

**CITY OF BOULDER**  
**CITY COUNCIL MEETING**  
MUNICIPAL BUILDING, 1777 BROADWAY  
Boulder, Colorado 80302  
Tuesday, July 19, 2016  
6 p.m.

**AGENDA**

- 1. CALL TO ORDER AND ROLL CALL**
  - A. Declaration in Honor of Sheila Horton**
  
  - B. Presentation by Judge Cooke - Legal Marijuana: The Colorado Experience**
  
- 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 May 31, 2016 Special Meeting Minutes**
  
  - B. Consideration of a motion to approve the June 7, 2016 Regular Meeting Minutes**
  
  - C. Consideration of a motion to accept the May 31, 2016 Study Session Summary on the 2014 Transportation Master Plan (TMP) Implementation with a focus on Canyon Complete Streets**
  
  - D. Consideration of a motion to adjourn as the Boulder City Council and convene as the Central Area General Improvement District (CAGID) Board of Directors**  
  
Consideration of a motion to **adopt Resolution No. 277 amending the CAGID 2016 Budget**  
  
Consideration of a motion to **adjourn as the CAGID Board of Directors and reconvene as the Boulder City Council**
  
  - E. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8124 amending Section 9-6-5(d), "Mobile Food Vehicle Sales," amending Section 9-16-1(c), "Definitions," to redefine "Mobile Food Vehicle," to include human powered vehicles, amending Section 7-6-28, B.R.C. 1981, "Bicycle Parking," and setting forth related details**

- F. **Introduction, first reading** and consideration of a motion to **adopt by Emergency, Ordinance No. 8125 amending** Chapter 13-2, **“Campaign Financing Disclosure,”** B.R.C. 1981, Sections 13-2-2 and 13-2-3, B.R.C. 1981 to **correct errors,** and setting forth related details

**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. **1590 Violet Avenue- 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. **Certification to Council of sufficient** valid signatures on a **petition** to add a **code section** for implementation of a **new tax on sugar-sweetened drinks,** and **appointment of council committee**
- B. Consideration of motion to **authorize the city manager** to take the next steps associated with the implementation of a **letter of intent between the City, Central Area General Improvement District,** and the **St. Julien Hotel related to the development, use, and management of the Civic Use Pad located at 9th and Canyon**

**Introduction, first reading** and consideration of a motion to order published by title only the following **two ordinances submitting to the qualified electors of the City of Boulder at a special municipal election to be held on Tuesday, the 8th day of November, 2016, the question of:**

- 1. **Ordinance No. 8126 amending Section 84** of the Boulder City Charter regarding the **height limitations to allow rooftop decks and floor area appurtenant thereto and setting the ballot title;** and
- 2. **Ordinance No. 8127 amending Section 84** of the Boulder City Charter regarding the **height limitations for the area known as the Civic Use Pad located on the northwest corner of Canyon Boulevard and 9th Street to allow rooftop decks and floor area appurtenant thereto;** and setting the ballot title
- C. **Second reading** and consideration of a motion to **adopt 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

- D. **Second reading** and consideration of a motion to **adopt Ordinance No. 8122 amending** Section 12-2-4, **“Written Disclosures Required,”** B.R.C. 1981 to update the required **disclosure by landlords**, and setting forth related details
- E. **Second reading** and consideration of a motion to **adopt Ordinance No. 8123 repealing** Chapter 4-16, **“Police Alarm Systems,”** B.R.C. 1981 and **replacing it with a new** Chapter 4-16, **“Police Alarm Systems,”** to **require alarm verification before initiating police response** and setting forth related details

**6. MATTERS FROM THE CITY MANAGER**

- A. **Update** on progress regarding **initiatives** that **support Council’s goal** of ensuring **Boulder is a safe and welcoming community**

**7. MATTERS FROM THE CITY ATTORNEY**

- A. Consideration of a motion **authorizing the city manager** to enter into a **settlement agreement** in the **litigation brought** against the city by Sally Dieterich

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

- A. Potential Call-Ups
  - 1. **1590 Violet Avenue- Easement Vacation**

**9. PUBLIC COMMENT ON MATTERS**

Public comment on any motions made under Matters

**10. DECISION ON MOTIONS**

Action on motions made under Matters

**11. DEBRIEF**

Opportunity for Council to discuss how the meeting was conducted

**12. ADJOURNMENT**

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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.

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**CITY COUNCIL PROCEEDINGS**  
Municipal Building, 1777 Broadway  
SPECIAL MEETING Prior to Study Session  
Tuesday, May 31, 2016

**1. CALL TO ORDER AND ROLL CALL at 6:02 p.m.**

Mayor Jones called the meeting to order at 6:02 p.m. Mayor Jones and Council Members, Appelbaum, Brockett, Burton, Morzel, Shoemaker, Weaver, Yates and Young were present.

**A. Declaration regarding National Gun Violence Awareness Day**

Mayor Jones read the declaration and presented it to the “Moms Demand Action” group.

**2. MATTERS FROM THE CITY MANAGER**

**A. Consideration of a motion to authorize the City Manager to pursue an amendment to the approved site review for 6400 Arapahoe and to begin the concept planning and associated land use processes to develop Phase III as a home for additional zero waste-related activities; and to return to council at a study session with more specific use concepts and funding options for site development**

Kara Mertz introduced this item to at 6:09 p.m. with a presentation and answered questions for Council.

Council Member Morzel moved to authorize the City Manager to pursue an amendment to the approved site review for 6400 Arapahoe and to begin the concept planning and associated land use processes to develop Phase III as a home for additional zero waste-related activities; and to return to council at a study session with more specific use concepts and funding options for site development. Council Member Weaver seconded the motion. The motion carried 6:2 at 7:49 p.m. with Mayor Jones recused, and “nays” from Council Members Appelbaum and Yates.

**3. MATTERS FROM THE CITY ATTORNEY**

**A. Consideration of a motion authorizing the City Manager to enter into settlement agreements in excess of \$10,000 arising out of the February 15, 2016 water main break**

City Attorney Tom Carr introduced this item to at 7:19 p.m. with a presentation and answered questions for Council.

Council member Brockett moved to authorize the City Manager to enter into settlement agreements in excess of \$10,000 arising out of the February 15, 2016 water main break. Mayor Jones seconded the motion. The motion carried 9:0 at 7:49 p.m.

**4. PUBLIC COMMENT ON MATTERS**

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

**A. Regarding 6400 Arapahoe and**

**B. Regarding settlement agreements for the February 15, 2016 water main break**

The Public Hearing for both items was opened at 7:38 p.m. and the following spoke:

1. Dan Matche spoke in favor of Phase 2 of the project and discussed the Center for Hard to Recycle Materials (CHARM).
2. Neil Lurey, tenant at 6400 Arapahoe, spoke about waste diversion success and the need for the site to be improved and updated.
3. Carla Graubard spoke about the water main break settlements and requested more information regarding the settlement criteria process.

With no further speakers, the Public Hearing was closed at 7:48 p.m.

**5. DECISION ON MOTIONS**

**6. ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on May 31, 2016 at 7:50 p.m.

Approved this 19<sup>th</sup> day of JULY, 2016.

APPROVED BY:

\_\_\_\_\_  
Suzanne Jones, Mayor

ATTEST:

\_\_\_\_\_  
Lynnette Beck, City Clerk

**City of Boulder**  
**CITY COUNCIL PROCEEDINGS**  
MUNICIPAL BUILDING, 1777 BROADWAY  
Boulder, Colorado 80302  
Tuesday, June 7, 2016

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

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

Roll was called and Mayor Jones, Council Members Appelbaum, Brockett, Burton, Morzel, Shoemaker, Weaver, Yates and Young were present.

Council Member Morzel moved to approve the Amended Agenda. The motion was seconded by Council Member Weaver. The motion carried 9:0 at 6:03 p.m.

