the respondent with a remedial order will
end the process, and no civil or criminal action will be filed.

10 **13-4-10. Referral to City Attorney for Criminal or Civil Prosecution.**

11 If upon completion of the formal hearing process, the city ~~clerk~~manager determines that
12 sufficient evidence exists to bring a civil or criminal action and if the matter is not resolved
13 through a warning letter or compliance with a remedial order issued by the city ~~clerk~~manager,
14 the matter shall be referred to the city attorney and delegated legal counsel. In such an instance,
the city attorney or delegated legal counsel will evaluate the case to determine whether or not
15 criminal prosecution or the bringing of a civil enforcement action is in the public interest.

16 **13-4-11. Remedies Not Exclusive.**

17 The procedures set forth by these provisions shall not impair the right of any interested party,
18 including the city ~~clerk~~manager, the city attorney, or a complainant, to notify the district attorney
19 or the police of crimes that might be investigated or potentially prosecuted by those agencies.
20 Nor shall these provisions preclude the city attorney from bringing criminal charges without first
21 exhausting the administrative hearing process set forth in these provisions if the city attorney
feels that there is sufficient basis for a criminal prosecution and that the interests of justice
22 require prosecution prior to exhaustion of the administrative process described in these
provisions.

23 **13-4-12. No Appeal to City Council.**

24 No decision by the city ~~clerk~~manager made pursuant to this chapter shall be reviewed or
25 reversed by the city council. The city council shall not become involved in the handling of any
matter brought or investigated pursuant to these provisions. Nothing in this chapter shall be
deemed to create a right of appeal to the city council by a person named in a request for action.

1 **13-4-13. Confidentiality of Investigation.**

2 The contents of files relating to pending inquiries or investigations into possible violations of
3 the provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign
4 Activities," B.R.C. 1981, shall not be made public by the city ~~clerk~~ manager, the city attorney, or
5 by any other person or agency that is conducting an official investigation on the part of the city
6 into alleged or possible violations of this type. Nor will any preliminary reports or drafts relating
7 to the results of such investigations be made public. Nor shall the results of such inquiry or
8 investigation be made public unless a hearing is held pursuant to this chapter. The city council
9 finds that such disclosures could compromise criminal justice investigations. Further, the city
10 council finds that such disclosures would be contrary to the public interest because such
11 disclosures might have the effect of politically damaging a person or interest in a case in which
12 the final disposition of an investigation would not sustain a finding of misconduct. The release of
13 interim findings or draft reports might in that manner interfere with the appropriate workings of
14 the democratic process.

11 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
12 the residents of the city, and covers matters of local concern.

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

17 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
18 TITLE ONLY this 5th day of April, 2016.

21 _____
Mayor

22 Attest:

23 _____
24 City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

2 BY TITLE ONLY this 17th day of May, 2016.

3

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Mayor

Attest:

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City Clerk

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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Second reading and consideration of a motion to adopt as an emergency measure Ordinance No. 8116 amending Chapter 11-1 “Water Utility,” by adding a new Subsection to Section 11-1-44 “Water User Charges,” amending the title of the section, authorizing the city manager to pay claims for damage from water main breaks and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Bob Eichen, Chief Financial Officer
Maureen Rait, Executive Director Public Works
Jeff Arthur, Director Public Works for Utilities
Cheryl Pattelli, Finance Director
Jessica Pault-Atiase, Senior Assistant City Attorney

EXECUTIVE SUMMARY

At the March 15, 2016 council meeting, the city council directed staff to study the possibility of paying claims for damages caused by water main breaks, in situations where the city would not be legally obligated to pay for such damages. Council’s interest in making these payments was the result of an incident on February 15, 2016, which resulted in the flooding of several homes in North Boulder. A second incident occurred on March 25, 2016 in South Boulder. Council considered a proposed ordinance at the May 3, 2016 council meeting. Council directed staff to remove the proposed fee from the ordinance, to expand the scope beyond single family homes, to not limit compensation to damage to basements and to include language clarifying that any payment would be supplemental to any insurance payment. Council further directed that staff submit the proposed ordinance as an emergency measure.

Suggested Motion Language:

If Council decides to adopt the ordinance, action should be in the form of the following motion:

Second reading and consideration of a motion to adopt by emergency measure Ordinance No. 8116 amending Chapter 11-1 “Water Utility” by adding a new Subsection to Section 11-1-44 “Water User Charges” amending the title of the section, authorizing the city attorney, with the city manager’s approval to pay claims for damage from water main breaks and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Council decided to consider any additional funding through the budget process and therefore any economic impact will be considered at that time.
- Environmental: None.
- Social: Shared responsibility for losses suffered is an important community social value.

OTHER IMPACTS

- Fiscal: The liability assumed through this ordinance would be financed through a funding mechanism to be considered as part of the 2017 budget process. If council adopts a funding mechanism there would be no expected fiscal impact from the proposed ordinance. If no new funding is adopted, there will be an impact on the water utility. Accepting liability without a new funding source could have significant adverse impacts on the utility’s financial situation.
- Staff Time: Implementation will be accomplished with existing staff. Staff expects that paying claims for which the city is not legally liable will increase the number of claims and require additional staff time.

BOARD AND COMMISSION FEEDBACK

None.

BACKGROUND & ANALYSIS

At the March 15, 2016 council meeting, council directed staff to consider whether the city should adopt a policy of paying for the damage caused by events like the February 15, 2016 Norwood Avenue water main break. The proposed ordinance is the product of that work.

Additional background information for this topic can be found in the [April 19, 2016 agenda memo](#) and the [May 3, 2016 agenda memo](#).

The Proposed Ordinance

The ordinance approved by council at first reading is attached as Attachment A. Attachment B is a revised version based on direction given by council at the May 3, 2016 council meeting. Changes from the first reading version are indicated with additions shown in bold and deletions in strikeout. The proposed new second reading version of the ordinance includes the following changes:

- The title of section 11-1-44 would be amended to be “Water User Charges and Claims”
- The provision adding a \$1 per month fee on single family residential accounts would be eliminated.
- “City” would be changed to “water utility” to clarify that this section only refers to claims against the water utility.
- The limitation to “Single Unit Dwelling” would be eliminated.
- The source of any damage would be changed from “facilities” to “a water main break on a pipeline owned and operated by the water utility” to narrow the type of damage to be covered.
- A provision for payment for basic remediation would be added.
- The limitation of payment for damages to basements would be eliminated.
- The limitation of payment for things normally found in basements would be eliminated.
- The limitation of payment for damage to “extraordinary basement finishes” would be change to “extraordinary finishes.”
- The prohibition on payments for damages to kitchens would be changed to a limitation on payments for “appliances” or “cabinetry.”
- An additional prohibition would be added precluding payment for damage to “furniture or other possessions.”
- The provision limiting payment to funds accrued through the \$1 per month fee on single family residents would be eliminated.
- A new provision stating that any payment would be supplemental and not lieu of insurance would be added.
- A new provision clarifying that this new subsection is not intended to waive any part of the Colorado Governmental Immunity Act would be added.
- A new section 4 would be added justifying adoption of the ordinance by emergency.

ATTACHMENT

Attachment A – Ordinance 8116 as passed on first reading

Attachment B – Proposed amended version of Ordinance 8116

ORDINANCE NO. 8116

AN ORDINANCE AMENDING CHAPTER 4-20 “FEES,” BY ADDING A NEW SECTION 4-20-69 ADDING A FEE ON WATER USERS IN SINGLE FAMILY HOMES AMENDING CHAPTER 11-1 “WATER UTILITY” BY ADDING A NEW SUBSECTION TO SECTION 11-1-44 “WATER USER FEES” AUTHORIZING THE CITY MANAGER TO PAY CLAIMS FOR DAMAGE FROM WATER MAIN BREAKS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-25 is amended as follows:

4-20-25. - Monthly Water User Charges.

(a) Treated water monthly service charges:

<i>Meter Size</i>	<i>Inside City</i>	<i>Outside City</i>
3/4"	\$ 10.44	\$ 15.67
1"	17.57	26.36
1½"	37.84	56.76
2"	66.29	99.44
3"	147.46	221.19
4"	261.10	391.65
6"	585.92	878.88
8"	1,040.64	1,560.97

(b) Treated water quantity charges:

(1) Block Rate Structure:

	<i>Block Rates (per thousand gallons of water)</i>	<i>Block Size (% of monthly water budget)</i>
Block 1	\$ 2.76	0—60%
Block 2	3.68	61—100%
Block 3	7.36	101—150%

Block 4	11.04	151—200%
Block 5	18.40	Greater than 200%

(2) Definitions:

(A) *Block Rate Structure* is the water budget rate structure which includes Blocks 1—5. These blocks represent an increasing block rate structure such that the price of water increases as more water is used, particularly when the amount of water used exceeds the customer's water budget. This rate structure is intended to:

- promote water conservation and the efficient use of water;
- support community goals;
- reflect the value of water;
- send a price signal to customers who waste water;
- recover needed revenues for administration, operations, maintenance, capital projects, debt payments, and reserves for the water utility;
- avoid additional costs of new water development; and
- avoid additional costs of new and expanded water treatment.

The rate structure provides an individualized water budget to each customer that is expected to meet the customer's specific water needs. The revenues generated from the block rate structure will be used to satisfy the quantity charge portion of the basic revenue requirements of the water utility.

(B) *Monthly water budget* means the amount of water allocated to the water utility customers to meet their anticipated watering needs for the month. The monthly water budget shall be the indoor and/or outdoor allocation for each water utility customer. The allocation shall be based on reasonable and necessary indoor and/or outdoor use, water conservation, and other relevant factors associated with water use in the city. The allocations shall be defined by rules and guidelines issued by the city manager.

(c) Bulk water and metered hydrant rate: \$8.00 per thousand gallons of water used. (Service charges do not apply.)

(d) Water leased on an annual basis: Colorado Big Thompson \$35 per acre foot; all other based on cost of assessment plus ten percent administrative fee or \$35 per acre foot, whichever is greater.

(e) Effective June 1, 2016, water utility customers with accounts for Single Unit Dwellings shall pay a \$1 per month fee.

Section 2. Section 11-1-44 is amended as follows:

11-1-44. - Water User Charges.

Attachment A – Ordinance 8116 as Passed on First Reading

1 (a) The water utility shall bill water users once a month. Failure by the water utility to so notify
2 a water user shall not constitute a waiver of any fee or charge imposed by this chapter.

3 (b) Charges for water service consist of a monthly service charge and a quantity charge as
4 prescribed by section 4-20-25, "Monthly Water User Charges," B.R.C. 1981. For those
5 customers served by more than one meter, the appropriate service charge shall be applied to each
6 meter. Monthly service charges shall be billed to each meter in use regardless of whether any
7 quantity charge is made. A meter is considered to be in use as long as it is in place.
8

9 (c) If water users institute or terminate service or when the ownership of the property is
10 transferred on other than established billing dates, the water utility shall prorate the charges for
11 water services. When the ownership of the property is transferred, the established customer class
12 average winter consumption will be used to calculate water charges until the next average winter
13 consumption calculation period.

14 (d) For all water supplied by the city to the Boulder Valley School District No. RE 2 or to any of
15 the properties that are located within the boundaries of the former Boulder Valley Water and
16 Sanitation District, the inside city water rates apply.
17

18 (e) For all water supplied by the city outside of the city limits used for firefighting training
19 purposes by bona fide and legally constituted firefighting units located in Boulder County, the
20 inside city water rates apply.

21 (f) If any meter fails to register in any billing period, the water user shall be charged according
22 to the average quantity of water used in a similar period as shown by the meter when in order.
23
24
25

Attachment A – Ordinance 8116 as Passed on First Reading

1 (g) Billing for water service and any other notices relating to the water utility are effective on
2 the date that they are deposited in the mail addressed to the last known address of the water user
3 as shown on the records of the city water utility.

4 (h) All charges for the use of water prescribed by this section are due and payable within ten
5 days after the date of the bill.

6
7 (i) To the extent that appropriated funds are available for the purpose, the city attorney, with the
8 city manager's approval, is authorized to settle any claim against the city arising from damage to
9 a Single Unit Dwelling caused by water released from facilities operated by the water utility.

10 Such payments shall be limited to payments for damage to basements and replacement or repair
11 equipment and appurtenances normally found in basements such as common flooring, drywall,
12 furnaces, boilers and water heaters. No funds shall be provided for extraordinary basement
13 finishes, including but not limited to kitchens, bathrooms or upgraded tile flooring or carpeting.

14 Payments under this section shall be funded through fees collected through Section 4-20-25(e),
15 “Water User Charges,” B.R.C. 1981. Payment of such claims shall be subject to the limitations
16 of Section 2-2-14, “Initiation and Settlement of Claims and Suits,” B.R.C. 1981.

17
18 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
19 the residents of the city, and covers matters of local concern.

20 Section 4. The city council deems it appropriate that this ordinance be published by title
21 only and orders that copies of this ordinance be made available in the office of the city clerk for
22 public inspection and acquisition.

Attachment A – Ordinance 8116 as Passed on First Reading

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INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY
TITLE ONLY this 19th day of April 2016.

Suzanne Jones
Mayor

Attest:

Lynnette Beck
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 3rd day of May, 2016.

Suzanne Jones
Mayor

Attest:

Lynnette Beck
City Clerk

ORDINANCE NO. 8116

AN EMERGENCY ORDINANCE AMENDING CHAPTER 11-1 “WATER UTILITY” BY ADDING A NEW SUBSECTION TO SECTION 11-1-44 “WATER USER FEES” AUTHORIZING THE CITY MANAGER TO PAY CLAIMS FOR DAMAGE FROM WATER MAIN BREAKS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 11-1-44 is amended as follows:

11-1-44. - Water User Charges and Claims.

(a) The water utility shall bill water users once a month. Failure by the water utility to so notify a water user shall not constitute a waiver of any fee or charge imposed by this chapter.

(b) Charges for water service consist of a monthly service charge and a quantity charge as prescribed by section 4-20-25, "Monthly Water User Charges," B.R.C. 1981. For those customers served by more than one meter, the appropriate service charge shall be applied to each meter. Monthly service charges shall be billed to each meter in use regardless of whether any quantity charge is made. A meter is considered to be in use as long as it is in place.

(c) If water users institute or terminate service or when the ownership of the property is transferred on other than established billing dates, the water utility shall prorate the charges for water services. When the ownership of the property is transferred, the established customer class average winter consumption will be used to calculate water charges until the next average winter consumption calculation period.

Attachment B – Proposed Amended Version of Ordinance 8116

1 (d) For all water supplied by the city to the Boulder Valley School District No. RE 2 or to any of
2 the properties that are located within the boundaries of the former Boulder Valley Water and
3 Sanitation District, the inside city water rates apply.

4 (e) For all water supplied by the city outside of the city limits used for firefighting training
5 purposes by bona fide and legally constituted firefighting units located in Boulder County, the
6 inside city water rates apply.

7
8 (f) If any meter fails to register in any billing period, the water user shall be charged according
9 to the average quantity of water used in a similar period as shown by the meter when in order.

10 (g) Billing for water service and any other notices relating to the water utility are effective on
11 the date that they are deposited in the mail addressed to the last known address of the water user
12 as shown on the records of the city water utility.

13
14 (h) All charges for the use of water prescribed by this section are due and payable within ten
15 days after the date of the bill.

16 (i) To the extent that appropriated funds are available for the purpose, the city attorney, with the
17 city manager's approval, is authorized to settle any claim against the **water utility-city** arising
18 from damage to a Single Unit Dwelling caused by water released from facilities a **water main**
19 **break on a pipeline owned and** operated by the water utility. Such payments shall be limited to
20 payments for **basic remediation of** damage to basements and replacement or repair of
21 equipment and appurtenances normally found in basements, such as **common** flooring, drywall,
22 furnaces, boilers and water heaters. No funds shall be provided for extraordinary **basement**
23 finishes, including but not limited to ~~kitchens~~ **appliances, cabinetry,** bathrooms or upgraded tile
24 flooring or carpeting. **No payment shall be made for damage to furniture or other**
25

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1 ~~possessions. Payments under this section shall be funded through fees collected through~~
2 ~~Section 4-20-25(e), “Water User Charges,” B.R.C. 1981. Payment of such claims shall be~~
3 ~~supplemental to and not in lieu of any private insurance obligation and shall be subject to~~
4 ~~the limitations of Section 2-2-14, “Initiation and Settlement of Claims and Suits,” B.R.C. 1981.~~
5 **Nothing in this section shall be interpreted or construed to create an entitlement to**
6 **payment or as any type of waiver of any of the provisions of the Colorado Governmental**
7 **Immunity Act.**

8
9 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
10 the residents of the city, and covers matters of local concern.

11 Section 3. The city council deems it appropriate that this ordinance be published by title
12 only and orders that copies of this ordinance be made available in the office of the city clerk for
13 public inspection and acquisition.

14 Section 4. The city council finds this ordinance is necessary for the immediate
15 preservation of public peace, health, safety, and property justifying the adoption of this ordinance
16 as an emergency measure. Passage of this ordinance immediately is necessary because the
17 ordinance is intended to address claims that arose as early as February 15, 2016. Additional
18 delay could adversely affect those intended to benefit through this ordinance. This ordinance
19 shall become effective immediately.
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Attachment B – Proposed Amended Version of Ordinance 8116

1 INTRODUCTION, READ ON FIRST READING AND ORDERED PUBLISHED BY
2 TITLE ONLY THIS 19TH DAY OF APRIL 2016.

3
4
5 _____
Suzanne Jones
Mayor

6 Attest:

7
8 _____
Lynnette Beck
City Clerk

9 READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY
10 MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED
11 PUBLISHED BY TITLE ONLY THIS 17TH DAY OF MAY, 2016.

12
13
14 _____
Suzanne Jones
Mayor

15 Attest:

16
17 _____
Lynnette Beck
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE

Introduction, first reading and consideration of a motion to publish by title only and adopt as an emergency measure Ordinance No. 8118 adopting Supplement No. 127, which codifies previously adopted Ordinance Nos. 8101, 8106, and 8108, and other miscellaneous corrections and amendments, an amendment to the Boulder Revised Code, 1981, and setting forth related details.

PRESENTER:

Office of the City Attorney
Thomas A. Carr, City Attorney

EXECUTIVE SUMMARY:

The Boulder Revised Code (“B.R.C. 1981”) is the official book of laws of the City of Boulder. Four times a year (quarterly), the City Council is asked to adopt supplements to the B.R.C. 1981. An ordinance format is used to bring ordinances that the City Council adopted in the prior quarter, or effective prior to the upcoming supplement, into the B.R.C. 1981, and to ensure that there is no question regarding what constitutes the official laws of the City of Boulder. These supplement ordinances are approved as a matter of routine by the City Council.

In order to generate the printed supplements to the B.R.C. as soon as possible, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

The text of Supplement No. 127 has been previously adopted by the following ordinances:

- Ord #8101 AN ORDINANCE ADDING SECTIONS 7-6-31, “HORSE TRAILER PARKING,” AND AMENDING SECTION 8-3-7, “REGULATION OF HORSES AND LIVESTOCK,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.
- Ord #8106 AN ORDINANCE AMENDING CHAPTER 11-6, “BOULDER CABLE CODE,” B.R.C. 1981, SPECIFICALLY SECTIONS 11-6-8, 11-6-9, AND 11-6-10 (H) AND APPENDIX A THERETO, AND SETTING FORTH RELATED DETAILS.
- Ord #8108 AN EMERGENCY ORDINANCE AMENDING CHAPTER 10-3, “RENTAL LICENSES,” BY CHANGING THE RENTAL DWELLING UNIT POSTING AND ADVERTISING REQUIREMENTS IN SECTION 10-3-20, B.R.C. 1981 ” CORRECTING MINOR TYPOGRAPHICAL ERRORS ASSOCIATED WITH ADMINISTRATIVE REMEDIES IN SECTION 10-3-16, B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

FISCAL IMPACTS:

Budgetary: None

Staff Time: None beyond the time always allocated to code maintenance in the City Attorney’s overall work plan.

Economic: None

COUNCIL FILTER IMPACTS:

Ongoing code maintenance is an essential and largely administrative obligation of the city.

STAFF RECOMMENDATION:

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

Motion to adopt Emergency Ordinance No. 8118 regarding Supplement No. 127.

FORMAT NOTES:

Code amendments (if any) may be reflected in strike out and double underline format along with a “Reason for Change” as part of this agenda item. Such amendments are intended to correct non-substantive errors discovered through review of these ordinances and/or which may have occurred in previously adopted ordinances already in the B.R.C. 1981. Major and/or substantive corrections or revisions are brought forward as a separate ordinance to City Council during the normal course of future City Council business.

DISCUSSION:

This supplement includes ordinances that were adopted by the City Council in the last supplement quarter, or are effective prior to the upcoming supplement. They are added to the official version of the B.R.C. 1981 by way of the attached supplement ordinance. The City Council adopts a quarterly supplement ordinance to ensure that a clearly identifiable version of the Boulder Revised Code is legislatively adopted.

The printed supplements to the B.R.C. may not be distributed until the proposed adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible, therefore, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

AMENDMENTS:

1. Section 8-3-7, “Regulation of Horses and Livestock,” B.R.C. 1981 is amended to re-label and attach Appendix 8-C – OSMP Horse Regulations, as follows:

....

(d) No person shall take or ride any horse, mule, llama, burro, or other equine animal upon any open space land within the boundaries shown in Appendix 8-CA, except where designated for that use by the city manager.

.....

Reason for change: Ord. 8101, amending Section 8-3-7, was adopted on Feb. 2, 2016. The OSMP Horse Regulations map, referenced as Appendix A, was intended to be attached to the final ordinance, but was not. This correction will properly re-label the map, and also provide it within the B.R.C. as was intended.

ATTACHMENT:

A - Proposed Emergency Ordinance No. 8118

ORDINANCE NO. 8118

AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 127, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 8101, 8106, AND 8108, AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Legislative Findings.

A. Supplement No. 127 amending the Boulder Revised Code 1981 (“B.R.C.”) has been printed.

B. The City Council intends that this supplement be codified and published as a part of the B.R.C.

C. Supplement No. 127 to the B.R.C. is a part of this ordinance and contains all of the amendments to the B.R.C. enacted by the City Council in Ordinance Nos. 8101, 8106, and 8108, and other miscellaneous corrections and amendments. The City Council intends to adopt this supplement as an amendment to the B.R.C.

D. The ordinances contained in Supplement No. 127 are available in printed copy to each member of the City Council of the City of Boulder, Colorado, and the published text of the supplement, along with the text of those ordinances, is available for public inspection and acquisition in the office of the city clerk of the City of Boulder, in the Municipal Building, 1777 Broadway, Boulder, Colorado.

Section 2. The City Council adopts Supplement No. 127 by this reference.

Section 3. The City Council orders that a copy of Supplement No. 127 as proposed for adoption by reference herein be on file in the office of the city clerk of the City of Boulder, Colorado, Municipal Building, 1777 Broadway, City of Boulder, Boulder County, Colorado, and may be inspected by any person at any time during regular business hours pending of the adoption of this ordinance.

Section 4. The annotations, source notes, codifier’s notes, and other editorial matter included in the printed B.R.C. are not part of the legislative text. These editorial provisions are provided to give the public additional information for added convenience. No implication or presumption of a legislative construction is to be drawn from these materials.

1 Section 5. The B.R.C., or any chapter or section of it, may be proved by a copy certified by the
2 city clerk of the City of Boulder, under seal of the city; or, when printed in book or pamphlet form and
3 purporting to be printed by authority of the city. It shall be received in evidence in all courts without
4 further proof of the existence and regularity of the enactment of any particular ordinance of the B.R.C.
5

6 Section 6. These provisions of the B.R.C. shall be given effect and interpreted as though a
7 continuation of prior laws and not as new enactments.

8 Section 7. Unless expressly provided otherwise, any violation of the provisions of the B.R.C., as
9 supplemented herein, shall be punishable by a fine of not more than one thousand dollars or
10 incarceration for not more than ninety days in jail, or by both such fine and incarceration, as provided in
11 section 5-2-4, "General Penalties," B.R.C. 1981.
12

13 Section 8. Section 8-3-7, "Regulation of Horses and Livestock," B.R.C. 1981 is amended to re-
14 label and attach Appendix 8-C – OSMP Horse Regulations, as follows:
15

16

17 (d) No person shall take or ride any horse, mule, llama, burro, or other equine animal upon
18 any open space land within the boundaries shown in Appendix 8-CA, except where designated for that
19 use by the city manager.

20

21 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of the
22 residents of the city, and covers matters of local concern.

23 Section 10. The printed supplements cannot be distributed until the adopting ordinance is
24 effective. The laws of the city should be current and available to the residents of the City of Boulder as
25 soon as possible. On that basis, this ordinance is declared to be an emergency measure and shall be in
26 full force and effect upon its final passage.
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1 READ ON FIRST READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY
2 TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY
3 this 17th day of May 2016.
4

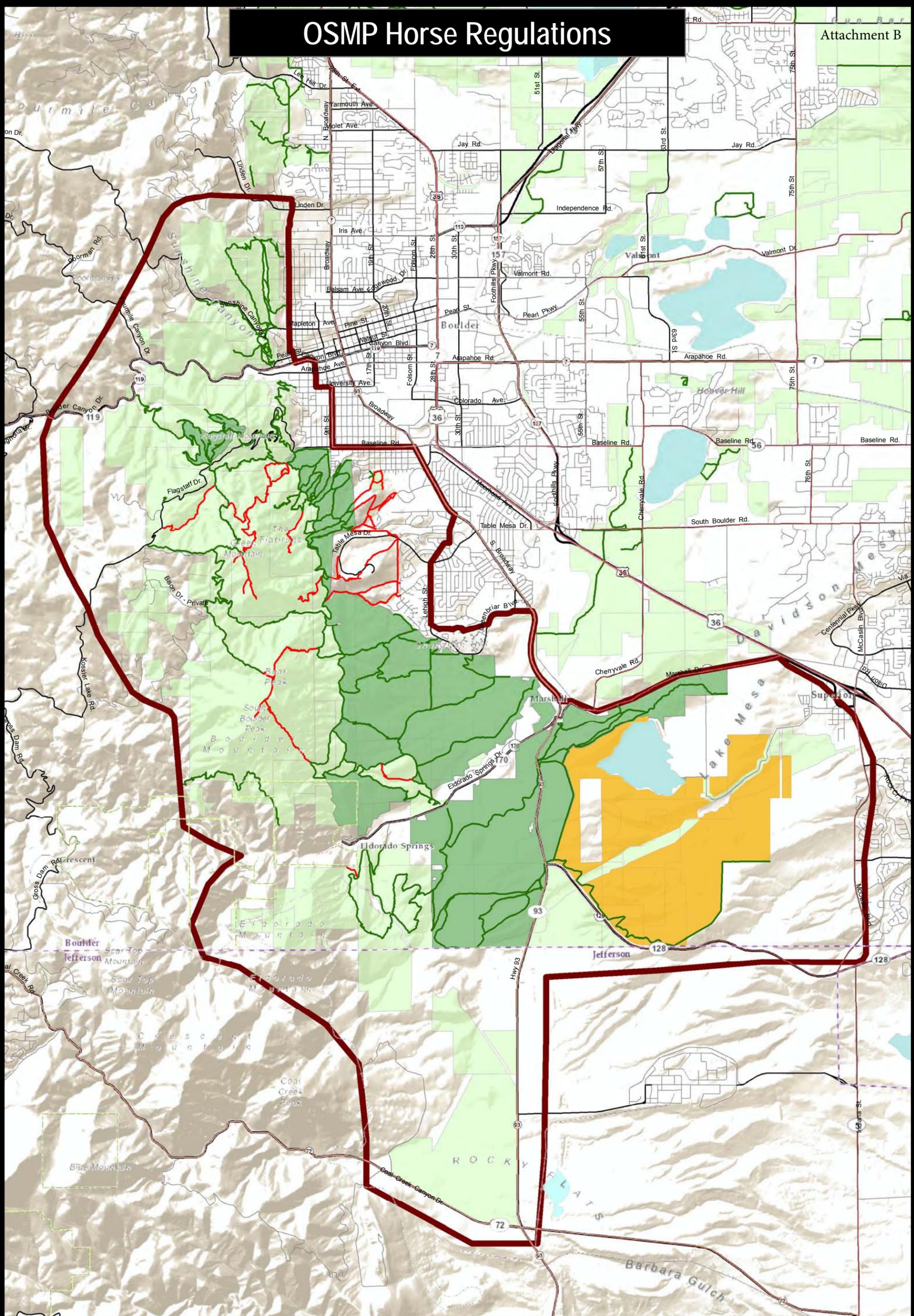
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Mayor

7 Attest:

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9 City Clerk

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OSMP Horse Regulations



- Horses Allowed on Trail
- Horses Not Allowed on Trail
- Regulation Boundary
- Horses Allowed Off Trail
- Horses Allowed Off Trail with HCA Permit
- OSMP Fee Property

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Page 128



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8120 approving annual carryover and supplemental appropriations to the 2016 Budget.

PRESENTERS:

Jane S. Brautigam, City Manager
Bob Eichen, Chief Financial Officer
Cheryl Pattelli, Director of Finance
Peggy Bunzli, Executive Budget Officer
Elena Lazarevska, Senior Financial Analyst
Milford John-Williams, Budget Analyst

EXECUTIVE SUMMARY

As described in the *Budget Philosophy and Process* section of the annual budget document, each year at least two supplemental ordinances (known as Adjustments to Base, where the “base” is the original annual budget) are presented to City Council for review and approval. In years where new initiatives are launched and other unique circumstances become apparent after annual budget approval, additional adjustments to base may be brought forward for council consideration as were the approval of city Ordinance #8103 on [February 2, 2016](#), related to the new Short Term Rental program, approval of city Ordinance #8109 on [April 5, 2016](#), related to the Community, Culture and Safety projects, and approval of Central Area General Improvement District Resolution #275 on [May 3, 2016](#), related to the Trinity Commons Project .

In this memo and in common usage in city meetings, the April/May and November/December budget supplementals are referred to as the **First Adjustment to Base** and **Second Adjustment to Base**, respectively. Council receives the first ordinance, the **Carryover and Budget Supplemental**, in April/May and the second ordinance, **the Second and Final Budget Supplemental**, in November/December. The current year’s council-approved budget is the “base” in the term Adjustment to Base (ATB).

Typically, the supplemental ordinances adjust only the current year budget and are considered “one-time” adjustments. As a result, they have no direct or immediate impact on the following year’s budget. In contrast, the city typically assigns budget requests with “ongoing” or multi-year impacts to the annual budget process (budget planning for the coming fiscal year) and not to either budget supplemental. This packet includes budget supplemental “one-time” line items that represent the following two categories of budget supplemental requests:

- Carryover of 2015 budgeted amounts, not fully expended, and
- New budgeted amounts for 2016.

This packet also includes a few ongoing budget supplemental requests for items that are critical to immediate service needs. The descriptions of these items included in the packet clearly call out that they are ongoing requests, and the ongoing impact has been analyzed and can be absorbed within current, ongoing revenues. Ordinance No. 8087 appropriating the 2016 budget included estimates of the carryover into 2016. This packet also includes negative appropriations that remove those estimates and replace them with the revised amounts of funds to be carried over, as noted above.

A proposed ordinance is provided as **Attachment A** to this packet. Detailed narrative information on each new budget supplemental request is included in **Attachment B**.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance No. 8120 approving supplemental appropriations to the 2016 Budget.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: In the General Fund this ordinance will appropriate \$1,285,047 from additional revenue and \$15,157,944 from fund balance. The ordinance also includes encumbrance carryover of \$1,358,109 from fund balance as well as an increase in revenue only of \$156,618.

In **restricted funds**, this ordinance will appropriate \$1,478,399 from additional revenue and \$91,462,532 from fund balance. It also includes encumbrance

carryover of \$52,851,476 from fund balance, as well as an increase in revenue only of \$16,638,571

- Staff time for this process is allocated in the Budget Division’s regular annual work plan.

ANALYSIS

This section will provide details of how carryover and new budget requests, the two categories of requests contained in the attached supplemental ordinance, function in the city annual budget cycle.

Carryover Requests

Carryover requests are typically for projects or grant-funded programs where funding was appropriated in a previous year and then carried forward until the project or the grant-funded program is completed. Occasionally, departments request to carryover budget savings from the previous year in order to accumulate an adequate amount of funding for a large, one-time project.

Revenue to fund the unspent projects, or for large, one-time projects, will have fallen to fund balance at the end of the year. Due to accounting requirements, expenditures and revenues for a grant must equal each other within the same fiscal year. Any prior year grant revenue received above expenditure amounts has been deferred to the current year and is considered “additional revenue” in the current year.

Encumbrance carryover is simply appropriation for a project or grant that has been encumbered through a purchase order.

The following requests provide typical examples of General Fund carryover requests:

- Economic Vitality - 2014 Flexible Rebate Program
- Family Resource Schools (FRS) Activity Fees
- Law Enforcement Assistance Fund (LEAF) Grant
- Facilities and Asset Management project-Reynolds Library Building Repair

The following requests provide typical examples of restricted fund carryover requests:

- Planning, Housing and Sustainability - Landlink Replacement Project
- Open Space & Mountain Parks - Bear Canyon Road Flood Damage Repair
- Public Works/Transportation – Baseline Underpass Broadway to 28th
- Parks and Recreation – Emerald Ash Borer Response Measures

New Budget Requests

Requests for new budget appropriation are typically based on a department’s Master Plan or have gone through a separate City Council review process. Funding may come from fund balance, for example if savings have been built up for large projects or revenues

received in advance of the expenditure being needed. Or, appropriation may be requested for initiatives associated with new sources of revenues, such as grant or bond funding.

The following requests provide typical examples of supplemental appropriations from fund balance:

- One-time funds to set up a Recreational Marijuana Commission (General Fund)
- Waste Reduction Services from 2015 dedicated Trash Tax funds above projections (General Fund)
- Raptor Program Bequest -Principal & Interest (Open Space Fund)
- Wastewater Treatment Facility cogeneration maintenance (Wastewater Fund)

The following requests provide typical examples of supplemental appropriations from additional revenue:

- Victims Assistance and Law Enforcement (VALE) 2016 Grant (General Fund)
- Tree Debris to Opportunity Grant (.25Cent Sales Tax Fund)
- Affordable Housing Program HUD Grant Adjustment (Community Development Block Grant (CDBG) Fund)

Additional Information on Selected Adjustment to Base Requests

Boulder Community Health - Broadway Campus (BCH)

In late 2015, the City of Boulder purchased the Boulder Community Health – Broadway campus site. While use of the full site will undergo significant study, public process and planning, immediate use of some of the space for current city needs has been identified as a first step in the process. The city currently leases space to accommodate current staffing levels which have outgrown available city space. Immediate investments to allow for use of some of the space, for current city needs, are described below. These one-time costs will be covered by General Fund savings, funds previously set aside for additional leased space (not being leased, now that this city property is available), development excise tax fees previously collected, and Certificate of Participation (COP) proceeds remaining from the purchase of the property. Use of the space will avoid new lease costs related to current additional space needs, and will reduce ongoing lease costs, as staff are relocated from leased spaces to this city owned facility.

Brenton Building Renovation

The city has outgrown their existing facilities and is in need of additional office space for a number of departments. The BCH location is intended to accommodate the city's needs with initial renovations to commence at the Brenton facility located at 1136 Alpine. This part of the project will be funded with Impact Fees collected in the Capital Development Fund for the intent to use revenues collected to provide additional facilities to accommodate new expansion. Additional costs related to renovation and moving staff to the new location will be covered by COP proceeds and funds previously set aside for lease costs, no longer needed. This request is to complete reconstruction and renovation

of two full floors, including some infrastructure systems, to accommodate city office functionality.

Fiber Installation

The current Capital Improvement Program (CIP) includes funding for fiber needed within the Brenton Building, however, it was also discovered that fiber needs to be run from the street to the building. Additional funding for this is included as an ATB in this packet.

Parking Garage

Funding is needed for health and safety maintenance and repair work at a parking garage located on the BCH site. The work needed includes maintenance and repair of parking deck, repair of stairs, and upgrades to lighting.

Facility Analysis

Beginning work related to the BCH site will include an analysis of city facilities and the development of options to support customer service delivery and efficiently allocate work functions. The scope of work includes the development of guiding principles and performance and design guidelines.