- A. Update by Chief Testa regarding the efforts being undertaken to ensure a safe, welcoming and clean atmosphere in Central Park and Boulder Creek Path areas this summer

**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 at 6:24 p.m. and the following spoke:

1. Leeland Rucker spoke in opposition to the written disclosures item and was unsure about its potential effect on the community.
2. Chris Hoffman thanked Council for pursuing clean energy and spoke about the positive economic benefits.
3. Magdalena DeAndrea, President of CU Student Government, introduced herself and was excited to work with Council.
4. Harold Hallstein spoke in support of calling-up 4525 Palo Parkway.
5. Barbara Guthrie spoke regarding written disclosures item.
6. Patrick Murphy spoke about the costs of Municipalization and showed a presentation.
7. Mark Ruzzin spoke in opposition to calling-up 4525 Palo Parkway and asked Council to approve the site review.
8. Wendy Dudek spoke in support of tiny houses.
9. Leslie Gludstrom spoke regarding the importance of Municipalization and the need for a larger percent of renewable energy.
10. Judd Golden spoke in opposition to Item 3K- Written Disclosures.
11. Terri Furman spoke regarding train noise and the quiet zone and asked for Council's support.
12. Elizabeth Mirowski spoke regarding affordable housing programs and supporting the living wage.
13. Robert Smoke spoke regarding the homelessness issue and policy failures.

**3. CONSENT AGENDA**

- A. Consideration of a motion to **approve the January 5, 2016 Regular Meeting Minutes**
- B. Consideration of a motion to **approve the January 19, 2016 Regular Meeting Minutes**
- C. Consideration of a motion to **accept the May 10, 2016 Study Session Summary** providing a **financial update** and consideration of **potential 2016 Ballot items**
- D. Consideration of a motion to **accept the May 10, Study Session Summary** on the **Boulder Climate Commitment: Transforming Our Energy System**
- E. Consideration of a motion to **adjourn** as the **Boulder City Council** and **convene** as the **CAGID** Board of Directors

Consideration of a motion to **adopt Resolution No. 276 amending the 2016 Downtown Commercial District Fund** (formerly Central Area General Improvement District Fund) **Budget**

Consideration of a motion to **adjourn** as the **CAGID Board of Directors** and **convene** as the **University Hill General Improvement District (UHGD)** Board of Directors

- F. Consideration of a motion to **adopt Resolution No. 199 amending the 2016 University Hill Commercial District Fund** (formerly University Hill General Improvement District Fund) **Budget**

Consideration of a motion to **adjourn** as the **University Hill General Improvement District Board of Directors** and **convene** as the **Boulder Junction Access Commission General Improvement District – Travel Demand Management** Board of Directors.

- G. Consideration of a motion to **adopt Resolution No. 18 approving a supplemental appropriation to the 2016 Boulder Junction Access Commission General Improvement District – Travel Demand Management Fund Budget**

Consideration of a motion to **adjourn** as the **Boulder Junction Access Commission General Improvement District – Travel Demand Management** Board of Directors and **convene** as the **Boulder Junction Access Commission General Improvement District – Parking** Board of Directors

- H. Consideration of a motion to **adopt Resolution No. 17 amending the 2016 Boulder Junction Access Commission General Improvement District – Parking Fund Budget**

Consideration of a motion to **adjourn** as the **Boulder Junction Access Commission General Improvement District – Parking Board of Directors** and **convene as the Boulder Municipal Property Authority** Board of Directors

**I. Consideration of a motion to adopt Resolution No. 143 amending the 2016 Budget for the Boulder Municipal Property Authority**

Consideration of a motion to **adjourn** as the **Boulder Municipal Property Authority** Board of Directors and **reconvene as the Boulder City Council**

**J. Consideration of the following two items:**

**1. Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8121 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. Notice** regarding proposed amendments to the **Transit Village Area Plan (TVAP) connections plan to be consistent with and to implement the FBC project** (to be considered at time of second reading)

**K. Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8122 amending** Section 12-2-4, “**Written Disclosures Required,**” B.R.C. 1981 to update the required **disclosure by landlords**, and setting forth related details

Council Member Weaver moved to approve the Consent Agenda, Items 3A-3K, with a correction made to Item 3D on packet page 32 regarding a quotation that should be credited to Paul Polman, CEO of Unilever. Council Member Brockett seconded the motion with the amendment. The motion carried 9:0 at 7:00 p.m.

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

**8A. Potential Call-Ups**

- 1. 2020 Arapahoe Avenue** - Nonconforming Use Review/Simple Site Review
- 2. 4525 Palo Parkway** - Site Review
- 3. 2560 28<sup>th</sup> Street** – Call-up correction for a minor error in the approved Site Review

Council briefly discussed 4525 Palo Parkway and the possibilities of traffic mitigation and affordable housing.

A vote to suspend the rules and consider action at this time passed 9:0 at 7:23 p.m. A “Nod of Five” was given for traffic mitigation and crosswalks for 4525 Palo Parkway to be brought back as part of the 2017 budget process.

## ORDER OF BUSINESS

### 5. PUBLIC HEARINGS

#### A. **Second reading** and consideration of a motion to **adopt Ordinance No. 8120 approving supplemental appropriations to the 2016 Budget**

Executive Budget Officer Peggy Bunzli introduced this item to Council with a presentation.

The Public Hearing was opened at 7:39 p.m.

There being no speakers for this item, the Public Hearing was closed at 7:39 p.m.

Council Member Young moved to adopt Ordinance No. 8120 approving supplemental appropriations to the 2016 Budget. Council Member Morzel seconded the motion. The motion carried 9:0 at 7:40 p.m.

#### B. Consideration of a motion to **accept the North Trail Study Area Plan (NTSA)**

Director of Open Space and Mountain Parks Tracy Winfree and Planner II and NTSA Project Manager Steve Armstead, introduced this item to Council with a presentation and then answered questions.

The Public Hearing was opened at 8:21 p.m. and the following spoke:

1. Bill Rigler spoke in support of the NTSA.
2. Mark Eller spoke in support of the NTSA and about using the trail.
3. Eleanor Needy spoke in support of the NTSA and connecting kids to the open space.
4. Mark Quist spoke in support of the NTSA for mountain bikes and athletes and more access is needed.
5. Lindsey Sharp spoke in support of the NTSA and safety on North US 36.
6. Herchel Goldberg spoke in support of the NTSA without any changes.
7. Bill Mooz spoke in support of the NTSA as it has much recreational value and activity.
8. Isaac Nagel-Brice spoke in support of the NTSA
9. Charles Anderson spoke in support of the NTSA.
10. Jessie Vogel spoke in support of the NTSA and supports youth bike riders. She offered to help with trail work.
11. Tom Bath, pooled with Rhianna Taylor and John Brice, spoke in support of the NTSA with a minor change.
12. Mark McIntyre spoke in favor of a shared-use trail with many modes of transportation.
13. Michelle Estrella spoke in support of the trail and supported the public process.
14. Eric Vogelsberg spoke in support of the NTSA.
15. Mike Barrow spoke in support of the NTSA. He thanked staff and felt this trail system process is better than the West TSA.

16. Patricia Billig pooled with Phil McNichols and Sue Hirshfield and spoke in opposition to the trail due to cost and impacts to the open space.
17. Jackie Ramaley spoke in opposition of the west beach Habitat Conservation Area (HCA) and wanted to preserve the diverse habitat. She supported the east side option.
18. Alexandra Betters spoke in support of the NTSA as a route connector.
19. Jonathon Sackheim spoke in support of the North Skye trail.
20. Joe Glynn spoke in support of the NTSA.
21. Jim Butterworth spoke in support of the NTSA and supported staff and the public process.
22. Tim Hogan spoke in opposition to the NTSA to protect the open space.
23. Adam Sher spoke in support of the NTSA and the staff and boards that have worked so hard on the project.
24. Michael Browning spoke in support of the NTSA but wanted the trail on the east side of US 36.
25. Gary Sprung spoke to both the harmful effects and benefits of trails. He supported nature and people enjoying the richness of the outdoors.
26. Jason Vogel pooled with Richard Hackett and Elise Edson and handed out a map and a list of requests.
27. Georgia Briscoe spoke in opposition to the west side trail and supported the preservation of the ecological system.
28. Cathy Comstock spoke in opposition to the west side trail since is it more damaging to the ecosystem.
29. Monique Cole spoke in support of the NTSA.
30. James Martin spoke in support of the NTSA.
31. Harvey Wellman spoke in opposition to the west trail and to protect the habitat.
32. Christopher Ash spoke in support of the NTSA.
33. Kristin Bjornsen spoke in support the east side trail, not the west trail, in order to protect the habitat.
34. Dale Ball spoke in opposition to the west side trail and the better alternative is the east side trail.
35. Mary Eberle pooled with Sally Greenwood and Sandra Renna and spoke in opposition to the west side trail stating that the habitat should be protected.
36. Tom Needy spoke in support of the NTSA.
37. Patricia Butler spoke in opposition of the west side trail due to the adverse effects on the wildlife and plants.
38. Susan Douglas spoke against the process and the accuracy of information provided and asked for the enhancement of the plans on the east side.
39. Joe Richardson spoke to see the larger picture of Boulder and encouraged cooperative efforts.
40. Steve Watts spoke in support of the process and supported the NTSA as recommended.
41. BethAnne Bane spoke in support of conserving the open space habitat.
42. Catherine Schweiger spoke in support of the NTSA and asked Council to honor the process.
43. Marica Rickey spoke in support of connectivity of the NTSA.
44. Wendy Sweet spoke in support of the NTSA.