Site Leases

Additionally, an ATB is needed to appropriate revenue generated from current, agreed upon, BCH site rental leases to non-city entities, to cover related operating and maintenance expenses.

Dairy Arts Center Major Maintenance

The City's Facilities & Asset Management (FAM) group, in the Public Works/Support Services Division, works in coordination with the Dairy's board to continually identify and support improvements that upkeep the buildings condition for its public use. Funding needs have been identified to replace existing HVAC unit serving theaters, upgrade fire alarm systems, raise un-even floors, provide for an ADA ramp, and repair a sewer line in combination with the Community, Culture and Safety tax project, currently underway. Funding for this purpose is being requested from General Fund savings.

Library Facilities Renovation & Replacement

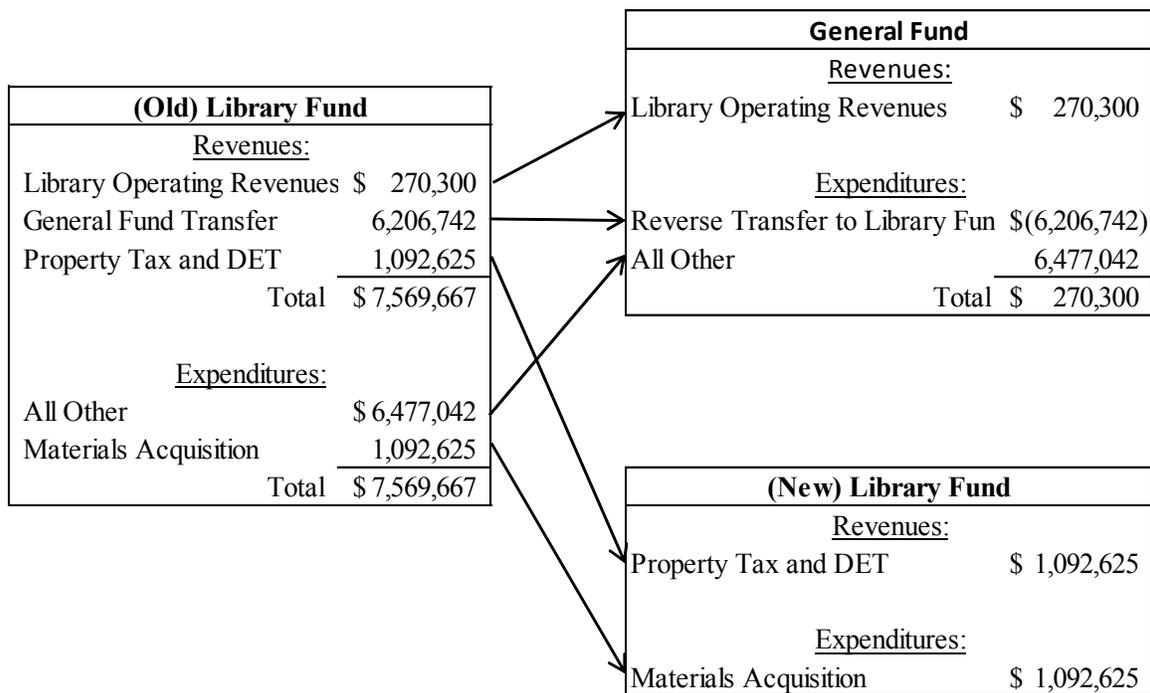
A number of projects related to Library facilities have costs exceeding initial budget estimates, due to construction cost escalation. Funds are being requested from the Facilities Renovation and Replacement Fund to cover the shortfall for Meadows Branch improvements, Reynolds AMH improvements, Main Library upper window replacement and Makerspace completion. Funds for these projects have been saved up over time in this fund for Library renovation and replacement projects.

Library Fund Restructure

A new fund structure is being created as a result of the changes to the City Charter (Article IX: Advisory Commissions, Section: 65, 69, 132-136). These changes were approved by voters in November 2015. A new Library Fund will be established and this fund will become a depository of revenues from the 1/3 property tax mill levy dedicated

to the library; any donations and contributions to the library; and the proceeds from the sale of any library assets. This adjustment to base represents the separation and movement of budgeted revenues and expenditures from the current Library Fund to a combination of the General Fund and the **new** Library Fund. As stated above, the new Library Fund will receive the three aforementioned revenue streams and, in turn, use those proceeds to support the library’s materials acquisition budget as well as select grant funded positions. The amount of budget appropriation for these purposes in this ATB is \$1,092,625. The General Fund will now include the remaining library operating revenues and direct expenditures (rather than through a transfer cost). Additionally, the General Fund transfer of \$6,206,742 to the (current) Library Fund will be reversed. The net difference between the general fund transfer of \$6,206,742 and the total remaining library budget of \$6,477,042 is \$270,033 and this is the amount being appropriated in the General Fund. It is sourced from additional library operating revenue (fines and fees, rental income, etc.). The figure below illustrates the changes being made.

Figure 1 – Library Funding Structure



Summer Shelter

One-time funding is proposed from General Fund savings to increase the number of shelter beds available during the summer season (May 1 to Sept 30), when the Boulder Shelter and BOHO do not operate walk-up emergency shelters. This funding will fund 25 additional Transition Program beds with meals at the Boulder Shelter, and 25 overnight spaces at faith locations in BOHO's Women's Shelter program. The Boulder Shelter transition beds are reserved for clients who are prepared for the next step toward self-

sufficiency, including maintaining sobriety and an intake interview with a case manager. This program is a first step toward entry to the longer-term transitional living program.

Financial System Support

Ongoing funding is being requested for an additional permanent 1 FTE, to provide assistance with the new Munis Financial system. The employee will coordinate software improvements with the software company, assist with and coordinate financial reporting, and assist with database management. The employee will lead report development, software updates, and resolution of software issues. This employee will ensure coordination with department end users as well lead technical assistance to departments. If this position cannot be filled on a timely basis, the funds would be used to pay for consulting or contracted services. This work is critical to the ongoing stability of the new financial system and improved customer service both within the city organization, and to provide improved and current technological services to external customers. Existing ongoing revenues have been identified in the General Fund to cover this ongoing cost.

Planning Positions

Ongoing Comprehensive Planner II

Due to continued high priority planning initiatives and increased ongoing planning workload, this ATB packet contains a request to convert a fixed-term Comprehensive Planner II position to an ongoing position. The position will support long range planning initiatives including area plans and other city council planning priorities. While current funding for the position ends in December 2016, this is being requested now, rather than through the 2017 budget process, because the position is currently vacant, due to recent staff turnover, and there is a desire to fill the position as soon as possible. It would make sense to fill it ongoing, rather than fixed-term for half a year, if the conversion is approved. There is no financial impact in 2016, but it would be included in the 2017 budget on an ongoing basis. Existing ongoing revenues have been identified in the General Fund to cover this ongoing cost.

Fixed-term Planner Associate

Funding is being requested for a 2-year fixed-term Planner Associate position to backfill existing staff so they can complete work on "the Planned Unit Development (PUD) project" without impacting service levels or other work plan priorities. About the PUD Project: Previous PUD approvals impact the development potential of a property, and were widely used by the city starting in the late 1960s. The regulations that apply to the property often differ from the city's current zoning code, and the application process for making changes can differ from the standard review process. There is no single repository for the documentation of previous reviews available to staff or to the public. The goal of this project is to map and summarize all previous reviews in the city of Boulder to provide the public with accurate information about a property's history and future development potential, and to quickly inform property owners about the regulations applicable to their property.

Overview of Total Requests

A summary table of the carryover and supplemental requests by fund can be found in **Attachment C**.

In total, the city recommends \$163,593,507 in appropriations, of which \$2,763,445 come from new revenues and \$160,830,062 from fund balance. Most of the appropriations (\$145,792,407 or 89% of the total) are in the city's restricted funds, such as the Lottery Fund, Affordable Housing Fund, Permanent Parks Fund, and Transportation funds. These funds often have multi-year large capital projects that, depending on the timing of the project work, are likely to have capital budget carryover. For example, \$26 million is being carried over in the Transportation Fund. Most of the projects partially being funded from Colorado Department of Transportation (CDOT) grants are well underway. Another example is the nearly \$13 million being carried over for Wastewater projects.

Attachment D is a schedule reflecting the impact of the supplemental appropriations for 2016 on the projected fund balance, before reserves, for each fund.

The second reading of this item is scheduled for the June 7 City Council meeting.

ATTACHMENTS

- A. Proposed Ordinance containing supplemental appropriations to the 2016 Budget
- B. Narrative descriptions of all supplemental appropriations to the 2016 Budget by fund
- C. Table of all carryovers and supplemental appropriations to the 2016 Budget by fund
- D. 2016 Fund Activity Summary

ORDINANCE NO. 8120

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2016 SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, Section 102 of the Charter of the City of Boulder provides that: "At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose, and may by ordinance appropriate available revenues not included in the annual budget;" and

WHEREAS, the City Council now desires to make certain supplemental appropriations for purposes not provided for in the 2016 annual budget; and,

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated from additional projected revenues and from unused fund balances to the listed funds:

Section 1. General Fund

Appropriation from Fund Balance – Encumbrance	\$ 1,358,109
Appropriation from Fund Balance	\$ 15,157,944
Appropriation from Additional Revenue	\$ 1,285,047
Increase in Revenue Only	\$ 156,618
Negative Appropriation - Ordinance #8087	(\$11,600,000)

Section 2. Community Housing Assistance Program Fund

Appropriation from Fund Balance	\$ 3,908,353
Negative Appropriation - Ordinance #8087	(\$4,000,000)

Section 3. Library Fund

Appropriation from Fund Balance – Encumbrance	\$ 97,027
Appropriation from Fund Balance	\$ 742,851
Negative Appropriation	(\$ 7,438,642)

Section 4. New Library Fund

Appropriation from Additional Revenue	\$1,092,625
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Section 5. Capital Development Fund

Appropriation from Fund Balance – Encumbrance	\$11,575
Appropriation from Fund Balance	\$931,955
Negative Appropriation - Ordinance #8087	(\$1,000,000)

Section 6. Lottery Fund

Appropriation from Fund Balance – Encumbrance	\$ 50,260
Appropriation from Fund Balance	\$ 204,625
Negative Appropriation - Ordinance #8087	(\$1,001,360)

Section 7. Planning & Development Services Fund

Appropriation from Fund Balance – Encumbrance	\$ 305,275
Appropriation from Fund Balance	\$ 2,030,629
Appropriation from Additional Revenue	\$ 12,110
Negative Appropriation - Ordinance #8087	(\$1,000,000)

Section 8. Affordable Housing Fund

Appropriation from Fund Balance– Encumbrance	\$ 59,094
Appropriation from Fund Balance	\$7,362,812
Negative Appropriation - Ordinance #8087	(\$5,000,000)

Section 9. .25 Cent Sales Tax Fund

Appropriation from Fund Balance – Encumbrance	\$ 349,163
Appropriation from Fund Balance	\$ 1,378,644
Appropriation from Additional Revenue	\$ 200,000
Negative Appropriation - Ordinance #8087	(\$1,250,000)

Section 10. Recreation Activity Fund

Appropriation from Fund Balance - Encumbrance	\$ 41,952
Appropriation from Fund Balance	\$ 147,110
Appropriation from Additional Revenue	\$66,170

Section 11. Climate Action Plan Fund

Appropriation from Fund Balance - Encumbrance	\$ 265,256
Appropriation from Fund Balance	\$ 585,415
Appropriation from Additional Revenue	\$ 185,000
Negative Appropriation - Ordinance #8087	(\$1,000,000)

Section 12. Open Space Fund

Appropriation from Fund Balance - Encumbrance	\$ 1,158,830
Appropriation from Fund Balance	\$ 22,137,742
Negative Appropriation - Ordinance #8087	(\$21,606,360)

Section 13. Airport Fund

Appropriation from Fund Balance - Encumbrance	\$ 117,633
Appropriation from Fund Balance	\$ 19,969
Negative Appropriation - Ordinance #8087	(\$1,000,000)

Section 14. Transportation Fund

Appropriation from Fund Balance – Encumbrance	\$ 11,315,638
Appropriation from Fund Balance	\$ 14,981,688
Increase in Revenue Only	\$ 16,638,571
Negative Appropriation - Ordinance #8087	(\$25,000,000)

Section 15. Transportation Development Fund

Appropriation from Fund Balance - Encumbrance	\$ 689,724
Appropriation from Fund Balance	\$ 1,440,431
Negative Appropriation - Ordinance #8087	(\$1,800,000)

Section 16. Community Development Block Grant Fund

Appropriation from Additional Revenue	\$ 1,159,956
Negative Appropriation - Ordinance #8087	(\$1,000,000)

Section 17. HOME Fund

Appropriation from Additional Revenue	\$ 1,545,741
Negative Appropriation - Ordinance #8087	(\$1,500,000)

Section 18. Permanent Parks and Recreation Fund

Appropriation from Fund Balance – Encumbrance	\$ 125,398
Appropriation from Fund Balance	\$ 562,601
Negative Appropriation - Ordinance #8087	(\$500,000)

Section 19. Boulder Junction Improvement Fund

Appropriation from Fund Balance – Encumbrance	\$ 15,089
Appropriation from Fund Balance	\$ 1,767,387
Negative Appropriation - Ordinance #8087	(\$1,500,000)

Section 20. 2011 Capital Improvement Bond Fund

Appropriation from Fund Balance – Encumbrance	\$ 1,941,871
Appropriation from Fund Balance	\$ 1,280,447
Negative Appropriation - Ordinance #8087	(\$1,696,137)

Section 21. Water Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 2,199,336
Appropriation from Fund Balance	\$ 3,431,700
Negative Appropriation - Ordinance #8087	(\$4,000,000)

Section 22. Wastewater Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 8,291,341
Appropriation from Fund Balance	\$ 13,540,410
Appropriation from Additional Revenue	\$ 215,625
Negative Appropriation - Ordinance #8087	(\$10,000,000)

Section 23. Stormwater/Flood Management Utility Fund

Appropriation from Fund Balance – Encumbrance	\$ 24,033,738
Appropriation from Fund Balance	\$ 9,742,690
Appropriation from Additional Revenue	\$ 2,441,599
Negative Appropriation - Ordinance #8087	(\$15,000,000)

Section 24. Telecommunications Fund

Appropriation from Fund Balance – Encumbrance	\$ 556
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Section 25. Workers Compensation Insurance Fund

Appropriation from Fund Balance	\$ 406,618
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Section 26. Fleet Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 1,003,815
Negative Appropriation - Ordinance #8087	(\$2,000,000)

Section 27. Computer Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 74,213
Appropriation from Fund Balance	\$ 508,880

Section 28. Equipment Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 18,348
Negative Appropriation - Ordinance #8087	(\$500,000)

Section 29. Facility Renovation and Replacement Fund

Appropriation from Fund Balance – Encumbrance	\$ 686,347
Appropriation from Fund Balance	\$ 4,349,575
Appropriation from Additional Revenue	\$ 1,998,215
Negative Appropriation - Ordinance #8087	(\$4,000,000)

Section 30. The City Council finds that this ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 31. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 32. The Council deems it appropriate that this ordinance be published by title only and order that copies of this ordinance be made available in the Office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED

BY TITLE ONLY this 17th day of May, 2016.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE this 7th day of June, 2016.

Mayor

Attest:

City Clerk

**DEFINITIONS AND REQUEST NARRATIVE
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016**

DEFINITIONS

Budget Carryovers

Encumbrance Carryover from Additional Revenue or Fund Balance

Encumbrances carryovers are appropriations committed by contract for goods or services in the prior year that will not be paid for until the current year. Both the encumbrance (balance in the purchase order), and the budget to cover the encumbrance roll automatically into the current year. It is necessary, however, to “re-appropriate” these dollars by ordinance. If an encumbrance is tied to a grant, the appropriation will come from additional revenue because of an accounting requirement that expenditures and revenues in grants be equal within the same fiscal year. If the encumbrance is not tied to a grant, the appropriation will come from fund balance.

Capital Project Carryover from Additional Revenue or Fund Balance

This action appropriates remaining balances in capital project budgets from the previous year, to enable the completion of multi-year projects that involve the purchase or construction of capital assets.

Grant Carryover from Additional Revenue

This action appropriates remaining balances in grants from the previous year. This appropriation comes from additional revenue because of an accounting requirement that expenditures and revenues in grants be equal within the same fiscal year.

Operating Carryover from Fund Balance

These appropriations are requested to be carried over from a department’s operating budget and occur less frequently since each department receives a new operating budget each year. When they are requested, however, they are typically tied to operating programs or projects that are multi-year in nature (e.g., updating of a department’s master plan). Occasionally, departments request to carryover budget savings from the previous year in order to accumulate an adequate amount of funding for a large, one-time project.

Operating Carryover from Fund Balance Reserve

Similarly to Operating Carryover from Fund Balance, these requests are tied to unexpended fund balances that have been previously set aside for specific purposes.

Budget Supplementals

Budget Supplemental from Fund Balance

Adjustments for new appropriation from a specific fund's available fund balance.

Budget Supplemental from Fund Balance Reserve

Adjustments for new appropriation from a specific fund's available fund balance where use is limited for specific purposes, typically due to legal restrictions or management assignment.

Budget Supplemental from Additional Revenue

Grants – Budget supplementals from grant revenues are required throughout the year since either the grant was not anticipated and was therefore not incorporated into the original budget, or because the grant amount actually received was more than the amount specified in the original budget.

Miscellaneous – This category includes annual unanticipated funds received for city programs and services, including items such as donations, fundraisers, wildland fire costs or cooperative agreements between municipalities. In addition, beginning in 2007, reimbursements for some services (e.g. insurance proceeds, off-duty police officer services, city-sponsored training programs) are now officially recognized as miscellaneous revenues instead of reducing expenditures. Best practices accounting and reporting standards require these revenues to be reflected through the formal appropriation process.

Transfers to/from Other Funds

Transfers between funds requiring City Council approval.

Budget Adjustments Necessitated by Accounting Requirements

Adjustments required based on generally accepted accounting and reporting requirements that occur during the final adjustments to base.

Negative Appropriations

Adjustments reducing approved appropriations based on identified reductions in revenue sources (e.g. grant funding reductions).

BUDGET SUPPLEMENTAL DETAILS BY FUND**GENERAL FUND****Budget Supplemental(s) from Fund Balance**City Attorney's Office – Paralegal II Position – Ongoing – \$70,200

This request is for funding ongoing salary and benefits for a new Paralegal II position. This position will provide project management and technical assistance to the CAO municipalization team as it moves into document production phase and will work with IT on streamlining IT contract review process. This position is being requested at this time due to the timing of the work of the municipalization team. This position will provide continuing support for review of IT contracts. IT contracts have increased in number considerably in the last decade and are unique in nature, given the on-line environment of many of these.

City Clerk – City Clerk and Director of Support Services Overlap – \$59,312

This request is to address the overlap of the outgoing and incoming City Clerk and Director of Support Services, for transition and training purposes, over eight pay periods in 2016.

City Manager's Office – Chief Resilience Officer – \$63,465

This request is to fund the Chief Resilience Officer's salary, benefits and non-personnel expenses through December 2016. The Rockefeller Foundation/100RC Grant, which is the funding source for the salary and benefits for the Chief Resilience Officer, ends in August 2016. Continuation of the Chief Resilience Office may be considered as part of the 2017 Budget.

City Manager's Office – Resilience Strategic Plan Document and Outreach – \$13,570

Accepting the 100 Resilient Cities Grant award was contingent upon development and dissemination of a city-wide Resilience Strategy. This request is to fund the graphics design, printing, and web design of the resilience strategic plan document in addition to community engagement and workshops.

City Manager's Office – Climate Adaptation and Sustainability Training – \$10,825

This request is for training, planning and workshops to develop city wide scenarios based planning around climate change as part of the city's climate commitment and resilience strategy initiative. This was considered by council in the last quarter of 2015 and fell narrowly outside the time frame for inclusion in the 2016 Budget.

City Manager's Office – Community Preparedness Trainings – \$9,750

This request is for funding to provide preparedness trainings and workshops. This is an outcome of the community resilience assessment from 2015 that identified a gap in community preparedness for extreme events.

City Manager's Office – Neighborhood Programming – \$38,900

This is a one-time request to fund a collection of neighborhood programming elements including implementation of a comprehensive engagement program (e.g. living room conversations, National Night Out, HOA Training, etc.), production of a neighborhood leadership summit, and ancillary costs related to graphics, branding, printed materials for all programming components. Any potential ongoing neighborhood programming costs will be addressed in the 2017 Budget.

City Manager's Office – International Association for Public Participation Standardization, Certification, and Credentialing – \$7,850

This request is to provide funding for International Association for Public Participation (IAP2) training for the Neighborhood Liaison. IAP2 is an international association of members who seek to promote and improve the practice of public participation in relation to individuals, governments, institutions, and other entities that affect the public interest in nations throughout the world.

Communications – Comcast Agreement – \$25,000

This is a request to appropriate funding for live streaming costs as part of the 2015 Comcast contract renewal. Boulder 8 TV was awarded one-time funds of \$25,000 for this purpose.

Community Vitality – Study Chautauqua Area Managed Parking Study – \$25,000

This is a request to appropriate funding for a study of parking for the Chautauqua area. At the study session in February, Council provided direction to move forward with the Chautauqua Access Management Plan (CAMP) in 2016 and to collect the necessary data (parking and access utilization; visitor destination, etc.) this summer in order to develop viable options for access management and parking strategies. The total budget for the CAMP analysis and data collection is approximately \$90,000. The data collection costs will be reduced by using city Parking Management Officers to collect parking data in the neighborhoods. CAMP is a multi-departmental effort and both Transportation and Open Space and Mountain Parks will be contributing financially to cover project costs.

Finance – Munis Technical and Accounting Support – Ongoing – \$163,000

This request is for funding of an additional permanent 1 FTE, and associated NPE, to provide assistance with the new Munis system. The employee will coordinate software improvements with the software company, assist with and coordinate financial reporting, and assist with database management. The employee will lead report

development, software updates, and resolution of software issues. This employee will ensure coordination with department end users as well lead technical assistance to departments. If this position cannot be filled on a timely basis, the funds would be used to pay for consulting or contracted services. This work is critical to the ongoing stability of the new financial system and improved customer service both within the city organization, and to provide improved and current technological services to external customers.

Finance – Recreational Marijuana Commission – \$25,000

This request is for funding for the creation of a Recreational Marijuana Commission.

General Governance – Contingency – Boulder Convention and Visitors Bureau – \$55,175

This is a request to appropriate funds to increase the subsidy to the Boulder Convention and Visitors Bureau (BCVB). BCVB's payment is budgeted based on projections of 2015 revenues. The actual revenues came in over the projections and this appropriates the difference, as per contractual agreement.

General Governance – Contingency – Community Survey – \$25,456

This is a request to fund the Community Survey, which will move from every three years to bi-annually to get more accurate feedback from the community at large. This amount is to increase the amount set aside to prepare for an earlier survey; the ongoing amount for future surveys will be included in the 2017 budget.

Human Services – Summer Shelter – \$60,000

This is a request for funding to increase the number of shelter beds available during the summer season (May 1st to Sept 30th) when the Boulder Shelter and BOHO do not operate walk-up emergency shelters. This adjustment will fund 25 additional Transition Program beds with meals at the Boulder Shelter, and 25 overnight spaces at faith locations in BOHO's Women's Shelter program. The Boulder Shelter transition beds are reserved for clients who are prepared for the next step toward self-sufficiency, including maintaining sobriety and an intake interview with a case manager. This program is a first step toward entry to the longer-term transitional living program.

Municipal Child Care Assessment – \$15,000

This is a request to fund consulting services to study the potential for a municipal child care program, as discussed by council during the 2016 council retreat.

Parks and Recreation – Hazardous Waste Clean Up – Boulder Creek Corridor – \$43,200

This request is for funding for an outside contractor specializing in hazardous waste mitigation services to perform the large camp clean-ups that happen in parks and along the Boulder Creek corridor to minimize exposure to staff. Parks and Recreation, Transportation Maintenance and the Police Departments have partnered together to

clean up transient camps along the creek corridors and in parks for a number of years. The work exposes staff to hazardous conditions including: working on slopes under tight bridge abutments and other physically challenging areas, removing hazardous waste items that include human waste, drug paraphernalia and hypodermic needles, filthy clothes and bedding, weapons, and other potentially dangerous items. In 2015, the Boulder County Jail prohibited the city from using the contracted Boulder County Jail Crews for this work due to the hazardous nature of the work. Request for funding for periodic, ongoing clean up efforts may be brought forward in the 2017 budget process.

Planning, Housing & Sustainability – Waste Reduction Services \$109,378

This is a request to appropriate \$109,378 in additional revenue from the Trash Tax for subsidies and assistance to help property owners and businesses comply with the new Universal Zero Waste Requirements.

Planning, Housing & Sustainability –Renewable Energy Program – Grants – \$23,885

This is a request to appropriate the 2015 sales and use tax revenues that have not yet been distributed in Solar Grants (\$23,885.21). The revenues for this fund come from a portion of the sales and use tax collected on solar permits, solar equipment, and solar installations completed in the City of Boulder.

Planning, Housing & Sustainability – Recreational Marijuana Licensing Compliance – \$46,000

This is a request to fund the ongoing costs from the existing licensing fee to ensure compliance with the requirements. Licensed medical marijuana and recreational marijuana facilities are required to report their energy usage to the City of Boulder and offset 100 percent of their electricity use. Revisions to the city’s licensing requirements in 2015 include clarified language and modifications to the reporting requirements.

Planning, Housing & Sustainability – Renewable Energy Program – 2015 Rebates – \$12,861

This is a request to appropriate the 2015 revenues that were received from a portion of the sales and use tax collected on solar permits, solar equipment, and solar installations completed in the City of Boulder. Staff uses this funding to rebate a portion of the sales and use tax back to the customer.

Planning, Housing & Sustainability – Comprehensive Planner II – Ongoing – \$0

This request is for ongoing funding for a Planner II position to support long range planning initiatives including area plans and other city council planning priorities. The annual cost of this position is \$98,000. The position is currently vacant due to recent staff turnover, with current funding for the position ending in Dec 2016. There is no financial impact in 2016, but it will be included in the 2017 budget on an ongoing basis at \$98,000 annually.

Police – Alcohol Enforcement Overtime – \$50,000

This is a request to appropriate \$50,000 for overtime for alcohol enforcement to include DUI enforcement and enforcing underage drinking laws. The request will be funded by, DUI fines received and required to be used for this purpose.

Police – Records Management System – \$696,040

This is a request to appropriate \$696,040 of Asset Forfeiture funds to purchase a new Records Management System to better document crime, analyze crime trends, and determine appropriate police response. The project was proposed as a part of the Capital Improvement Program (CIP) process, but appropriation was not yet made.

Public Works – Support Services – Boulder Community Hospital Campus – Parking Garage – \$506,500

This request is to fund maintenance and repair of parking deck, repair of stairs, and upgrades to lighting at the parking garage located on the BCH site.

Public Works – Support Services – Dairy Arts Center Major Maintenance – \$242,871

This request is to replace existing HVAC unit serving theaters, upgrade fire alarm systems, raise un-even floors, provide for an ADA ramp, and repair a sewer line in combination with the Community, Culture and Safety (CCS) bond project. The City's Facilities & Asset Management (FAM) department in coordination with the Dairy's board continually identify and support improvements that upkeep the buildings condition for its public use. The adaptive reuse of an abandoned industrial space is a nationally recognized model of constructive urban development. It maintains the building's historic ambience while adapting it for new uses and preserving the value embedded in its original construction and materials.

Public Works – Support Services – Insourcing Study – \$82,500

This request is to fund a consultant study to determine the costs and other impacts of bringing janitorial and landscaping contracts in-house, as directed by Council at the Feb. 16, 2015, Council meeting on Living Wage.

Public Works – Support Services – BCH Campus – Fiber Installation – \$66,100

This request is to run the required fiber in the street up to the BCH campus.

Public Works – Support Services – Janitorial Service Contract – \$88,803

This request is to amend 2016 janitorial service contract due to recent vendor contract changes in both the Library and the FAM Maintained Buildings.

Citywide – Police/Fire Pensions – Fire Pension Contribution Adjustment (\$93,108)

This request adjusts the required city contribution to the Old Hire Fire pension plan, as

per actuarial assessment.

Citywide – Police/Fire Pensions – Police Pension Contribution Adjustment \$84,840

This request adjusts the required city contribution to the Old Hire Police pension plan, as per actuarial assessment.

Budget Supplemental(s) from Additional Revenue

City Attorney’s Office – Short Term Rental – \$12,500

This request is for funding of additional recreational marijuana revenue that was supposed to be included in the Short Term Rental Ordinance to CAO personnel

Community Vitality – Additional Parking Management Officers – Ongoing – \$123,000

This request is for funding to increase the number of Parking Management officers from 10 to 12. This was considered with council during a study session in the fourth quarter of 2015, following 2016 budget approval. The salary and benefits for these two positions were not modeled into the 2016 budget. One officer was hired in late 2015; the second will be hired in 2016. Program revenues will be used to cover these ongoing costs.

Community Vitality –Additional Car for PMO – \$27,801

This request is for funding of one additional vehicle to cover citywide parking enforcement for two additional Parking Management Officers (PMOs) that were recommended through the DCV assessment and will be on staff in 2016. A total of seven vehicles would enable the 12 officers to cover parking enforcement citywide. Program revenues will be used to cover these ongoing costs.

Human Resources – Well-Being Supplement – \$30,000

This request represents appropriation of a reimbursement received from Cigna to compensate the city for transition errors. Funding will be used for Well-being program, in line with allowed uses of this reimbursement.

Human Services – Silver Sneakers – \$25,000

This request will appropriate funds from anticipated revenue from the Silver Sneakers® program, which is free to eligible participants. The program enhances the fitness and wellness of Medicare eligible seniors and disabled people. Appropriation will be used to cover the costs of the program.

Human Services – Boulder Encore Program – \$10,000

This request is to appropriate funds from anticipated revenue from Boulder Encore Program that is an optional membership program for Senior Services. The program offers discounts for classes and services in exchange for an annual membership fee. The

revenue will be received from sale of memberships. Appropriation will be used to cover costs of the program.

Human Services – 2016 Restorative Justice Grant – \$8,840

This request appropriates new 2016 funding from the County District Attorney's office for restorative justice services for minors referred to the program by the District Attorney's office. The DA's office will refer 7 to 10 cases for mediation under the terms of the funding agreement.

Human Services – Boulder County 2016 Grant Management System Partnership – \$5,262

This request provides funding for the Human Services Fund grant management system (GMS) partnership for shared software costs. This shared software allows the participating entities to coordinate human services funding to local nonprofits providing these services. The shared software also improves efficiency for the funded agencies by allowing the agency to submit one application for funding instead of requiring a separate application for each funder. This software is shared with United Way, Boulder County and the City of Longmont.

Human Services – Family Resource Schools Basic Needs Donations– \$5,000

This request appropriates anticipated additional donations from the community to support the Family Resource Schools basic needs program. The program especially emphasizes outreach to traditionally underserved populations to increase access to basic services and involvement in five elementary schools: Columbine, Creekside, Crestview, University Hill, and Whittier.

Human Services – City of Longmont 2016 Grant Management System Partnership – \$4,666

This request provides funding for the Human Services Fund grant management system (GMS) partnership for shared software costs. This shared software allows the participating entities to coordinate human services funding to local nonprofits providing these services. The shared software also improves efficiency for the funded agencies by allowing the agency to submit one application for funding instead of requiring a separate application for each funder. This software is shared with United Way, Boulder County and the City of Longmont.

Human Services – City of Lafayette – Estimated Contribution to Shared Bus Costs – \$2,000

The City of Boulder and the City of Lafayette jointly purchased a bus which is used for activities and trips for Senior Services provided by both cities. This adjustment appropriates revenue from Lafayette for that city's portion of shared bus expenses.

Library – Appropriate Library Department Expenditures from Library Fund – \$270,300

This request represents the appropriation of Library Department Expenditures (not including Materials Acquisitions budget) within the General Fund. Previously these costs and corresponding revenues flowed through the old Library Fund. Under the new structure, these will flow through the General Fund.

Municipal Court – Short Term Rental – \$53,000

This request is for funding of additional recreational marijuana revenue that was supposed to be included in the Short Term Rental Ordinance to Municipal Court for the following: Courtroom Remodel (\$10,000), relief judge (\$7,500), Court Clerk (\$35,000), and supplies (\$500). This supplemental has already been approved by council on February 2, 2016 but was inadvertently omitted from ordinance 8103.

Public Works – Support Services – BCH Annual Lease – \$450,000

This request appropriates revenue generated from BCH site rental leases and records operating and maintenance expenses.

Public Works – Support Services – Denver Urban Area Security Initiative – \$19,800

This request is to install a generator transfer switch at the East Boulder Recreation Center with a city share of \$19,800 of the total \$60,000 awarded to the City & County of Denver who will be managing the project.

Budget Supplemental(s) – Additional Grant Revenue

Human Services – United Way 2016 GMS Partnership – \$2,284

The request appropriates increased grant revenue to the full and final award level. This grant supports the city's child care referral program which assists Boulder residents with finding quality affordable child care.

Human Services – 16/17 Boulder Valley School District Family Resource Schools Grant – \$88,000

This is a request to increase revenue/expense to match the full grant award from the Boulder Valley School District to support the Family Resource Schools program. The base budget is currently approved at \$72,000 for this grant and this adjustment will align the base budget with the total \$160,000 award.

Human Services – Senior Foundation Grant – 2016 – \$3,000

This request appropriates funds awarded to the Human Services department from the Boulder Seniors foundation to be used for production costs of the "Human Services Insight" television (Ch 8) show.

Police - Victims Assistance and Law Enforcement 2016 Grant - \$49,287

This is a request to appropriate \$49,287 of anticipated revenue received from the Boulder County Twentieth Judicial District for the Victims Assistance and Law Enforcement (VALE) Grant. This will be used to pay 50% of the salary of the departments Victims Advocate Team Coordinator; the Police Department will provide the remaining 50% of the Victim Advocate Team Coordinators salary and benefits.

Police - Law Enforcement Assistance Fund 2016 Grant - \$16,600

This is a request to appropriate \$16,600 of anticipated revenue received from the Colorado Division of Transportation for the 2016 LEAF Grant. The department was awarded the funds to increase and improve the enforcement of laws pertaining to alcohol and drug related traffic offenses. The department will conduct various saturation patrols and DUI enforcements from January to June of this year using \$15,000 in overtime; in addition the department will purchase breathing tubes for the field testing associated with DUI stops for \$1,600.

Police - 2016 Click-it-or-Ticket Grant - \$16,000

This is a request to appropriate \$16,000 in anticipated revenue from a grant issued by the Colorado Department of Transportation through the National Highway Transportation Safety Association. The May Seatbelt Click-it-or-Ticket Campaign is used to increase compliance with the Colorado seatbelt laws and increase the public awareness of suffering serious or fatal injuries for failure to properly use a seatbelt. The grant will provide \$16,000 in Police Officer overtime for seatbelt enforcement during the May campaign.

Police - Police Officer Standards and Training Grant - \$3,970

This is a request to appropriate \$3,790 in anticipated revenue from the Police Officers and Standards Training (POST) Grant. The State of Colorado has mandated that certified law enforcement officers must complete annual in-service trainings. These funds will be used to purchase an online training subscription that is provided by Police One. This will help the officers stay in compliance with the training mandate.

Public Works - Support Services - Regional Air Quality Control (RAQC) Grant - \$39,125

This request is to install five dual-port Electric Vehicle charging stations with a required 20% city match of maximum award of \$31,300. The match of \$7,825 will be covered by existing budget

Negative Appropriation

Human Services - Boulder County Childcare Referral Grant - (\$35,000)

The city no longer receives grant funding for this programs because it has been transferred to Boulder County to be integrated with the county's child care services and to the Early Childhood Council of Boulder County, whose mission it is to coordinate

county-wide professional development and training. The city will continue to fund both programs through annual contracts with Boulder County and the Early Childhood Council.

Human Services - Infant Toddler Quality Availability Project - (\$38,000)

The city no longer receives grant funding for this programs because it has been transferred to Boulder County to be integrated with the county's child care services and to the Early Childhood Council of Boulder County, whose mission it is to coordinate county-wide professional development and training. The city will continue to fund both programs through annual contracts with Boulder County and the Early Childhood Council. The vacant general fund FTE that was funded through these grants has been reallocated to other HSD high priority areas including projects related to council priorities and work plan.

Human Services - Qualistar Colorado Childcare Referral Grant - (\$38,000)

The city no longer receives grant funding for this programs because it has been transferred to Boulder County to be integrated with the county's child care services and to the Early Childhood Council of Boulder County, whose mission it is to coordinate county-wide professional development and training. The city will continue to fund both programs through annual contracts with Boulder County and the Early Childhood Council. The vacant general fund FTE that was funded through these grants has been reallocated to other HSD high priority areas including projects related to council priorities and work plan.

Human Services - Longmont Childcare Subsidy & Referral Grant- (\$165,000)

The city no longer receives grant funding for this programs because it has been transferred to Boulder County to be integrated with the county's child care services and to the Early Childhood Council of Boulder County, whose mission it is to coordinate county-wide professional development and training. The city will continue to fund both programs through annual contracts with Boulder County and the Early Childhood Council. The vacant general fund FTE that was funded through these grants has been reallocated to other HSD high priority areas including projects related to council priorities and work plan.

Transfer In and Appropriation – Additional Revenue

Finance - Transfer from Workers Compensation Fund - \$156,618

This is a request for a repayment to the General Fund. At the end of 2015 the General Fund provided funding to the Worker's compensation fund due to significantly higher than usual worker compensation claims.

.25 CENT SALES TAX

Budget Supplemental(s) from Fund BalanceParks and Recreation – Event Sponsorships – \$4,800

This request is to allocate additional sponsorship funding from the 2015 Snow Much Fun sponsorships by Fat Brain Toys and Eldorado Ski Resort.

Parks and Recreation – Tree Removals – \$137,377

This request is for funding to cover the additional costs incurred from the delay in the contract for tree removals. The contract was approved in 2015, contract was not executed until Jan 2016; 285 public street or park trees that died due to Nov 2014 freeze must be removed; 158 are Priority 1 for removal in 2015; total cost for these is \$118,000 – we were able to find \$48K within Forestry budget but need additional \$70,000 to cover Priority 1 removals. 127 trees are Priority 2 at estimated cost of \$70,000.

Parks and Recreation – Kleen-Tech – \$19,476

This request is for funding the negotiated increase to contract based on wage increases (contract bid at starting wage of \$9.00/hour, current starting wage to recruit and retain custodians is \$11.00/hour).

Parks and Recreation – Valmont Bike Park Sponsorship – \$3,000

This request appropriates funds received in November 2015 by The Fix to support repairs and improvements at VBP.

Parks and Recreation – Tree Mitigation – \$28,697

This request appropriates funds received for tree removal carryover to offset incurred costs. Revenue is received whenever a tree is hit and the city receives insurance money, also from public tree mitigation fees.

Parks and Recreation – Meet the Spirits 2015 Event – \$3,125

This request appropriates donations received from the Columbia Cemetery Meet the Spirits event and other contributions for preservation efforts.

Parks and Recreation – Valmont Bike Park Donations – \$16,496

This request appropriates donations for Valmont Bike Park.

Budget Supplemental(s) from Additional Revenue

Parks and Recreation – Tree Debris to Opportunity Grant – \$200,000

This request appropriates an awarded amount of \$200,000 for the Tree Debris to Opportunity, which is a pilot program, in partnership with the Bridge House and Library Maker Space that engages the Boulder community in repurposing Ash tree debris to usable products to be sold back to the community. The program will hire participants of the Bridge House Ready to Work program to go through a multi-month apprenticeship at the Maker Space to learn how to become woodworkers. The group will make products that will then be sold at the farmer’s market and other locations. Then, public classes will be offered for free to the community to learn similar skills. The Bridge House participants will help teach and facilitate the classes, encouraging collaboration between all members of the community.

AFFORDABLE HOUSING

Budget Supplemental(s) from Fund Balance

Planning, Housing & Sustainability – AHF Additional Revenue – Linkage Fees – \$6,648

These funds will be used for funding of new affordable housing projects in the community. Projects are funded through outreach to community partners and technical review of projects. Final approval for funded projects is given by the technical review committee and the City Manager. The funds from this operating carryover request are from additional revenue received in 2015.

Planning, Housing & Sustainability – Affordable Housing Projects– \$1,093,270

These funds will be used for funding of new affordable housing projects in the community. Projects are funded through outreach to community partners and technical review of projects. Final approval for funded projects is given by the technical review committee and the City Manager. The funds from this operating carryover request are from additional revenue received in 2015.

CAPITAL DEVELOPMENT FUND

Budget Supplemental(s) from Fund Balance

Public Works – Support Services – Brenton Building – Two Floor Renovation – \$740,000

This request is to complete reconstruction and renovation of two full floors with some

infrastructure systems to accommodate all the Finance Department's move. The city's recent purchase of the former BCH campus site, includes the BCH Hospital, the Brenton building, a parking garage with small retail space, and the Medical Pavilion. The city has outgrown their existing facilities and is need of additional office space for a number of departments. Additionally, some of the existing city facilities are outdated, and/or are located in or near a high hazard flood zone. The BCH location is intended to accommodate the city's needs with initial renovations to commence at the Brenton facility located at 1136 Alpine. This part of the project will be funded with Impact Fees collected in the Capital Development Fund for the intent to use revenues collected to provide additional facilities to accommodate new expansion.

Public Works – Support Services – Boulder Community Hospital Campus – Facility Analysis – \$50,000

This request is for an analysis of city facilities and the development of options to support customer service delivery and efficiently allocate work functions. The scope of work includes the development of guiding principles and performance and design guidelines.

CLIMATE ACTION PLAN FUND

Budget Supplemental(s) from Additional Grant Revenue

Planning, Housing & Sustainability – Boulder County Environment Sustainability Matching Grant – \$15,000

This is a request to appropriate additional grant revenue from Boulder County to fund a City of Boulder project to undertake environmental sustainability priorities within the community and help the County leverage community resources for a coordinated, regional approach to environmental sustainability.

COMMUNITY DEVELOPMENT BLOCK GRANT

Budget Supplemental(s) from Additional Revenue

Human Services – Grant Adjustment – \$13,214

This request adjusts the appropriation levels to the 2016 CDBG award level.

Planning, Housing & Sustainability – Grant Adjustment – \$74,877

This request adjusts the appropriation levels to the 2016 CDBG award level.

Planning, Housing & Sustainability – CDBG – Project Appropriation from Additional Revenue – \$21,500

This request will appropriate funds to be provided to community partners through the CDBG grant award process. In late 2015, the City received returned funds from Mental Health partners for a project no longer part of the program.

COMMUNITY HOUSING ASSISTANCE PROGRAM FUND

Budget Supplemental(s) from Additional Revenue

PH&S – Funding of New Affordable Housing Projects – \$327,481

These funds will be used for funding of new affordable housing projects in the community. Projects are funded through outreach to community partners and technical review of projects. Final approval for funded projects is given by the technical review committee and the City Manager. The funds from this operating carryover request are from additional revenue received in 2015.

FACILITY RENOVATION AND REPLACEMENT FUND

Budget Supplemental(s) from Fund Balance

PW – Support Services – Library Branch Improvements: Meadows Renovation – \$157,785

This request appropriates funding to cover expenditures over budget for the completed Library Branch Improvements: Meadows Renovation Project.

PW – Support Services – Fuel Island Upgrade – \$75,000

This request is to update Fleet servicing fuel pumps in compliance and upgrade aging systems.

PW – Support Services – Library Branch Improvements: Reynolds Automated Materials Handling Improvements – \$58,000

This request appropriates funding to cover expenditures over budget for the current Library Branch Improvements: Reynolds AMH Project.

PW – Support Services – Main Library Upper Window Replacement – \$40,000

This request appropriates funding to cover expenditures over budget for the completed Main Library Upper Window Replacement Project.

PW – Support Services – Fleet Software Upgrade – \$40,000

This request is to upgrade Fleet software to a web-based version to allow customer interface.

PW – Support Services – Main Library Makerspace Completion – \$12,500

This request appropriates funding to cover expenditures over budget for the completed Main Library Makerspace Project.

PW – Support Services – Canyon Theater Upgrade – \$2,000

This request appropriates funding to cover expenditures over budget for the completed Canyon Theater Upgrade Project.

Budget Supplemental(s) from Additional Revenue

PW – Support Services – Valmont Butte – \$1,998,215

This request appropriates Honeywell's payment from the reallocation agreement for the voluntary clean-up of Valmont Butte and projected operations and maintenance costs for the next 27 years. The authority for the reallocation is based upon the settlement authorized by the City Council on Oct. 4, 2011.

HOME FUND

Budget Supplemental(s) from Additional Revenue

Planning, Housing & Sustainability – Home Grant Adjustment – \$137,379

This request adjusts the appropriation levels to the 2016 HOME award level.

LIBRARY FUND

Budget Supplemental (s) – Fund Balance

Library – Technology and Furniture Upgrades – \$14,000

This request is for funding to provide microphone system for the children's storytime areas, display and storage furniture for the children's area, stage furniture for the Canyon Theater, lockers for the presenters/users of the Canyon Theater and Makerspace, and a mobile device charging station.

Library – Library Patron Survey and Master Plan – \$140,000

This request is to conduct a Library Patron Survey and update the Library Master Plan. The last Master Plan update occurred in 2007.

Budget Supplemental (s) – Additional Revenue

Library – Boulder Library Foundation – Community Partnership Manager – \$60,000

This request is to appropriate funding to cover the personnel expense for a new grant funded position that will serve as a liaison between the Library and the BLF. BLF will reimburse the Library for the expense in Q4 per the contract.

Library – Summer Literacy Program – \$37,700

This request is to appropriate funding for the 2016 Summer Literacy Program. Funding provided by the Boulder Library Foundation.

Negative Appropriation

Library – Eliminate Budgeted Library Fund Expenditures – (\$7,569,667)

This request represents the elimination of Library Fund Budgeted expenditures.

NEW LIBRARY FUND

Budget Supplemental (s) – Additional Revenue

Library – Appropriate Budgeted Expenditures in the New Library Fund – \$1,092,625

This request represents appropriation of the budgeted expenditures within the New Library Fund.

OPEN SPACE AND MOUNTAIN PARKS FUND

Budget Supplemental(s) from Fund Balance

Open Space and Mountain Parks – Regional IBM Connector Trail/Bridge – \$200,000

This is a request for funding to complete the Regional IBM Connector Trail/Bridge project. Originally, South Boulder Creek at South Boulder Road and IBM were bid together. When South Boulder Creek at SBR became a FEMA project in response to the flood, there were additional responsibilities for reimbursement, repairs, and documentation. The funds that were meant for the two projects together were used for South Boulder Creek at SBR. In addition, the costs of materials, such as concrete, have increased since the original estimates years ago.

Open Space and Mountain Parks – Seasonal Benefits – \$76,000

This is a request to appropriate \$76,000 over what is currently budgeted for seasonal benefits. In 2014, OSMP began to budget \$100,000 per year on an ongoing basis for seasonal benefits, anticipating the implementation of the Affordable Care Act. OSMP has received a list of seasonal staff who qualify for 2016 benefits at a total estimated

cost of \$176,000.

Open Space and Mountain Parks – BCH Conservation Easement Repair Grant – \$44,900

This request appropriates remaining funds from a 2002 grant of \$50,000 awarded to OSMP at the time of creation of the Boulder Community Hospital Conservation Easement. Funds are to be dedicated to ongoing repairs to and/or work on the property. In 2016, the property will require maintenance to existing fencing.

Open Space and Mountain Parks – Raptor Funds – \$35,125

This request is for the annual carryover of the Raptor Fund to support raptor monitoring and education, per Ordinance 8046.

PLANNING AND DEVELOPMENT SERVICES FUND

Budget Supplemental(s) from Fund Balance

Planning, Housing & Sustainability – Planner Associate Position to Support the Planned Unit Development Project – Fixed-Term– \$74,250

This request is for funding for a 2-year fixed-term Planner Associate position to backfill existing staff so they can complete work on "the PUD project" without impacting service levels or other work plan priorities. About the PUD Project: Previous PUD approvals impact the development potential of a property, and were widely used by the city starting in the late 1960s. The regulations that apply to the property often differ from the city's current zoning code, and the application process for making changes can differ from the standard review process. There is no single repository for the documentation of previous reviews available to staff or to the public. The goal of this project is to map and summarize all previous reviews in the city of Boulder to provide the public with accurate information about a property's history and future development potential, and to quickly inform property owners about the regulations applicable to their property. The annual cost of this position is \$74,250.

Planning, Housing & Sustainability – Boulder Valley Comprehensive Plan and CU South – \$60,000

This is a request to appropriate funds to further support *Growing Up Boulder* in 2015. Growing up Boulder is a partnership between the city, BVSD, and CU that seeks to promote youth participation in community planning, decision making and action. The program has engaged young people in the Civic Area planning process, Burke Park planning, other community planning issues, and action teams focused on youth employment and youth friendly businesses, youth art and safe nightlife opportunities.

Planning, Housing & Sustainability Planning, Housing & Sustainability – Application Specialist for LandLink Replacement – \$0

This request provides a two year extension to an existing fixed term position to help support the implementation of the new EnerGov software, which includes research and analysis on software design, documentation management, configuration, testing, staff training and data migration. The funding for this position is currently reflected in the 2016 budget and the total impact of this two year request is \$172,000 and is shared with Public Works Development.

Planning, Housing & Sustainability – 30th and Pearl – \$25,000

This is a request to appropriate consulting funds to complete an analysis of redevelopment scenarios for the city-owned property located at 30th and Pearl.

Planning, Housing & Sustainability – State Historic Tax Credit – \$11,945

This is a request to appropriate monies from the State Historic Tax Credit Fund to support various historic preservation projects in 2016. The State Historic Preservation Tax Credit Program encourages the rehabilitation and re-use of historic buildings. For properties designated as local landmarks or as contributing buildings within an historic district, available credit is 20 percent of rehabilitation costs up to \$50,000 per qualified property. Credit directly reduces (dollar for dollar) income taxes owed the state, and can be carried forward 10 years. Prior approval is required. The Secretary of the Interior's Standards for Rehabilitation are applied. The City of Boulder is a Certified Local Government and administers the State Tax Credit through the Historic Preservation Program.

PH&S & PW – Development – Residential and Commercial Energy Codes – \$150,000

This is a request to appropriate funds for consultant support related to the adoption and implementation of the building and energy code updates. The City is committed to reducing greenhouse gas emissions and is seeking professional services to assist with short term energy code changes and long term strategic planning for residential and commercial energy codes. The City's current energy codes are among the most stringent in the country and the City has set a target of having net zero energy codes by 2031.

PH&S & PW – Development – Application Specialist for LandLink Replacement – \$0

This request provides a 2 year extension to an existing fixed term position to help support the implementation of the new EnerGov software, which includes research and analysis on software design, documentation management, configuration, testing, staff training and data migration. The funding for this position is currently reflected in the 2016 budget and the total impact of this two year request is \$172,000 and is shared with Planning, Housing and Sustainability.

Budget Supplemental(s) from Additional Revenue

Planning, Housing & Sustainability – 2015 Certified Local Government (CLG) Grant – \$12,110

This is a request to appropriate \$12,110 in grant funding for the preparation of a historic resource survey plan for Boulder.

RECREATION ACTIVITY FUND

Budget Supplemental(s) from Fund Balance

Parks and Recreation – Kleen-Tech – \$78,043

This request is for funding the negotiated increase to contract based on wage increases (contract bid at starting wage of \$9.00/hour, current starting wage to recruit and retain custodians is \$11.00/hour).

Parks and Recreation – Expand Donations – \$1,447

This request appropriates funds received in late 2015 from various donors for programming in 2016.

Parks and Recreation – YSI Donation – \$1,800

This request appropriates funds received in November 2015 from the Bachmann Family and from the Fire Department to support 2016 YSI programs.

Parks and Recreation – Exciting Programs Adventures and New Dimensions (EXPAND) Inclusion Grant – \$16,616

This is a request to appropriate funds received in December 2015 for 2016 EXPAND programming. The city of Boulder Parks and Recreation EXPAND program provides support and mentoring to injured veterans and people with physical disabilities. Participants are introduced to adaptive sport techniques and opportunities through clinics and camps as well as the Parks & Recreation Department's ongoing Paralympic sport programs.

Parks and Recreation – YSI Get Fit Grant – \$3,730

This request is to appropriate grant funds received from the Youth Opportunity Advisory Board (YOAB) "Get Fit Grant." This is a grant lasting from 2014–2016 that facilitates the positive development of low income youth by connecting them to experiences that will empower them to make positive choices for a healthy lifestyle.

Parks and Recreation – YSI GRUB Donation – \$7,475

This request is to appropriate donations received from GrassRoots Ultimate Boulder to support youth services.

Parks and Recreation – Scholl Grant \$38,000

This is a request to appropriate funds received in December 2015 for 2016 EXPAND programming. The city of Boulder Parks and Recreation EXPAND program provides support and mentoring to injured veterans and people with physical disabilities. Participants are introduced to adaptive sport techniques and opportunities through clinics and camps as well as the Parks & Recreation Department's ongoing Paralympic sport programs.

Budget Supplemental(s) from Additional Revenue

Parks and Recreation – YSI Get Fit Grant – \$6,500

This request is to appropriate grant funds received from the Youth Opportunity Advisory Board (YOAB) "Get Fit Grant." This is a grant lasting from 2014–2016 that facilitates the positive development of low income youth by connecting them to experiences that will empower them to make positive choices for a healthy lifestyle.

Parks and Recreation – Silver Sneakers – \$59,670

This request will appropriate funds from anticipated revenue from the Silver Sneakers® program. The SilverSneakers program, which is free to eligible participants, enhances the fitness and wellness of Medicare–eligible seniors and disabled people. Revenue from Healthways (\$59,670) will be used to cover the Parks and Recreation costs of providing the program.

STORMWATER/FLOOD MANAGEMENT UTILITY FUND

Budget Supplemental(s) from Additional Revenue

PW- Utilities – Wonderland Creek Project Community Development Block Grant – Disaster Recovery Grant– \$2,441,599

This request is to appropriate \$2,441,599 in the Stormwater/Flood Management Fund for a Federal grant award, which will help fund the Wonderland Creek project. Following the 2013 flood, the Department of Urban Development made Community Development Block Grant – Disaster Recovery (CDBG–DR) funds available to support housing and infrastructure activities. The Wonderland Creek project meets the goals of this grant by reducing flood related hazards for vulnerable populations located in the project area.

WASTEWATER UTILITY FUND

Budget Supplemental(s) from Fund BalancePW- Utilities – Wastewater Treatment Facility Cogeneration Maintenance – \$200,000

This request is to appropriate \$200,000 in the Wastewater Fund for maintenance at the Wastewater Treatment facility. The Cogeneration system at this facility, which creates electricity from renewable biogas and recovers waste heat, is 30 years old. The system has been operated and maintained in accordance with industry and manufacturer guidelines including engine mechanical rebuilds at strategic time intervals. The most-recent major rebuild occurred in 2011, at which time the repairs conducted were less substantial due to the relative condition at that time. However, the system has experienced more significant operational difficulties recently and has not been able to stay online consistently. When the cogeneration system is offline, the majority of biogas is burned through a flare and not recovered for beneficial reuse as electricity or heat. While major rehabilitation monies are scheduled in the year 2020 CIP budget for cogeneration, funding is needed in the interim to perform engine rehabilitation so that the city's climate goals and greenhouse gas reduction initiatives can be supported.

Budget Supplemental(s) from Additional RevenuePW- Utilities – Resilience Audits Grant – \$215,625

This request is to appropriate \$215,625 in the Wastewater Fund in additional revenue from a Federal grant awarded to the city for home recovery and resilience assessments. This grant will fund a program to offer individualized site-assessments to homeowners that identify improvements inside and outside their home to enhance resilience. The assessments will focus on risks related to flooding and also address risks from drought and fire.

WORKERS COMPENSATION INSURANCE FUND**Budget Supplemental(s) from Fund Balance**Finance – Contingency Fund for Worker Compensation Claims – \$250,000

This request is to establish a contingency claims fund, which will be used only if the trend of high claims continues in 2016. In 2015, the city experienced unusually high worker compensation claim expenses. Any unused funds will fall to fund balance and be available for future appropriation by city council. The reserves that exist in this fund as determined by biannual actuarial studies will not be impacted by this appropriation.

Transfer Out and Appropriation – Fund BalanceFinance – Contingency Fund for Worker Compensation Claims – \$156,618

ATTACHMENT B

This transfer is for repayment to the General Fund. At the end of 2015 the General Fund provided funding to the Worker's compensation fund due to significantly higher than usual worker compensation claims.

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
GENERAL FUND											
		Encumbered Funds from Fund Balance									
		General Governance		181,874							
		Information Technology		122,180							
		Police		147,334							
		Parks and Recreation		14,343							
		Public Works		127,824							
		Energy Strategy & Development		368,283							
		Arts		144,385							
		Planning, Housing & Sustainability		152,156							
		Library		770							
		Community Vitality		58,530							
		Finance		40,429							
		Grant Carryover(s)									
	Arts	Arts Grants Carryover				12,285				12,285	
	Human Services	Family Resource Schools - Activity Fees				29,651				29,651	
	Human Services	Family Resource Schools - Basic Needs				12,209				12,209	
	Human Services	Child Care Tax Credit				7,850				7,850	
	Human Services	2015 Restorative Justice				5,466				5,466	
	Human Services	Senior Foundation Grant				794			794		
	Human Services	15/16 BVSD FRS grant				63,498			63,498		
	Human Services	14/15 BVSD FRS grant				24,584			24,584		
	Human Services	13/14 BVSD Prevention & Intervention				76,845			76,845		
	Police	Beth Haynes Award				1,000				1,000	
	Police	COPS Grant 2013				100,448			100,448		
	Police	Justice Assistance Grant 2014				771			771		
	Police	Justice Assistance Grant 2015				28,672			28,672		
		Project Carryover(s) from Fund Balance									
	Arts	Public Art			58,616					58,616	
	Information Technology	IT GF Capital: Technology			792,471					792,471	
	Public Works - Support Services	Miscellaneous Facility Development Excise Tax Projects			153,260					153,260	
	Public Works - Support Services	Building Repair-Reynolds Library			42,588					42,588	
	Public Works - Support Services	Building Repair-West Senior Center			6,795					6,795	
	Public Works - Support Services	Building Repair-North Boulder Rec Center			6,551					6,551	
	Public Works - Support Services	Building Repair-Fire Station #1			25,301					25,301	
	Public Works - Support Services	Building repair-Fire Station #4			30,122					30,122	
		Operating Carryover(s) from Fund Balance									
	City Attorney's Office	Hardware and Equipment Upgrades						34,438		34,438	
	City Manager's Office	Neighborhood Grant Program						50,000		50,000	
	Communications	Expanded Video Services						60,000		60,000	
	Community Vitality	2015 Economic Vitality (EV) Flex Rebate Program						350,000		350,000	
	Community Vitality	Pool EV Flex Rebate Program						113,399		113,399	
	Community Vitality	2014 EV Flex Rebate Program						66,128		66,128	
	Community Vitality	2013 EV Flex Rebate Program						54,282		54,282	
	Community Vitality	EV Micro Loan Funds - GF						50,000		50,000	
	Community Vitality	2008 EV Flex Rebate Program						38,345		38,345	
	Energy Strategy/Elect Util Dev	Boulder Energy Future - Utility Occupation Tax funds						5,490,553		5,490,553	
	Energy Strategy/Elect Util Dev	Boulder Energy Future - Contingency						722,274		722,274	
	Gen Governance - Programs	Public, Education, and Government Funds						642,486		642,486	
	Gen Governance - Programs	Customer Service Experience						150,000		150,000	
	Gen Governance - Non. Dept Contracts	Legal Contingency						92,741		92,741	
	Human Services	Recreational Marijuana Funding-Youth Education						500,000		500,000	
	Human Services	Human Services Strategy						155,000		155,000	
	Human Services	Project Management-Human Services Strategy, Homelessness						100,000		100,000	
	Human Services	Homeless Work Plan Projects						185,000		185,000	
	Human Services	Human Services Opportunity Fund						90,000		90,000	
	Human Services	2016 Flood Recovery Case Management						58,000		58,000	
	Human Services	Youth Employment Program						35,000		35,000	
	Human Services	Translation Equipment						20,000		20,000	
	Human Services	Early Childhood Services contracts						20,000		20,000	
	Information Technology	Enterprise systems						108,531		108,531	
	Information Technology	Office 365						88,300		88,300	
	Information Technology	Dashboard & Data Analytics						59,500		59,500	
	Information Technology	Process improvement						50,980		50,980	
	Information Technology	IT Career Development Framework						50,050		50,050	
	Information Technology	Security						37,100		37,100	
	Municipal Court	Software Project Support						46,725		46,725	
	Planning, Housing & Sustainability	Boulder Community Health-Broadway Campus Site Planning						65,000		65,000	
	Planning, Housing & Sustainability	Housing Boulder						59,000		59,000	

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type			Source			
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	Increase (Decrease) in Revenue
	Planning, Housing & Sustainability	Bear Protection Ordinance Implementation					45,000			45,000	
	Planning, Housing & Sustainability	Renewable Energy Program - 2014 Rebates					12,225			12,225	
	Planning, Housing & Sustainability	Renewable Energy Program - Grants					156,688			156,688	
	Planning, Housing & Sustainability	Waste Reduction Services					360,860			360,860	
	Planning, Housing & Sustainability	City Pollinator Protection Plan					3,800			3,800	
	Public Works - Support Services	Flood Mitigation Projects					159,000			159,000	
	Public Works - Support Services	Downtown Staff Relocations					261,000			261,000	
	Fire	Prairie Dog Fence at Fire Training Center					125,000			125,000	
	Fire	Fire Station Alerting System					580,000			580,000	
		Budget Supplemental(s) from Fund Balance									
	City Attorney's Office	Paralegal II Position - Ongoing						70,200		70,200	
	City Clerk	City Clerk and Director of Support Services Overlap						59,312		59,312	
	City Manager's Office	Chief Resilience Officer						63,465		63,465	
	City Manager's Office	Resilience Strategic Plan Document and Outreach						13,570		13,570	
	City Manager's Office	Climate Adaption and Sustainability Training						10,825		10,825	
	City Manager's Office	Community Preparedness Training						9,750		9,750	
	City Manager's Office	Neighborhood Programming						38,900		38,900	
	City Manager's Office	International Association for Public Participation Standardization, Certification, and Credentialing						7,850		7,850	
	Communications	Comcast Agreement Live Streaming						25,000		25,000	
	Community Vitality	Chautauqua Area Managed Parking Study						25,000		25,000	
	Finance	Munis Technical and Accounting Support - Ongoing						163,000		163,000	
	Finance	Recreational Marijuana Commission						25,000		25,000	
	General Governance - Contingency	Boulder Convention and Visitors Bureau						55,175		55,175	
	General Governance - Contingency	Community Survey						25,456		25,456	
	Human Services	Summer Shelter						60,000		60,000	
	Human Services	Municipal Child Care Assessment						15,000		15,000	
	Parks and Recreation	Hazardous Waste Clean Up - Boulder Creek Corridor						43,200		43,200	
	Planning, Housing & Sustainability	Waste Reduction Services						109,378		109,378	
	Planning, Housing & Sustainability	Renewable Energy Program - Grants						23,885		23,885	
	Planning, Housing & Sustainability	Recreational Marijuana Licensing Compliance						46,000		46,000	
	Planning, Housing & Sustainability	Renewable Energy Program - 2015 Rebates						12,861		12,861	
	Planning, Housing & Sustainability	Comprehensive Planner II - Ongoing						-		-	
	Police	Alcohol Enforcement Overtime						50,000		50,000	
	Police	Records Management System						696,040		696,040	
	Public Works - Support Services	Boulder Community Hospital Campus - Parking Garage						506,500		506,500	
	Public Works - Support Services	Dairy Arts Center Major Maintenance						242,871		242,871	
	Public Works - Support Services	Insourcing Study						82,500		82,500	
	Public Works - Support Services	Boulder Community Hospital Campus - Fiber Installation						66,100		66,100	
	Public Works - Support Services	Janitorial Service Contract						88,803		88,803	
	Fundwide / Citywide	Fire Pension Contribution Adjustment						(93,108)		(93,108)	
	Fundwide / Citywide	Police Pension Contribution Adjustment						84,840		84,840	
		Budget Supplemental(s) from Additional Revenue									
	City Attorney's Office	Short Term Rental						12,500	12,500		
	Community Vitality	Parking Management Officers (PMOs) - Ongoing						123,000	123,000		
	Community Vitality	Additional car to cover increase in PMO FTE's						27,801	27,801		
	Human Resources	Well-Being Supplement						30,000	30,000		
	Human Services	Silver Sneakers						25,000	25,000		
	Human Services	Boulder Encore Program						10,000	10,000		
	Human Services	2016 Restorative Justice						8,840	8,840		
	Human Services	Boulder County 2016 Grant Management System Partnership						5,262	5,262		
	Human Services	Family Resource Schools Basic Needs Donations						5,000	5,000		
	Human Services	City of Longmont 2016 Grant Management System Partnership						4,666	4,666		
	Human Services	City of Lafayette - Estimated Contribution to Shared Bus Costs						2,000	2,000		
	Library	Library Fund Restructure						270,300	270,300		
	Municipal Court	Short Term Rental						53,000	53,000		
	Public Works - Support Services	BCH - Annual Leases						450,000	450,000		
	Public Works - Support Services	Denver Urban Area Security Initiative						19,800	19,800		
		Budget Supplemental(s) from Additional Grant Revenue									
	Human Services	United Way 2016 Grant Management System Partnership						2,284	2,284		
	Human Services	16/17 Boulder Valley School District Family Resource Schools Grant						88,000	88,000		
	Human Services	Senior Foundation Grant - 2016						3,000	3,000		
	Police	Victims Assistance and Law Enforcement 2016 Grant						49,287	49,287		
	Police	Law Enforcement Assistance Fund 2016 Grant						16,600	16,600		
	Police	2016 Click-it-or-Ticket Grant						16,000	16,000		
	Police	Police Officer Standards and Training Grant						3,970	3,970		
	Public Works - Support Services	Regional Air Quality Council (RAQC) Grant						39,125	39,125		
		Negative Appropriation									

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
	Human Services	Boulder County Childcare Referral Grant							(35,000)	(35,000)	
	Human Services	Infant Toddler Quality Availability project							(38,000)	(38,000)	
	Human Services	Qualistar Colorado Childcare Referral grant							(38,000)	(38,000)	
	Human Services	Longmont Childcare Subsidy & Referral grant							(165,000)	(165,000)	
		Transfer(s) from Other Funds									
	Fundwide / Citywide	Transfer from Workers Compensation fund to General Fund									156,618
		Subtotal	-	1,358,109	1,115,704	364,073	11,346,406	3,616,808	1,285,047	15,157,944	156,618
.25 CENT SALES TAX FUND											
		Encumbered Funds from Fund Balance									
		Parks and Recreation		349,163							
		Project Carryover									
		Columbia Cemetery Construction			35,699						35,699
		ADA Compliance Initiatives			46,344						46,344
		ADA Compliance Initiatives			20,000						20,000
		Forestry R&R			49,704						49,704
		EAB Response Measures			12,155						12,155
		EAB Response Measures			4,860						4,860
		Asset Management Plan			8,234						8,234
		Valmont Bike Park Donations			14,843						14,843
		Civic Park Complex			28,633						28,633
		Flatirons Event Center Demolition			248,066						248,066
		Flatirons Event Center Demolition			225,287						225,287
		Recreation Facility Strategic Plan			20,451						20,451
		Historic & Cultural Chautauqua			21,428						21,428
		Hist & Cult Museum of Contemp. Art			5,000						5,000
		Historic & Cultural Locomotive Rest			143,648						143,648
		Locomotive #30 Complete Restoration			14,940						14,940
		Unallocated Capital Needs			216,911						216,911
		BOULD36 Multiple Park Sites			41,058						41,058
		Dedicated to P&R for Operations Maintenance			13,412						13,412
		Budget Supplemental(s) from Fund Balance									
	Parks and Recreation	Event Sponsorships							4,800		4,800
	Parks and Recreation	Tree Removals							132,377		132,377
	Parks and Recreation	Kleen-Tech							19,476		19,476
	Parks and Recreation	Valmont Bike Park Sponsorship							3,000		3,000
	Parks and Recreation	Tree Mitigation							28,697		28,697
	Parks and Recreation	Meet the Spirits 2015 Event							3,125		3,125
	Parks and Recreation	Valmont Bike Park Donations							16,496		16,496
		Budget Supplemental(s) from Additional Revenue									
	Parks and Recreation	Tree Debris to Opportunity Grant							200,000	200,000	
		Subtotal	-	349,163	1,170,673	-	-	407,971	200,000	1,378,644	-
2011 CAPITAL IMPROVEMENT BOND FUND											
		Encumbered Funds from Fund Balance									
		Information Technology		1,702,496							
		Police		39,967							
		Fire		13,888							
		Public Works		30,978							
		Library		15,248							
		Parks and Recreation		6,542							
		Community Vitality		132,752							
		Project Carryover from Fund Balance									
	Citywide	Capital Improvement Bond Operating Carryover - City Contribution						852,000			852,000
		Operating Carryover from Fund Balance									
	Citywide	Capital Improvement Bond Operating Carryover			428,447						428,447
		Subtotal	-	1,941,871	428,447	-	852,000	-	-	1,280,447	-
AFFORDABLE HOUSING FUND											
		Encumbered Funds from Fund Balance									
		Planning, Housing & Sustainability		59,094							

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
		Project Carryover									
	Planning, Housing & Sustainability	Affordable Housing Projects			6,203,894					6,203,894	
		Operating Carryover									
	Planning, Housing & Sustainability	Operating Carryover for Housing Boulder						59,000		59,000	
		Budget Supplemental(s) from Fund Balance									
	Planning, Housing & Sustainability	Affordable Housing Fund Additional Revenue - Linkage Fees							6,648	6,648	
	Planning, Housing & Sustainability	Affordable Housing Projects							1,093,270	1,093,270	
		Subtotal	-	59,094	6,203,894	-	59,000	1,099,918	-	7,362,812	-
AIRPORT FUND											
		Encumbered Funds from Fund Balance									
		Transportation		117,633							
		Project Carryover									
		Airport Ramp 2014 (FAA)			19,969					19,969	
		Subtotal	-	117,633	19,969	-	-	-	-	19,969	-
BOULDER JUNCTION IMPROVEMENT FUND											
		Encumbered Funds from Fund Balance									
		Public Works		15,089							
		Project Carryover									
		BJ Enhancements Goose Crk to Bluff			577,000					577,000	
		Boulder Junction - Develop Coord			2,676					2,676	
		Junction Pl Bridge at Bldr Slough			170,000					170,000	
		Junction Place Pearl to Goose Creek			230,858					230,858	
		Boulder Junction - Train Depot Land			786,854					786,854	
		Subtotal	-	15,089	1,767,387	-	-	-	-	1,767,387	-
CAPITAL DEVELOPMENT FUND											
		Encumbered Funds from Fund Balance									
		Public Works		11,575							
		Project Carryover									
		Miscellaneous Capital Improvement			79,355					79,355	
		Miscellaneous Facility DET Proj-Civic Area			62,600					62,600	
		Budget Supplemental (s) from Fund Balance									
	Public Works	Brenton Building - Complete Two Floor Renovation						740,000		740,000	
	Public Works	Boulder Community Hospital Campus - Facility Analysis						50,000		50,000	
		Subtotal	-	11,575	141,955	-	-	790,000	-	931,955	-
CLIMATE ACTION PLAN FUND											
		Encumbered Funds from Fund Balance									
		Planning, Housing & Sustainability		265,256							
		Grant Carryover From Fund Balance									
	Planning, Housing & Sustainability	Urban Sustainability Directors Network (USDN) - Innovation Fund Grant					15,415			15,415	
		Grant Carryover From Additional Revenue									
	Planning, Housing & Sustainability	Carbon Neutral Cities Alliance Innovation Fund Grant					125,000		125,000		
	Planning, Housing & Sustainability	Carbon Neutral Cities Alliance Innovation Fund Grant					45,000		45,000		
		Operating Carryover(s) from Fund Balance									
	Planning, Housing & Sustainability	Climate Action Plan Tax Programs and Initiatives						570,000		570,000	
		Budget Supplemental(s) from Additional Grant Revenue									
	Planning, Housing & Sustainability	Boulder County Environment Sustainability Matching Grant						15,000	15,000		
		Subtotal	-	265,256	-	185,415	570,000	15,000	185,000	585,415	-
COMMUNITY DEVELOPMENT BLOCK GRANT FUND											