45. Suzanne Webel spoke about the process and asked that Council support board recommendations.
  46. Kristen Marshall spoke in opposition to the NTSA.
  47. Patrick Morrissey spoke in support of the NTSA.
  48. Linda Jourgensen spoke for Friends of Boulder Open Space and supported the trail but not on the west side.
  49. Alex Hyde-Wright spoke in support of the NTSA.
  50. Cindy Carlisle pooled time and spoke in support of the conservation of the plants and animals. She opposed the west trail.
  51. Kevin Moynihan supported the trail on the east side.
  52. Jessie Goldfarb spoke in support of the conservation of the plants and animals.
  53. Karen George spoke in support of the connector trail and was in opposition to process and the west side trail.
  54. Ed Kuh was in support of the NTSA.
  55. Molly Davis showed a presentation and opposed the west side trail and asked Council to uphold the requirements of the Boulder Charter.
  56. Raymond Bridge, pooled with Cindy Cornelius and Mary McQuiston, spoke regarding the care and necessity of conservation and opposed the fragmentation of the ecology there.
  57. Chuck Patterson spoke in opposition of the NTSA.
  58. Joe Hair spoke in support of the NTSA.
  59. Shelley Smagas, member of the equestrian community, thanked staff for their time and commitment to the process. She spoke in support of the NTSA.
  60. Dan Brillon spoke on behalf of trail runners and was in support of the process and the recommendation of staff and the boards.
  61. Nickie Kelly spoke in opposition to harming the ecosystem and the west side trail.
  62. Elle Cushman, on behalf of the Boulder County Cattleman's Association, pooled with Bob Lover and Dwayne Cushman and spoke in support of the NTSA while being conscious to care for the ecosystems present.
  63. Doyle McClure spoke in opposition to the west side trail.
  64. Eileen Monyok spoke in support of the NTSA and supported the process working with Friends Interested in Dogs and Open Spaces (FIDOS).
  65. Lori Fuller spoke on behalf of FIDOS and spoke in support of the NTSA.
  66. Marilyn Whittaker thanked Council for the opportunity to speak and was in opposition to the west side trail due to the elk that migrate there.
  67. Larry Fabiny spoke in support of the NTSA as recommended.
  68. Jacques Juilland spoke in support of the conservation of the environment and also a careful balance of engagement of future generations with open spaces.
  69. Patrick Murphy spoke in support of conserving the HCA.
  70. Edie Steven spoke in opposition to the trails that would harm plants and wildlife. She read out of the International Mountain Biking Association Guide which supported ecological awareness and preservation.
  71. Gwen Dooley spoke that a nice compromise would be to build the trail on the east side and honor the language of the Boulder Charter.
- With no further speakers, the public hearing was closed at 10:42 p.m.

Staff answered questions for Council.

Council Member Young moved to suspend the rules and continue the meeting. Council Member Weaver seconded the motion. The motion carried 7:2 with Council Members Shoemaker and Morzel absent at 11:10 p.m.

Council Member Appelbaum moved to accept the North Trail Study Area Plan. Mayor Jones seconded the motion.

Council deliberated and discussed.

Mayor Jones proposed a friendly amendment to give direction to staff to minimize the footprint of the NTSA and the ecological impact of the trail on the west side and to keep Council updated and informed. They requested that staff choose smaller sized trails if possible.

Council Member Young proposed an amendment that the “span of closure” for the trails bring into consideration all the ecological resource needs. This amendment was withdrawn at 11:48 p.m.

Council Member Morzel moved to amend the original motion to add temporal restrictions to the existing Joder Trail. Council Member Young seconded the motion. The motion failed 2:7 with “nays” from Council Members Appelbaum, Brockett, Burton, Shoemaker, Weaver, Yates and Mayor Jones at 11:56 p.m.

A vote was taken on the original motion with the friendly amendment. The motion carried 7:2 with “nays” from Council Members Young and Morzel at 12:04 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. 2020 Arapahoe Avenue - Non-Conforming Use Review/Simple Site Review**
- 2. 4525 Palo Parkway - Site Review**
- 3. 2560 28th Street – Call-up correction for a minor error in the approved Site Review**

There was no action to call-up these items.

**9. COMMENT ON MOTIONS MADE UNDER MATTERS**

**10. DECISIONS ON MOTIONS**

**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 June 8, 2016 at 12:04 a.m.

Approved this 19<sup>th</sup> day of JULY, 2016.

APPROVED BY:

\_\_\_\_\_  
Suzanne Jones, Mayor

ATTEST:

\_\_\_\_\_  
Lynnette Beck, City Clerk



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Consideration of a motion to accept the May 31, 2016 Study Session Summary on the 2014 Transportation Master Plan (TMP) implementation with a focus on Complete Streets

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Maureen Rait, Executive Director of Public Works  
Michael Gardner-Sweeney, Director of Public Works for Transportation  
Bill Cowern, Traffic Operations Engineer  
Gerrit Slatter, Principal Transportation Projects Engineer  
Noreen Walsh, Senior Transportation Planner  
Carey Sager, Acting Transportation Maintenance Manager  
Kathleen Bracke, GO Boulder Manager  
Randall Rutsch, Senior Transportation Planner

**PURPOSE**

This agenda item provides a summary of the May 31, 2016 City Council Study Session regarding the Transportation Master Plan (TMP) Progress Update: Focus on Complete Streets.

**BACKGROUND**

At the study session, staff provided City Council with the progress report for implementation of the 2014 TMP, with an emphasis on the Complete Streets Focus Area. The Transportation Division's work is guided by the TMP Action Plan with a focus on an integrated approach of partnerships across the city organization and in collaboration with local and regional community partners.

Highlights of implementation activities since the Aug. 25, 2015 study session included:

- Activities reflecting the council 2016 emphasis on pedestrians and the TMP's recognition of walking as the primary mode. Overview of core services in

transportation safety, and operations and maintenance that support pedestrians and capital projects under construction or in planning with a pedestrian emphasis;

- Update on core services in transportation operations, maintenance, and capital projects from 2014 through the current 2016-17 work program.
- Highlights from the 2016 Transportation Report on Progress and Safe Streets Boulder report. The findings from these reports guide the current and future Transportation Division work program and investment priorities as part of the city's commitment to continuous improvement to achieve the community's vision for a safe, multimodal transportation system, as well as broader sustainability and resiliency goals.
- Description of the public process, vision and goals, objectives and range of corridor alternatives for the Canyon Boulevard Complete Street Study;
- Accomplishments and upcoming efforts in the transit work program including the HOP Transit Study, regional Bus Rapid Transit (BRT) corridor planning, and other plans, services, and capital projects in support of the TMP's Renewed Vision for Transit.
- Update on the Living Lab Phase II Folsom Street pilot project, including community feedback and next steps through 2016. Information was shared from national interviews of peer communities that are developing similar pilot programs and Complete Streets initiatives to further the lessons learned from Boulder's Living Lab program. The experience from the city's Living Lab program as well as the national research will help to guide future corridor studies and 2.0 network planning for the Boulder community.

Background information about the 2014 TMP implementation is available in the [May 31, 2016 study session memorandum](#).

**Attachment A** provides a summary of the May 31 presentation, City Council questions and responses.

### **ADDITIONAL STAFF FOLLOW UP TO CITY COUNCIL COMMENTS**

During council's discussion several questions were raised that required additional follow up after the study session. The staff response is shown in Italics, following the questions from council.

- Several council members expressed concern about potential impacts of the project on historic resources, included the Glen Huntington Band Shell and the Chamberlain historic district buildings along Canyon just east of the project.

*All the proposed project alternatives would preserve the Glen Huntington Band Shell in its current location. Project staff will consult with the historic preservation community, and if a selected design would have impacts to the landmarked property, a Landmarks Alteration Certificate would need to be submitted to and approved by the Landmarks Board.*

- Some council members have heard from the public that they do not believe the *Transportation Report on Progress* statement that travel times have remained relatively constant on major corridors across the community.

*Travel times are measured and reported for three north-south and three east-west corridors in the [Drive Time Study](#). A drive time study measuring the time it takes to get across the City of Boulder during peak traffic hours (7:30 a.m., 12 p.m., and 5 p.m.) has been performed each year since 1986. The purpose of these annual studies is to determine how congestion on the major arteries in Boulder is changing over time.*

*Historically, in even-numbered years, the north/south routes (Broadway, 28th Street, and recently Foothills Parkway) have been studied and in odd-numbered years, the east/west routes (Arapahoe Avenue, Valmont Road, and Pearl Street) have been studied. These studies were originally performed by the city's Audit and Evaluation Division and more recently by a consulting firm. While adjustments have been made to the length of the corridors and technology used in the study, the methodology has remained consistent and every effort is made to provide comparable results. When the effects of construction or other anomalous conditions are removed, drive times in these corridors have generally increased by less than a minute.*

- On the Folsom Living Lab project, several council members asked about the decision points in the metrics being tracked, the goals, and what will determine whether the installation should be permanent or temporary?

*While there are not individual metrics that indicate success or failure for the overall project, all of the data is reviewed holistically to understand the overall operations of the corridor. Staff will continue monitoring and will return to City Council in early 2017 with proposed next steps.*

## **STAFF RECOMMENDATION**

Staff recommends council's approval of the May 31, 2016 study session summary on the 2014 Transportation Master Plan implementation.

### **Suggested Motion Language:**

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

Motion to accept the May 31, 2016 study session summary (**Attachment A**) on the 2014 Transportation Master Plan implementation.

## **NEXT STEPS**

City Council's feedback from the May 31 study session will be incorporated into the Transportation Division's remaining 2016-17 work program. For the Canyon Boulevard Complete Streets Study, in the fall of 2016 staff will share the results of the design option assessments including two design alternatives for Board, Council and community feedback. The second phase will begin in late 2016 to advance additional engineering design, cost estimation, and potential funding and phasing strategies to implement the selected design concept.

For the Living Lab Phase II pilot project along the Folsom street corridor, the current configuration will be maintained for additional monitoring and the results reported back to council at the next TMP progress check in with City Council in early 2017 (exact date TBD). Staff will investigate opportunities for better north-south bicycle connections through the 2.0 network analysis slated in the work plan after the 30th/Colorado corridor studies are complete in early 2017. Staff will continue community engagement activities, with a focus on the business community along the Folsom Street corridor and using the local lessons learned and the information collected from national colleagues in existing and future corridor planning efforts.

The next City Council study session for Transportation is scheduled for Oct. 25, and will feature updates and opportunity for input on the TMP's Renewed Vision for Transit work program items. The next full TMP progress update is will be scheduled in early 2017 and will include highlights from all of the TMP focus areas, with an emphasis on Complete Streets, Transportation Demand Management, and Funding.

Ongoing updates regarding the TMP implementation are available online at [www.BoulderTMP.net](http://www.BoulderTMP.net).

## **ATTACHMENTS**

A. May 31, 2016 study session summary on the 2014 Transportation Master Plan implementation

**May 31, 2016 Study Session  
2014 TMP Implementation Update**

**PRESENT:**

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

**Staff members:** Jane S. Brautigam, City Manager; Maureen Rait, Executive Director of Public Works; Michael Gardner-Sweeney, Director of Public Works for Transportation; Gerrit Slatter, Principal Transportation Projects Engineer; Carey Sager, Acting Public Works Maintenance Manager; Bill Cowern, Traffic Operations Engineer; Joe Paulson, Traffic Signal Operations Engineer; Kathleen Bracke, GO Boulder Manager; ; Dave (DK) Kemp, Senior Transportation Planner; Marni Ratzel, Senior Transportation Planner; Randall Rutsch, Senior Transportation Planner; Jean Sanson, Senior Transportation Planner; Noreen Walsh, Senior Transportation Planner

**PURPOSE**

The purpose of this study session was to present a periodic update on the implementation progress in the five Focus Areas of the [2014 Transportation Master Plan](#) (TMP). These are:

1. Complete Streets - Renewed Vision for Transit, Bike and Pedestrian Innovations
2. Funding
3. Regional
4. Transportation Demand Management (TDM)
5. Integration with Sustainability Initiatives

This study session highlighted the progress to-date and next steps in the TMP's Complete Streets Focus Area and sought feedback from City Council regarding current projects as well as upcoming work program items.

**OVERVIEW OF THE PRESENTATION AND DISCUSSION**

Director of Public Works for Transportation Michael Gardner-Sweeney introduced the presentation topics and purpose for the study session. The presentation included an update of the Transportation Division's core services, focus on safety, and work to support the TMP policy of pedestrians as the primary mode of travel within the community.

The study session presentation highlighted the results from the 2016 Transportation Report on Progress and Safe Streets Boulder report, including areas to focus on moving forward to achieve the nine objectives of the TMP, including the Toward Vision Zero safety goal.

In addition, the presentation provided an overview of the technical work and public process activities for each of the Complete Streets Focus Area activities summarized below.

***Canyon Boulevard Complete Street Study***

Noreen Walsh, Senior Transportation Planner serves as the Canyon Boulevard project manager. She described the public process, vision, goals, and objectives, and range of design alternatives developed for the Canyon corridor between 9<sup>th</sup> and 17<sup>th</sup> streets. The project is intended to improve travel for people using all modes to and through the corridor, enhance the physical environment through urban design, and support the Civic Area master plan vision. Through the first phase public process and technical analysis, the project has developed a vision statement, goals and objectives for each goal. From this work, seven design alternatives have been developed with each sharing some common characteristics. Features shared are:

- Fits within the 130 foot Complete Streets planning width
- Maintains four vehicular lanes
- Double tree rows and center medians
- Glen Huntington Band Shell influences and impacts design but can be accommodated

The distinctions among the alternatives include the types of pedestrian and the bicyclist facilities, the amount and location of amenity zones which includes space for landscaping buffer, trees, street furniture and/or public art, and the extent of planted medians. The assessment of these options will be reviewed by the boards, City Council and the public through the fall and the results brought back to council in a future study session. A detailed report on the Canyon background data collected and the project options was included in **Attachment A** of the study session memo and is available on-line at <https://bouldercolorado.gov/transportation/canyon-boulevard-complete-streets>

***Renewed Vision for Transit Work Program***

Kathleen Bracke, GO Boulder Manager, provided an update on recent accomplishments and on-going work related to transit. Recent successes include the inter-regional FLEX transit service between Boulder and Fort Collins and the RTD's Flatiron Flyer Bus Rapid Transit (BRT) service on the US36 corridor. On-going work includes planning for the north Boulder and Table Mesa mobility hubs, the HOP study, negotiations with RTD on the Community Transit Network bus wraps, Community-wide Eco Pass program, transit stop improvements, and RTD testing of real time transit information, which was the number one request from the public through the TMP process. Work is beginning in mid-2016-2017 on BRT corridor studies for SH 7 and SH119, the eastside corridor circulator, Via Mobility Services strategic planning and the Transit Service Delivery Model study.

***Living Lab Phase II Folsom Street Project and Companion Cities Research***

GO Boulder Manager Kathleen Bracke presented the highlights from the continuing public process, data collection and evaluation activities on the Living Lab Phase II pilot project along the Folsom Street corridor. In fall 2015, the center section of the pilot

project was returned to its previous configuration following the initial period of public comment and increased traffic congestion. The evaluation report finds that traffic operations along the corridor have returned to pre-pilot conditions with this modification. Data collection and public outreach efforts have continued and show public opinions are still mixed about the pilot project, particularly on the north end of the corridor with the protected bike lanes. The detailed technical evaluation report was included in Attachment C of the memo and is available on-line at: <https://documents.bouldercolorado.gov/WebLink8/0/doc/134560/Electronic.aspx>. Staff has also surveyed national peer cities regarding their Complete Streets efforts and lessons learned. The Transportation Division is planning to host a Complete Streets national practitioner's panel and public event to share more information with the Boulder community in fall 2016. The lessons learned from the Living Lab pilot projects and national best practices are being applied to current and upcoming corridor studies and 2.0 network planning initiatives.