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
		Grants Carryover									
	Planning, Housing & Sustainability	Unfinished CDBG Projects				944,617				944,617	
	Human Services	2015 Housing and Urban Development Community Development Block Grant				105,749				105,749	
		Budget Supplemental(s) from Additional Revenue									
	Human Services	Grant Adjustment							13,214	13,214	
	Planning, Housing & Sustainability	Grant Adjustment							74,877	74,877	
	Planning, Housing & Sustainability	CDBG- Project Appropriation form Additional Revenue							21,500	21,500	
		Subtotal	-	-	-	1,050,366	-	-	109,590	1,159,956	-
COMMUNITY HOUSING ASSISTANCE PROGRAM (CHAP) FUND											
		Project Carryover									
	Planning, Housing & Sustainability	Unfinished Affordable Housing CHAP Fund Projects				3,580,872					3,580,872
		Budget Supplemental(s) from Fund Balance									
	Planning, Housing & Sustainability	Funding for New Affordable Housing Projects								327,481	327,481
		Subtotal	-	-	3,580,872	-	-	327,481	-	-	3,908,353
COMPUTER REPLACEMENT FUND											
		Encumbered Funds from Fund Balance									
		IT		74,213							
		Project Carryover									
		Server HW replacement project				508,880					508,880
		Subtotal	-	74,213	508,880	-	-	-	-	-	508,880
EQUIPMENT REPLACEMENT FUND											
		Encumbered Funds from Fund Balance									
		Public Works		18,348							
		Subtotal	-	18,348	-	-	-	-	-	-	-
FACILITY RENOVATION AND REPLACEMENT FUND											
		Encumbered Funds from Fund Balance									
		Public Works		686,347							
		Project Carryover from Fund Balance									
		13th Street Clean Up				250,000					250,000
		BMoCA Floor Replacement				10,000					10,000
		CAO FR&R				24,421					24,421
		City Yards Master Plan Update				183,000					183,000
		Facility Assessments				100,000					100,000
		FAM Master Plan Update				35,000					35,000
		Fire Space Needs Analysis				7,500					7,500
		FS #1 Repair Concrete Floor				4,500					4,500
		Misc Facility Maintenance Projects				265,440					265,440
		Muni Building - Repair Flood Gates				100,000					100,000
		Teahouse - 13th St Reconstruction				401,516					401,516
		Teahouse - Ext Painting Phase 2				130,000					130,000
		Valmont Butte - Prairie Dog Mgmt				5,000					5,000
		Valmont Butte - Support Costs & Native American Monitoring				500,000					500,000
		Outdoor Lighting Improvements				10,000					10,000
		Facility ADA Compliance				365,800					365,800
		Main Library - Flood Proofing				70,000					70,000
		Main Library - Reconstruction North Plaza				147,000					147,000
		Municipal Services Center Remodel				30,000					30,000
		Facility Access Improvements				265,113					265,113
		Mapleton Ballfields - Ren Conc & RR				100,000					100,000
		NBRC Roof Replacement				450,000					450,000
		North Boulder Rec Solar Thermal				350,000					350,000
		Stazio Refurb Restrooms & Concess				160,000					160,000
		Budget Supplemental from Fund Balance									
	Public Works - Support Svcs	Library Branch Improvements: Meadows Renovation							157,785		157,785
	Public Works - Support Svcs	Fuel Island Upgrade							75,000		75,000
	Public Works - Support Svcs	Library Branch Improvements: Reynolds Automated Materials Handling Improvements							58,000		58,000
	Public Works - Support Svcs	Main Library Upper Window Replacement							40,000		40,000

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue	
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance		
	Public Works - Support Svcs	Fleet Software Upgrade							40,000		40,000	
	Public Works - Support Svcs	Main Library Makerspace completion							12,500		12,500	
	Public Works - Support Svcs	Canyon Theater Upgrade							2,000		2,000	
		Budget Supplemental from Additional Revenue										
	Public Works - Support Svcs	Valmont Butte							1,998,215	1,998,215		
		Subtotal	-	686,347	3,964,290	-	-	-	2,383,500	1,998,215	4,349,575	-
FLEET REPLACEMENT FUND												
		Encumbered Funds from Fund Balance										
		Public Works		1,003,815								
		Subtotal	-	1,003,815	-	-	-	-	-	-	-	-
HOME FUND												
		Grant Carryover										
	Planning, Housing & Sustainability	Unfinished HOME Projects				1,408,363				1,408,363		
		Budget Supplemental(s) from Additional Revenue										
	Planning, Housing & Sustainability	Grant Adjustment							137,379	137,379		
		Subtotal	-	-	-	1,408,363	-	-	137,379	1,545,741	-	-
LIBRARY FUND												
		Encumbered Funds from Fund Balance										
		Library		97,027								
		Grant Carryover from Additional Revenue										
	Library	BoulderReads County Grant				7,169				7,169		
	Library	2015 State Grant				26,156				26,156		
		Project Carryover										
	Library	Automated Materials Handling RFID Project			491,923						491,923	
	Library	Makers Space			59,928						59,928	
		Operating Carryover from Fund Balance										
	Library	Meadows Branch Library Renovation: Furniture						37,000			37,000	
		Budget Supplemental(s) from Fund Balance										
	Library	Technology and Furniture Upgrades							14,000		14,000	
	Library	Library Patron Survey and Master Plan							140,000		140,000	
		Budget Supplemental(s) from Additional Revenue										
	Library	Boulder Library Foundation - Community Partnership Manager							60,000	60,000		
	Library	Summer Literacy Program							37,700	37,700		
		Negative Appropriation										
	Library	Eliminate Budgeted Library Fund Expenditures							(7,569,667)	(7,569,667)		
		Subtotal	-	97,027	551,851	33,325	37,000		(7,317,967)	(7,438,642)	742,851	-
LOTTERY FUND												
		Encumbered Funds from Fund Balance										
		Parks and Recreation		32,500								
		Open Space & Mountain Parks		17,760								
		Project Carryover										
		Elks Park			4,625						4,625	
		Coot Lake Restoration			200,000						200,000	
		Subtotal	-	50,260	204,625	-	-	-	-	-	204,625	-
NEW LIBRARY FUND												
		Budget Supplemental(s) from Additional Revenue										
	Library	Appropriate Budgeted Expenditures in New Library Fund							1,092,625	1,092,625		
		Subtotal	-	-	-	-	-	-	1,092,625	1,092,625	0	-
OPEN SPACE FUND												
		Encumbered Funds from Fund Balance										

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
		OSMP		1,158,830							
		Project Carryover									
		2014 Open Space Bond Proceeds			4,511,467						4,511,467
		2015 CSFS Grant Chapman Rd Project			53,880						53,880
		2015 Noxious Weed Management Fund G			33,200						33,200
		Acquisition Immediate Improvements			59,150						59,150
		Agriculture Facilities Projects			42,581						42,581
		Anemone Hill Trail Project			371,604						371,604
		Bear Canyon Road Flood Damage			550,489						550,489
		Bear Canyon Road Improvements			47,131						47,131
		Bldr. Creek Restor & Reloc - Flood			199,700						199,700
		Boulder Creek Bikepath Extension			647						647
		Boulder Falls - Trail Repair			2,144						2,144
		CDBG Grant-Wildlife Ecologist 18 Mo			58,894						58,894
		Chapman Trailhead Alterations			502,440						502,440
		Chautauqua Ranger Cottage Swale			7,008						7,008
		Cultural Resource/Facility Restorat			48,336						48,336
		ERTL Pond - Flood Repair			165,000						165,000
		Flagstaff Rd. Sediment Control			182,831						182,831
		Flagstaff Summit Improvements			254,332						254,332
		Flatirons Vista Flood Repair			13,546						13,546
		Flood Ditches			40,549						40,549
		Flood Eng. Trails			472,666						472,666
		Flood Fences			70,000						70,000
		Flood Road-Bridges			290,610						290,610
		Flood Trails			1,051,918						1,051,918
		Four Mile Creek			100,000						100,000
		Gregory Cyn&Fancher Pond Flood Repa			89,000						89,000
		Hartnagle House Restoration			31,138						31,138
		IBM Connector Bridges			3,266						3,266
		Joder Trailhead			3,248						3,248
		Lottery - Historical Structures			397,773						397,773
		Mineral Rights Acquisition			511,220						511,220
		NTSA - Plan and Implementation			54,933						54,933
		OSMP Real Estate Acquisition			8,737,660						8,737,660
		OSMP Trail Projects			375,312						375,312
		Restor. S. Bldr. Crk Habitat Improv			250,000						250,000
		Royal Arch Trail Flood Repair			29,624						29,624
		S. Bldr Creek at Greenbelt Bridge			150,000						150,000
		S. Bldr Creek West Trail Flood Repa			23,487						23,487
		S. Bldr. Crk. Aquatic Habitat Impro			1,336						1,336
		South Boulder Creek Instream Flow			396,177						396,177
		South Mesa Trailhead Bridge Replace			442,404						442,404
		Sunshine Canyon Trail Crossing			271						271
		Viele House Foundation Repair			80,000						80,000
		Water Rights Acquisition			55,817						55,817
		White Rocks Bridge Emergency Repair			399,169						399,169
		WTSA Implementation			407,760						407,760
		Operating Carryover									
	Open Space and Mountain Parks	Landlink Replacement Project (LRP+)						100,000			100,000
	Open Space and Mountain Parks	Voice and Sight Monitoring						65,000			65,000
	Open Space and Mountain Parks	North Trail Study Area Planning and Implementation						23,000			23,000
	Open Space and Mountain Parks	Voice and Sight Monitoring						14,000			14,000
	Open Space and Mountain Parks	Metadata, Protocols and Data Sharing						10,000			10,000
		Budget Supplemental(s) from Fund Balance									
	Open Space & Mountain Parks	Regional IBM Connector Trail/Bridge							200,000		200,000
	Open Space & Mountain Parks	Seasonal Benefits							76,000		76,000
	Open Space & Mountain Parks	Boulder Community Hospital Conservation Easement Repair Grant							44,900		44,900
	Open Space & Mountain Parks	Raptor Funds							35,125		35,125
		Subtotal	-	1,158,830	21,569,717	-	212,000	356,025	-	22,137,742	-
PERMANENT PARKS AND RECREATION FUND											
		Encumbered Funds from Fund Balance									
		Parks and Recreation		125,398							
		Project Carryover									
		Computerized Irrigation Replacement			46,453						46,453

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue	
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance		
		Planning, Design, Const. Guidelines			100,000						100,000	
		Flatirons Event Center Demolition			134,324						134,324	
		Boulder Reservoir R&R			45,000						45,000	
		Coot Lake Restoration			50,000						50,000	
		Unallocated Capital Needs			149,149						149,149	
		BOULD38 Knollwood Tennis Courts			37,676						37,676	
		Subtotal	-	125,398	562,601	-	-	-	-	-	562,601	-
PLANNING AND DEVELOPMENT SERVICES FUND												
		Encumbered Funds from Fund Balance										
		Public Works - Development		140,622								
		Planning, Housing & Sustainability		164,654								
		Project Carryover										
	Planning, Housing & Sustainability	LandLink Replacement Project						519,455			519,455	
	PW-Development	LandLink Replacement Project						980,398			980,398	
		Operating Carryover										
	Planning, Housing & Sustainability	Boulder Civic Area Unspent Project Funds						195,754			195,754	
	Planning, Housing & Sustainability	Form-Based Code						8,978			8,978	
	Planning, Housing & Sustainability	Housing Boulder						4,848			4,848	
		Budget Supplemental(s) from Fund Balance										
	Planning, Housing & Sustainability	Planner Associate Position to Support the Planned Unit Development Project - Fixed-Term							74,250		74,250	
	Planning, Housing & Sustainability	Boulder Valley Comprehensive Plan and CU South							60,000		60,000	
	Planning, Housing & Sustainability	Application Specialist for LandLink Replacement Project - Fixed-Term							-		-	
	Planning, Housing & Sustainability	30th and Pearl							25,000		25,000	
	Planning, Housing & Sustainability	State Historic Tax Credit							11,945		11,945	
	PW-Development	Residential and Commercial Energy Codes							150,000		150,000	
	PW-Development	Application Specialist for LandLink Replacement Project - Fixed-Term							-		-	
		Budget Supplemental(s) from Additional Revenue										
	Planning, Housing & Sustainability	2015 Certified Local Government (CLG) Grant							12,110	12,110		
		Subtotal	-	305,275	-	-	1,709,434	333,305	12,110	2,030,629	-	
RECREATION ACTIVITY FUND												
		Encumbered Funds from Fund Balance										
		Parks and Recreation		41,952								
		Budget Supplemental(s) from Fund Balance										
	Parks and Recreation	Kleen-Tech							78,043		78,043	
	Parks and Recreation	Expand Donations							1,447		1,447	
	Parks and Recreation	Youth Service Initiative Donation							1,800		1,800	
	Parks and Recreation	Exciting Programs Adventures and New Dimensions (EXPAND) Inclusion Grant							16,616		16,616	
	Parks and Recreation	Get Fit Grant							3,730		3,730	
	Parks and Recreation	Youth Service Initiative GrassRoots Ultimate Boulder Donation							7,475		7,475	
	Parks and Recreation	Scholl Grant							38,000		38,000	
		Budget Supplemental(s) from Additional Revenue										
	Parks and Recreation	Get Fit Grant							6,500	6,500		
	Parks and Recreation	Silver Sneakers							59,670	59,670		
		Subtotal	-	41,952	-	-	-	213,280	66,170	147,110	-	
STORMWATER/FLOOD MANAGEMENT UTILITY FUND												
		Encumbered Funds from Fund Balance										
		Public Works		24,033,738								
		Project Carryover										
		Bear Canyon Creek Flood Mitigation				62,066					62,066	
		Boulder Creek Flood Mitigation				595,021					595,021	
		CU Bike/Ped Bridge Replacement I				200,000					200,000	
		Farmers Ditch - Flood/SW Fund				50,000					50,000	
		Four Mile Canyon Creek - 19th to 22				978,148					978,148	
		Greenways Program - Flood fund				710,282					710,282	
		Greenways Program-Lottery Fund				857,210					857,210	

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
		Gregory Creek Flood Mitigation			66,023					66,023	
		Local Drainage Improvements			126,951					126,951	
		Park Paths and Sidewalks			56,857					56,857	
		Preflood Property Acquisition			3,204,566					3,204,566	
		S. Boulder Creek Arapahoe Underpass			200					200	
		September 2013 Flood Recovery			232,643					232,643	
		South Boulder Creek Phase I			366,191					366,191	
		Storm Sewer Rehabilitation			276,862					276,862	
		Stormwater Quality Improvements			260,000					260,000	
		Upper Goose Creek Drainage			175,000					175,000	
		Utility Billing Computer System			14,825					14,825	
		Wonderland Creek at 28th St.			468,255					468,255	
		Wonderland Creek-Foothills to 30th			1,002,812					1,002,812	
		Yards Master Plan Implementation			13,641					13,641	
		Operating Carryover from Fund Balance									
	Public Works - Utilities	Utility Rate Study						25,137		25,137	
		Budget Supplemental(s) from Additional Revenue									
	Public Works - Utilities	Wonderland Creek Project Community Development Block Grant - Disaster Recovery Grant							2,441,599	2,441,599	
		Subtotal	-	24,033,738	9,717,553	-	25,137	2,441,599	2,441,599	9,742,690	-
TELECOMMUNICATIONS FUND											
		Encumbered Funds from Fund Balance									
		IT		556							
		Subtotal	-	556	-	-	-	-	-	-	-
TRANSPORTATION FUND											
		Encumbered Funds from Add'l Revenue/Fund Balance									
		Public Works		11,315,638							
		Project Carryover									
		Deficient Street Light Pole Replace			213,825					213,825	
		Major Capital Reconstruction			277,593					277,593	
		FY15 CDOT Safety Grant: City Match			254					254	11,932
		Yards Master Plan Transportation			149,351					149,351	
		Yards Master Plan Transportation			9,860					9,860	
		MSC Side Prep Pollard Reloc			23,327					23,327	
		30th St Access Impr BTV Bluff Walnut			1,776					1,776	3,284
		Broadway Euclid Multimodal Impro			29,579					29,579	
		TIP Local Match/TMP Implementation			558,581					558,581	
		CU Bike Bridge Replacement Transp			196,525					196,525	
		Pearl Pkwy M-Use Path 30th to Foothills									482,836
		Diagonal Hwy Reconstruct 28th to 30th			469,499					469,499	7,131,635
		Foothills Impr: Diagonal to Valmont			35,286					35,286	590,434
		Baseline Underpass Broadway to 28th			4,509,731					4,509,731	3,916,100
		28th St Bike/Ped Improv Iris to Yar			61,279					61,279	276,078
		Transit Stop Improvements			5,814					5,814	238,701
		Canyon Blvd Transpo Corridor Study			18,955					18,955	
		SRTS - S Boulder Rd - Manhattan			57,642					57,642	
		SRTS - Hanover MUP			222,752					222,752	
		SRTS - Hanover MUP			5,902					5,902	270,726
		Ped Facs Enh Missing Links Crossing			49,702					49,702	
		HOP Transit Signal Priority			6,886					6,886	
		HOP Transit Signal Priority									10,189
		Boulder Slough Multiuse Path 30th			120,000					120,000	96,000
		Broadway Recon Violet to 36th			1,246,648					1,246,648	1,000,000
		30th St & Colorado Bike/Ped Under			497,626					497,626	400,000
		Frontier Bridge Replacement			52,103					52,103	
		Bldr County/City Joint TIP Projects			50,000					50,000	
		Realign Violet & US 36			6,317					6,317	
		FY16 CDOT Safety - SSB Cty Match			15,833					15,833	
		FY16 CDOT Safety Grant - SSB			44,993					44,993	47,500
		Safe Routes To Sch HeadsUp Bldr Grant			9,477					9,477	1,738
		Safe Routes to School HUB Match			2,245					2,245	
		TMP Update			79,375					79,375	
		Valmont & 29th Hazard Elimination			11,440					11,440	
		Valmont & 29th Hazard Elimination			2,664,258					2,664,258	2,156,208

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type				Source		Increase (Decrease) in Revenue
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	
		East Arapahoe Transp Corridor Study			12,555					12,555	
		Greenways Program Transfer			418,202					418,202	
		Bikeway Facilities - Enhancements			185,997					185,997	
		28th St - Valmont to Iris (Baseline)			963,323					963,323	
		28th St - Valmont to Iris (Baseline)			1,388,126					1,388,126	
		Ped Facilities Repair, Replace, ADA			47,242					47,242	
		Signal Maintenance & Upgrade			200,000					200,000	
		Flood Trans Street Repairs			61,806					61,806	5,210
		Subtotal	-	11,315,638	14,981,688	-	-	-	-	14,981,688	16,638,571
TRANSPORTATION DEVELOPMENT FUND											
		Encumbered Funds from Fund Balance									
		Public Works		689,724							
		Project Carryover									
		Misc Development Coordination			23,745					23,745	
		63rd St Diagonal Hwy			138					138	
		28th St Valmont to Iris (Baseline)			1,416,548					1,416,548	
		Subtotal	-	689,724	1,440,431	-	-	-	-	1,440,431	-
WASTEWATER UTILITY FUND											
		Encumbered Funds from Fund Balance									
		Public Works		8,291,341							
		Project Carryover									
		61st Interceptor Replacement			176,630					176,630	
		Collection System Monitoring			86					86	
		Condition Assessment Program			300,000					300,000	
		Condition Assessment Program			563,552					563,552	
		Sanitary Sewer Manhole Rehabilitati			208,000					208,000	
		Sanitary Sewer Rehab - Bond Funded			4,204,008					4,204,008	
		Sanitary Sewer Rehabilitation			29,294					29,294	
		Sanitary Sewer Rehabilitation			796,894					796,894	
		September 2013 Flood Recovery			382,346					382,346	
		Utility Billing Computer System			14,825					14,825	
		WWTF Activated Sludge			380,235					380,235	
		WWTF Instrumentation/Control			985,274					985,274	
		WWTF Nutrient Improvements - Bond			2,725,213					2,725,213	
		WWTF Permit Improvements			1,539,906					1,539,906	
		WWTF Permit Improvements - Proj. Bo			883,329					883,329	
		WWTF Repair			120,000					120,000	
		Yards Master Plan Implementation			6,070					6,070	
		Operating Carryover from Fund Balance									
	Public Works - Utilities	Utility Rate Study						24,749		24,749	
		Budget Supplemental(s) from Fund Balance									
	Public Works - Utilities	Wastewater Treatment Facility Cogeneration Maintenance							200,000	200,000	
		Budget Supplemental(s) from Additional Revenue									
	Public Works - Utilities	Resilience Audits Grant							215,625	215,625	
		Subtotal	-	8,291,341	13,315,661	-	24,749	415,625	215,625	13,540,410	-
WATER UTILITY FUND											
		Encumbered Funds from Fund Balance									
		Public Works		2,199,336							
		Project Carryover from Fund Balance									
		Albion Dam			80,000					80,000	
		Annexation-Related System Expansion			810,704					810,704	
		Barker Gravity Pipeline Repair			55,346					55,346	
		Barker Instream Flow Release			6,052					6,052	

ATTACHMENT C

REQUEST BY FUND AND DEPT
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

Fund	Dept	Type / Item	Encumb Carryover		Type			Source			
			From Additional Revenue	From Fund Balance	Capital Carryover	Grant Carryover	Operating Carryover	Budget Supplemental	Additional Revenue	Fund Balance	Increase (Decrease) in Revenue
		Barker Relicensing			3,088					3,088	
		Barker Residence			60,217					60,217	
		Betasso Water Treatment Facility			187,641					187,641	
		Boulder Canyon Hydro			23,027					23,027	
		Distribution Waterline Replacement			67,243					67,243	
		Farmer's Ditch			50,000					50,000	
		Goose Lake Dam			20,000					20,000	
		Green Lake 2 Dam			99,719					99,719	
		Instream Flow Structures and Gaging			48,428					48,428	
		Kohler Hydro/PRV Facility			16,266					16,266	
		Kohler Storage Tank Roof			72,691					72,691	
		Lakewood Pipeline			248,087					248,087	
		Maxwell Hydro/PRV Facility			50,000					50,000	
		NCWCD Conv - Boulder Feeder Canal			39,902					39,902	
		Reservoir High Service Pumps			36,416					36,416	
		September 2013 Flood Disaster Recov			1,720					1,720	
		Silver Lake Dam			75,000					75,000	
		Silver Lake Hydroelectric/PRV			35,245					35,245	
		Source Water Monitoring/Protection			100,000					100,000	
		Source Water Transmission Pipe Insp			73,333					73,333	
		Sunshine Transmission Pipe			857,687					857,687	
		Utility Billing Computer System			29,650					29,650	
		Water System Security/Quality Imprv			122,318					122,318	
		Watershed Improvements			107,119					107,119	
		Yards Master Plan Implementation			22,247					22,247	
		Operating Carryover from Fund Balance									
	Public Works - Utilities	Utility Rate Study						32,553		32,553	
		Subtotal	-	2,199,336	3,399,147	-	32,553	-	-	3,431,700	-
WORKERS COMPENSATION INSURANCE FUND											
		Budget Supplemental(s) from Fund Balance									
	Finance	Contingency Fund for Worker Compensation Claims						250,000		250,000	
		Transfer(s) to Other Funds									
	Finance	Transfer to General Fund						156,618		156,618	
		Subtotal	-	-	-	-	-	406,618	-	406,618	-
		Total General Fund	-	1,358,109	1,115,704	364,073	11,346,406	3,616,808	1,285,047	15,157,944	156,618
		Total Restricted Funds	-	52,851,476	83,529,642	2,677,468	3,849,354	2,884,467	1,478,399	91,462,532	16,638,571
		Total All Funds	-	54,209,585	84,645,346	3,041,541	15,195,759	6,501,275	2,763,445	106,620,477	16,795,189

2016 FUND ACTIVITY SUMMARY
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2016

FUND	At January 1, 2016			Appropriation Ordinance February 2, 2016		Carryover & 1st Budget Supplemental	Projected Fund Balance (Before Reserves) Dec 31, 2016	
	Estimated Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Increase in Appropriations	Increase in Estimated Revenues	Appropriations (Including Xfers Out) Fund Balance	
General	52,766,133	128,264,435	132,356,742	350,000		1,285,047	17,801,100	32,507,773
Community Housing Assistance Program	4,851,375	2,550,204	3,172,624			0	3,908,353	320,602
Library	2,240,792	7,569,667	7,569,667			-7,438,642	(6,598,763)	1,400,913
New Library	0	0	0			1,092,625	1,092,625	0
Capital Development	10,670,226	2,113,945	211,052			0	943,530	11,629,589
Lottery	2,500,247	856,515	848,535			0	254,885	2,253,342
Planning and Development Services	8,694,900	10,110,632	10,838,333			12,110	2,348,014	5,631,295
Affordable Housing	7,492,946	2,122,453	1,570,292			0	7,421,906	623,201
.25 Cent Sales Tax	3,494,360	8,905,450	7,724,287			200,000	1,927,806	2,947,716
Recreation Activity	2,110,748	10,499,483	10,414,920			66,170	255,232	2,006,249
Climate Action Plan	1,024,142	1,844,497	1,955,433			185,000	1,035,671	62,535
Open Space and Mountain Parks	36,205,634	32,892,936	35,402,961			0	23,296,572	10,399,037
Airport	377,732	579,938	461,925			0	137,602	358,143
Transportation	15,810,242	32,406,622	33,824,610			16,638,571	26,297,326	4,733,500
Transportation Development	4,788,697	1,085,792	1,200,614			0	2,130,155	2,543,720
Community Development Block Grant (CDBG)	483	634,492	634,492			1,159,956	1,159,956	483
HOME Investment Partnership Grant	0	779,504	779,504			1,545,741	1,545,741	0
Permanent Parks and Recreation	1,245,549	2,587,804	2,443,963			0	687,999	701,391
Boulder Junction Improvement	2,338,035	804,614	825,000			0	1,782,476	535,173
Capital Improvement Fund	3,222,318	0	0			0	3,222,318	0
Water Utility	37,142,847	55,346,420	58,901,788			0	5,631,035	27,956,444
Wastewater Utility	27,766,746	20,307,952	19,555,218			215,625	22,047,376	6,687,729
Stormwater/Flood Management Utility	42,714,691	11,498,203	8,781,777			2,441,599	36,218,027	11,654,689
Telecommunications	1,591,632	747,014	704,622			0	556	1,633,468
Property and Casualty Insurance	5,551,883	1,774,617	1,876,157			0	0	5,450,343
Worker's Compensation Insurance	1,130,071	1,703,853	1,682,732			0	406,618	744,575
Compensated Absences	1,887,429	827,864	944,772			0	0	1,770,521
Fleet	15,670,222	6,620,424	5,302,879			0	1,003,815	15,983,953
Computer Replacement	8,062,579	1,973,456	1,939,813			0	583,093	7,513,129
Equipment Replacement	5,711,553	1,170,249	638,192			0	18,348	6,225,262
Facility Renovation and Replacement	9,966,798	2,908,467	4,052,362			1,998,215	7,034,137	3,786,981



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: May 17, 2016

AGENDA TITLE: Introduction, first reading and consideration of a motion to publish by title only, Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License fee,” amending Title 9 “Land Use Code,” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures,” by adding a new chapter 11 “Cooperative Housing,” establishing requirements for licensing housing cooperatives and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

David Gehr, Deputy City Attorney

David Driskell, Executive Director, Planning, Housing and Sustainability

Susan Richstone, Deputy Director, Planning, Housing and Sustainability

Charles Ferro, Development Land Use Review Manager, Planning, Housing and Sustainability

EXECUTIVE SUMMARY

Since 1996, the City of Boulder has had a cooperative housing ordinance. Unfortunately, not a single cooperative housing unit has been developed pursuant to that ordinance. There are, however, illegal cooperatives operating without any regulatory oversight. One of council’s priorities for this year is to attempt to address the concerns raised about the existing code provisions. At a study session on January 26, 2016, Council gave staff initial direction regarding a new potential cooperative housing ordinance. Staff developed a draft and posted a version for community consideration. Responding to community feedback, staff developed and posted a revised version of the

ordinance. The Planning Board considered and made recommendations at their meeting on April 21, 2016. Staff now requests that Council consider a proposed ordinance on first reading.

Suggested Motion Language:

Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License fee,” amending Title 9 “Land Use Code” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures” by adding a new chapter 11 “Cooperative Housing” establishing requirements for licensing housing cooperatives and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Cooperative housing may have a positive economic impact by providing access to affordable housing. There is also the possibility that by competing for access to single family homes the existence of legal cooperatives could affect the market for such homes.
- Environmental: Cooperative housing could have a positive environmental impact by limiting the number of in-commuters and by the philosophy of shared resources.
- Social: Communal living can have social benefits. Higher density could have negative impacts on neighborhoods.

OTHER IMPACTS

- Fiscal: The fiscal impact will depend upon the final version adopted. With a limited number of units permitted, any fiscal impact should be limited.
- Staff Time: Implementation will be accomplished with existing staff. The principal staff work necessary will be implementing a licensing system. The more complex the requirements included, the more staff time that will be required.

BOARD AND COMMISSION FEEDBACK

The Planning Board considered the proposed ordinance on April 21, 2016. The Planning Board gave careful consideration to the proposed ordinance. The board heard over three hours of public testimony and deliberated for an additional three hours. The board had a wide ranging discussion. To provide the best support for council, the board decided to conduct a series of “straw polls.” This process was intended to give Council an idea of the level of support for recommendations, even those that were not supported

by a majority of planning board members. A copy of the draft minutes for the April 21, 2016 Planning Board meeting are in Attachment C. The Planning Board will consider approval of these minutes at their meeting on May 19, 2016.

Straw Poll Results

1. Process

The board discussed the question whether the process is proceeding too fast. Members discussed various options including convening an advisory committee, slowing down the entire process or just taking more time with rental cooperatives. The board conducted the following polls with the following results:

- Do rental cooperatives need further study and special attention? (7-0, in favor)
- Should the entire process slow down? (2-5, L. Payton, J. Gerstle in favor of the entire process slowing down)
- Should only the rental process slow down? (4-3, L. May, J. Putnam, L. Payton, and C. Gray in favor of the rental process slowing down)
- Evaluate what characteristics certification might require/specified pre-established criteria? (7-0, in favor)

Council decided to address cooperative housing through the legislative process. Council made this decision, in part, because of a pending over-occupancy complaint against a well-known illegal cooperative. It would be difficult to justify continued non-enforcement if legislation is not proceeding. In addition, it appears that the universe of issues to be addressed with respect to rental cooperatives is limited.

Staff also does not recommend developing detailed certification criteria. Staff added the certification process to the ordinance at the request of cooperative supporters. The addition responded to a concern that with a limited number of licenses could exclude true cooperatives in favor of landlords who sought to simply over-occupy a dwelling. The proposed ordinance purposely left developing certification criteria to an expert third-party organization designated by the city manager. The city does not have expertise in the characteristics of a cooperative. The intent of the ordinance is to regulate safety and community impacts. Regulating the relationship among residents would be beyond the scope of council's direction to staff.

2. Renters in Equity Cooperatives

The Planning Board discussed whether renters should be permitted in equity cooperatives. One member suggested a limit of 30% renters in an equity cooperative. The Planning Board took the following poll with the following result:

- Should renters be allowed in equity co-ops? (7-0, in favor)
- Should the percentage be decided now? (0-7, failed)

Staff recommends a clean distinction between rental cooperatives and equity cooperatives.

3. Definitions

A Planning Board member suggested that he preferred the definitions proposed by the Boulder Community Housing Association (BoCHA). The board addressed the following question:

- Does the board prefer BoCHA’s definitions to the City of Boulder’s definition? (7-0, in favor)

The definitions in the proposed ordinance were drafted to be broad enough to encompass a wide range of models. The BoCHA definitions are in Attachment D. Staff does not support incorporation of the BoCHA definitions. The definition of housing cooperative is a group of people that “pools resources for a majority of the household’s expenses, and governs itself democratically, with each adult member of the household having equal say over household decisions.” These requirements would be very difficult to enforce. The reference to a group of people, rather than a dwelling unit contradicts the ordinance’s approach of licensing owners of dwelling units, not groups of people. In addition, it would be very difficult for the city to enforce requirements regarding sharing of resources and governance. These definitions are more appropriate for the certification process than they would be for the licensing process itself.

4. Not for Profit Structure

The Planning Board considered the question whether the definition of non-profit cooperatives should be altered. The board considered two different approaches. The board considered whether non-profits organized under Colorado law and not registered with the Internal Revenue Service be included. The board also discussed requiring that the non-profit also serve the public interest. The board took the following polls:

- Should the ordinance widen certifying authority to allow Colorado non-profit or legitimate other entities beyond the 501(c)(3) requirement? (7-0, in favor)
- Should the ordinance add “and the public interest” to cooperative housing organization definition? (5-2, in favor)

The proposed ordinance is intended to provide a relatively simple licensing structure. Increasing the complexity of the requirements could make this more difficult.

5. Occupancy

The Planning Board discussed the proposed occupancy limit. The board considered both the existing limit in the International Property Maintenance Code and the one person per 200 square foot limit incorporated in the revised ordinance. The board took the following poll:

- In support of the 200 square footage limitation per person per unit size with a cap? Some were agreeable with less. (7-0, in favor)

The requirement of 200 square feet per person is in the revised version of the ordinance which is Attachment B.

6. Separation

The Planning Board had a robust discussion around the question of separation of cooperative housing units. The board was not able to reach a consensus on the issue of separation. The poll results were as follows:

- Should the ordinance include a separation requirement? (3-4, in favor)
- Should the ordinance not include a separation requirement? (4-3, in favor)
- Should cooperatives be dispersed throughout the city? (7-0, in favor).

7. Fines

A Planning Board member suggested removing the provision for increased fines in Goss Grove, University Hill and Martin Acres. The poll result was as follows:

- Should the fines be the same regardless of the neighborhood? (7-0, in favor)

The fine differential was carried over from the occupancy discussion.

8. Enforcement

The Planning Board discussed enforcement. Members questioned the city's reliance on complaints from the neighbors. A member suggested that the real issue was not necessarily the number of cars, but could have other root causes. The poll result was as follows:

- Recommend to Council to address the root cause of the issues with the neighbors? (7-0, in favor)

9. Limit on the Number of Cooperative Housing Licenses

The Planning Board discussed whether the limit on licenses was appropriate. The board split between those who thought that fifteen per year was too many and those who did not. The poll result was as follows:

- Recommend support of the proposed annual limit of fifteen (5+5+5) co-ops? (4-3, in favor).

The revised ordinance includes an additional category for not-for-profit cooperatives. This brings the total to twenty per year.

10. Zone Districts

The Planning Board discussed expanding the zone districts for cooperative housing. The board generally agreed that cooperatives should be permitted in all zone districts. One board member asserted that they should be encouraged in districts other than single family residential zone districts. The poll result was as follows:

- In support of broadening the allowed “by-right” zones to include RH-6, MU-4, and A, at a minimum. In addition to more dense zones, (all zones)? (7-0, in favor)

11. Ownership

One board member questioned whether fee simple ownership should be required. His intent was to allow cooperatives in condominium developments. Ownership would still be required. It would not, however, necessarily be fee simple. The result was as follows:

- In support of removing the limit for fee simple properties? (7-0, in favor)

This limitation has been changed in the proposed revised ordinance, which is Attachment B.

12. Property Rights and Revocation

The Planning Board discussed providing some greater surety, particularly for equity cooperatives. The board also discussed revocation as well as the question whether the ordinance should address issues of housing discrimination. The poll result was as follows:

- In support of making it more difficult to revoke licenses. (7-0, in favor)

The proposed revised ordinance includes limitations on the city manager’s power to revoke a license.

13. Parking

The Planning Board discussed parking. A board member suggested that the city manager consider whether a Neighborhood EcoPass Program be considered as part of the process. The board did not pursue this. They did discuss whether there should be some limit on the number of cars. The poll result was as follows:

- In support of limiting cooperatives to four vehicles? (7-0, in favor)

14. Historic Preservation

A board member suggested encouraging the Council to consider providing incentives for properties used as cooperative housing units to become landmarked. The poll result was as follows:

- In support of exploring incentivizing co-ops to buy and preserve historic homes and apply for landmark status? (7-0, in favor)

This requirement is included in the proposed revised ordinance.