## **COUNCIL QUESTIONS AND RESPONSES**

Following the May 31 presentation, City Council members responded to the following questions.

1. Does council have questions and feedback regarding the Canyon Boulevard Complete Streets Study goals, objectives, evaluation measures and conceptual design options?
2. Does council have input to guide next steps on the elements of the city's Renewed Vision for Transit 2016-17 work program items?
3. Does council have questions and feedback regarding the Living Lab Phase II Folsom Street pilot project update, including feedback on the national cities research and input to guide preparations for the proposed practitioners' panel planned for fall 2016? Does council have questions and feedback regarding the overall TMP implementation or aspects not covered in the presentation?

## **General Conclusions Based on City Council Discussion**

### ***Canyon Boulevard Complete Streets Study***

While council generally agreed with the project visions, goals and objectives, suggestions were made to make the goals less broad, to include an objective for the Broadway intersection, and to name the alternatives so they would be easier to identify. Members had some questions about the type of bike and pedestrian facilities included in each alternative and asked what would be included in the amenity zones. Several members noted the poor bike connections in the area and the need for the project to improve them and concern was expressed for the historic area along Canyon to the east of the project. And several members noted the need to include provisions for current and future transit in the corridor. To support pedestrians in the area, benches should be included in each block of the project. Members suggested that the upcoming public outreach include joint sessions with the city boards and with historic preservation interests relative to the Band

Shell. A smaller set of alternatives with a pro/con analysis should be brought back to council so it can have input into the next phase of the project.

***Living Lab Phase II Folsom Street Project and Companion Cities Research***

Council members agreed with continuing the pilot project along the Folsom Street corridor with on-going monitoring through 2016. Members expressed interest in safety along the corridor given the emerging trend of collisions at Folsom and Taft and the April 21, 2016 fatal collision at Folsom and Canyon. Staff informed council that they are addressing the recent collisions through improvements in signing, striping, and markings at both locations. Council also expressed interest in educating the community about how to operate a motor vehicle at signalized intersections with permissive left turns (blinking yellow left arrows).

Council also expressed concerns regarding the aesthetic characteristics of the flexible bollards on Folsom and what the long-term plan for Folsom may be and for staff to inquire about average speeds above the posted speed limit on Folsom. City Council members were also interested in what stood out from the technical evaluation and staff noted it was the unanticipated impact of the midblock pedestrian crossings on vehicle traffic. Overall, City Council agreed with staff's efforts to perform research with other cities to understand similar and different practices with respect to implementing complete streets projects and that performing a high level street network analysis while offering the community alternatives is a good way to move forward.

***Renewed Vision for Transit Work Program***

Council members appreciated the success of both the FLEX and Flatiron Flyer regional transit services and progress in other areas of the transit initiatives. Continue work with RTD to improve Flatiron Flyer service plan. Council did not suggest changes to the current and upcoming transit work program. Members expressed interest in a Bus to Work Day with fare free service or other incentive programs to encourage people to try transit and use the opportunity to advertise the real-time information system. Expansion of the Eco Pass program was identified as an important piece to affordability and for meeting many of the city's goals. Continuing efforts to expand the Eco Pass program were supported along with the desire to make the pass available to those in need. HOP service to Chautauqua and the eastside circulator service connecting to Boulder Junction were identified as exciting and important transit services. Branding of the Eastside Circulator should consider users and planning process should determine funding mechanisms. It was also suggested that planning for the eastside circulator consider extending the route to eastside employment centers. HOP planning should consider potential CU conference center. Council members suggested integrating ridesharing and other new technology and mobility approaches in our planning for transit.

***Overall TMP implementation and other comments***

Members supported the idea of improved north-south bike connections in the community, including looking at the full length of 30<sup>th</sup> Street and 13<sup>th</sup> Street. Safety was identified as a major concern, particularly with the number of fatal crashes in 2016. One member questioned if we can achieve the objectives of the TMP, particularly the 15-minute

neighborhood accessibility, and noted community skepticism with reported travel times across the community. It was suggested that hundreds of pages of technical data needed to be synthesized and focus the information on what is needed to respond to policy questions.



**CENTRAL AREA GENERAL IMPROVEMENT DISTRICT (CAGID)  
BOARD OF DIRECTORS AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE**

Consideration of a motion to adjourn as the Boulder City Council and convene as the CAGID Board of Directors.

Consideration of a motion to adopt Resolution No. 277 amending the 2016 Downtown Commercial District Fund (formerly Central Area General Improvement District Fund) Budget.

Consideration of a motion to adjourn as the CAGID Board of Directors and to reconvene as the Boulder City Council.

**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  
Rachel Deckert, Budget Analyst

**EXECUTIVE SUMMARY**

This budget supplemental resolution is the second to be presented to City Council in 2016 for the Downtown Commercial District (DCD) Fund (formerly CAGID Fund) Budget. All supplementals adjust only the 2016 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 assigns budget requests with “ongoing” or multi-year impacts to the annual budget process (budget planning for the coming fiscal year) and not to the budget supplemental resolution.

A proposed resolution is provided as **Attachment A** to this packet. The resolution contains a request for supplemental appropriations from fund balance for capital project carryover.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

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

Consideration of a motion to adjourn as the Boulder City Council and convene as the CAGID Board of Directors.

Motion to adopt Resolution No. 277 amending the 2016 Downtown Commercial District Fund (formerly Central Area General Improvement District Fund) Budget.

Motion to adjourn as the CAGID Board of Directors and reconvene as Boulder City Council.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates funding for capital projects and ongoing operations that positively affect economic, environmental or social sustainability in the community.

### OTHER IMPACTS

- Fiscal: This resolution appropriates capital project carryover of \$2,747,194 from fund balance.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

### ANALYSIS

This supplemental resolution appropriates funding for projects and services that were approved by council in prior year budgets and are being carried into the 2016 budget. There is one request for additional appropriations from fund balance for capital project carryover in 2016 in the amount of \$2,747,194. This supplemental request is to cover the CAGID Parking Garage Access Equipment and Tech capital project carryover in the amount of \$1,075,000 and the CAGID Trinity Commons Constructions capital project carryover in the amount of \$1,672,194. In the 2016 budget development budget request, the Department of Community Vitality requested and was approved the funding to cover both capital projects. These are capital projects that span a couple of years. This is a technical adjustment that was inadvertently missed in the first adjustment to base resolution.

**Attachment B** shows the impact the project carryover will have on the Downtown Commercial District fund balance.

### ATTACHMENTS

- A. Proposed Resolution amending the 2016 DCD Fund Budget
- B. 2016 DCD Fund Activity Summary



**2016 FUND ACTIVITY SUMMARY  
PROJECT CARRYOVER OF 2016**

FUND	At January 1, 2016			Appropriation Resolution May 3, 2016		Carryover & 1st Budget Supplemental June 7, 2016		Project Carryover July 19, 2016		Projected Dec 31, 2016
	Projected Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations	Fund Balance
Downtown Commercial District Fund	8,613,091	8,478,357	8,781,777		1,002,780	0	305,864	0	2,747,194	4,253,833



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8124 amending Section 9-6-5(d), “Mobile Food Vehicle Sales,” amending Section 9-16-1(c), “Definitions,” to redefine “Mobile Food Vehicle,” to include human powered vehicles, amending Section 7-6-28, B.R.C. 1981 “Bicycle Parking,” and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Mary Ann Weideman, Deputy City Manager  
Tom Carr, City Attorney  
Molly Winter, Executive Director, Community Vitality  
David Driskell, Executive Director, Planning Housing and Sustainability  
Sandra M. Llanes, Senior Assistant City Attorney  
Caeli Hill, Associate Planner, Planning Housing and Sustainability  
Lane Landrith, Business and Special Events Coordinator, Community Vitality  
Mishawn Cook, License & Collection Administrator, Finance  
Teresa Jackson, Events Manager, Parks & Recreation

**EXECUTIVE SUMMARY**

The purpose of this Council agenda item is to expand the current definition of mobile food vehicles to include bicycle food vehicles. The same set of application requirements related to mobile food vehicles would apply to bicycle food vehicles with two exceptions. Instead of requiring a driver’s license or auto insurance, the requirement for bicycle food vehicles would be a valid state issued picture identification and general liability insurance coverage. Sales would still be limited to the existing defined zones and areas and bicycle food vehicles would not be able to sell in transit (sidewalks, paths, trails, etc). Lastly, an exception was created to allow for parking of bicycle food vehicles in areas where motorized food vehicles park.

## 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. 8124 amending Section 9-6-5(d), "Mobile Food Vehicle Sales," amending Section 9-16-1(c), "Definitions," to redefine "Mobile Food Vehicle," to include human powered vehicles, amending Section 7-6-28, B.R.C. 1981 "Bicycle Parking," and setting forth related details.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The bicycle powered mobile food vehicle ordinance will enable and support the burgeoning mobile food vending industry by creating relatively affordable opportunities for new, local businesses while enhancing and building on Boulder’s very successful food culture.
- Environmental – Providing mobile food vending within industrial areas will lessen vehicle miles traveled (VMT) by reducing the desire for employees to travel to restaurants. Human-powered mobile food vehicles fully support the city of Boulder climate action plan and reduction of carbon emission goals.
- Social – There are no perceived direct impacts on social sustainability. However, bicycle powered mobile food vehicles will be allowed to participate in special events such as festivals that provide opportunities for social and cultural interaction.

## OTHER IMPACTS

- Fiscal - Budgetary impacts to the city organization would not be affected.
- Staff time – Licensing staff will be able to process applications without need for additional support.

## BOARD AND COMMISSION FEEDBACK

### City of Boulder Planning Board Motion on June 2, 2016:

On a motion by J. Putnam, seconded by H. Zuckerman, the Planning Board voted 6-0 (C. Gray absent) to recommend approval of an ordinance amending Section 9-6-5(d) "Mobile Food Vehicle Sales," amending Section 9-16-1(c) "Definitions," to redefine "Mobile Food Vehicle" to include human powered vehicles, amending Section 7-6-28, B.R.C. 1981, "Bicycle Parking" and setting forth related details. Planning Board further recommends amending the current draft ordinance to include provisions for off-pavement sales in appropriate locations identified by the city in parks and other such places.

In order to maintain equity between motorized and non-motorized food vehicles, the city of Boulder Parks & Recreation Department is not in support of expanding access to the grassy areas of city parks at this time.

On a motion by J. Gerstle, seconded by L. May, the Planning Board voted 4-2 (B. Bowen and H. Zuckerman opposed, C. Gray absent) to recommend that staff consider and develop additional proposals in the future that would address the use of push carts in public areas for vending food.

The City of Boulder Parks & Recreation Department will add the potential use of mobile push carts in city parks to the 2017 work plan for further review and discussion.

## **BACKGROUND**

On April 26, 2011, the Boulder City Council passed an ordinance allowing mobile food vehicles that meet specific criteria, to operate in certain areas of the City of Boulder and subject to a defined set of rules. As of June 1, 2011, in order to legally operate a mobile food vehicle, operators must hold a standard city business license, and apply for and receive a mobile food vehicle license from the City of Boulder Licensing division.

Recently council directed staff to analyze the code to see if it would be possible to allow for bicycle mobile food vehicles. The current code does not allow for this type of mobile food vehicle. However, staff identified that it is possible to allow for this new use, by making the following changes: amending the definition of “Mobile Food Vehicle” to include bicycles in section 9-16-1(c), B.R.C. 1981, “General Definitions,” amending Section 9-6-5(d) “Mobile Food Vehicle Sales,” and amending Section 7-6-28, B.R.C. 1981, “Bicycle Parking” to allow for parking of bicycle powered mobile food vehicles in areas where mobile food vehicles now park.

## **ANALYSIS**

Staff was directed to examine the current code for Mobile Food Vehicles and determine if and how bicycle mobile food vehicle sales could be allowed. After an analysis of Section 9-6-5(d) “Mobile Food Vehicle Sales,” B.R.C. 1981, it was determined that the only regulatory barrier to allowing bicycle powered vehicles was the definition of “Mobile Food Vehicle” in Section 9-16, B.R.C. 1981. By changing this definition, bicycle mobile food vehicles could be allowed. If a change to the definition were allowed, the only other aspect to allowing human-powered mobile food vehicles is to formulate the licensing requirements for this vehicle type, should they vary from those of motorized mobile food vehicles.

The proposed change to the definition of “Mobile Food Vehicle in Section 9-16-1, B.R.C. 1981, mirrors the current definition for bicycle in our code as follows:

Mobile food vehicle means a readily movable, motorized-wheeled vehicle, a towed vehicle, **or a vehicle propelled solely by human power applied to pedals upon which any person may ride having two tandem wheels or two parallel wheels and one forward wheel which are more than**

**fourteen inches in diameter, all designed and equipped to prepare, or serve, and sell food,** but which does not include mobile vending carts as defined in Section 4-18-4, “University Hill Mobile Vending Cart Permit,” and Section 4-11-12, “Mobile Vending Cart Permit,” B.R.C. 1981.

To create an equitable process for the acquisition of a mobile food vehicle license for both human-powered and motorized vehicles, the standards for licensing will be modified to incorporate requirements for human-powered vehicles that are as consistent as possible with the requirements for motorized mobile food vehicles. The proposed changes include the requirement that a human-powered mobile food vehicle operator acquire and maintain a valid, state issued picture identification card and general liability insurance coverage pursuant to the requirements of Section 4-1-8, “Insurance Required,” B.R.C. 1981, rather than requiring a driver’s license and auto insurance.

These requirements found in Section 9-6-5(d)(1)(D)(i) and (ii), B.R.C. 1981, parallel the requirements for motorized food vehicles and are also the least cost restrictive to those who may choose to operate as a human-powered mobile food vehicle sales operator rather than a typical mobile food vehicle due to costs. In addition, these requirements provide the city with the ability to ensure that these vehicles will operate in a way that protects the public’s health, safety and welfare.

Section 9-6-5(d)(1)(A), “Mobile Food Vehicles Sales,” B.R.C. 1981, include details about where mobile food vehicles are allowed. Those same standards would apply to non-motorized human powered food vehicles. In keeping with the idea of maintaining equity between motorized and non-motorized food vehicles, staff included a restriction to any sales *in transit*. See Section 9-6-5(d)(3)(N), B.R.C. 1981, in **Attachment A**. “*In transit*” is defined as traveling from one destination to another either by roadway, sidewalk, or path and in the case of a human powered mobile food vehicle shall also include any stops along the way.

In addition, staff included an exception to Section 7-6-28(a)(4), B.R.C. 1981, that allows non-motorized human powered food vehicles to park (and sell food) where motorized food vehicles can now park.

City of Boulder Licensing will continue to review and issue licenses for both motorized and non-motorized mobile food vehicles that operate within the City of Boulder. It does not appear that any additional city resources are necessary to accommodate this change. Additionally, this proposed change will allow for an increase in food diversity options.

## **ATTACHMENTS**

Attachment A: Proposed Ordinance No. 8124

## ORDINANCE NO. 8124

AN ORDINANCE AMENDING CHAPTER 9-6-5, B.R.C. 1981, "TEMPORARY LODGING, DINING, ENTERTAINMENT, AND CULTURAL USES," BY AMENDING SECTION 9-6-5(d), "MOBILE FOOD VEHICLE SALES," CHAPTER 9-16-1, B.R.C. 1981, "GENERAL DEFINITIONS," BY AMENDING SECTION 9-16-1(c), TO REDEFINE "MOBILE FOOD VEHICLE," TO INCLUDE HUMAN POWERED VEHICLES, AMENDING SECTION 7-6-28, B.R.C. 1981 "BICYCLE PARKING," AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 7-6-28 "Bicycle Parking," B.R.C. 1981, is amended to read:

**7-6-28. - Bicycle Parking.**

- (a) No person shall park a bicycle or electric assisted bicycle in such a way as to:
- (1) Cause an obstruction to or impede the flow of traffic or of pedestrians on public or private sidewalks and paths;
  - (2) Hinder or restrict access to handrails or ramps;
  - (3) Lock the bicycle to a tree, parking meter post, or pay station serving a space designated for handicapped parking, or fire hydrant;
  - (4) Park on a roadway except in an area designated for bicycle parking or unless licensed as a Mobile Food Vehicle pursuant to Section 9-6-5(d), B.R.C. 1981; or
  - (5) Leave the bicycle locked to a pole or post owned or leased by a public authority for more than twelve consecutive hours.
- (b) Persons stopping or parking bicycles or electric assisted bicycles shall obey all the provisions of this chapter regulating those activities on roadways, but are exempt from other provisions of this chapter unless specifically mentioned, notwithstanding their status as vehicles.