BACKGROUND & ANALYSIS

In February 1994, a group called the Cooperative Housing Committee presented an outline for a cooperative housing ordinance to the city council. Council directed staff to work with the community, CHC and the planning board to draft an ordinance for Council to consider. Staff held two community workshops and worked with CHC to prepare a draft ordinance that the planning board considered over the next 30 months. The planning board reviewed the proposal at the November 2, 1995 meeting, the December 14, 1995 meeting and the April 25, 1996 meeting. Council considered the proposed ordinance at the July 16, 1996, August 6, 1996, September 3, 1996 and September 17, 1996 council meetings. Council adopted ordinance number 5806 on fourth reading.

Two years later, the Boulder Housing Coalition asked Council to consider some changes to the provisions in ordinance number 5806. Council did so and adopted ordinance number 6036 on December 1, 1998. There have been no significant changes in the intervening seventeen years. Although the original plan was to limit the number of applications, this was unnecessary because the city has never received an application under the cooperative housing code provisions. Several factors were likely have driven this outcome, primarily the greater interest in development of rental co-ops such as Masala, Chrysalis and Ostara, which are not covered by the cooperative housing ordinance. In addition, in the absence of any significant enforcement of over-occupancy, there is no incentive to undertake compliance with the strict city code provisions.

At its January 2014 retreat, Council requested that staff identify and propose some “early wins” that could help improve conditions while more significant policy work was undertaken through the Comprehensive Housing Strategy. At the May 27, 2014 study session, staff identified five short term actions, including increasing the permitted occupancy for seniors. Council directed staff to develop an ordinance to implement this proposal. Staff drafted an ordinance that would have permitted up to six unrelated individuals over the age of 62 to live together in the Rural Residential, Residential Estate and Residential Low Density Zone Districts. The planning board considered the proposed changes at its July 31, 2014 meeting and by a six to one vote recommended approval of the draft ordinance with the addition of a provision increasing the occupancy to ten unrelated in the RR and RE zone districts, provided one resident was the property owner.

Council considered the proposed ordinance on first reading at the September 2, 2014 council meeting. Forty-one people spoke at open comment. Of those, eleven spoke specifically about the proposed occupancy change. Four spoke in favor and six spoke against. In addition, five people expressed general concerns regarding density in Boulder. Council decided not to pass the proposed ordinance on first reading.

At the 2015 council retreat, Council directed staff to explore ways in which the city's occupancy limits could be enforced more effectively. At the May 28, 2015 special council meeting, Council considered a staff presentation of seven options to better enforce the city's occupancy limits in residential properties. Council directed staff to prepare an ordinance implementing four of the seven options. Council held a public hearing on second reading at the September 15, 2015 council meeting. Eighty-three people spoke at the public hearing. The vast majority of speakers expressed their opposition to any enforcement of the city's occupancy limits. Several stated that they resided in co-ops and should not be subject to the city's occupancy limitations. There was a view expressed that the city should enforce only for quality of life impacts associated with over occupancy and not for occupancy itself.

Council passed the occupancy enforcement ordinance on third reading at the November 10, 2015 council meeting. Two council members made public statements reassuring residents of illegal co-ops that this ordinance was not intended to be used against them. Both council members provided their personal telephone numbers in the event that the city took enforcement action. Prior to the meeting, someone had submitted an anonymous complaint about over-occupancy at a well-known illegal housing co-op. Without knowing anything other than the address, a staff member contacted the management company associated with the property to schedule a meeting to discuss the complaint. The residents contacted the council members and council members asked staff not to pursue enforcement. At the November 17, 2015 council meeting, staff raised the issue and sought full Council direction regarding future enforcement. Council asked staff to not enforce against legitimate housing co-ops, while Council considered the cooperative housing code provisions.

In 2015, Council faced a similar situation with respect to short-term rentals. That is, in December 2014, staff issued enforcement notices pursuant to a standing city policy with respect to complaints about short-term rentals. This created concern in the community. Staff decided to hold off on further enforcement while Council considered adopting an ordinance regulating short-term rentals. Council held a study session to provide initial direction to staff. Staff brought back a first reading ordinance. Council held two public hearings to consider community input. Ultimately, Council shaped an ordinance without substantial staff work or community outreach outside of the legislative process, although there was significant community participation in that process. The current plan is to adopt a similar approach with respect to the cooperative housing code provisions.

On January 26, 2016, Council held a study session to provide direction on a potential first reading ordinance relating to cooperative housing.¹ On April 5, 2016, Council approved the study session summary for the January 26, 2016 study session.² Based on Council feedback, staff drafted a proposed ordinance. Staff posted a copy of the proposed ordinance on the Council Hotline on March 24, 2016. A copy of the proposed ordinance is Attachment A.

On April 5, 2016, staff met with representatives of the Boulder Community Housing Association to discuss the proposed ordinance. As a result of this meeting, staff produced a revised ordinance. Staff also made some changes based on feedback from Council Member Aaron Brockett. A copy of the revised ordinance is Attachment B.

On April 21, 2016, the Planning Board considered the ordinance and made the recommendations described above. The Planning Board recommendations did not lend themselves to making specific revisions in the proposed ordinance. Accordingly, staff has not provided a revised ordinance, but assumes that Council will give appropriate weight to the Planning Board recommendations when considering potential amendments to the proposed ordinance.

Staff also met with members of the Martin Acres Neighborhood Association. These individuals expressed concern that many, if not all, of the cooperative housing licenses could be issued for homes in their neighborhood, because homes in Martin Acres tend to be among the most affordable in the city. They recommended that Council consider allowing only one cooperative housing license in each of four particularly vulnerable neighborhoods, which are Goss Grove, East Aurora, Martin Acres and University Hill. Staff recommends that Council consider such a change. Staff has drafted a proposal that would allow any cooperative existing in those neighborhoods to obtain a license and then would limit licenses to one new license in each neighborhood for each year. No new license could be issued until after there was one year for each cooperative license issued to an existing cooperative. For example, if there are five existing illegal cooperatives in Goss Grove and all five obtained licenses before January 1, 2017, the first new license would not be issued in Goss Grove until 2022. Thereafter, the city manager could issue one cooperative license per year in Goss Grove. Staff's reasoning is that neighborhoods have already absorbed the impacts of existing illegal cooperatives. Legalizing them will provide the health and safety benefits that go along with regulation. New cooperatives could change a neighborhood, so the proposal would slow the growth in the four most affordable neighborhoods in Boulder. A draft potential amendment is Attachment E.

¹ The study session memorandum can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/131329/Electronic.aspx>

² A copy of the approved study session summary can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/132151/Electronic.aspx>.

OCCUPANCY AND INTENSITY REGULATIONS

The proposed ordinance provides a path for cooperatives to exceed the occupancy rules that are provided in the Boulder Revised Code. It provides a path for higher occupancies in many of the very low, low, medium, and high density residential zoning districts as well as some of the industrial zoning districts. Boulder regulates residential intensity in two ways:

- Density – which regulates the number of dwelling units or households that may reside on a property.
- Occupancy – which regulates the number of people that reside in a dwelling unit.

The Boulder Revised Code addresses occupancy in a number of places. Title 9, which is the Land Use Code, regulates the occupancy of a dwelling unit with the intent of limiting the impacts of the unit on the surrounding area. Title 9 provides that a dwelling may have:

- A family plus one or two roomers;
- Up to three persons in P, A, RR, RE, and RL zones;
- Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or
- Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

The Boulder Revised Code also provides regulations that allow different occupancy levels for different types of living arrangements. For example:

- Nonconforming occupancy, based on changed zoning rules.
- Boarding or rooming houses, fraternities, sororities, and dormitories: These are limited to three persons per dwelling unit equivalent. They are primarily located in the in some of the medium density and higher density zoning districts, some as a matter of right, others by use review.
- Hostels. These are limited to three persons per dwelling unit equivalent as matter of right, and four persons with a use review. Hostels are predominately allowed in higher density zoning districts.
- Custodial Care. These uses are limited to 6 to 8 people. These units are allowed by use review in most of the zoning districts. They provide custodial care and treatment generally associated with the criminal justice system in a residential setting.
- Residential Care Facilities. These uses are limited to 6 to 8 people. Residential care facilities are allowed as a conditional use in most zoning districts, and after use review in the industrial zoning district. They include social service oriented group living arrangements such as group foster care, shelters for abused children and adults, nursing homes, or intermediate care facilities.

- Group Homes. The maximum occupancy for this use is 8 to 10 people. Group homes are allowed in most zoning districts as a conditional use. The conditional use process is a relatively simple administrative review and approval process. Group homes provide for a protective living environment for people with disabilities or the aged.
- Cooperative Housing Units. The maximum occupancy is 6 persons or 8 persons on a lot that is twice the minimum lot size for the zoning district. It is allowed as a conditional use in most residential zoning districts. There are a number of standards for this use in § 9-6-3(b), B.R.C. 1981.

The uses and occupancies described above are land uses. The proposed changes to the cooperative housing ordinance would change it from a land use regulation to a licensing system. As a licensing system, the approval is a privilege that is subject to revocation, with due process, for failing to comply with the terms of the license. On the other hand, with a land use, it is typical that enforcement is done through the municipal court, with remedies that the municipal court imposes on the land use. Unless, the use is illegal, the municipal court does not revoke a legally created use of land.

The zoning regulations are intended to address the impacts of intensity of use on the surrounding neighborhood. On the other hand, the building code addresses these impacts on life safety issues for the people that reside in the dwelling unit. The primary occupancy regulations in the building codes are minimum amounts of floor area for the occupants of a bedroom. The minimum size of a bedroom is 70 square feet for one person. For more than one person, there is a required a minimum of 50 square feet for each person per bedroom.

PROPOSED ORDINANCE

The proposed ordinance is a first reading ordinance intended to implement the direction provided by the city council on January 26, 2015. At a high level, Council's direction was to facilitate the creation of cooperative housing units, while at the same time limiting the effects on the neighborhoods and on the availability of housing for families. The proposed ordinance attempts to strike a balance between facilitating cooperatives and protecting the community. The ordinance includes the following major elements:

- Cooperative housing units would be an allowed use in zoning districts where previously they were a conditional use.
- Cooperatives would be regulated much like rentals, including licensing, initial inspections and renewal inspections.
- Cooperatives would be exempt from the Title 9 occupancy limits. They would be subject to the limit in the international property maintenance code.
- Rental cooperatives would be subject to a limitation on rent.
- The cooperatives would be required to maintain compatibility with the surrounding neighborhood. This restriction would be enforced through an

administrative process in the municipal court, subject to a right to cure through community mediation.

- Cooperatives would be required to develop a parking reduction plan to limit to no more than three, the number of cars parked in the right of way. This plan could include a requirement that all members of the cooperative be required to have a bus pass.

Section by Section Description

Section 1

Adds a new fee in section 4-20-69 for cooperative housing licenses. The fee in the proposed ordinance is the same as that imposed for rental licenses.

Section 2

Amends table 9-6-1 to make cooperative housing an allowed use in the zoning districts where it previously was a conditional use. There is no change to the zone districts in which use review was required.

Section 3

Repeals section 9-6-3(b).

Section 4

Amends section 9-8-5 to exempt cooperative housing units from the city's occupancy limits. The only limit would be the International Property Maintenance Code, which is incorporated in to the Boulder Revised Code by section 10-2-2. The IPMC includes the following occupancy limitation: "Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet and every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each occupant thereof."

Section 5

Amends the definition of "Cooperative Housing Unit" in section 9-16-1 to conform to the new definition in section 10-1-1.

Section 6

Adds to section 10-1-1, definitions of "Cooperative," "Cooperative Housing Unit," "Limited Equity Cooperative," "Private Equity Cooperative," and "Rental Cooperative."

Section 7

Adds a new chapter 10-11.

Section 10-11-1

Legislative intent.

Section 10-11-2

Requires a cooperative housing license before a cooperative is occupied.

Section 10-11-3

Imposes terms for licenses. This section is adapted from section 10-3-3, which regulates rental licenses. It includes a four year renewal period and an inspection requirement. The section also includes dispersion requirements. These are similar to the existing requirements, although references to group homes and accessory units have been eliminated. The section also includes a limit of five licenses per year for each of the three types of cooperatives.

Section 10-11-4

Establishes procedures for applications for cooperative housing licenses. This section also follows a similar section in chapter 10-3. Only fee simple owners may apply for licenses. If there are multiple owners, they must all apply. The reasoning is that the city needs to be able to identify a responsible party. The actual owner of the property is readily identified. The applicant must submit an inspection report and a contract with a trash hauler in the same manner as is required for rental housing. The applicant also is required to submit a parking management plan at the time of initial application and renewal.

Section 10-11-5

Establishes renewal procedures.

Section 10-11-6

Allows the city manager to issue a temporary license if a property fails the inspection.

Section 10-11-7

Provides for an appeal of a denial of a temporary license.

Section 10-11-8

Provides for termination of the license if it is not renewed, if there is an order to vacate, if a temporary certificate of occupancy expires or if the certificate of occupancy is terminated.

Section 10-11-9

Provides for license fees.

Section 10-11-10

Requires that the license be made available to residents of the cooperative or the city upon demand. There is no requirement to post the license.

Section 10-11-11

Makes a parking management plan a condition of issuing a license. The plan must limit the number of cars from the cooperative parked in the right of way to three. The plan can include a requirement that all residents have a bus pass.

Section 10-11-12

Requires the licensee to take reasonable steps to reduce the cooperative’s impact on parking, noise, trash and weeds.

Section 10-11-13

Limits the rent that can be charged in an entire rental cooperative to no more than that which would be affordable to a family earning the median family income in Boulder. The city manager is required to adopt a maximum rent based upon the Colorado Housing and Finance Income and Rent Tables or similar resource. For 2015 those rents would be as follows:

Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
\$1,740	\$1,865	\$2,237	\$2,585	\$2,885

Section 10-11-14

Provides the city manager the authority to order the property vacated for building code violations.

Section 10-11-15

Provides the city manager with authority to impose a civil penalty after notice and opportunity for a hearing. It includes enhanced penalties for Martin Acres, University Hill and Goss Grove. For violations based on incompatibility with the neighborhood, any hearing can be continued if the licensee engages in community mediation with concerned neighbors. The city manager may dismiss a violation if community mediation results in a plan to make the cooperative compatible with the neighborhood.

Section 10-11-16

Provides for a criminal penalty. This is identical to the provision in chapter 10-3.

Section 10-11-17

Authorizes the city manager to issue rules.

PROPOSED REVISED ORDINANCE

The revised ordinance includes the following changes.

Section 9-8-5(d)

Imposes an occupancy limit of no more than one person per 200 square feet of habitable space.

Section 10-1-1

Includes a definition of a Cooperative Housing Organization.

Section 10-11-4(a)

Allows a prospective tenant to apply, with the property owner's written approval, to convert a valid rental license into a cooperative housing license.

Section 10-11-4(b)(1)(D)

Adds a requirement that an applicant supply a certificate from a Cooperative Housing Organization certifying that the applicant is a legitimate cooperative. There was a concern that landlords could use the ordinance to legitimize over-occupancy. With a limited number of licenses available each year, this could drive out real cooperatives. This provision would allow a third-party to establish and apply criteria to limit licenses to those actually engaged in cooperative living.

Section 10-11-11

Imposes a limit of four cars for each property.

Section 10-11-12

Adds criteria to define the concept of compatibility with the neighborhood. It also provides that the city manager cannot seek to revoke a license based upon complaints from a single person.

Section 10-11-13

Converts the rent limitation from being based upon affordability to average rental rates in Boulder. The proposal would limit rents to 110% of the average, which would allow for some additional compensation to landlords.

ATTACHMENTS

Attachment A – Original Draft Ordinance

Attachment B – Revised Ordinance

Attachment C – Draft Summary Minutes, April 21, 2016 Planning Board Meeting

Attachment D – BoCHA Definitions

Attachment E – Proposed Amendment

ORDINANCE NO. 8119

AN ORDINANCE AMENDING TITLE 4 “LICENSES AND PERMITS BY ADDING A NEW SECTION 4-20-69 “COOPERATIVE HOUSING LICENSE FEE,” AMENDING TITLE 9 “LAND USE CODE” BY AMENDING TABLE 9-6-1 TO MAKE COOPERATIVE HOUSING AN ALLOWED USE IN CERTAIN ZONE DISTRICTS, BY AMENDING SECTION 9-6-3, ELIMINATING THE REQUIREMENT OF A SPECIAL USE PERMIT FOR COOPERATIVE HOUSING, AMENDING TITLE 10 “STRUCTURES” BY ADDING A NEW CHAPTER 11 “COOPERATIVE HOUSING” ESTABLISHING REQUIREMENTS FOR LICENSING HOUSING COOPERATIVES AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new section 4-20-69 is added as follows:

4-20-18. – Cooperative Housing License Fee.

The following fees shall be paid before the city manager may issue a rental license or renew a rental license:

(a) \$105 per license or renewal.

(b) To cover the cost of investigative inspections, the city manager will assess to licensees a \$250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of chapter 10-11 “Cooperative Housing,” B.R.C. 1981.

Section 2. Table 9-6-1 is amended as set forth in an attachment A.

Section 3. Section 9-6-3(b) is repealed and subsequent sections are renumbered.

Section 4. Section 9-8-5 is amended as follows:

9-8-5. - Occupancy of Dwelling Units.

1 (a) General Occupancy Restrictions: Subject to the provisions of Chapter 10-2,
2 "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall
3 occupy a dwelling unit:

4 (1) Members of a family plus one or two roomers. The quarters that the roomers use
5 shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate
6 dwelling unit;

7 (2) Up to three persons in P, A, RR, RE, and RL zones;

8 (3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM,
9 and IMS zones; or

10 (4) Two persons and any of their children by blood, marriage, guardianship, including
11 foster children, or adoption.

12 (b) Accessory Dwelling Unit, Owner's Accessory Unit, or Limited Accessory
13 Dwelling Unit: The occupancy of an accessory dwelling unit, owner's accessory unit, or limited
14 accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

15 (c) Nonconformity: A dwelling unit that has a legally established occupancy higher
16 than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy
17 of the dwelling unit as a nonconforming use, subject to the following:

18 (1) The higher occupancy level was established because of a rezoning of the property,
19 an ordinance change affecting the property, or other city approval;

20 (2) The rules for continuation, restoration, and change of a nonconforming use set
21 forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use
22 Review," B.R.C. 1981;

1 (3) Units with an occupancy greater than four unrelated persons shall not exceed a
2 total occupancy of the dwelling unit of one person per bedroom;

3 (4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

4 (5) If a property owner intends to sell a dwelling unit with a non-conforming
5 occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such
6 contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that
7 indicates the allowable occupancy of the dwelling unit.

8 (d) A dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-
9 11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits
10 set forth in this section.

11 (e) Prohibition: No person shall occupy a dwelling unit in violation of this section or
12 intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation
13 of this section.

14 **Section 5.** Section 9-16-1 is amended by amending the definition of "Cooperative
15 Housing Unit" as follows:

16 Cooperative housing unit has the same meaning as set forth in Section 10-1-1,
17 "Definitions," B.R.C. 1981 ~~means an individual building for cooperative living that meets the~~
18 ~~criteria for such units set forth in Subsection 9-6-3(b), B.R.C. 1981.~~

19 **Section 6.** The following new definitions are added to Section 10-1-1:

20 *Cooperative* means a housing arrangement in which residents share expenses, ownership
21 or labor.

22 *Cooperative housing unit* means a dwelling unit in a Private Equity, Limited Equity or
23 Rental Cooperative.
24
25

1 *Limited equity cooperative* means a cooperative operating on a property owned in part by
2 its occupants. A not-for-profit corporation may own an interest in the property.

3 *Private equity cooperative* means a cooperative operating on a property owned jointly by
4 the residents of the cooperative.

5 *Rental cooperative* means a cooperative in which the some or all of the residents do not
6 have an ownership interest in the property in which the cooperative operates.

7 **Section 7.** A new Chapter 10-11 is added as follows:

8 **Chapter 11 Cooperative Housing**

9 **10-11-1. Legislative Intent**

10 The City Council intends to facilitate cooperative living arrangements. The Council finds
11 that cooperative living arrangements can provide an affordable alternative for living in Boulder.
12 In addition, cooperative arrangements can provide supportive and fulfilling community for their
13 residents. The City Council seeks to balance the benefits of cooperative living against the
14 impacts from the increased density that comes along with cooperative living. The City Council
15 also is concerned about cooperatives competing in a tight housing market with families seeking
16 single family homes.
17

18 **10-11-2. - Cooperative License Required Before Occupancy.**

19 No person shall occupy, allow, or offer to allow through advertisement or otherwise, any
20 person to occupy any cooperative housing unit unless the cooperative housing unit has been
21 issued a valid cooperative housing license by the city manager.

22 **10-11-3. – Cooperative Housing Licenses.**

23 (a) License terms shall be as follows:
24
25

1 (1) Licenses shall expire four years from issuance or when ownership of the licensed
2 property is transferred.

3 (A) In addition to any other applicable requirements, new licenses and renewals shall
4 require that the licensee submit to the city manager a completed current baseline (for a new
5 license) or renewal inspection report, on forms provided by the City. The report shall satisfy the
6 following requirements:

7 (i) The section of the report concerning fuel burning appliances must be executed by
8 a qualified heating maintenance person certifying compliance with those portions of Chapter 10-
9 2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and
10 certification.

11 (ii) The section of the report concerning smoke and carbon monoxide alarms must be
12 executed by the operator certifying that the operator inspected the smoke and carbon monoxide
13 alarms in the licensed property and that they complied with the requirements of Chapter 10-2,
14 "Property Maintenance Code," B.R.C. 1981.

15 (iii) The section of the report concerning trash removal must be executed by the
16 operator certifying that the operator has a current valid contract with a commercial trash hauler
17 for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-
18 3(b), B.R.C. 1981.

19 (b) Whenever an existing license is renewed, the renewal license shall be effective
20 from the date of expiration of the last license if the applicant submits a complete renewal
21 application by or within ninety days from the expiration date. Licenses not renewed within
22 ninety days will be considered expired, requiring a new baseline inspection report.
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1 (c) The city manager shall issue no more than fifteen new cooperative housing
2 licenses in any calendar year. Such licenses shall be allocated as follows:

3 (1) No more than five licenses for limited equity cooperatives;

4 (2) No more than five licenses for private equity cooperatives;

5 (3) No more than five licenses for rental cooperatives; and

6 (4) If an application for a cooperative housing unit exceeds the limits set forth in this
7 subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the
8 waiting list shall be given priority for consideration of applications in the next calendar year.

9 (d) Cooperative housing licenses shall be limited to the following concentrations:

10 (1) Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts,
11 no more than ten percent of the single-family lots or parcels in a neighborhood area contain a
12 cooperative housing unit. For the purpose of this subparagraph:

13 (i) The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area
14 circumscribed by a line three hundred feet from the perimeter of the lot line within which any
15 cooperative housing unit will be located.

16 (ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area
17 circumscribed by a line six hundred feet from the perimeter of the lot line within which any
18 cooperative housing unit will be located.

19 (iii) If an application for a cooperative housing unit exceeds the ten percent
20 requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on
21 a waiting list for the neighborhood area. At such time as there is room for an additional
22 cooperative housing unit within a neighborhood area, the city manager will notify the first
23 eligible person on the waiting list. Such person on the waiting list shall be required to provide
24
25

1 notice of intent to file an application within thirty days and file an application within sixty days
2 of such notice.

3 **10-11-4. - License Application Procedure for Cooperative Housing Licenses.**

4 (a) Only the fee simple owners of the property on which the cooperative is to be
5 located may be an applicant for a cooperative housing license. If there are multiple fee simple
6 owners, all owners must apply.

7 (b) Every applicant for cooperative housing license shall submit the following:

8 (1) A written application for a license to the City, on official city forms provided for
9 that purpose, at least thirty days before occupancy of the property including:

10 (A) A housing inspector's certification of baseline inspection dated within twelve
11 months before the application. The applicant shall make a copy of the inspection form available
12 to city staff and tenants of inspected units within fourteen days of a request; and

13 (B) A report on the condition and location of all smoke and carbon monoxide alarms
14 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the
15 applicant; and

16 (C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.
17 1981, made and verified by the applicant.

18 (D) A parking management plan meeting the requirements of subsection 10-11-11,
19 B.R.C. 1981, made and verified by the applicant.

20 (c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"
21 B.R.C. 1981, at the time of submitting the license application.
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1 (d) Take all reasonable steps to notify any occupants of the property in advance of the
2 date and time of the inspection. The applicant shall be present and accompany the inspector
3 throughout the inspection, unlocking and opening doors as required.

4 **10-11-5. - License Renewal Procedure for Cooperative Housing Units**

5 Every licensee of a cooperative housing unit shall follow the procedures in this section
6 when renewing an unexpired license:

7 (a) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"
8 B.R.C. 1981, before the expiration of the existing license.

9 (b) Submit to the city manager, on forms provided by the manager:

10 (1) A housing inspector's certification of renewal inspection within twelve months
11 before application. The applicant shall make a copy of the inspection form available to city staff
12 and residents of inspected units within fourteen days of a request;

13 (2) A report on the condition and location of all smoke and carbon monoxide alarms
14 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the
15 operator; and

16 (3) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.
17 1981, made and verified by the operator.

18 (4) A parking management plan meeting the requirements of subsection 10-11-11,
19 B.R.C. 1981, made and verified by the applicant.

20 (c) Take all reasonable steps to notify in advance all residents of the property of the
21 date and time of the inspection. The operator shall be present and accompany the inspector
22 throughout the inspection, unlocking and opening doors as required.

23 **10-11-6. - Temporary License.**

1 If the inspection shows that there are violations of chapter 10-2, "Property Maintenance
2 Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the
3 housing is to be occupied (in the case of a new cooperative housing unit) or the existing license
4 expires (in the case of a renewal), the applicant may apply, on forms specified by the city
5 manager, for a temporary license. If the manager finds, based on the number and severity of
6 violations, that such a temporary license would not create or continue an imminent health or
7 safety hazard to the public or the occupants, the manager may issue a temporary license. The
8 manager shall specify the duration of the temporary license, for a period reasonably necessary to
9 make the needed repairs and changes. Upon receipt of an additional certificate of inspection
10 showing correction of the deficiencies, and an additional housing license fee, the manager shall
11 issue the cooperative housing license.
12

13 **10-11-7. - License Appeals.**

14 Any applicant denied a temporary license, or aggrieved by the period of time allowed for
15 correction, may appeal the denial or the time for correction, or both, as provided in section 10-2-
16 2, section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required
17 to correct a violation, the board shall either affirm the city manager's originally prescribed time
18 or grant a longer time to correct the alleged violation.

19 **10-11-8. - Time of License Expiration.**

20 Every rental license expires upon the earliest of the following dates:

21 (a) The expiration date on the license unless temporary authority is allowed under
22 section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;

23 (b) The effective date of any order or notice to vacate the property issued under any
24 provision of law;
25

1 (c) The expiration of the temporary certificate of occupancy for the property if a
2 permanent certificate of occupancy has not been issued; or

3 (d) The revocation of the certificate of occupancy for the property.

4 **10-11-9. - License Fees.**

5 Applicants for any cooperative housing license, and applicants renewing an existing
6 cooperative housing license, shall pay the license fees prescribed by section 4-20-69,
7 "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.

8 **10-11-10. - Availability of License.**

9 No person who holds a cooperative housing license shall fail to make the rental license
10 available to anyone within seventy-two hours of receiving a request. Posting of a cooperative
11 housing license at the property is not required.

12 **10-11-11. – Parking Management Plan Required.**

13 Each applicant for a cooperative housing license shall prepare a parking management
14 plan. Approval of any such plan shall be a condition of issuance of any cooperative housing
15 license. The plan shall be designed to limit the number of automobiles parked in the public right
16 of way to no than three vehicles per license. An agreement by the licensee to require that all
17 residents have a local bus pass with the Regional Transit District may be included in such a plan,
18 but is not required.

19 **10-11-12. – Compatibility with Neighborhoods.**

20 Each cooperative shall at all times maintain compatibility with the neighborhood in
21 which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive
22 parking on the public right of way and noise, trash and weeds on the property.

23 **10-11-13. – Limitation on rent.**

1 As a condition of issuance of any cooperative housing license for a rental cooperative, the
2 applicant shall agree to limit each cumulative rent for the entire property to no more than that
3 which is affordable to households earning no more than the average median income for families
4 in the city of Boulder. The city manager shall, by rule, establish such maximum rents based on
5 the number of bedrooms using the Colorado Housing and Finance Authority Income and Rent
6 Tables or another substantially similar resource.

7 **10-11-14. - City Manager May Order Premises Vacated.**

8 (a) Whenever the city manager determines that any cooperative housing unit is in
9 violation of this chapter or of chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has
10 caused a summons and complaint requiring the licensee to appear in municipal court to answer
11 the charge of violation to issue, and the summons cannot be served upon the licensee despite
12 reasonable efforts to do so, or, having been served, the licensee has failed to appear in the
13 municipal court to answer the charges or at any other stage in the proceedings, or, having been
14 convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment
15 of the court or any condition of a deferred judgment, then the city manager may, after thirty days'
16 notice and an opportunity for a hearing to the residents and the licensee, require that the premises
17 be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code
18 and the cooperative housing code have been satisfied and a cooperative housing license is in
19 effect. No person shall occupy any cooperative housing unit after receiving actual or constructive
20 notice that the premises have been vacated under this section.

22 (b) Any notice required by this section to be given to a licensee is sufficient if sent by
23 first class or certified mail to the address of the last known owner of the property as shown on
24 the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident
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1 required by this section is sufficient if sent by first class or certified mail to or delivered to any
2 occupant at the address of the premises and directed to "All Residents."

3 (c) The remedy provided in this section is cumulative and is in addition to any other
4 action the city manager is authorized to take.

5 **10-11-15. - Administrative Remedy.**

6 (a) If the city manager finds that a violation of any provision of this chapter or
7 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to
8 the operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3,
9 "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to
10 remedy the violation:

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

12 (A) For any violation in the following areas: the area south of Arapahoe Avenue,
13 north of Baseline Road, east of 6th Street and west of Broadway; the area south of Baseline
14 Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area
15 south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th
16 Street:

17 (i) For the first violation of the provision, \$500.00;

18 (ii) For the second violation of the same provision, \$750.00; and

19 (iii) For the third violation of the same provision, \$1,000.00;

20 (B) For a violation in any other area:

21 (i) For the first violation of the provision, \$150.00

22 (ii) For the second violation of the same provision, \$300.00; and

23 (iii) For the third violation of the same provision, \$1,000.00;

1 (2) Revoke the cooperative housing license; and

2 (3) Issue any order reasonably calculated to ensure compliance with this chapter and
3 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

4 (b) If notice is given to the city manager by the licensee at least forty-eight hours
5 before the time and date set forth in the notice of hearing on any violation, other than a violation
6 of section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation has
7 been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds
8 that the violation has been corrected, the manager may cancel the hearing.

9 (c) If notice is given to the city manager by the licensee at least forty-eight hours
10 before the time and date set forth in the notice of hearing on any violation of section 10-11-12
11 "Compatibility with Neighborhoods," B.R.C. 1981, that the licensee has scheduled a community
12 mediation with concerned neighbors, the manager may continue the hearing until the manager
13 receives a report regarding the conclusion of the mediation. If after reviewing a community
14 mediation report, if the city manager is satisfied that the cooperative housing unit meets the
15 requirements of section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, the city
16 manager may dismiss any pending complaint.

17 (d) The city manager's authority under this section is in addition to any other
18 authority the manager has to enforce this chapter, and election of one remedy by the manager
19 shall not preclude resorting to any other remedy as well.

20 (e) The city manager may, in addition to taking other collection remedies, certify due
21 and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-
22 12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for
23 Collection," B.R.C. 1981.
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1 (f) To cover the costs of investigative inspections, the city manager will assess
2 operators a \$250.00 fee per inspection, where the city manager performs an investigative
3 inspection to ascertain compliance with or violations of this chapter.

4 **10-11-16. – Criminal Penalty.**

5 (a) The penalty for violation of any provision of this chapter is a fine of at least
6 \$500.00 and not more than \$2,000.00 per violation, or incarceration for not more than ninety
7 days in jail, or both such fine and incarceration. In addition, upon conviction of any person for
8 violation of this chapter, the court may issue a cease and desist order and any other orders
9 reasonably calculated to remedy the violation. Violation of any order of the court issued under
10 this section is a violation of this section and is punishable by a fine of not more than \$4,0000.00
11 per violation, or incarceration for not more than ninety days in jail, or both such fine and
12 incarceration.
13

14 (b) It shall be a condition of any deferred prosecution or deferred or suspended
15 sentence under this chapter that the defendant commit no violations of this chapter for at least
16 one year from the date of such deferred prosecution or deferred or suspended sentence.

17 (c) Notwithstanding subsection (a) of this section, the following specific sentencing
18 considerations shall apply to fines imposed for violations:

19 (1) The court shall consider any evidence presented by the defendant that a potential
20 fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally
21 capitalized owner of the ability to continue operating a rental housing business of the sort
22 involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

23 (2) In imposing a fine in any single case or in any consolidated cases, the court may
24 weigh all factors normally and properly considered in connection with the imposition of fines,
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1 including the seriousness of the violation, the past record of the defendant, the economic
2 circumstances of the defendant and all mitigating or aggravating factors relevant to the violation
3 or to the defendant. In addition, in determining the amount of any fine, the court may consider:

4 (A) The imposition of a fine that would deprive the defendant of any illegal profit
5 collected because of the occurrence of the violation or violations on the rental housing property;

6 (B) The imposition of a reasonable penalty in addition to any level of fine that is
7 attributable to illegally obtained profit; and

8 (C) The imposition of such additional fine as is determined by the court to constitute a
9 reasonable amount to be suspended in order to ensure compliance with any terms of probation
10 imposed by the court.

11 (d) No fine imposed in a single case alleging multiple dates of violation, nor any fine
12 in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that
13 might be imposed for fifteen separate violations unless the court finds special aggravating
14 circumstances. Where special aggravating factors are at issue, the following procedures shall
15 apply:
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17 (1) The defendant shall be entitled to ten days' notice of any special aggravating
18 factors upon which the prosecution intends to rely at the sentencing hearing or about which,
19 based upon evidence previously presented, the court is concerned. If necessary in order to
20 provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

21 (2) A judicial finding of the existence of special aggravating factors shall not mandate
22 that the court impose any particular level of fine but will, rather, provide the sentencing court
23 with discretion to determine a fine based upon all the criteria set forth in this subsection.
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1 (3) Special aggravating factors, for the purpose of this subsection, shall require a
2 judicial finding of one or more of the following:

3 (A) The violations at issue were flagrant and intentional on the part of the defendant;

4 (B) The defendant, after learning of the violation, failed to attempt corrective action
5 over a sustained period of time; or

6 (C) A fine equivalent to the maximum fine permitted for fifteen separate violations
7 would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the
8 violations or would be inadequate to ensure that the violation is neither profitable nor revenue
9 neutral for the offender.

10 **10-11-17. - Authority to Issue Rules.**

11 The city manager may adopt reasonable rules to implement this chapter.

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

14 **Section 9.** The City Council deems it appropriate that this ordinance be published by title
15 only and orders that copies of this ordinance be made available in the office of the city clerk for
16 public inspection and acquisition.
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READ ON FIRST READING, PASSED AND ORDERED PUBLISHED BY TITLE

ONLY this ___ day of April 2016.

Suzanne Jones
Mayor

Attest:

Lynnette Beck
City Clerk

ORDINANCE NO. 8119

AN ORDINANCE AMENDING TITLE 4 “LICENSES AND PERMITS BY ADDING A NEW SECTION 4-20-69 “COOPERATIVE HOUSING LICENSE FEE,” AMENDING TITLE 9 “LAND USE CODE” BY AMENDING TABLE 9-6-1 TO MAKE COOPERATIVE HOUSING AN ALLOWED USE IN CERTAIN ZONE DISTRICTS, BY AMENDING SECTION 9-6-3, ELIMINATING THE REQUIREMENT OF A SPECIAL USE PERMIT FOR COOPERATIVE HOUSING, AMENDING TITLE 10 “STRUCTURES” BY ADDING A NEW CHAPTER 11 “COOPERATIVE HOUSING” ESTABLISHING REQUIREMENTS FOR LICENSING HOUSING COOPERATIVES AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new section 4-20-69 is added as follows:

4-20-18. – Cooperative Housing License Fee.