1            Section 2. Section 9-6-5 “Temporary Lodging, Dining, Entertainment, and Cultural Uses,”  
2            B.R.C. 1981, is amended to read:

3            **9-6-5. - Temporary Lodging, Dining, Entertainment, and Cultural Uses.**

4            ....

5            (d)    Mobile Food Vehicle Sales. The following criteria apply to any mobile food vehicle sales  
6            use:

7            (1)    Standards: The city manager will permit mobile food vehicle sales on private property,  
8            public property, or in the public right of way if the use is permitted in the applicable  
9            zoning district and meets the following standards and conditions:

10           (A)    The use shall be located at least:

11           (i)    one hundred fifty feet from any residential zone districts, except as provided in  
12           Subsection (d)(1)(C) of this section;

13           (ii)   one hundred fifty feet from any existing restaurant except as provided in  
14           ~~s~~Subsection (d)(1)(F) below; and

15           (iii)  two hundred feet from any other mobile food vehicle with regard to public right  
16           of way sales, no more than four mobile food vehicles per private property in the  
17           MU-1, MU-2, MU-3, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-  
18           1, DT-2, DT-3, DT-4, and DT-5 zone districts, and no limitation on the number  
19           of mobile food vehicles per private property with the owner’s permission in the  
20           Industrial zone districts.

21           Distances shall be measured by the city on official maps as the radius from the  
22           closest points on the perimeter of the applicant’s mobile food vehicle to the  
23           closest point of the designated residential zone or property of the restaurant. For  
24           purposes of this section, the term restaurant shall include “eating places” and  
25           “retail bakeries” as defined by the Standard Industrial Classification Manual,  
the edition of which shall be determined by the city manager. With regard to  
measurement between two or more mobile food vehicles in the public right of  
way, measurement shall be in the form of standard measuring devices, including  
and not limited to, a tape measure.

26           (B)    No person shall operate a mobile food vehicle in a public zone district unless in  
27           connection with an organized event pursuant to Section 4-18-2, “Public Property  
28           Use Permits,” B.R.C. 1981, or at the Boulder Municipal Airport (“Airport”) in such  
29           areas and manner within the Airport property as approved by the city manager  
30           pursuant to Section 11-4-4, “Special Airport Activity Permits,” B.R.C. 1981. For  
31           purposes of this section, the Airport property shall be defined as Lot 2, Airport  
32           South Subdivision.

- 1 (C) No person shall operate a mobile food vehicle in a residential zone district except  
2 with prior approval by the city manager in the parking lot or the public right of way  
3 adjacent to North Boulder Park or in any other park as approved by the manager.
- 4 (D) No person shall operate a mobile food vehicle sales use without a permit or in  
5 violation of the conditions of a permit. The permit will be valid for twelve  
6 consecutive months, or such other time as the city manager may by rule designate.  
7 Such application shall meet the following requirements:
- 8 (i) provide proof of, and maintain, a valid driver's license, motor vehicle  
9 registration, and current motor vehicle insurance;
- 10 (ii) or in the case of a human powered mobile food vehicle; provide proof of, and  
11 maintain, a valid driver's license or state issued picture identification card and  
12 evidence of insurance coverage required by Section 4-1-8, "Insurance  
13 Required," B.R.C. 1981;
- 14 (iii) provide proof of, and maintain, a Colorado retail food license for a mobile unit;
- 15 (iv) provide proof of, and maintain, a valid sales use tax license;
- 16 (iv) provide payment of the fee prescribed by Section 4-20-66, "Mobile Food  
17 Vehicle Sales," B.R.C. 1981.
- 18 (E) As a condition of accepting the permit, the applicant shall sign an agreement, in a  
19 form acceptable to the city manager, in which the applicant agrees to meet all  
20 requirements under this section and Chapter 4-1, "General Licensing Provisions,"  
21 B.R.C. 1981, and assume responsibility for the actions and omissions of its agents  
22 and employees in the performance of or failure to perform its obligation under the  
23 permit.
- 24 (F) The city manager may, in his or her discretion, waive the requirements of  
25 sSubsection (d)(1)(a)(ii) above if the applicant at the time of issuance, and each  
renewal of the permit, submits to the city manager signed statements supporting the  
issuance of the permit from every restaurant within 150 feet of the proposed food  
truck location. The city manager may waive such requirements only for the BC-1  
zone district. The city manager may deny a request for waiver for any reason, with  
or without good cause.
- (2) Scope:
- (A) In addition to the zoning districts permitted by this section, mobile food vehicle  
sales may take place in other public property locations, or in the public right of way,  
but only as part of an approved organized event or street closure permit, and granted  
pursuant to the authority in Section 4-18-2, "Public Property Use Permits," B.R.C.  
1981, or any other relevant code section.

1 (B) The standards set forth in Subparagraphs (d)(1)(A) and (d)(3) shall not apply to  
2 mobile food vehicle sales that meet the criteria as indicated in Subparagraph  
3 (d)(2)(A) of this section, but shall be subject to any conditions imposed in  
4 connection with the event. All other requirements of this subsection shall apply.

5 (C) The city manager may, from time to time, prohibit the issuance of additional  
6 licenses in specified areas of the city in the interest of avoiding traffic congestion  
7 or preserving the public health, safety, and welfare.

8 (3) Operating Requirements: No person who operates any mobile food vehicle on public  
9 property or private property shall:

10 (A) obstruct the pedestrian or bicycle access or the visibility of motorists, nor obstruct  
11 parking lot circulation or block access to a public street, alley, path, or sidewalk;

12 (B) locate any vehicle, structure, or device upon a public sidewalk within the extended  
13 boundaries of a crosswalk, or within ten feet of the extension of any building  
14 entranceway, doorway, or driveway;

15 (C) fail to maintain, and provide proof when requested, of written consent from the  
16 private property owner authorizing the property to be used for the proposed use  
17 with regard to mobile food vehicle sales on private property;

18 (D) fail to park legally;

19 (E) operate before 7 a.m. or after 9 p.m. and for more than a maximum of four hours at  
20 any one approved location;

21 (F) set up any structures, canopies, tables, or chairs;

22 (G) sell anything other than food and nonalcoholic beverages;

23 (H) provide amplified music;

24 (I) place signs/banners in or alongside the public right of way or across roadways.  
25 Signs must be permanently affixed to or painted on the mobile food vehicle;

(J) fail to have the vehicle attended at all times;

(K) fail to permanently display to the public in the food handling area of the mobile  
food vehicle the permit authorizing such use;

(L) fail to provide at least three separate and clearly marked receptacles for trash,  
recycling, and compost and properly separate and dispose of all trash, refuse,  
compost, recycling, and garbage that is generated by the use;

(M) cause any liquid wastes used in the operation to be discharged from the mobile food  
vehicle;

1 (N) sell in transit. "In transit" as used in this section shall mean traveling from one  
2 destination to another either by roadway, sidewalk, or path and in the case of a  
3 human powered mobile food vehicle shall also include any stops along the way.

3 (ON) fail to abide by all other ordinances of the city.

4 (4) The general licensing provisions of Chapter 4-1, "Licenses and Permits," B.R.C. 1981,  
5 shall apply.

6 Section 3. Section 9-16-1 "General Definitions," B.R.C. 1981, is amended to read:

7 **9-16-1. - General Definitions.**

8 ....

9 (c) The following terms as used in this title have the following meanings unless the context  
10 clearly indicates otherwise:

11 ....

11 Mobile food vehicle means a readily movable, motorized-wheeled vehicle, a towed  
12 vehicle, or a vehicle propelled solely by human power applied to pedals upon which any person  
13 may ride having two tandem wheels or two parallel wheels and one forward wheel which are more  
14 than fourteen inches in diameter, all designed and equipped to prepare, or serve, and sell food, but  
15 which does not include mobile vending carts as defined in Section 4-18-4, "University Hill Mobile  
16 Vending Cart Permit," and Section 4-11-12, "Mobile Vending Cart Permit," B.R.C. 1981.