The following fees shall be paid before the city manager may issue a rental license or renew a rental license:

(a) \$105 per license or renewal.

(b) To cover the cost of investigative inspections, the city manager will assess to licensees a \$250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of chapter 10-11 “Cooperative Housing,” B.R.C. 1981.

Section 2. Table 9-6-1 is amended as set forth in an attachment A.

Section 3. Section 9-6-3(b) is repealed and subsequent sections are renumbered.

Section 4. Section 9-8-5 is amended as follows:

9-8-5. - Occupancy of Dwelling Units.

1 (a) General Occupancy Restrictions: Subject to the provisions of Chapter 10-2,
2 "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall
3 occupy a dwelling unit:

4 (1) Members of a family plus one or two roomers. The quarters that the roomers use
5 shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate
6 dwelling unit;

7 (2) Up to three persons in P, A, RR, RE, and RL zones;

8 (3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM,
9 and IMS zones; or

10 (4) Two persons and any of their children by blood, marriage, guardianship, including
11 foster children, or adoption.

12 (b) Accessory Dwelling Unit, Owner's Accessory Unit, or Limited Accessory
13 Dwelling Unit: The occupancy of an accessory dwelling unit, owner's accessory unit, or limited
14 accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

15 (c) Nonconformity: A dwelling unit that has a legally established occupancy higher
16 than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy
17 of the dwelling unit as a nonconforming use, subject to the following:

18 (1) The higher occupancy level was established because of a rezoning of the property,
19 an ordinance change affecting the property, or other city approval;

20 (2) The rules for continuation, restoration, and change of a nonconforming use set
21 forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use
22 Review," B.R.C. 1981;

1 (3) Units with an occupancy greater than four unrelated persons shall not exceed a
2 total occupancy of the dwelling unit of one person per bedroom;

3 (4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

4 (5) If a property owner intends to sell a dwelling unit with a non-conforming
5 occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such
6 contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that
7 indicates the allowable occupancy of the dwelling unit.

8 (d) A dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-
9 11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits
10 set forth in this section. All such dwelling units shall be limited to no more than one occupant
11 per 200 square feet of habitable living space, which is total square foot less garages, attics and
12 basements.

13 (e) Prohibition: No person shall occupy a dwelling unit in violation of this section or
14 intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation
15 of this section.

16 **Section 5.** Section 9-16-1 is amended by amending the definition of "Cooperative
17 Housing Unit" as follows:

18 Cooperative housing unit has the same meaning as set forth in Section 10-1-1,
19 "Definitions," B.R.C. 1981 means an individual building for cooperative living that meets the
20 criteria for such units set forth in Subsection 9-6-3(b), B.R.C. 1981.

21 **Section 6.** The following new definitions are added to Section 10-1-1:

22 *Cooperative* means a housing arrangement in which residents share expenses, ownership
23 or labor.
24
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1 *Cooperative housing unit* means a dwelling unit in a Private Equity, Limited Equity or
2 Rental Cooperative.

3 *Cooperative Housing Organization* means an organization recognized by the city
4 manager as having experience and expertise in the formation, operation and organization of
5 cooperative housing units.

6 *Limited equity cooperative* means a cooperative operating on a property owned in part by
7 its occupants. A not-for-profit corporation may own an interest in the property.

8 *Not-for-Profit Rental Cooperative* means a rental cooperative owned by a corporation
9 registered with the United States government pursuant 26 U.S.C. § 501(c)(3).

10 *Private equity cooperative* means a cooperative operating on a property owned jointly by
11 the residents of the cooperative.

12 *Rental cooperative* means a cooperative in which the some or all of the residents do not
13 have an ownership interest in the property in which the cooperative operates.

14 **Section 7.** A new Chapter 10-11 is added as follows:

15 **Chapter 11 Cooperative Housing**

16 **10-11-1. Legislative Intent**

17 The City Council intends to facilitate cooperative living arrangements. The Council finds
18 that cooperative living arrangements can provide an affordable alternative for living in Boulder.
19 In addition, cooperative arrangements can provide supportive and fulfilling community for their
20 residents. The City Council seeks to balance the benefits of cooperative living against the
21 impacts from the increased density that comes along with cooperative living. The City Council
22 also is concerned about cooperatives competing in a tight housing market with families seeking
23 single family homes.
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1 **10-11-2. - Cooperative License Required Before Occupancy.**

2 No person shall occupy, allow, or offer to allow through advertisement or otherwise, any
3 person to occupy any cooperative housing unit unless the cooperative housing unit has been
4 issued a valid cooperative housing license by the city manager.

5 **10-11-3. – Cooperative Housing Licenses.**

6 (a) License terms shall be as follows:

7 (1) Licenses shall expire four years from issuance or when ownership of the licensed
8 property is transferred.

9 (A) In addition to any other applicable requirements, new licenses and renewals shall
10 require that the licensee submit to the city manager a completed current baseline (for a new
11 license) or renewal inspection report, on forms provided by the City. The report shall satisfy the
12 following requirements:

13 (i) The section of the report concerning fuel burning appliances must be executed by
14 a qualified heating maintenance person certifying compliance with those portions of Chapter 10-
15 2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and
16 certification.

17 (ii) The section of the report concerning smoke and carbon monoxide alarms must be
18 executed by the operator certifying that the operator inspected the smoke and carbon monoxide
19 alarms in the licensed property and that they complied with the requirements of Chapter 10-2,
20 "Property Maintenance Code," B.R.C. 1981.

21 (iii) The section of the report concerning trash removal must be executed by the
22 operator certifying that the operator has a current valid contract with a commercial trash hauler
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1 for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-
2 3(b), B.R.C. 1981.

3 (b) Whenever an existing license is renewed, the renewal license shall be effective
4 from the date of expiration of the last license if the applicant submits a complete renewal
5 application by or within ninety days from the expiration date. Licenses not renewed within
6 ninety days will be considered expired, requiring a new baseline inspection report.

7 (c) The city manager shall issue no more than ~~fifteen~~twenty new cooperative housing
8 licenses in any calendar year. Such licenses shall be allocated as follows:

9 (1) No more than five licenses for limited equity cooperatives;

10 (2) No more than five licenses for private equity cooperatives;

11 (3) No more than five licenses for not-for-profit rental cooperatives;

12 ~~(4)~~ No more than five licenses for rental cooperatives; and

13 ~~(5)~~ If an application for a cooperative housing unit exceeds the limits set forth in this
14 subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the
15 waiting list shall be given priority for consideration of applications in the next calendar year.

16 (d) Cooperative housing licenses shall be limited to the following concentrations:

17 (1) Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts,
18 no more than ten percent of the single-family lots or parcels in a neighborhood area contain a
19 cooperative housing unit. For the purpose of this subparagraph:

20 (i) The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area
21 circumscribed by a line three hundred feet from the perimeter of the lot line within which any
22 cooperative housing unit will be located.
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1 (ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area
2 circumscribed by a line six hundred feet from the perimeter of the lot line within which any
3 cooperative housing unit will be located.

4 (iii) If an application for a cooperative housing unit exceeds the ten percent
5 requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on
6 a waiting list for the neighborhood area. At such time as there is room for an additional
7 cooperative housing unit within a neighborhood area, the city manager will notify the first
8 eligible person on the waiting list. Such person on the waiting list shall be required to provide
9 notice of intent to file an application within thirty days and file an application within sixty days
10 of such notice.

11 **10-11-4. - License Application Procedure for Cooperative Housing Licenses.**

12 (a) Only the ~~fee simple~~ owners of the property on which the cooperative is to be
13 located may be an applicant for a cooperative housing license. If there are multiple ~~fee simple~~
14 owners, all owners must apply. A prospective tenant may, with the written authorization of all
15 fee simple owners, apply for conversion of a valid rental license to a cooperative housing license.

16 (b) Every applicant for cooperative housing license shall submit the following:

17 (1) A written application for a license to the City, on official city forms provided for
18 that purpose, at least thirty days before occupancy of the property including:

19 (A) A housing inspector's certification of baseline inspection dated within twelve
20 months before the application. The applicant shall make a copy of the inspection form available
21 to city staff and tenants of inspected units within fourteen days of a request; and
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1 (B) A report on the condition and location of all smoke and carbon monoxide alarms
2 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the
3 applicant; and

4 (C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.
5 1981, made and verified by the applicant.

6 (D) A parking management plan meeting the requirements of subsection 10-11-11,
7 B.R.C. 1981, made and verified by the applicant.

8 (E) A certificate from a Cooperative Housing Organization certifying that the
9 applicant is a valid housing cooperative. Such certificate shall be issued if the applicant meets
10 specified pre-established criteria. The Cooperative Housing Organization shall make available
11 publically the criteria before considering any applications.
12

13 (c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"
14 B.R.C. 1981, at the time of submitting the license application.

15 (d) Take all reasonable steps to notify any occupants of the property in advance of the
16 date and time of the inspection. The applicant shall be present and accompany the inspector
17 throughout the inspection, unlocking and opening doors as required.

18 **10-11-5. - License Renewal Procedure for Cooperative Housing Units**

19 Every licensee of a cooperative housing unit shall follow the procedures in this section
20 when renewing an unexpired license:

21 (a) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"
22 B.R.C. 1981, before the expiration of the existing license.

23 (b) Submit to the city manager, on forms provided by the manager:
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1 (1) A housing inspector's certification of renewal inspection within twelve months
2 before application. The applicant shall make a copy of the inspection form available to city staff
3 and residents of inspected units within fourteen days of a request;

4 (2) A report on the condition and location of all smoke and carbon monoxide alarms
5 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the
6 operator; and

7 (3) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.
8 1981, made and verified by the operator.

9 (4) A parking management plan meeting the requirements of subsection 10-11-11,
10 B.R.C. 1981, made and verified by the applicant.

11 (c) Take all reasonable steps to notify in advance all residents of the property of the
12 date and time of the inspection. The operator shall be present and accompany the inspector
13 throughout the inspection, unlocking and opening doors as required.

14 **10-11-6. - Temporary License.**

15 If the inspection shows that there are violations of chapter 10-2, "Property Maintenance
16 Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the
17 housing is to be occupied (in the case of a new cooperative housing unit) or the existing license
18 expires (in the case of a renewal), the applicant may apply, on forms specified by the city
19 manager, for a temporary license. If the manager finds, based on the number and severity of
20 violations, that such a temporary license would not create or continue an imminent health or
21 safety hazard to the public or the occupants, the manager may issue a temporary license. The
22 manager shall specify the duration of the temporary license, for a period reasonably necessary to
23 make the needed repairs and changes. Upon receipt of an additional certificate of inspection
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1 showing correction of the deficiencies, and an additional housing license fee, the manager shall
2 issue the cooperative housing license.

3 **10-11-7. - License Appeals.**

4 Any applicant denied a temporary license, or aggrieved by the period of time allowed for
5 correction, may appeal the denial or the time for correction, or both, as provided in section 10-2-
6 2, section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required
7 to correct a violation, the board shall either affirm the city manager's originally prescribed time
8 or grant a longer time to correct the alleged violation.

9 **10-11-8. - Time of License Expiration.**

10 Every rental license expires upon the earliest of the following dates:

11 (a) The expiration date on the license unless temporary authority is allowed under
12 section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;

13 (b) The effective date of any order or notice to vacate the property issued under any
14 provision of law;

15 (c) The expiration of the temporary certificate of occupancy for the property if a
16 permanent certificate of occupancy has not been issued; or

17 (d) The revocation of the certificate of occupancy for the property.

18 **10-11-9. - License Fees.**

19 Applicants for any cooperative housing license, and applicants renewing an existing
20 cooperative housing license, shall pay the license fees prescribed by section 4-20-69,
21 "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.
22

23 **10-11-10. - Availability of License.**

24
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1 No person who holds a cooperative housing license shall fail to make the rental license
2 available to anyone within seventy-two hours of receiving a request. Posting of a cooperative
3 housing license at the property is not required.

4 **10-11-11. – Parking Management Plan Required.**

5 Each applicant for a cooperative housing license shall prepare a parking management
6 plan. Approval of any such plan shall be a condition of issuance of any cooperative housing
7 license. The plan shall ~~be designed to~~ limit the number of automobiles associated with the
8 property parked in the public right of way to no than ~~four~~three vehicles per license. An
9 agreement by the licensee to require that all residents have a local bus pass with the Regional
10 Transit District may be included in such a plan, but is not required.

11 **10-11-12. – Compatibility with Neighborhoods.**

12 Each cooperative shall at all times maintain compatibility with the neighborhood in
13 which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive
14 parking on the public right of way and noise, trash and weeds on the property. A cooperative
15 may be considered incompatible with the neighborhood if the city manager receives multiple
16 complaints relating to parking on the public right of way, noise, trash or weeds in any twelve
17 month period. Complaints from a single person shall not be sufficient to cause a property to be
18 incompatible with the neighborhood. Prior to making any determination that a cooperative is not
19 compatible with the neighborhood, the city manager shall provide written notice to the licensee
20 and encourage the licensee to address the complaints with the residents of the neighborhood.

21 **10-11-13. – Limitation on rent.**

22
23 As a condition of issuance of any cooperative housing license for a rental cooperative, the
24 applicant shall agree to limit each cumulative rent for the entire property to no more than one
25

1 ~~hundred and ten percent of the average rent for a similar property in the city of Boulder. that~~
2 ~~which is affordable to households earning no more than the average median income for families~~
3 ~~in the city of Boulder.~~ The city manager shall, by rule, establish such maximum rents based on
4 the number of bedrooms using the Colorado Division of Housing's Metro Denver Area
5 Residential Rent and Vacancy Survey. ~~and Finance Authority Income and Rent Tables or~~
6 ~~another substantially similar resource.~~

7 **10-11-14. - City Manager May Order Premises Vacated.**

8 (a) Whenever the city manager determines that any cooperative housing unit is in
9 violation of this chapter or of chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has
10 caused a summons and complaint requiring the licensee to appear in municipal court to answer
11 the charge of violation to issue, and the summons cannot be served upon the licensee despite
12 reasonable efforts to do so, or, having been served, the licensee has failed to appear in the
13 municipal court to answer the charges or at any other stage in the proceedings, or, having been
14 convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment
15 of the court or any condition of a deferred judgment, then the city manager may, after thirty days'
16 notice and an opportunity for a hearing to the residents and the licensee, require that the premises
17 be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code
18 and the cooperative housing code have been satisfied and a cooperative housing license is in
19 effect. No person shall occupy any cooperative housing unit after receiving actual or constructive
20 notice that the premises have been vacated under this section.

22 (b) Any notice required by this section to be given to a licensee is sufficient if sent by
23 first class or certified mail to the address of the last known owner of the property as shown on
24 the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident
25

1 required by this section is sufficient if sent by first class or certified mail to or delivered to any
2 occupant at the address of the premises and directed to "All Residents."

3 (c) The remedy provided in this section is cumulative and is in addition to any other
4 action the city manager is authorized to take.

5 **10-11-15. - Administrative Remedy.**

6 (a) If the city manager finds that a violation of any provision of this chapter or
7 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to
8 the operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3,
9 "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to
10 remedy the violation:

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

12 (A) For any violation in the following areas: the area south of Arapahoe Avenue,
13 north of Baseline Road, east of 6th Street and west of Broadway; the area south of Baseline
14 Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area
15 south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th
16 Street:

17 (i) For the first violation of the provision, \$500.00;

18 (ii) For the second violation of the same provision, \$750.00; and

19 (iii) For the third violation of the same provision, \$1,000.00;

20 (B) For a violation in any other area:

21 (i) For the first violation of the provision, \$150.00

22 (ii) For the second violation of the same provision, \$300.00; and

23 (iii) For the third violation of the same provision, \$1,000.00;

1 (2) Revoke the cooperative housing license; and

2 (3) Issue any order reasonably calculated to ensure compliance with this chapter and
3 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

4 (b) If notice is given to the city manager by the licensee at least forty-eight hours
5 before the time and date set forth in the notice of hearing on any violation, other than a violation
6 of section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation has
7 been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds
8 that the violation has been corrected, the manager may cancel the hearing.

9 (c) If notice is given to the city manager by the licensee at least forty-eight hours
10 before the time and date set forth in the notice of hearing on any violation of section 10-11-12
11 "Compatibility with Neighborhoods," B.R.C. 1981, that the licensee has scheduled a community
12 mediation with concerned neighbors, the manager may continue the hearing until the manager
13 receives a report regarding the conclusion of the mediation. If after reviewing a community
14 mediation report, if the city manager is satisfied that the cooperative housing unit meets the
15 requirements of section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, the city
16 manager may dismiss any pending complaint.

17 (d) The city manager's authority under this section is in addition to any other
18 authority the manager has to enforce this chapter, and election of one remedy by the manager
19 shall not preclude resorting to any other remedy as well-, provided however, the city manager
20 shall not seek criminal penalties for any violation of this chapter.
21

22 (e) The city manager may, in addition to taking other collection remedies, certify due
23 and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-
24
25

1 12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for
2 Collection," B.R.C. 1981.

3 (f) To cover the costs of investigative inspections, the city manager will assess
4 operators a \$250.00 fee per inspection, where the city manager performs an investigative
5 inspection to ascertain compliance with or violations of this chapter.

6 **10-11-16. — Criminal Penalty.**

7 (a) — ~~The penalty for violation of any provision of this chapter is a fine of at least
8 \$500.00 and not more than \$2,000.00 per violation, or incarceration for not more than ninety
9 days in jail, or both such fine and incarceration. In addition, upon conviction of any person for
10 violation of this chapter, the court may issue a cease and desist order and any other orders
11 reasonably calculated to remedy the violation. Violation of any order of the court issued under
12 this section is a violation of this section and is punishable by a fine of not more than \$4,0000.00
13 per violation, or incarceration for not more than ninety days in jail, or both such fine and
14 incarceration.~~

16 (b) — ~~It shall be a condition of any deferred prosecution or deferred or suspended
17 sentence under this chapter that the defendant commit no violations of this chapter for at least
18 one year from the date of such deferred prosecution or deferred or suspended sentence.~~

19 (c) — ~~Notwithstanding subsection (a) of this section, the following specific sentencing
20 considerations shall apply to fines imposed for violations:~~

21 (1) — ~~The court shall consider any evidence presented by the defendant that a potential
22 fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally
23 capitalized owner of the ability to continue operating a rental housing business of the sort
24 involved in the case before the court. No fine that is confiscatory shall be enforced by the court.~~

1 (2) In imposing a fine in any single case or in any consolidated cases, the court may
2 weigh all factors normally and properly considered in connection with the imposition of fines,
3 including the seriousness of the violation, the past record of the defendant, the economic
4 circumstances of the defendant and all mitigating or aggravating factors relevant to the violation
5 or to the defendant. In addition, in determining the amount of any fine, the court may consider:

6 (A) The imposition of a fine that would deprive the defendant of any illegal profit
7 collected because of the occurrence of the violation or violations on the rental housing property;

8 (B) The imposition of a reasonable penalty in addition to any level of fine that is
9 attributable to illegally obtained profit; and

10 (C) The imposition of such additional fine as is determined by the court to constitute a
11 reasonable amount to be suspended in order to ensure compliance with any terms of probation
12 imposed by the court.

13 (d) No fine imposed in a single case alleging multiple dates of violation, nor any fine
14 in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that
15 might be imposed for fifteen separate violations unless the court finds special aggravating
16 circumstances. Where special aggravating factors are at issue, the following procedures shall
17 apply:

18 (1) The defendant shall be entitled to ten days' notice of any special aggravating
19 factors upon which the prosecution intends to rely at the sentencing hearing or about which,
20 based upon evidence previously presented, the court is concerned. If necessary in order to
21 provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.
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23
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1 (2) — A judicial finding of the existence of special aggravating factors shall not mandate
2 that the court impose any particular level of fine but will, rather, provide the sentencing court
3 with discretion to determine a fine based upon all the criteria set forth in this subsection.

4 (3) — Special aggravating factors, for the purpose of this subsection, shall require a
5 judicial finding of one or more of the following:

6 (A) — The violations at issue were flagrant and intentional on the part of the defendant;

7 (B) — The defendant, after learning of the violation, failed to attempt corrective action
8 over a sustained period of time; or

9 (C) — A fine equivalent to the maximum fine permitted for fifteen separate violations
10 would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the
11 violations or would be inadequate to ensure that the violation is neither profitable nor revenue
12 neutral for the offender.
13

14 **10-11-167. - Authority to Issue Rules.**

15 The city manager may adopt reasonable rules to implement this chapter.

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

18 **Section 9.** The City Council deems it appropriate that this ordinance be published by title
19 only and orders that copies of this ordinance be made available in the office of the city clerk for
20 public inspection and acquisition.
21
22
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1 READ ON FIRST READING, PASSED AND ORDERED PUBLISHED BY TITLE

2 ONLY this ___ day of May 2016.

3

4

5

Suzanne Jones
Mayor

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Attest:

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Lynnette Beck
City Clerk

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**CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 21, 2016
1777 Broadway, Council Chambers**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Putnam
John Gerstle
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

N/A

STAFF PRESENT:

Susan Richstone, Deputy Director of Planning Housing & Sustainability
David Gehr, Deputy City Attorney
Lauren Reader, Administrative Specialist II
Holly Opansky, Administrative Specialist II

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:03 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **J. Putnam** and seconded by **J. Gerstle** the Planning Board voted 7-0 approve the April 7, 2016 minutes as amended.

3. PUBLIC PARTICIPATION

No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

No items were set for discussion.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing to consider a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to encourage the creation of more cooperative housing units.

Staff Presentation:

D. Gehr presented the item to the board.

Board Questions:

D. Gehr answered questions from the board.

Public Hearing:

1. **Jennifer Farmer** spoke in support of equity co-ops however opposed to limited/rental co-ops and urged the Planning Board to slow down.
2. **Ken Farmer** spoke in support of private equity co-ops, but opposed to rental co-ops.
3. **Michelle Estrella** spoke in support of the ordinance.
4. **Rebecca Shog** spoke in opposition of the ordinance.
5. **Andy Schultheiss** spoke in support of the ordinance.
6. **Lois LaCroix** spoke in opposition of the ordinance.
7. **Nikki McCord** spoke in support of the ordinance.
8. **Sarah Massey-Warren** spoke in opposition of the ordinance.
9. **Elisabeth D. Bowman** spoke in opposition to the parking section of the ordinance.
10. **Rosemary Hegarty** spoke in opposition of the ordinance.
11. **Jill Marce** spoke in opposition of the ordinance.
12. **Jan Trussell** spoke in opposition of the ordinance.
13. **Lisa Marie Harris** spoke in opposition of the ordinance.
14. **Sam Schramski** spoke with concern regarding to the revocation of the ordinance as written.
15. **Mike Marsh** (pooling time with **Ron DePugh, Jeffrey Rosen, Anna Cereti**) spoke in opposition of the ordinance.
16. **Greg Wilkerson** spoke in opposition of the ordinance.
17. **Debra Biasca** spoke in opposition of the ordinance.
18. **Sarah Dawn Haynes** spoke support of the ordinance.
19. **Christina Gosnell** spoke in support of the ordinance.
20. **Zane Selvans** spoke in support of the ordinance.
21. **Rishi Raj** spoke in opposition of the ordinance.
22. **Lisa Spalding** spoke in opposition of the ordinance.
23. **Cedar Barstow** spoke in support of the ordinance.
24. **Eric Budd** spoke in support of the ordinance.
25. **Angelique Espinoza** spoke in support of the ordinance.
26. **Will Tour** spoke in support of the ordinance.
27. **Lindsey Loberg** spoke in support of the ordinance.
28. **Meredith Kee** spoke in support of the ordinance.
29. **Cha Cha Spinrad** spoke in support of the ordinance.
30. **Susan Ross** spoke in support of the ordinance.
31. **Alana Wilson** spoke in support of the ordinance.
32. **Michaela Rothschild** spoke in support of the ordinance.

Board Comments:

- **B. Bowen** made a motion to recommend approval to the City Council with recommendations, seconded by **J. Putnam**. The board agreed to discuss the key issues, make their recommendations and tally votes based on each issue.
- **H. Zuckerman** appreciated the public and staff for all the work that has gone into the draft ordinance. He stated that, should Planning Board vote to recommend approval of the ordinance, the job is to suggest how to mitigate the impacts, determine the licensure requirements, and recognized the different levels of intentionality in the different kinds of co-ops. He stated that co-ops provide amenities and have lower environmental impacts. Arguments he chose to highlight from public testimony were the need to eliminate the rent cap and that licensure for rentals is fine. He felt that there should be a clear definition of each of the co-op types and clear requirements for licensure and certification.
- **J. Putnam** felt there was value and validity as-to why this ordinance was held back. He stated that it would be a mistake to not recommend the ordinance to Council however, it does need adjustments. He suggested more guidance for the community regarding governance and ownership issues to give people an idea as to what is happening. He suggested that if a permit-type model were retained, it would need to be changed from a pure complaint type model. He would prefer the property-rights model than a permit-type model.
- **L. May** agreed with **J. Putnam** that equity models should be used and further outreach study on the rental model be done. He stated that co-ops need to be viewed from a co-op and neighborhood perspective and rentals need to be viewed from a property owner and neighborhood perspective. Co-op opportunities exist in higher density zones and are not utilized because property values are high therefore, co-ops exist in low-density zones. Cheaper zones guarantee people will most likely migrate towards Martin Acres and Uni-Hill. Rental co-ops are undesirable because people do not have a stake in the property and are often more transient based. The fundamental goal of the ordinance is to enable a variety of living options, to achieve affordability, and to allow a lower-carbon footprint living situation in a fashion that is not disruptive to the neighborhood. He stated that the proposed ordinance is headed in the right direction, however modifications are necessary. **L. May** disclosed that he also sits on the board of Plan Boulder County, which will eventually weigh in on this ordinance as well. In addition, he once lived in a co-op in Washington D.C but he does not feel it prejudices him from this matter.
- **L. Payton** informed the board that she was originally in agreement with focusing on equity co-ops, however now the urgency seems to be in the rental market. She declared that she is sympathetic to the neighbors. She said that a co-op might not benefit the surrounding neighborhood. She expressed concern regarding the ordinance and that the result could be a political mess if the neighborhoods are not considered. The focus should be on high-density and business zones and not on putting co-ops in single-family residential neighborhoods. She suggested the integrating of co-ops into new development projects (i.e. S’PARK). Finally, she questioned the number of co-ops proposed each year (15 per year) and why that number seemed so high as compared to other large cities in the United States.
- **J. Gerstle** agreed with **J. Putnam’s** points distinguishing between the equity and rental co-ops. In regards to whether there should be a license vs. a property right, he supports a license right perhaps with an extended period if it makes a big difference in respect to the

ability to move ahead with financial and investment decisions for an individual. In regards to the other issues, he agrees with **L. Payton** in that it is clear that parts of Boulder are being redeveloped. He stated that those areas should focus on additional options for living and that those developing areas would not have neighbors that would object. Focus on the locations of the co-op houses, as they will compete with young families trying to provide options in Boulder and be counterproductive. He suggested establishing a working group to deal with these issues. He understands the urgency and Council's desire to move quickly, but wants to take time to serve the city best.

- **C. Gray** disclosed that she currently lives in a medium-density neighborhood within 600 feet of a co-op (Chrystalis) which is in a high-density neighborhood. In addition, she has met with members of the public and discussed this matter. She agrees with **L. Payton's** suggestion to broaden the zones where co-op communities could exist. At this time, there is not a requirement for separation in the medium or higher density zones and this could have an adverse affect on low-density zones. She would encourage a separation of 300 feet for the medium to high-density areas and 1,000 feet for the low-density neighborhoods to create a larger separation. In regards to rental co-ops, she sees more potential for abuse and loopholes. She approved of the governance suggestion from the co-op community. She stated that if there were a greater separation, then she would be agreeable with the numbers per year proposed. She recommended that parking permits should be the same for owners. She would be in support of a working group. Finally, she would like to recommend as a second phase to this ordinance that a hybrid to co-op housing be explored.
- **B. Bowen** mentioned that the testimony this evening from informed individuals regarding co-ops was inspiring. This issue is based on housing and social justice. At the core of this is a huge lack of understanding of what intentional community actually is. It is not the same as a typical rental situation. It is a different animal. He stated that he hears the concerns of the neighborhoods however; he believes the misunderstandings surrounding co-ops will go away over time, and with experience. While there is an affordability component to it, the issue is centered on people wanting to live together in a different way than most of us do. He stated that people should be allowed to live how they want as long as the impact is controlled. Co-ops should be allowed in the RH-6 and MU-4 zones as well as the A-zone because there are people who want to do an agricultural co-op project. In addition, they need to be allowed on properties other than those held in fee-simple status. He disagreed that a public health argument exists to disallow for co-ops. He stressed that it is important to have stronger definitions regarding co-ops to be sure there are not loopholes that can be abused, and strong oversight. The organizations that are certifying these groups should be renewing annually rather than every four years. He stated that the tool is to have a strong process to give co-ops support and their neighbors adequate protection.

Recommendations to Consider:

1. Postponing the Consideration of the Rental Co-op Model

- **B. Bowen** suggested keeping this item in the ordinance because it represents the co-ops that already exist.
- **J. Putnam** explained that he would remove it but only if other categories are broadened to allow some rental models. The context is not to strip rentals out entirely,

but take out the one-size-fits-all solution and to change to an annual renewal as opposed to a ten or fifteen year structure.

- **L. May** recommended this move to a study group – either a working group of Planning Board or a subcommittee.
- **J. Gerstle** agrees with **J. Putnam**'s idea in keeping the pure rental category separate but in the equity category, there could be room for rental participation.
- **H. Zuckerman** suggested regulating co-ops with the rental issue. He argued that if rental licenses were given to the actual co-ops, it would give co-ops a bargaining tool to live where they want and to find the best place for them. The rental issue needs to be handled now.
- **C. Gray** mentioned that she supports separating the rental issue because it does need more work. The rental option offers the biggest opportunity for being located around the city in different areas.
- **B. Bowen** stated that he is unclear what the rental vs. equity co-op issues are. If a third party is overseeing an intentional community, a rental license exists, an operational agreement that needs to be renewed and includes mitigating the impact on neighbors, he questions where the hole/loophole would be.
- **L. May** explained that with a rental license, a shared license goes hand in hand with rent caps. Not having a rent cap enables a house to be rented at market rate. The rental license co-op becomes an exclusive commodity, which derives a higher price on the market. This could create a situation for less affordable housing or family housing in neighborhoods. Marketing analysis needs to be done. He supports a rental cap; however, the number is unclear without analysis.
- **J. Putnam** declared that he does not approve of rental caps, as they would likely create more distortion and problems. His concern lies with the details of third party certifications, possible co-licensing, governance standards and the other models are likely to be self-regulating and offer less opportunity for misuse of the tool.
- **B. Bowen** explained that he sees the rental issue as separate because the ordinance will not contain the certification process, governance standards or what defines a co-op. Those will be defined separately, in the operations of the third party certification body.
- **J. Putnam** rebutted by saying the ordinance should provide more certainty to the broader community that those issues would be addressed.
- **L. May** added that it would offer a clearer pathway to the ordinance being passed and get a huge amount of pushback from the public who do not feel it has been adequately vetted.
- **J. Putnam** believes if there is a certainty around organizations and criteria by which they are chosen, it would be helpful. It would provide more comfort within the ordinance.
- **B. Bowen** clarified that we are not trying to strip rentals from the ordinance, but that we are just not ready to move forward and that rentals require some further study.
- **J. Putnam** agreed that a lack of knowledge around co-ops exists and reminded the board that they are only providing recommendations to Council. He suggested that building confidence and educating people is what needs to happen.
- **H. Zuckerman** examined the language regarding “*specified pre-established criteria*” in Section 10-11-4(b)(4)(1)(E). He suggested the “*specified pre-established criteria*”

belong in the ordinance itself and should apply to all co-ops. Rental co-ops do not need to be pulled out as long as the “*specified pre-established criteria*” included in the ordinance are reviewed as part of the approval process.

- **B. Bowen** agreed.
- **C. Gray** agreed that it should be a recommendation to Council. This area needs to be developed. She suggested the formation of a group to develop a certification such as Housing and the four neighborhoods that are exempt in order to educate the public. She recommended that Council authorize further study on rentals and that it be done in a timely fashion. In regards to the “*specified pre-established criteria*”, the Planning Board recommended that it be defined more with the assistance of Housing and the four neighborhoods that are exempt from enforcement.
- **B. Bowen** disagreed with establishing or limiting specific neighborhoods assigned to a working group.
 - **D. Gehr** informed the board that staff will propose to Council additional processes discussed tonight. In addition, with the ideas on how to improve the existing ordinance, staff will draft options in the coming weeks to address those.
- **L. May** summarized **D. Gehr’s** comments by asking if the majority of the board would be inclined to recommend that the equity co-ops are ready for Council to proceed, but that rental co-ops be deferred from the ordinance at this time and be subject to further study and analysis subject to any board recommendations.
- **B. Bowen** added some clarification of the word “defer”. His definition of “defer” is that rental co-ops would no longer be a part of the current process. He stated that what the comments have been centered on is to increase the level of study on rentals and resolve all questions prior to Council action.
- **L. May** disagreed. It should only mean that rental co-ops would continue to be studied and Council should not delay passing something regarding equities.
- **H. Zuckerman** added that they are going to make a recommendation to Council and that staff will be working on modifications to the proposal. He would be comfortable with giving recommendations on all the issues and staff’s ability to work with them.
- **L. May** explained that the board should give guidance to staff on whether to continue with equities and to pause with rental co-ops and form a study group to form those issues and conduct community outreach.
- **L. Payton** expressed her wish to have a single integral ordinance, which would go through Council at the same time, but everything needs more process before it is ready.
- **J. Putnam** gave three options for how to proceed. One option is to slow down on rentals and work on the options quickly. Slow down on the entire thing to clarify. Finally, address these items and work through them in the next month. There are risks and benefits to all options. He suggested the board move forward looking at the substance to better assist Council.
- **H. Zuckerman** advocated for rental co-ops and to advise Council that special attention be paid and a bigger and longer process may be needed. Council will understand the board’s message.

- **L. Payton** stated that as the process goes on, we would likely discover that these processes (rental vs. equity co-op regulations) are difficult to do separately.

Straw Polls:

- 1) Rentals need further study and special attention?
(7-0, in favor)
- 2) Should the entire process slow down?
(2-5, **L. Payton, J. Gerstle** in favor of the entire process slowing down)
- 3) Should only the rental process slow down?
(4-3, **L. May, J. Putnam, L. Payton, and C. Gray** in favor of the rental process slowing down)
- 4) Evaluate what characteristics certification might require / specified pre-established criteria?
(7-0, in favor)

2. Allow Renters in Equity Co-ops

- **L. May** recommended that where shareholders are offered as a majority within an equity co-op, 30% maximum rental occupant in an equity rental. This would allow for flexibility. He would not want to see that go any higher.

Straw Polls:

- 1) Allow renters in equity co-ops?
(7-0, in favor)
- 2) Should the percentage be decided now?
(0-7, failed)

3. Enhancement of the Definitions of the Three Types of Co-ops

- **B. Bowen** mentioned that people felt the definitions should be stronger. He asked the board if the BoCHA definitions be preferred over the city because they are more enforceable.
- **J. Putnam, L. May** agreed.
- **C. Gray** suggested a co-op definition of “one owner and four unrelated” and be “Co-op Like”.
- **B. Bowen** opposed because of the level of the mindfulness of the community. If that intentionality is removed, it stops functioning as planned and removes important protections for the neighbors.
- **L. Payton** asked if staff should review the 501(c)(3) requirement because people may organize as non-profit groups who may not necessarily be disadvantaged or otherwise categorized as a charity. The cooperative may not necessarily have a charitable purpose. She suggested looking into requiring state non-profit certification, rather than federal 501(c)3 status.
- **L. May**, in regards to “limited equities”, added that he did not see the point of this being included, especially if rentals are allowed.
- **L. Payton**, on the “cooperative housing organization” definition, asked that “and the public interest” be added.

- **B. Bowen** suggested under “allowed occupancy” to allow a lower figure so that the home would scale with quantity.
- **L. May** added that it makes sense to have occupancy calibrated to the zones instead of one-size-fits-all. Impacts on neighbors have more to do with the number of people on the lot than the number of people related to the size of the house. He suggested that the metrics be based on lot area.
- **B. Bowen** disagreed, prefers tying it to livability standards and life safety defined in the code.
- **J. Putnam** disagreed with **L. May** stating that it should be more structured based. He was not convinced that a flat 150 square footage limitation per person per unit size would work in all circumstances. He supports the greater number provided by the International Property Management Code as it at least creates a good benchmark and provides a leeway for different structures.
- **L. Payton** suggested setting an occupancy cap based on square footage and zone. The cap should vary by zone.
- **L. May** and **C. Gray** were in support of the 200 square footage limitation per person per unit size. **C. Gray** recommended that a larger lot, and then a higher occupancy be supported.
- **B. Bowen** stated that if the limitation is tied to lot size or setbacks then it would not occur when attempting to have co-ops in dense housing such as S’PARK.
- **L. May** explained that he was referring to specific zones of RL-1 and RL-2 where the focus is about neighborhood compatibility. He suggested that a modest approach where impacts are not as great and less friction might occur.
- **J. Putnam** offered his opinion that he is less concerned about the number of people and occupancy cap no matter what the zone, so long as the parking governance, maintenance upkeep, etc are done correctly. Slowing the rate and number of co-ops at any one location will be more helpful and will ensure that existing ones have maximum flexibility to succeed.
- **L. May** suggested an alternative by increasing to one co-op per 600-foot radius and applying to all RL-1 and LR-2 zones. The concern may not be the proximity of each co-op in relation to each other, but rather how many are in a neighborhood.
- **J. Putnam** offered the suggestion of focusing on the number of co-ops per neighborhood per year. The definition of a “neighborhood” would need more analysis.
- **C. Gray** approved of the 600-foot radius separation in all RR, RE, and RL zones. A 300-foot radius separation should be required for the RM and lower end of RH (1-4) zones. She proposed the exemption of MU, Business and DT zones from allowing the proposed 300-600-foot separations.
- **B. Bowen** proposed establishing that separation is a point of discussion however, resolution is not apparent at this point.
- **L. Payton** stated that the proximity of the co-ops does not matter. What matters is the overall number of the co-ops rather than separation. She noted that there may be benefits to the neighborhoods and the co-ops to be able to concentrate co-ops together.
- **B. Bowen** advocated that having co-ops next to each other is not an inherently amoral concept and should not be treated as such. Adjacency can be a benefit.

- **L. May** rebutted stating that co-op housing is attempting to put higher density housing in a single-family neighborhood. The neighborhoods have legitimate concerns.
- **C. Gray** encouraged the separation explaining it would disperse rentals throughout the community.
- **J. Gerstle** added limiting the rate at which co-ops can take place, and spreading them around the community, would be sensible. The distance of separation is difficult to determine at this point but the principle is reasonable.
- **J. Putnam** summarized that a split between the board exists between those that believe there should be some degree of separation of co-ops and the rate at which they grow and others who would keep the rate at the level identified in the ordinance. He supports some geographic separation around town.
- The board agreed there was an unresolved discussion surrounding separation.

Straw Polls:

- 1) Prefer BoCHA's definitions to the City of Boulder's definition?
(7-0, in favor)
- 2) Widen certifying authority to allow Colorado non-profit or legitimate other entities beyond the 501(c)(3) requirement?
(7-0, in favor)
- 3) Adding "and the public interest" to cooperative housing organization definition?
(5-2, in favor)
- 4) In support of the 200 square footage limitation per person per unit size with a cap? Some were agreeable with less.
(7-0, in favor)
- 5) In support of some separation of co-ops?
(3-4, in favor)
- 6) In support of no separation of co-ops?
(4-3, in favor)
- 7) In support of having co-ops dispersed around town?
(7-0, in favor)

4. Differential Fines for Co-ops

- **J. Putnam** proposed to have the fines the same regardless of the neighborhood. He suggested using the assurance of more enforcement within the neighborhood. The idea of lower vs. higher fines sends a bad message that one neighborhood is worth more than another.

Straw Poll:

- 1) Make fines the same regardless of the neighborhood?
(7-0, in favor)

5. Enforcement for Co-ops

- **L. Payton** suggested recommending to City Council that explicit language about enforcement will be included in the ordinance.

- **D. Gehr** explained to the board that once the community agreement is in place regarding occupancy rules, then enforcement could take place consistently.
- **L. Payton** stated that often the burden falls on the neighbor to complain in order for enforcement to occur. Ideally, enforcement should occur without it being the burden of the neighbor.
- **C. Gray** suggested building relationships with our co-op neighbors and discussing issues head on. She stated that she is uncomfortable with the defining of issues that need to be addressed by the neighbors such as parking, shoveling, weeds, and noise.
- **J. Putnam** explained the real issue with parking is not that a co-op may have more cars, but addressing the public good and defining the root cause.

Straw Poll:

- 1) Recommend to Council to address the root cause of the issues with the neighbors?
(7-0, in favor)

6. Annual Limit for Co-ops

- **L. Payton** questioned the number of fifteen co-ops per year proposed in the ordinance. She proposed a slower approach. She would expect to see fewer equity co-ops than rental co-ops immediately.
- **J. Putnam** disagreed. He would like to manage the impacts, but there is value in having Boulder keep the annual limit at fifteen.
- **C. Gray** added that separation would keep the co-ops at a slower pace and agreed with **L. Payton's** approach.
- **J. Gerstle** and **L. May** agreed with **C. Gray**.

Straw Poll:

- 1) In support of the proposed annual limit of fifteen (5+5+5) co-ops?
(4-3, in favor)

7. Zoning Allowed for Co-ops

- **B. Bowen** summarized that the board supports broadening the co-ops in other zones besides just single-family zones.
- The board agreed.
- **C. Gray** added all other zones allowed.
- **B. Bowen** proposed removing the limit for only applying to fee-simple properties.

Straw Poll:

- 1) In support of broadening the allowed “by-right” zones to include RH-6, MU-4, and A, at a minimum. In addition to more dense zones, (all zones)?
(7-0, in favor)
- 2) In support of removing the limit for fee simple properties?
(7-0, in favor)

8. Property Rights

- **J. Putnam** suggested that revocation should be held at a tougher level than complaints. In addition, if rental co-ops are included, fair housing and discrimination based issues should be addressed within the ordinance.
- **L. May** discussed deed restrictions for equity co-ops to continue their affordability. In his opinion, living in a co-op is a privilege, therefore they should perpetuate the affordable housing.
- **B. Bowen** added that it would be reasonable if co-op housing were a tool to coordinate affordable housing, however this ordinance is attempting to create cooperative housing and only some will be affordable.
- **J. Putnam** agreed with **B. Bowen**. He agreed that deed restrictions have a place in the cash-in-lieu program, but not as a condition for rental co-ops as it could be too much of a burden.
- **C. Gray** proposed recommending to City Council that the City Manager review the feasibility of an ECOPass because of a co-op.
- **J. Putnam** stated reluctance regarding this recommendation. A city based ECOPass should be done and it would be an extra cost for something people may already have.
- **L. May** explained the real issue is parking. If parking were limited, then it would incentivize the ECOPass recommendation to happen.
- **C. Gray** proposed if there is on-site parking, four vehicles allowed. If there is only off-site parking available, then three cars allowed.
- **L. Payton** approached the idea of tying co-ops into the potential to increase the landmark inventory by adding a bonus/incentive to co-ops that acquire historical properties and apply for landmark status.

Straw Poll:

- 1) In support of revocability and to make it harder to deal with long-term equity?
(7-0, in favor)
- 2) In support of parking for four vehicles?
(7-0, in favor)
- 3) In support of exploring incentivizing co-ops to buy and preserve historic homes and apply for landmark status?
(7-0, in favor)

Motion

On a motion by **B. Bowen** seconded by **J. Putnam** the Planning Board voted 7-0 to recommend approval to the City Council of an ordinance amending Title 4, "Licenses and Permits," Title 9, "Land Use Code," and Title 10 "Structures," B.R.C. 1981 to support the creation of cooperative housing units with recommendations.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

- A. AGENDA TITLE: Planning Board Input on Potential Charter Amendment Related to City's Height Limit

The board agreed to table this discussion until the next Planning Board meeting scheduled for April 28, 2016 and possibly begin at 5:00 p.m. rather than 6:00 p.m.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 12:56 a.m.

APPROVED BY

Board Chair

DATE

DRAFT

Boulder Community Housing Association Definitions

Housing cooperative means a group of people operating as a single housekeeping unit, that shares an entire dwelling, pools resources for a majority of the household's expenses, and governs itself democratically, with each adult member of the household having equal say over household decisions.

Privately owned housing cooperative means a housing cooperative in which a majority of the adult residents own an interest in the property, a majority of the individuals who own an interest in the property are also residents of the property, and the owner-residents hold a controlling ownership interest in the property. A 501(c)3 non-profit with a housing focused mission may own a minority interest in the property.

Non-profit owned housing cooperative means a housing cooperative in which a majority ownership interest is held by either a 501(c)3 non-profit organization with an affordable housing mission, or a public housing authority.

Rental housing cooperative means any housing cooperative which does not satisfy the requirements for either a private or group equity housing cooperative.

Proposed amendment

Add to definitions:

East Aurora Neighborhood means the area east of 30th Street, south of Colorado Boulevard, west of Foothills Parkway and north of Baseline Road.

Goss Grove Neighborhood means the area south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th Street.

Martin Acres Neighborhood means the area south of Baseline Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36.

University Hill Neighborhood means the area south of Arapahoe Avenue, north of Baseline Road, east of 6th Street and west of Broadway.

Add a new subsection 11-10-3(d)(2) as follows:

(2) The city manager shall only issue one cooperative housing license per year in each of the following areas: the East Aurora Neighborhood, the Goss Grove Neighborhood, the Martin Acres Neighborhood and the University Hill Neighborhood.

(i) Provided, however, the city manager may issue any number of licenses in those areas for any applicant who can demonstrate that as of May 1, 2016, the applicant was operating as a cooperative housing unit and met the certification requirements under section 11-10-4(b)(1)(E).

(ii) All licenses issued under subsection (d)(2)(i) above shall be issued before January 1, 2017.

(iii) For each license issued under subsection (d)(2)(i) above, the city manager will not approve any additional licenses for consecutive one year time periods for each license that is issued in the neighborhood. This interim growth management standard begins on January 1, 2017 for the neighborhoods described in this section. For example, if the city manager issues five licenses to existing cooperatives in a neighborhood under subsection (d)(2)(i) above, the city manager will not issue any new licenses in that neighborhood for the five year period beginning January 1, 2017.

Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say, "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council members will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic message, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting, shall not be read by council members. Nor should any message on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council members agree to email the city manager about issues they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Council members will keep the full council informed on issues from committees, public groups, or other agencies they are following, through Hotline emails, brief verbal reports at the end of council meetings, or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard email responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

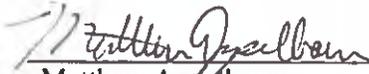
Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from the Mayor and Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
 - make their interest in the position know to their fellow members as soon as possible;
 - focus their communication with other council members on the positive attributes the member brings to the position; and
 - refrain from making any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals may make presentations that include, but need not be limited to, the following:
 - the skills and attributes the member would bring to the mayoral position;
 - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
 - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings;
 - how the member would serve on and appoint other council members to regional and national boards and commissions; and
 - how the member would engender trust from the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed this 29th day of February, 2016.


Matthew Appelbaum


Aaron Brockett

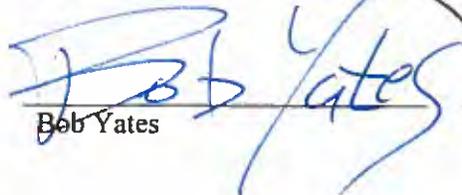

Jan Burton

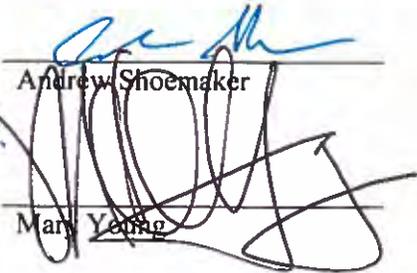

Suzanne Jones


Lisa Morzel


Andrew Shoemaker


Sam Weaver


Bob Yates


Mary Young

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Climate and Energy	Energy Future and Associated Projects	Council	CC: Open Access Transmission Tariff			
			SS: Power Supply	SS (2): Rates, Energy Services, Power Supply	Project update	Project update
		Staff Activities	Budget update	Budget update	Budget update	Budget update
	Climate Commitment	Council	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan
			Staff Activities	Launch action plan	SS: Review interim goals, targets and strategies Energy system transformation; blue print convening	Implementation based on action plan
		Staff Activities	Briefing	SS (2)		
Housing/Land Use Planning	Comprehensive Housing Strategy (Housing Boulder)	Council	Housing Matters launch event, engagement activities	Draft strategy development	Implementation based on adopted strategy	Implementation based on adopted strategy
		Staff Activities	SS: Direction of preferred scenario	SS : Draft plan and action plan		
	Sustainable Streets and Centers/ East Arapahoe	Council		Next Corridor - 30th St or Colorado		
		Staff Activities	Develop East Arapahoe action plan			
	Resilience	Council	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities	Develop scoping plan	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Boulder Valley Comprehensive Plan	Council		SS	Direction or IP	Direction or IP
		Staff Activities	Issues identification	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Transportation	Transportation Master Plan Implementation	Council	Update and coordinate with BVCP		Update and coordinate with BVCP
Staff Activities						
Regional Travel		Council		Briefing		Briefing
		Staff Activities	Staff and elected official activities ongoing			
Access Management and Parking Strategy (AMPS)		Council		SS : Review options & Update; including recommendations for TDM tool kit for new development	Council action on TDM Tool Kit for new development	Recommendations including planning code changes
						SS: Review options and update
		Staff Activities	Ongoing work plan in 7 focus areas	Ongoing work plan	Ongoing work plan	Ongoing work plan
			Alternatives analysis and specific option development		Specific option development/refinements	
		Joint Board workshop & public engagement		Joint Board workshop & public engagement		

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Civic Area	Civic Area Implementation	Council	SS: Parkland Concepts Plan	CC: Approval of Concept Plan		
		Staff Activities	Outreach to community & partners; create delivery plan for spring, summer, fall events	Deliver spring events	Deliver summer activities and events	Review 2015 activation; compare lessons from 2014 and revise for 2016
			Draft of parkland concept plan options for public workshop, Boards, Council review	Board/Commission input on Concept Plan	Begin detailed design work on park improvements	Complete detailed design work for bidding
			Develop overall site master plan concepts, begin to formulate major capital projects	Initial feasibility planning on major capital projects	Continue to develop capital projects, identify potential partners, explore financing options	Continue to develop capital projects, identify potential partners, explore financing options
Local Food	Sustainable Agriculture and Local Foods	Council	IP and local meals for Council Pilot		Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan
		Staff Activities				
Livability	University Hill Moratorium	Council	SS: Review options		IP	
			CC: Public Hearing and Decision			
		Staff Activities	Recommendation & development of ordinances, changes and recommend other strategies to address Moratorium goals	Follow up on other strategies & coordination with Hill Reinvestment Strategy; incorporate strategies into other work plan		
			Board review & public engagement		Board review & public engagement	
	University Hill Reinvestment Strategy	Council		Direction on 14 th Street redevelopment proposal		SS
				SS: Update on strategy		
		Staff Activities	Residential service district (RSD) pilot program	RSD pilot program	RSD pilot program	RSD pilot program
			Work plan implementation	Work plan implementation	Work plan implementation	On-going work plan implementation
			Establish benchmarks and evaluation criteria	Commercial district: Eco Pass Study & Commercial bear dumpsters	Implement volunteer program for clean up	Evaluate existing programs
			14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	Research options for sustainable governance & funding	Develop options for sustainable governance & funding
		Stakeholder engagement	Stakeholder engagement	Stakeholder engagement	Stakeholder engagement	
	Homeless Action Plan	Council	IP: 2014 Accomplishments	SS: As part of Human Services strategy update		IP - Services and Regional coordination update
		Staff Activities				
Community Cultural Plan	Council	Council update and input on testing phase	Briefing	SS: Adoption of Community Cultural Plan		
	Staff Activities	Research phase complete. Drafting phase complete. Testing phase begins	Testing phase complete. Certification phase begins	Implementation begins. New public art policy drafting	Public Art Policy drafting	

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

Projects			1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Other	Boulder Junction	Council				
		Staff Activities	Ongoing redevelopment coordination	North Side of Pearl and Goose Creek bridge landscaping install. Bridge opens		Depot Square opens
	Capital Projects Activity	Council	Ongoing and Wastewater Collection System Rehabilitation program begins	Ongoing	SS: 2016-2021 CIP	Ongoing
		Staff Activities				
	CityWide Special Events	Council	Report on 2015 City Events			Summary of 2015 City Events
		Staff Activities	Implement new events application and internal review process	Refine systems as needed	Refine systems as needed	Improve events application for new online Landlinks System in 2016
	Community Broadband	Council	SS			SS
		Staff Activities	Broadband Action Group formation and consultant assessment	Consultant assessment continued	Consultant assessment continued	Present findings and recommendations
	Design Excellence	Council	SS: Staff Recommendations design tools/process changes	IP	CC: Draft recommendations/Adopt strategy	
		Staff Activities	Issues identification/ preliminary work on design tools/ process changes	Technical analysis /develop options	Draft recommendations	
			Public engagement	Boards/public engagement	Boards/public engagement	
	Flood-related Annexations	Council				
		Staff Activities	Flood Annexations - Individual	Flood Annexations - Old Tale Rd	Ongoing	Ongoing
	Human Services Strategy	Council		SS		Public Hearing
		Staff Activities				
	Flood Management	Council			IP: Stormwater Master Plan and Wastewater Collection System Master Plan consideration	
		Staff	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue		
	Smoking Ban - Implementation	Council	CC: Second reading			
Staff Activities		Education campaign	Enforcement begins	Monitor Outcomes	Monitor Outcomes	
Vacation Rental by Owner (VRBO)	Council	SS				
	Staff Activities	Research regulations and possible fees or taxes				

COUNCIL MEMBERS

Suzanne Jones	Mayor
Mary Young	Mayor Pro Tem
Matthew Appelbaum	Council Member
Aaron Brockett	Council Member
Jan Burton	Council Member
Lisa Morzel	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Bob Yates	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Mary Ann Weideman	Assistant City Manager
Bob Eichem	Chief Financial Officer
Lynnette Beck	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director for the Department of Planning, Housing Sustainability
Molly Winter	Director of Community Vitality
Heather Bailey	Executive Director of Energy Strategy and Electric Utility Development
Michael Calderazzo	Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
David Farnan	Library and Arts Director
James Cho	Municipal Court Administrator
Tracy Winfree	Open Space and Mountain Parks Director
Yvette Bowden	Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Mike Sweeney	Transportation Director
Jeff Arthur	Utilities Director

2016 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Burton (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Brockett, Appelbaum (alternate)
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Jones
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board (RCAB)	Morzel
Rocky Flats Stewardship Council	Morzel, Weaver (alternate) (Castillo – 2 nd staff alternate)
University of Colorado (CU)/City Oversight Committee	Weaver, Yates, Burton
US 36 Mayors/Commissioners Coalition (MCC)	Jones
US 36 Commuting Solutions	Burton, Morzel (alternate)
Urban Drainage and Flood Control District	Young

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Shoemaker
Boulder Convention and Visitors Bureau	Burton, Yates (alternate)
Colorado Chautauqua Board of Directors	Morzel
Dairy Center for the Arts	Brockett
Downtown Business Improvement District Board	Weaver, Yates

INTERNAL CITY COMMITTEES

Audit Committee	Shoemaker, Yates, Weaver
Boards and Commissions Committee	Appelbaum, Burton
Boulder Urban Renewal Authority (BURA)	Yates
Boulder Valley Comprehensive Plan (BVCP) Process Sub-Committee	Brockett, Weaver
Charter Committee	Morzel, Weaver, Young
Civic Use Pad/9 th and Canyon	Morzel, Young
Council Retreat Committee	Morzel, Yates
Council Employee Evaluation Committee	Morzel, Shoemaker
Housing Strategy Process Sub-Committee	Morzel, Young, Burton
Legislative Committee	Jones, Weaver, Appelbaum
School Issues Committee	Morzel, Shoemaker, Young

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Brockett
Kisumu, Kenya	Morzel
Llaza, Tibet	Shoemaker
Dushanbe, Tajikistan	Yates
Yamagata, Japan	Burton
Mante, Mexico	Young
Yateras, Cuba	Weaver
Sister City Sub-Committee	Morzel, Burton, Young



TO: Mayor and Members of City Council
FROM: Jordan Matthews, City Clerk's Office
DATE: May 17, 2016
SUBJECT: Information Packet

1. CALL UPS

- A. Vacation of a 10-foot wide utility easement along the west portion of the property located at 2790 Dartmouth Ave. (ADR2016-00067).
- B. Concept Plan Review 3365 Diagonal Hwy. (LUR2016-00012).

2. INFORMATION ITEMS

- A. Boulder's Energy Future – Municipalization Transition Plan and Budget Update

3. BOARDS & COMMISSIONS

- A. Planning Board – April 14, 2016

4. DECLARATIONS

- A. Boulder Historic Preservation Month – May, 2016



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Charles Ferro, Development Review Manager
Caeli Hill, Associate Planner

Date: May 17, 2016

Subject: Call-Up Item: Vacation of a 10-foot wide utility easement along the west portion of the property located at 2790 Dartmouth Ave. (ADR2016-00067).

EXECUTIVE SUMMARY:

In order to develop the property consistent with the zoning, the applicant requests vacation of a 10-foot wide utility easement located at 2790 Dartmouth Ave (refer to **Attachment D** for exact location). The easement was dedicated on the Fifth Addition to Highland Park Plat Book 6, page 66 on Aug. 6, 1956. This easement has never been used, and there are no utilities located within it. There are no indications that it will be needed in the future creating no further public need for the easement. The proposed vacation was approved by staff on April 26, 2016. There are two scheduled City Council meetings within the 30-day call-up period on May 3, 2016 and May 17, 2016.

CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 10-foot wide utility easement. The date of staff approval of the easement vacation was April 26, 2016 (refer to **Attachment E**, *Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on May 26, 2016 unless the approval is called up by City Council.

FISCAL IMPACTS:

None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

None identified.

BACKGROUND:

The subject property is approximately 9,618 square feet in area located in the Table Mesa neighborhood (refer to Attachment A, *Vicinity Map*). The site is located in a Residential-Low 1 (RL-1) zone district. The owner is requesting the easement vacation so that the property can be fully developed including a deck in the back yard which would extend into this easement. This easement inhibits the full development of the site for a low density, single-family dwelling unit. The easement was originally established on the Fifth Addition to Highland Park Plat Book 6, page 66 on Aug. 6, 1956. There have never been any utilities located in this easement and there are no plans to locate utilities in this easement in the future. Additionally, approval of the easement vacation has been received from electric/gas, telephone and cable company representatives. There is no further public need for this easement.

Given that there is no public need for the easement for which it was intended, failure to vacate the requested easement would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:

Staff finds the proposed vacation of a utility easement consistent with the standards set forth in subsection (b) of section 8-6-10, “*Vacation of Public Easements*”, B.R.C. 1981. Specifically, staff has determined that no public need exists for the easement to be vacated because new easements will be dedicated to replace the function of the current easement.

No vacation of a public easement shall be approved unless the approving agency finds that:

- ✓ 1. Change is not contrary to the public interest.
- ✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.
- ✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.
- ✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or

This property is designated Low Density Residential per the Boulder Valley Comprehensive Plan and is being developed to be consistent with that designation.

- N/A b. Would provide a greater public benefit than retaining the property in its present status.

PUBLIC COMMENT AND PROCESS:

Notice of the vacation will be advertised in the Daily Camera within the 30-day call up period. Staff has received no written or verbal comments adverse to the vacation.

NEXT STEPS:

If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

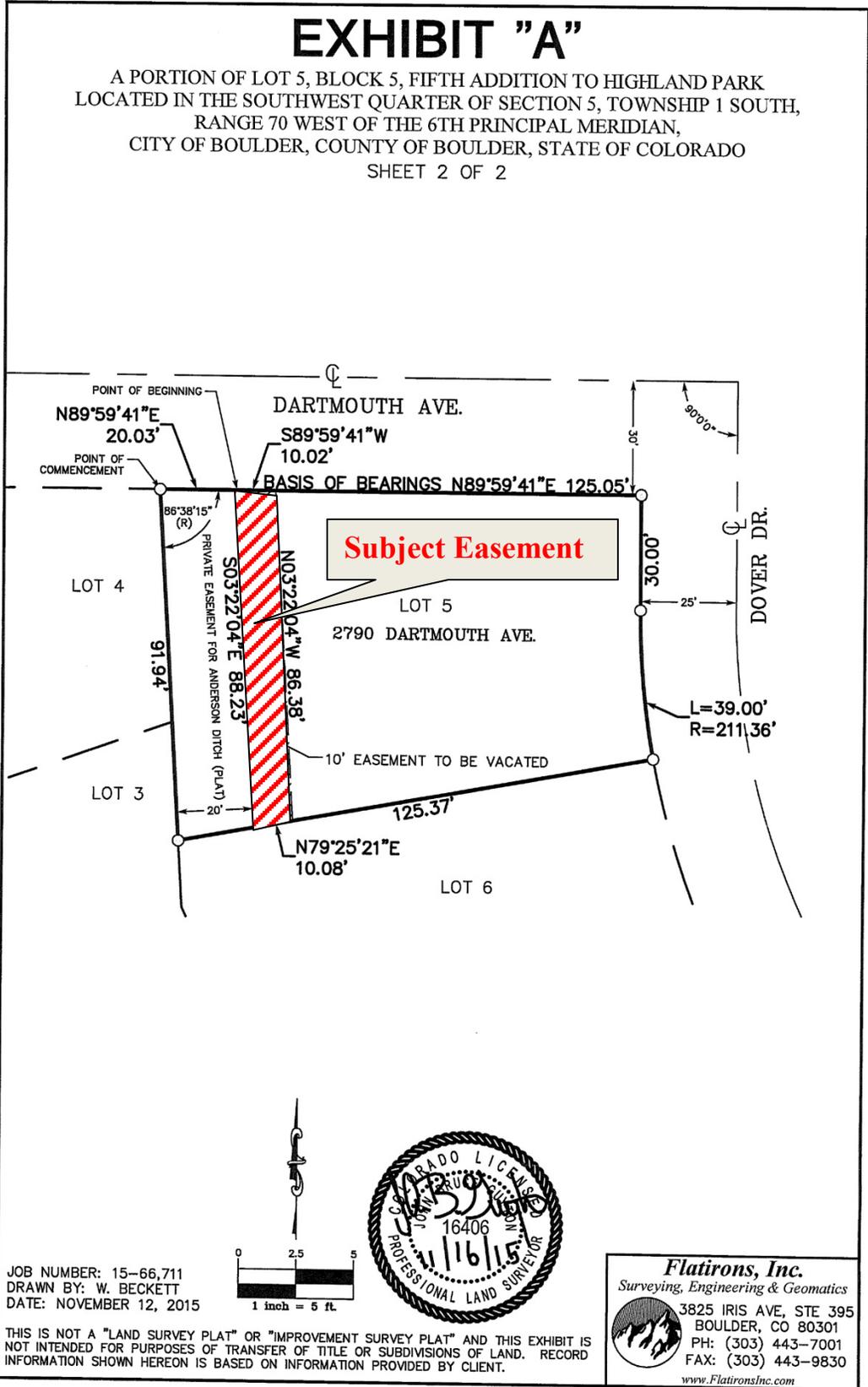
ATTACHMENTS:

- Attachment A: Vicinity Map
- Attachment B: Site Plan
- Attachment C: Deed of Vacation
- Attachment D: Exhibit A
- Attachment E: Notice of Disposition



EXHIBIT "A"

A PORTION OF LOT 5, BLOCK 5, FIFTH ADDITION TO HIGHLAND PARK
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
SHEET 2 OF 2



For Administrative Purposes Only
Address: 2790 Dartmouth Ave
Case No.: ADR2016-00067

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owners of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, a utility easement previously dedicated to the City of Boulder and recorded on the final plat of the Fifth Addition to Highland Park recorded at Plat Book 6, Page 66 in the records of the Boulder County Clerk and Recorder on the 6th day of August, 1956 located at 2790 Dartmouth Avenue and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The above easement vacation and release of said easement at 2790 Dartmouth Avenue shall extend only to the portion and the type of easements specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2016, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved as to form:

Hilce Panneari

City Attorney's Office

4-25-2016

Date

EXHIBIT "A"

A PORTION OF LOT 5, BLOCK 25, FIFTH ADDITION TO HIGHLAND PARK
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

VACATING ALL OF THE 10 FOOT UTILITY EASEMENT IN LOT 5, BLOCK 25, AS DEPICTED ON THE PLAT OF "FIFTH ADDITION TO HIGHLAND PARK" RECORDED IN THE BOULDER COUNTY RECORDS AT RECEPTION NUMBER 90579205, DATED 8/6/1956, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF SAID PLAT TO BEAR N89°59'41"W, A DISTANCE OF 253.53 FEET AS SHOWN ON THE SURVEY BY DREXEL BARRELL RECORDED AS LS-92-0165 IN THE BOULDER COUNTY LAND USE DEPARTMENT, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 5; THENCE N89°59'41"E ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 20.03 FEET TO THE POINT OF BEGINNING; THENCE S03°22'04"E ALONG THE WEST LINE OF SAID EASEMENT AS DEPICTED ON SAID PLAT, A DISTANCE OF 88.23 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 5; THENCE N79°25'21"E ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 10.08 FEET; THENCE N03°22'04"W ALONG THE EAST LINE OF SAID EASEMENT, A DISTANCE OF 86.38 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 5; THENCE S89°59'41"W ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 10.02 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT IN LOT 5 CONTAINING 873 SQ.FT., MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.



JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 15-66,711
CHAIRMAN/CEO, FLATIRONS, INC.

JOB NUMBER: 15-66,711
DRAWN BY: W. BECKETT
DATE: NOVEMBER 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics

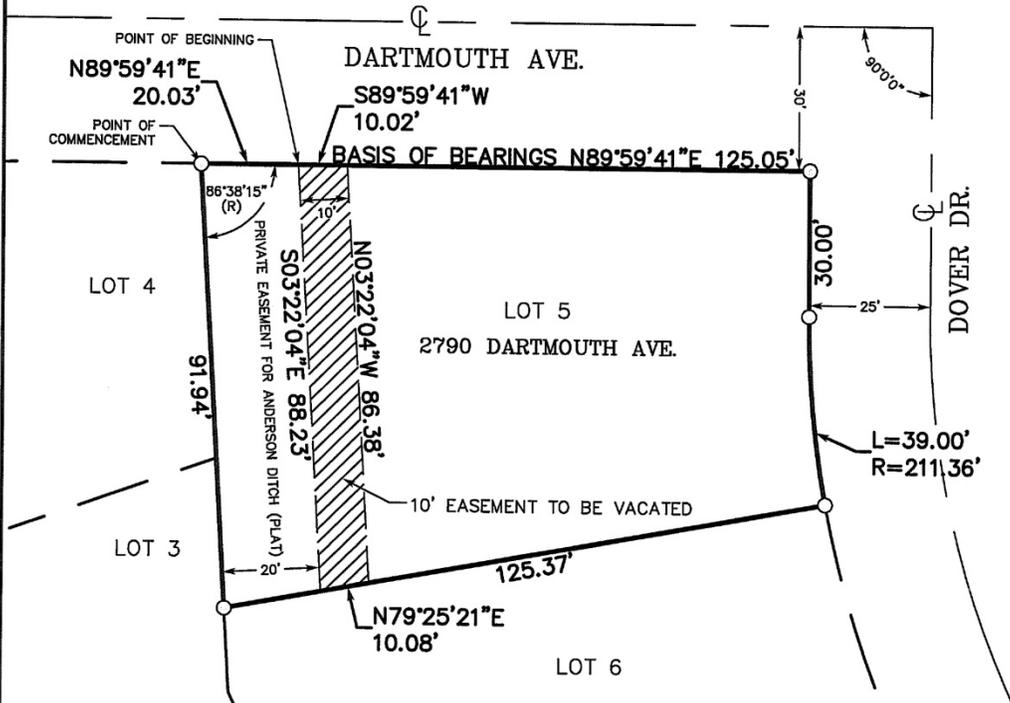


3825 IRIS AVE, STE 395
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 FAX: (303) 443-9830
www.FlatironsInc.com

BY:BECKETT FILE:66711-ESMT-VACATE.DWG DATE:11/16/2015 8:46 AM

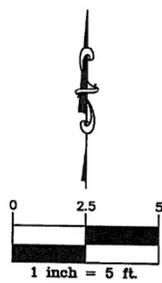
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 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2



BY:BBECKETT FILE:66711-ESMT-VACATE.DWG DATE:11/16/2015 8:47 AM

JOB NUMBER: 15-66,711
 DRAWN BY: W. BECKETT
 DATE: NOVEMBER 12, 2015



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CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • email plandevlop@bouldercolorado.gov
www.boulderplandevlop.net

ADMINISTRATIVE REVIEW
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION: Approved
DATE: April 26, 2016
REQUEST TYPE: Vacation/Easement
ADDRESS: 2790 Dartmouth Avenue
APPLICANT: JASON WOODS
CASE #: ADR2016-00067
LEGAL DESCRIPTION: Lot 5 Block 25 Highland Park 5, City of Boulder, County of Boulder, Colorado
DESCRIPTION: Administrative review for vacation of an existing 10' utility easement in the rear yard of the property.

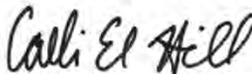
FINAL DECISION STANDARDS:

Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval. This approval is limited to the vacation of a 873 square-foot reserved utility easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 90579205 on the Highland Park Fifth Addition on August 6, 1956.

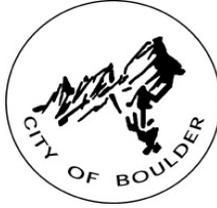
INFORMATIONAL COMMENTS:

Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

By: 

Caeli Hill, Planning Department



**INFORMATION PACKET
MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

Date: May 11, 2016

Subject: Call-Up Item: Concept Plan Review 3365 Diagonal Hwy. (LUR2016-00012)

EXECUTIVE SUMMARY

On May. 5, 2016 the Planning Board reviewed and commented on the above-referenced application. City Council may vote to call-up the Concept Plan to review and discuss within 30 days of the Planning Board hearing. The call up period concludes on June 6, 2016, because the end of date of the thirty-days falls on a Saturday, the thirty day call up period concludes on the following Monday. There is one City Council meeting within this time period for call-up consideration on May 17, 2016. The staff memorandum to Planning Board, minutes, meeting audio, and the applicant's submittal materials along with related background materials are available on the city website for Planning Board [here](#) (or follow the links: www.bouldercolorado.gov → A to Z → Planning Board → search for past meeting materials planning board → 2015 → 5.5.2016 PB Packet). The draft minutes from the Planning Board hearing are provided in Attachment A.

At the Planning Board Hearing, there were no neighborhood comments and no comments had been received on the application. The Planning Board recommended some site plan changes with regard to preservation of the existing historic resources of the duplex, the barn and the retaining walls, and suggested that more density could be considered through annexation if there were smaller and more affordable units provided on site.

Consistent with recently amended land use code section 9-2-13(a)(2), B.R.C. 1981 City Council shall vote to call up the application to review and comment on the concept plan within a 30-day call up period which expires on June 6, 2016.

ATTACHMENT

A. Draft May 5, 2016 Planning Board Minutes

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
May 5, 2016
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Putnam
John Gerstle
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

N/A

STAFF PRESENT:

Charles Ferro, Development Review Manager
David Gehr, Deputy City Attorney
Cindy Spence, Administrative Specialist III
Elaine McLaughlin, Senior Planner
Sloane Walbert, Planner II
Michelle Allen, Inclusionary Housing Program Manager
Timothy Head, Airport Manager

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:04 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by C. Gray and seconded by J. Putnam the Planning Board voted 7-0 to approve the April 14, 2016 minutes as amended.

3. PUBLIC PARTICIPATION

- 1. Jeffrey Peacock** spoke regarding the project at 1627 17th Street in regards to compatibility, parking, historic preservation of the neighborhood and the preservation of the Hackberry tree and spoke on behalf of the Goss Grove Neighborhood Association.
- 2. Michelle Bishop** spoke regarding the projects at 1627 17th Street and 2333 Arapahoe and their compatibility and spoke on behalf of the Goss Grove Neighborhood Association.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A.** Call-Up Item: NON-CONFORMING USE REVIEW to reduce the number of units on the property at 1627 17th Street from three dwelling units in two structures to two dwelling units in two structures (case no. LUR2016-00013). The project site is zoned Residential - Mixed 1 (RMX-1). The call-up period expires on May 9, 2016.
- B.** Call Up Item: Site Review Amendment: Redevelopment of a vacant lot, formerly occupied by a Dairy Queen restaurant at 2333 Arapahoe Ave. Proposed is a 7,186 square foot dormitory for Naropa University within the BT-2 (Business Transition – 2) zoning district, with a 0.47 FAR where 0.50 FAR is permitted; and a 22 percent parking reduction.
- **L. May** suggested that the board discuss housing as a larger policy issue in the future since Item 4A is in fact reducing the amount of dwelling units. He stated that he would not be calling these items up.

B. Bowen recused himself during the discussion of Item 4B.

None of the items were called up.

5. PUBLIC HEARING ITEMS

- A.** AGENDA TITLE: CONCEPT PLAN & REVIEW – Proposal for a three story, 120-room Holiday Inn Express Hotel. Case no. LUR2016-00012 located at 3365 Diagonal Highway.

Applicant: Nathan Anderson
Property Owner: Boulder Lodging Group LLC

Staff Presentation:

- C. Ferro** introduced the item.
E. McLaughlin presented the item to the board.

Board Questions:

E. McLaughlin, D. Gehr, C. Ferro and **T. Head** answered questions from the board.

Applicant Presentation:

Jeff Lamont, with Lamont Companies, and **Kya Schroeder**, with LJA Fargo, both representing the applicant, presented the item to the board.

Board Questions:

Jeff Lamont and **Kya Schroeder**, the applicant's representatives, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

KEY ISSUE 1: Is the Concept Plan proposal consistent with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)?

- **J. Putnam** discussed that the FAA is more concerned with the protection of the “air space”, not the appropriateness of the land use. Therefore the FAA’s information provided was useful, but not a complete answer. He does agree with comments made by **T. Head** and that the applicants should work with the airport or perhaps hire an aviation consultant to conduct further analysis. He agreed with the applicant that around the country there are riskier locations of hotels next to airports, therefore the proximity to the airport may not be a fatal flaw but it should be well documented and analyzed to show the city is protecting aviation and citizens on the ground. Regarding the noise levels, FAA standards are 65 decibels. This location would be in the 60 decibel range. Airport activity would need to double or have noisier aircraft landing and neither are likely. Therefore, noise from the airport should not be an issue. In terms of land use, the project would be within the zoning district. He expressed concern regarding discontinuity of the site from the rest of the city, pedestrian and bike infrastructure, as well as locations to eat and shop. Would recommend seeing more connections with bike and pedestrians in a Site Review. He appreciates the underground parking.
- **L. May** agree with **J. Putnam**. His main concern is the BVCP policy 2.21 regarding connections with the city. A TDM plan would need to be studied. The plan is generally compliant.
- **C. Gray** agreed with previous comments. She recommended **T. Head’s** advice to hire an aviation consultant. Although hotels are allowed within this land use, she expressed some concern with this type of use in this location. Her concern rested with the disconnection of the location with available transit.
- **B. Bowen** agreed with previous comments. He suggested as the applicants move forward, the arrangements of uses on site and the configuration will be important. He stressed that they work closely with staff for feedback. He liked the proposed underground parking.
- **L. Payton** agreed. Regarding the appropriateness of the hotel and the land use, she mentioned that residents would never be able to open windows due to the noise. She suggested moving all parking underground. She supports the applicant working with the airport manager and an aviation consultant to analyze potential conflicts.
- **J. Gerstle** agreed with previous comments.
- **H. Zuckerman** mentioned that vehicle trips are an issue due to the lack of available transit. He asked the applicants to create a convenient connection, ancillary uses at the hotel and consider the Boulder community. This location would be a very modern approach toward land use and that a traditional airport hotel may not be what the community would want.
- **J. Putnam** added that this site would benefit with a fleet of bicycles for guests to use and could be a part of the TDM plan. He stressed that the site layout should be friendly, inviting and safe.

KEY ISSUE 2: Does the Concept Plan respond to the Design of the Community Edge and Entryway context?

- **L. May** mentioned that the proposed rendering has elements that are often discouraged (i.e. the variety of materials and too busy). He encouraged staff to have a gateway design discussion with the applicants such as they did with the prior project for this site.
- **H. Zuckerman** stated that proposed design is a good urban design, but this site would be surrounded by green space. Therefore the building calls for interesting roof lines to introduce to Flatirons. In addition, glass reflections that highlight natural surroundings, solid materials, and a handsome building are important.
- **L. Payton** stated that the building needs to have quality design all around due to being surrounded by prominent streets. Perhaps even a three-sided building so that there is really no back-side to the building since it will be viewed from all sides. Asphalt needs to be eliminated by placing parking underground. The architecture should not be too busy. She suggested the applicants work with DAB to come up with an appropriate design.
- **C. Gray**, in regards to the architectural design, suggested the applicants schedule a meeting with DAB. She stressed that material should be durable. In addition, she asked that the landscaping have local species and high survivability. The focus should not be the building.
- **J. Gerstle** added that this is a special site for Boulder and should not be taken for granted. It is a gateway site and everyone will be paying close attention.
- **H. Zuckerman** suggested a building idea that perhaps speaks to “motion”. Since this site would be surrounded by speed, air and motion, and mountains that rise dramatically, it could offer a lot of design aspects.
- **B. Bowen** added that the site is primarily a “car-wrapped site”. The board would like the building to be viewed with simplicity and grace rather than a bunch of little buildings stuck together. He referenced fire station buildings as an example that are crisp and clear, one-line concepts.

Board Summary:

B. Bowen gave a summary of the board’s recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. In regards to *Key Issue #1* (land use), the board agreed that the FAA no hazard determination is not the final word. The land use would need to be investigated in terms of impacts on the potential customers. Determine if the final height might limit instrument approach options for the city in the future. The board would like the applicants to work with airport staff to reinforce their suggestion to work with an airport consultant. The noise level was less of an issue for the board members. The board wants to ensure a quality environment to visitors. The board had concerns regarding the discontinuity from the rest of the city. This is not a walkable area and likely to exacerbate the usage of vehicles of guests and employees. The board would like the applicants to come back with a TDM plan. Eco passes, a fleet of bicycles and car share plans were suggested by the board. The board agreed with placing as much parking underground as possible. A suggestion was made to work with staff regarding the arrangement of uses on the site. In regards to *Key Issue #2* (design and gateway), the board agreed that the use of a hotel at this location should be guaranteed that it would be safe and reasonable. Regarding community edge and context, the board strongly urged against conventional hotel architecture. The architecture and site should reflect Boulder and transitional in nature. The board suggested the applicant work with DAB for ideas. The board wants to see quality design, durable materials, and a four-sided or three-sided design (to be perceived from all angles).

B. AGENDA TITLE: Public hearing and Planning Board recommendation on a request to annex a 1.37 acre property located at 96 Arapahoe Ave. with initial zoning of Residential – Medium 3 (RM-3), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Medium Density Residential. The proposal includes a request that the City correct errors in BVCP mapping affecting the property. Reviewed under case no. LUR2014-00068.

Applicant: Jonathon Warner
Property Owner: 96 Arapahoe LLC

Staff Presentation:

E. McLaughlin presented the item to the board.

Board Questions:

E. McLaughlin, C. Ferro, D. Gehr, and M. Allen answered questions from the board.

Applicant Presentation:

Jonathon Warner, the applicant, presented the item to the board.

Board Questions:

The board did not have any questions for the applicant.

Public Hearing:

- 1. David Adamson**, promoting sustainability and affordability in the Goose Creek neighborhoods, asked the board to consider community benefit to include aspects like eco-mobility, deed restrictions and affordability and diversity at this proposed site.

Board Comments:

Key Issue #1: Does Planning Board approve of the proposed BVCP map corrections?

Key Issue #2: Does Planning Board support the proposed initial zoning of RM-3 (Residential Medium - 3)?

Key Issue #3: Does Planning Board find that the proposed annexation meets BVCP policies, and in particular those related to community benefit and does the board support the proposed annexation?

- **B. Bowen** stated that the board received new information at the beginning of the applicant's presentation tonight. He asked the board how they feel about processing the annexation agreement at this level of detail in this board meeting.
- **J. Putnam** recommended that he would pass a motion regarding *Key Issues #2 and #3*, because the conversation the board had at Concept Review was very site specific and tied to the details of the site. The applicant's arguments are also very detailed and tied to the site yet at this time, the board does not have a Concept Review or a Site Review. While he is sympathetic to some of the detail arguments, it is irresponsible to vote for an

annexation without knowing the consequences of the proposals. He would require more detail to understand the proposed project.

- The board agreed.
- **L. May** agreed with **J. Putnam**. He stated that he would be uncomfortable and cannot understand how the board could review annexation without a Site Review.
- **C. Gray** agreed.
- **H. Zuckerman** added that if the applicant has issue with specific requirements of staff that may interfere with profitability, the temptation that the board has seen recently with annexations without Site Plans would be to propose an annexation that would not require any change to the Comp Plan. He would like to see Site Plans come forward that create exciting and new additions to the city. These plans should be able to offer more than just affordable housing as community benefits for the city.

Motion:

On a motion by **J. Putnam** seconded by **L. May** the Planning Board voted 7-0 to recommend to City Council denial of the proposed annexation with initial zoning of Residential – Medium 3 (RM-3) pertaining to request No. LUR2014-00068, incorporating this staff memorandum as findings of fact as well as conversations of the board.

- **B. Bowen**, regarding whether the annexation should come back to Planning Board with a Site Review package, agreed that it should. The board is required to decide what the community benefit would be for an annexation. Without a Site Plan or design, there is no way to test the proposal. The board does not have the intention to annex a property to be developed, but yet apply constraints so that the property could not be developed or that the development would not make sense. This could potentially happen if a Site Plan is not available.
- **L. Payton**, due to the history of this site and the retaining walls, was curious if there could be a way to set up the annexation agreement to allow the terraces to be populated by tiny homes. The historic character could be maintained, density could be increased and affordable housing goals reached. Maximize the utility of the terraces rather than tear them down could be facilitated through annexation.
- **C. Gray** would like to further recommend a higher percentage of affordable housing through creative methods and to find the right balance that would go along with **L. Payton's** comments.
- **L. May** stated that affordability or 100% affordability would be a good starting point for annexations.
- **J. Gerstle** wanted to encourage this applicant to speak to other applicants with similar annexation requests since the board knows that adjacent properties will most likely be coming forward with annexation requests and perhaps they could be coordinated.
- **B. Bowen** added that it is important for the board to make sure that an outcome is feasible. If we make a rule that cannot be fulfilled, then we will not get the desired housing units.
- **J. Putnam** suggested that the board not be too prescriptive regarding the terms of this annexation as it will depend on the entire package. The proposal is at a decent starting place. In regards to **L. Payton's** concept, the cottage style development and historic land use in that location would be attractive at this location. He appreciates the applicant's

flexibility surrounding the OSMP issue. A conservation easement would be appropriate and he would discourage public and resident access on that spot.

- **J. Gerstle** wants to keep the possibility open in case the OSMP changes their mind and has latitude to make a decision.
- **H. Zuckerman** said this is the applicant's decision and the board cannot be prescriptive. He disagreed with the terrace at the top and would like to leave room for proposals.
- **C. Gray** would like to see what permanently affordable middle income products look like in Boulder.

Motion:

On a motion by **B. Bowen** seconded by **J. Putnam**, the Planning Board voted 7-0 to recommend to City Council to not entertain annexation without a concurrent site review.

Motion:

On a motion by **H. Zuckerman** seconded by **L. May** the Planning Board voted 7-0 to approve the proposed corrections to the Planning Area II/III boundary line and the Medium Density Residential Land Use line errors, to ensure the boundary lines coincide with the alignment of the adopted Blue Line in this location.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

- A. INFORMATION ITEM: Draft CEAP for Fourmile Canyon Creek Greenways Improvements from Upland Avenue to West of Broadway
- B. INFORMATION ITEM: 2017-2022 Greenways Capital Improvement Program

Board Comments:

- **L. Payton** asked board members to send any comments or question to her as she is the Greenways liaison.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 9:15 p.m.

APPROVED BY

Board Chair

DATE



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development

Date: May 17, 2016

Subject: Information Item: Boulder's Energy Future – Municipalization Transition Plan and Budget Update

A. Municipalization Transition Plan Update

The Municipalization Transition Work Plan serves as a working tool for the city that will be updated on a regular basis as regulatory and legal issues are addressed, tasks are refined, and work is completed. It is designed to manage the risks of acquisition while prioritizing the fundamentals of an electric utility: safety and reliability. Significant work and accomplishments completed since the last update to council include:

- Pursued discovery process with Xcel to obtain information needed to prepare supplemental application to the Colorado PUC for transfer of assets
- Ongoing development of separation alternatives consistent with the Colorado PUC order of December 30, 2015
- Continued work on supplemental application to the Colorado PUC for transfer of assets, including responding to answer testimony and discovery requests
- Ongoing evaluation and engagement with Xcel on their response to the power supply request for proposal
- Continued evaluation and discussions with various vendors who provided qualification statements for ongoing operation and maintenance services
- Integrated information from the Information Technology roadmap project in the transition work plan and budget
- Continued implementation and evaluation of energy services related to solar, electric vehicles, and nanogrids, including launching a Solar EV program in partnership with Boulder County and applying for a renewable diesel feasibility study grant

- Ongoing development of operations, maintenance, construction, and safety policies and procedures
- Initiated the key accounts program, drafted a customer service manual
- Continued to meet with the Energy Services, Rates, Reliability and Safety and Resource Acquisition working groups as necessary
- Ongoing communication and outreach work, including connecting climate commitment goals with energy future objectives, providing a project update in the February utility bill insert, and sending the Energy and Climate newsletter to audience of nearly 800
- Participated in a number of regional, national and international collaborations in support of the Boulder community's climate and energy goals (**Attachment A**)

B. Budget Update

The municipalization work plan represents a significant undertaking. In particular, the legal and technical work necessary to prepare for the potential acquisition of the local distribution system and launch of a municipal utility will be a considerable investment. Recognizing this, in 2011, city voters approved an increase to the Utility Occupation Tax in the amount of \$1.9 million a year. The use of this tax revenue has been allocated to the following categories:

- Legal services (PUC, condemnation and FERC Counsel)
- Consulting services related to municipalization and separation of Xcel's system (engineering and appraisal services)
- Salary and benefits (Energy Strategy and Electric Utility Development)
- Purchased services and supplies (office space and supplies)

City staff is managing spending on transition plan activities such that significant investments are deferred until such time as there is a decision from the Colorado Public Utilities Commission on the separation of the electric system from Xcel. At that time, staff will be able to better assess the overall impact on the longer term budget and funding.

Budget

In 2014, council approved a multi-year 2015-2017 project budget to ensure that resources were available to meet the legal/regulatory challenges and fluctuations in the transition work plan schedule. The 2015-2017 total budget (Chart 1) of \$7,880,327 is primarily funded from the Utility Occupation Tax, part of which was prefunded through an advance from the general fund which is being reimbursed as the Utility Occupation Tax is collected for 2016 and 2017. The budget also includes a one-time general fund request of \$712,877; 2014 encumbrance carryover of \$495,731; and 2014 Operating Carryover of \$441,361. These funds have been allocated for salaries, benefits, and services which support legal and operations work related to the development of an electric utility.

The primary sources of funding for 2016-2017, \$5,858,836, include the unspent amounts of the 2015 budget of \$5,490,553, and the 2015 encumbrance carryover of \$368,283, as indicated in Chart 1 below.

Chart 1 – 2015-2017 Budget Sources

2015-2017 Sources	
2015 Utility Occupation Tax (UOT) Base Allocation	2,015,710
General Fund (GF) Reserves*	4,214,648
One-time request from General Fund	712,877
2014 Encumbrance Carryover	495,731
2014 ATB Carryover Request	441,361
TOTAL APPROVED BUDGET (2015-2017)	7,880,327
2015 Expenditures	2,021,490
2015 Year-end Balance	5,490,553
2015 Encumbrance Carryover	368,283
2016 Beginning Balance	5,858,836

* GF reserves were approved in 2015 to bridge the timing difference in cash flow of an anticipated accelerated work plan and unpredictable legal costs. As actual UOT revenue collections occur in 2016/2017, they will return to the GF reserves.

Chart 2 depicts the 2016 Utility Occupation Tax (UOT) budget and project expenditures. Expenditures for 1st Quarter 2016 total \$307,844 and are below year to date budget targets.

Chart 2 – Utility Occupation Tax

2016 USES	2016 Budget	Encumbered	Expenditures	Balance
Staffing (includes salary and benefits)	1,107,323	0	241,761	865,562
Consulting and Contract Services - Transition Plan	965,500	0	0	965,500
Consulting and Contract Services - Legal and Regulatory	1,350,000	408,947	58,018	883,035
Consulting and Contract Services	2,315,500	408,947	58,018	1,848,535
Systems	280,000	0	0	280,000
Capital	33,063	0	0	33,063
Purchased Services and Supplies	216,252	447	8,065	207,740
UOT Subtotal	3,952,138	409,394	307,844	3,234,900
Future Planned Expenditures	1,906,698			
TOTAL	5,858,836			

In addition to the 2015-2017 approved project budget, council approved a \$1 million contingency, out of the City Manager fund, to help supplement the Energy Future UOT budget for additional unplanned expenses. The contingency fund has been used to help supplement staff salaries in 2016 (Chart 3). The projected budget for the 2016 contingency fund is \$447,639. Expenditures for 1st Quarter 2016 total \$63,540 and are below year to date budget targets.

Chart 3 – \$1 Million GF Contingency

2016 Uses (\$1 Million GF Contingency)	2016 Budget	Expenditures	Balance
STAFFING TOTAL (includes salary and benefits)	447,639	63,540	384,099

Below is a chart (Chart 4) of the expenditures spent on this project through 1st Quarter 2016, since the approval of the Utility Occupation Tax.

<i>Chart 4 – Expenditures to Date</i>	2012	2013	2014	2015	2016	Total
Energy Future Project - Actual Expenditures	1,033,762	2,512,615	1,942,452	2,021,490	307,844	7,818,163
\$1 Million Contingency - Actual Expenditures	-	-	-	134,709	63,540	198,249
TOTAL (2012-2016)	1,033,762	2,512,615	1,942,452	2,156,199	371,384	8,016,412

The City of Boulder provides a wide range of core services and community projects on behalf of the community each year. In 2015, approximately 85% of city resources, including personnel and non-personnel expenditures, across the organization, focused on core services including maintenance, operations and public safety, and approximately 15% of city resources focused on community projects outside the delivery of core services including, the Boulder Valley Comprehensive Plan, Housing Boulder, the Civic Area Plan, the Homeless Strategy, the North Trail Study Area, and the Boulder Energy Future Project.

The Boulder Energy Future Project is one of the high profile community projects and is a top priority for City Council. Resources dedicated to this project represents approximately 6% of city resources spent on community projects. The level of indirect staff resources contributing to the Boulder Energy Future Project is commensurate with resources contributed to other city-wide community projects, and are indicated in Chart 5 below.

<i>Chart 5 – Other Contributing Resources</i>	2012	2013	2014	2015	2016	Total
Other Staff Resources Contributing to the Project (includes salary and benefits)	577,303	644,924	840,452	728,905	167,144	2,958,728

Staff resources who contributed to the project in 2016, the estimated percentage of staff time spent on the project and associated budget allocation is provided in **Attachment B**.

Attachments:

Attachment A: Regional, National and International Collaboration

Attachment B: Staffing Resources

Regional, National and International Collaboration

Area of Collaboration	Relevant Activities in 2016
Legislative & Regulatory	<ul style="list-style-type: none"> <p>Colorado Public Utilities Commission (PUC)</p> <p>Early in 2016, PSCo began filing a series of proceedings at the PUC that are intended to begin the company’s transition to the company’s “Our Energy Future described in recent public statements. Each proceeding is being evaluated for its impact on Boulder’s energy future, potentially requiring intervention by staff.</p> <p>To date, staff has intervened in or is monitoring the following PUC proceedings:</p> <ul style="list-style-type: none"> - PSCo Phase 2 Rate Case (16AL-0048E) - Solar*Connect (16A-0055E) - Depreciation Schedule - Technical inputs - Renewable Energy Compliance Plan <p>Additional proceedings expected in the coming months include:</p> <ul style="list-style-type: none"> - 2017 Electric Resource Plan - Decoupling - Grid Security and modernization - Natural Gas <p>Monitored Bills introduced in 2015/2016 Legislative Session. Staff testified on several climate-related Bills specifically aimed at the Clean Power Plan and the requirement for the PUC to include the full cost of carbon in utility resource planning processes.</p> <p>In partnership with Boulder County, developed the Colorado Communities for Climate Action Coalition (CC4CA) to lead efforts to advocate for policy and regulatory changes that promote and support local decision making in pursuit of a low carbon energy future including those that would simultaneously promote community resilience, economic vitality and job creation. The first local governments to have signed up as CC4CA members are Boulder County, the City of Fort Collins, the City of Boulder, Eagle County, the City of Golden, Pitkin County, San Miguel County, and the City of Aspen. Other jurisdictions are expected to soon join the coalition. Recruitment efforts continue in 2016, and a 2016 work plan is being developed. As of May, 2016, the Coalition has hired Frontline Public Affairs to represent the group on legislative matters, and has issued an RFP for regulatory representation.</p> <p>EPA Clean Power Plan- In partnership with 17 US states and four cities, Boulder intervened in the DC District Court case. The Coalition is being led by the New York Attorney General’s office and was formed to defend the Clean Power Plan against motions to stay the rule. Boulder submitted a Declaration from the Mayor which was submitted as testimony in the case. Boulder will continue to be an active party as the Supreme Court address the existing stay on the rule, and the disposition of the case during 2016.</p>

Regional Technical
and Outreach
Working Groups

- **Colorado Climate Networking Steering Committee**—The Colorado Climate Network and the [Colorado Municipal League](#) are convening a statewide Local Resilience Project and the Northern Front Range Resiliency Project to help improve the resilience of Colorado local governments and local resources to possible climate change impacts. The Network released the final report available at: <http://www.coclimatenetwork.org/resilience.html>. Additionally, the CCN will perform the administrative functions for the Colorado Communities for Climate Action Coalition mentioned above.
- **Colorado Clean Energy Cluster**—Colorado Clean Energy Cluster (CCEC) is a project-driven, nonprofit economic development organization aimed at growing primary jobs in Colorado in the area of clean energy through formal partnerships between clean energy companies, the public sector and higher education. The board is made up of cities, businesses and universities – the city’s membership includes board seats for the city, Boulder Chamber, and the University of Colorado Boulder. The city is collaborating with CCEC on the following efforts:
 - Managing a Department of Energy grant funded project to increase energy resilience at the city’s Water Treatment plant
 - Organizing and tracking the local clean tech energy sector
 - Identifying and developing high profile/high impact pilot projects that engages our local clean energy companies
 - Ensuring the success of the Boulder Energy Challenge grant recipients
- **Local Government Working Group on Public Utilities Commission Issues**— Developed strawman community energy report and participated in meetings with Xcel Energy technical staff to refine list of energy consumption and programmatic metrics that will be provided to local governments for climate and energy planning.
- **Boulder Sustainability Alliance**—Representatives from CU Boulder, BVSD, Boulder County and the city have continued to meet to discuss sustainability related issues; particularly issues associated with energy. On May 4 the Alliance was the primary topic at the Town/Gown event at CU Boulder. Leadership from each of the four Alliance organizations spoke about efforts relate to climate, energy and sustainability.
- **Boulder, Boulder County & City/County of Denver Collaboration**—Staff from the four agencies meet quarterly to discuss ongoing issues related to energy and climate, waste reduction and transportation alternatives.
- **Renewable Diesel**
 - Convened group of regional sustainability directors and fleet managers to evaluate the potential to integrate renewable diesel into fleet operations
 - Submitted grant application to RAQC to fund feasibility analysis of renewable diesel pilot in the Front Range
- **Solar and EV Benefits Program**—work with Boulder County on the Solar and EV Benefits program to expand rooftop solar and EVs in Boulder.

<p>National/ International Technical and Outreach Working Groups</p>	<ul style="list-style-type: none"> • iUrban Smart City Advisory Group—Participated in two collaborative webinars with international advisory group members. • USDN Utility-Data User Group—Participated in bi-monthly webinars on topics from EPA Portfolio Manager to an overview of ACEEE tools and resources. • Carbon Neutral Cities Alliance—CNCA is a network of 17 international cities who have all made a commitment to 80% emissions reduction or greater by 2050 or sooner. The city has been an active participant and secured 2 of the first 7 grants issued by CNCA for innovative pilot projects designed to significantly reduce emissions. This two projects are: <ul style="list-style-type: none"> - Thermal decarbonization: Boulder and San Francisco are working jointly to develop strategies to transition off natural gas in the residential and municipal building infrastructures. - Whole Energy System Transition: Boulder, Minneapolis and Seattle are collaborating on a project to develop a range of different tools and strategies to support larger sub-community scale energy transition planning and strategy development. • Urban Sustainability Directors Network—City staff are taking part in a number of different USDN related working groups including accelerated net-zero building codes; emissions reduction projection tool development; ecodistrict planning, carbon tax strategies and other emerging topics.
<p>Conferences & Presentations</p>	<ul style="list-style-type: none"> • January 13, 6th Annual Electric Energy Storage Conference Presentation • February 20, Young Elected Officials (YEO) Network’s Clean Energy and Environmental Justice Policy Summit Presentation • March 9, Open Boulder Presentation • March 17, Maui Energy Conference Steering Committee and panels • March 28, University of Denver Environmental Law Workshop • March 29, CU Policy Class Presentation • April 22, Presentation to Rocky Mountain Green • May 2, Presentation to Martin Acres Neighborhood

Boulder's Municipalization Exploration Project
2016 Staffing Resources
January - March, 2016

Energy Future Budget: Utility Occupation Tax (UOT)/One-time General Fund \$	
Name	% of Time Dedicated to Project
Heather Bailey	100
Robert Harberg	100
Elizabeth Hanson	100
Heidi Joyce	100
Emily Sandoval	100
	\$241,761

Energy Future Budget: \$1 Million Contingency	
Name	% of Time Dedicated to Project
Yael Gichon	50
Matt Lehrman	100
Lex Telischak	100
	\$63,540

Staffing Resources Allocated Within Existing Budgets, Separate From Energy Future	
Name	% of Time Dedicated to Project
Jeff Arthur	1
Sarah Bennett	50
Jane Brautigam	10
Sandi Calhoun	3
Tom Carr	14
Gina Coluzzi	5
David Driskell	2
Francis Duffy	1
Bob Eichem	2
Daniel Fairchild	2
David Gehr	28
Yael Gichon	50
Kathy Haddock	34
Brett Hill	1
Sarah Huntley	20
Don Ingle	5
Elesha Johnson	2
Deb Kalish	51
Jonathan Koehn	85
Joyce Lira	2
Sandra Llanes	25
Sean Metrick	2
Laurie Nading	90
Cheryl Pattelli	2
Maureen Rait	8
Penn Richman	4
Kendra Tupper	3
Elizabeth Vasatka	4
Patrick von Keyserling	2
Mary Ann Weideman	3
	\$167,144

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 14, 2016
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Putnam
John Gerstle
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

STAFF PRESENT:

David Driskell, Executive Director of Community Planning
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jessica Stevens, Civil Engineer II
Karl Guiler, Senior Planner, Code Amendment Specialist
Kalani Pahoia, Urban Designer

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:05 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

None to approve

3. PUBLIC PARTICIPATION

No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A. Call Up Items: Boulder Creek Path East of Foothills Parkway, Bridge Replacement, Floodplain Development Permit (LUR2016-00003), Wetland Permit (LUR2016-00004). This decision may be called up before Planning Board on or before April 18, 2016

This item was not called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing to consider the following two items:

- 1) Recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) for the Boulder Junction Phase I through two appendices to Title 9: Appendix L designating "Form-Based Code Areas" and Appendix M as the FBC regulations, and adopting a Form Based Code Review process, and
- 2) Action on proposed amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and to implement the FBC project

Staff Presentation:

D. Driskell introduced the item.

K. Guiler presented the item to the board.

Board Questions:

K. Guiler, D. Driskell and **Leslie Oberholtzer**, consultant with CodaMetrics, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue #1: Draft Ordinance

- **J. Putnam**, in regards to the scope of the review process, expressed concern with drafting a discretionary process like Site Review for the FBC. At this time, it would be worth having some degree of public process and review. However it should be taken out if it works. If it is not working, then it should be looked at. His concern lies with making it too discretionary because it would create more obstacles. The draft ordinance would strike a reasonable balance for now. In regards to the call up issue, he stated that persons calling up items should provide more detailed explanation of the bases to reduce the phenomenon we have seen of call ups with little discretionary ability to change anything and he encouraged staff to find out how to accomplish that. Overall, he is in support of the ordinance as written.
- **L. Payton** stated that she would support the ordinance. In regards to the call up issue, she stated that there would be a danger of having call ups and spending too much staff time on them. She suggested that to get around that, when staff prepares their memo for a potential call up, to include an analysis of whether the project addresses the FBC, then it may be easier for the board to evaluate. She agreed with a modification to the ordinance for the Transit Village to extend notice to all residents within 600 feet rather than just property owners since the Transit Village is a mostly rentals. She suggested extending the notice coverage to include "all addresses".
- **C. Gray** supported the suggested Transit Village modification and asked to include renters and renters of commercial property. **C. Gray** also supported the ability to for Planning Board to call up the projects to question staff on their analysis of FBC as it

applies to a project. She stated this was important for the first projects to understand the application of FBC.

- **B. Bowen** asked for a formal change in the language to include “property owners and renters within 600 feet of subject property” (Page 47 of packet). He stated that the board, overall, would agree to a change for all review processes notification.
- **J. Gerstle** agreed that he would like the modified notification to apply universally.
- **L. May** recommend that the modified language be applied universally and presented to Council.
- **C. Gray** suggested a universal modification to be applied city wide after the board’s retreat so that Council would be aware of Planning Board’s intent.
- The board agreed that this time to change the language regarding notification to apply to just FBC rather than city wide.
- **B. Bowen** stated that he would like to see a call up be made by a majority of the board rather than one person and to remove the ability of the public to call up an item. Overall, he supports the ordinance.
- **C. Gray** stated that she supports the ordinance. She suggested for staff to prepare a presentation for the first FBC project to come in front of Planning Board. This would give the board and the public to work through it.
- **J. Gerstle** stated that he would be uncomfortable with the restrictive call up provisions suggested by **B. Bowen**. He felt that the board should be open-minded and flexible given that the FBC is a pilot program. He felt it would be appropriate to move ahead with the FBC ordinance on a pilot level.
- **L. May** agreed with **J. Gerstle**. He stated that it would be good to move forward but there should be no reason to change the call up process.
- **H. Zuckerman** declared support for the ordinance. He would support additional notice to all interested parties within 600 feet. In regards to the call up process, he suggested a review process towards a more ministerial review process. Regarding public call up, he expressed concern regarding the vindictive person and perhaps making it harder for call up to occur and have the board act as the middle ground.
- **L. Payton** added that since FBC is a pilot, perhaps the call up provisions should remain the same as they are currently for other staff approvals.
- **J. Gerstle** agreed. The intent of the FBC is to seek to get better buildings. If this is adopted in other parts of the city in the future, then the call up issue could be readdressed.
- **B. Bowen** agreed to let the call up issue lie since FBC is a pilot and in purview of what we do for reviews.
- All board members agreed with the ordinance.
- **L. May** explained in a building model demonstration that projects built under FBC could meet the criteria of the FBC, but not necessarily meet the intent, i.e., check all the boxes and still have ugly buildings and places. The FBC will require the diligence of the board and staff to bring this out to the applicants/developers.
- **J. Putnam** suggested keeping this pilot to a prescriptive approach and not make it subjective.
- **C. Gray** mentioned that with any new ordinance, an evaluation or review process should take place. She liked the suggestion of **D. Driskell** to debrief at the end of each project, in which there may only be 5 total projects which will be using the FBC pilot.

- **B. Bowen** reminded the board that other area plans often have reviews set up within them and unfortunately, the reviews or debriefings are not held.
- **L. May** pointed out that undesirable outcomes may not be attributable to a flawed BFC, but to a flawed application for the FBC by staff and the board.
- **B. Bowen** added that it is time for the FBC to happen.
- **H. Zuckerman** agreed and prepared to move forward.

Key Issue #2: Draft Form-Based Code including general provisions, site design, building types and building design

- **J. Gerstle** asked to discuss the tower designation limits and golden rectangle language. His concern with the towers is to understand how they relate to the existing height limitations. In no cases can a tower exceed the charter 55 foot height limit; however it could go over the three story limit under the FBC, but the tower could not obscure the view sheds, space needs to be occupied, and roof access. He stated that he agrees with the golden rectangle within the FBC, but felt it would be more constructive if the language encouraged, but not required it.
- **B. Bowen** opposed to requiring the golden rectangle and it should be removed. It may be a good compositional tool but it is not the only tool.
- **L. Payton** supports the inclusion of the golden rectangle because it would encourage architects to use pleasing proportions.
- **C. Gray** agreed with **L. Payton**.
- **L. May** explained that although the golden rectangle would be required, as are other articulations, none of these will guarantee a good building. He stated that it would be good to have all these tools in the FBC because it would give guidance toward obtaining good outcomes where they do not have the ability to do so without such assistance.
- **H. Zuckerman** explained that the FBC will a road map for a good building. This should represent guidelines that identify what we like, but still allow architects to present something they would like to build. He expressed that he would like to see that when applying the FBC.
- **B. Bowen** addressed the matter of people that were reacting to recent buildings and to see FBC as a method to correct them, noting that they were reacting to Figure M-1(21) in the FBC, which is the Daily Camera building.
- **L. Payton** disagreed and offered that the “ugly building” objections were to Solana.
- **C. Gray** and **L. May** agreed with **L. Payton**. **L. May** added that the objections to the Daily Camera building were based on the mass and scale but not on the architecture.
- **L. Payton**, on the regulating plan, mentioned that she approved of the Row House option on the property north of Goose Creek as it would allow an option to build missing middle income housing types and to possibly achieve the city’s goals of offering that type of housing. She added that because the General Building type is an option at the Goose Creek site as well, she is concerned that there is not the incentive to do Row Houses and that Row Houses would likely not happen. She approved of the view corridor and roof height language. She listed some general edits to some language and figures within the FBC.
- **C. Gray** stated that the FBC was a reaction to conversations with the community.

Key Issue #3: TVAP connection changes

- There was no discussion by the board regarding this issue.

Motion:

On a motion by C. Gray seconded by J. Putnam the Planning Board voted 7-0 to recommend to City Council adoption of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) for the Boulder Junction Phase I area and a FBC review process, and setting forth related details.

Friendly by J. Putnam, that Planning Board recommend to amend the notice provision in the ordinance to provide notice in the TVAP Area Phase I to all addresses and property owners and to revise Figure M-1(21) to show yard areas. Friendly amendment was accepted by C. Gray.

On a motion by L. Payton seconded by C. Gray the Planning Board voted 7-0 to approve amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and implement the FBC project.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

There were no Matters to discuss.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 8:19 p.m.

APPROVED BY



Board Chair

5.5.16

DATE

Boulder Historic Preservation Month May 2016

WHEREAS, historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character; and

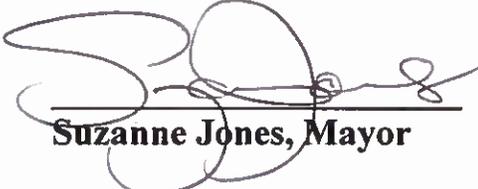
WHEREAS, it is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life, and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping preserve the tangible aspects of our heritage that have shaped us as people.

NOW, THEREFORE, BE IT DECLARED by the City Council of the city of Boulder, Colorado, that May 2016 is

Historic Preservation Month

and call upon the people of the city of Boulder to join their fellow citizens across the United States in recognizing and participating in this special observance.


Suzanne Jones, Mayor