17 ....

18 Section 3. This ordinance is necessary to protect the public health, safety, and welfare  
19 of 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.  
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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19th day of July, 2016.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED  
BY TITLE ONLY this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE**

Introduction, first reading and consideration of a motion to adopt Emergency Ordinance No. 8125, amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, Sections 13-2-2 and 13-2-3, B.R.C. 1981 to correct errors, and setting forth related details.

**PRESENTER:**

Office of the City Attorney  
Thomas A. Carr, City Attorney

**EXECUTIVE SUMMARY:**

Ord. 8114 was adopted by City Council on June 21, 2016 (last council meeting before its recess) as an Emergency ordinance, and was effective on June 22, 2016. Ord. 8114 inadvertently removed existing definitions from Section 13-2-2, B.R.C. 1981. Because of the recent council recess, we could not correct the error until this council meeting.

**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:**

Correction of the B.R.C. is an essential 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. 8125, amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, Sections 13-2-2 and 13-2-3, B.R.C. 1981 to correct errors, and setting forth related details.

**DISCUSSION:**

On June 3, 2014, Council adopted Ord. 7968 (Attachment B). That ordinance made several changes to Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, strengthening and clarifying the financial disclosure requirements. The adopted ordinance included several new definitions, and a clarification of one definition in Section 13-2-2, "Definitions," B.R.C. 1981.

On June 21, 2016, Council adopted Ord. 8114, amending Chapter 13-2, B.R.C. 1981 to conform to recent court cases and changes to state law. That ordinance was adopted as an emergency ordinance and effective on June 22, 2016. Council began its 2016 recess immediately after the June 21st meeting.

Subsequent to its adoption, staff determined that an inadvertent error in the drafting of Ord. 8114 reversed/repealed the definition changes that had been adopted in 2014 by Ord. 7968.

Additionally, Ord. 8114 also caused a minor error in the title of Section 13-2-3.

Adoption of this proposed ordinance would correct the inadvertent errors made by Ord. 8114, without affecting any of the recent, intended, changes.

Staff recommends an emergency adoption of this ordinance in order to correct the error as quickly as possible.

**ATTACHMENT:**

A - Proposed Emergency Ordinance No. 8125

B - 2014 Ord. 7968

ORDINANCE NO. 8125

AN EMERGENCY ORDINANCE AMENDING CHAPTER 13-2,  
“CAMPAIGN FINANCING DISCLOSURE,” B.R.C. 1981,  
SECTIONS 13-2-2 AND 13-2-3, B.R.C. 1981 TO CORRECT  
ERRORS; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 13-2-2, B.R.C. 1981 is amended to add or amend definitions as  
follows:

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

....

“Candidate” means any person whose petition of nomination for city council, whether at a regular, special, or recall election, has been certified as sufficient by the city clerk pursuant to charter section 26. A person is no longer a “candidate” after the date of the election for which the person filed a petition.

....

“Excepted investment” means a mutual fund, common trust fund of a bank, pension or deferred compensation plan, any other investment fund or a ten percent or less interest in the stock of a company, which for funds or stocks is widely held; publicly traded (or available) or widely diversified; and which for funds under circumstances where the investor neither exercises control over nor has the ability to exercise control over the financial interests held by the fund. A fund is widely diversified when it holds no more than five percent of the value of its portfolio in the securities of any one issuer (other than the U.S. Government.)

....

“Income” means money received for the provision of goods or services, not including the unrealized appreciation of any asset, income from any excepted fund or interest earned from any commercial bank, savings and loan or credit union.

....

“Material change” shall mean any change in information required to be reported pursuant to paragraphs 13-2-3(b)(1), (3) or (4).

....

“Other household income” means any income earned by a spouse, domestic partner, or partner in a civil union who resides in the same household as the reporting person that is reportable by a candidate or incumbent for federal or state income tax purposes.

1 “Other household member” means a spouse, domestic partner, or partner in a civil union who  
2 resides in the same household as the reporting person.

3 .....

3 “Reportable interest” means:

4 (a) In the case of a corporation, either more than 10 percent of the total combined voting  
5 power of all classes of stock of the corporation entitled to vote, or more than 10 percent  
6 of the capital, profits, or beneficial interest in the voting stock of the corporation;

6 (b) In the case of a partnership, association, trust, or other entity, more than 10 percent of  
7 the capital, profits, or beneficial interest in such partnership, association, trust, or other  
8 entity; or

8 (c) Any interest in any entity that owns real property, if more than 50 percent of the  
9 entity’s holdings are in Boulder County.

10 .....

11 Section 2. Section 13-2-3 B.R.C. 1981 title only is amended to read:

12 **13-2-3. ~~Candidate’s Interest Disclosure Statement.~~**

13 Section 3. The City Council finds this ordinance is necessary for the immediate  
14 preservation of public peace, health, safety, and property justifying the adoption of this ordinance  
15 as an emergency measure.

16 Section 4. An emergency exists because the definitions added by this ordinance were  
17 inadvertently deleted by emergency ordinance adopted on June 21, 2016. In order to correct the  
18 error, this ordinance needs to be effective immediately.

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

1 READ ON FIRST READING, PASSED, ADOPTED, AND ORDERED AS AN  
2 EMERGENCY MEASURE BY TWO THIRDS OF THE COUNCIL MEMBERS PRESENT,  
3 AND ORDERED PUBLISHED BY TITLE ONLY this 19th day of July 2016.  
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6 \_\_\_\_\_  
Mayor

7 Attest:

8 \_\_\_\_\_  
9 City Clerk

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ORDINANCE NO. 7968

AN ORDINANCE AMENDING CHAPTER 13-2, "CAMPAIGN FINANCING DISCLOSURE," B.R.C. 1981, INCLUDING MODIFYING A CANDIDATE'S FINANCIAL REPORTING REQUIREMENTS, ADDING ADDITIONAL REPORTING REQUIREMENTS FOR CITY COUNCIL MEMBERS, SETTING FORTH REPORTING PERIODS AND SETTING FORTH RELATED DETAILS.

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

**Section 1.** Section 13-2-2, B.R.C. 1981 is amended to read:

**13-2-2 Definitions.**

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

"Ballot proposition" means any amendment to the city charter, and any initiative, referendum, or recall for which petitions have been properly certified by the city clerk for submission to the city council, or any ordinance or issue put to a vote of the electors of the City of Boulder under the provisions of the city charter. 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.

"Candidate" means any person whose petition of nomination for city council, whether at a regular, special, or recall election, has been certified as sufficient by the city clerk pursuant to charter section 26. **A person is no longer a "candidate" after the date of the election for which the person filed a petition.**

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

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

"Contribution" means:

(a) Any payment, loan, pledge, or advance of money, including, without limitation, checks received but not deposited or payments made by credit card, or guarantee of a loan, made to or for the benefit of any candidate or committee;

1 (b) Any payment made to a third party for the benefit of any candidate or committee, including,  
2 without limitation, the use of a credit card to secure such benefit;

3 (c) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting  
4 the candidate's election, including, without limitation, commercial services such as banking,  
printing, and mailing services; or

5 (d) With regard to a contribution for which the contributor receives compensation or  
6 consideration of less than equivalent value to such contribution, including, without limitation,  
7 items of perishable or non-permanent value, goods, supplies, services, or participation in a  
campaign-related event, an amount equal to the value in excess of such compensation or  
consideration.

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

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

16 "Excepted investment" means a mutual fund, common trust fund of a bank, pension or deferred  
17 compensation plan, any other investment fund or a ten percent or less interest in the stock of a  
company, which for funds or stocks is widely held; publicly traded (or available) or widely  
18 diversified; and which for funds under circumstances where the investor neither exercises control  
over nor has the ability to exercise control over the financial interests held by the fund. A fund is  
19 widely diversified when it holds no more than five percent of the value of its portfolio in the  
securities of any one issuer (other than the U.S. Government.)

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

24 "Income" means money received for the provision of goods or services, not including the  
25 unrealized appreciation of any asset, income from any excepted fund or interest earned

1 from any commercial bank, savings and loan or credit union.

2 "Independent expenditure" means an expenditure by any person for the purpose of expressly  
3 advocating the election or defeat of a candidate or candidates, which expenditure is not  
4 controlled by, coordinated with, or made upon consultation with any candidate or candidate  
5 committee or any agent of such candidate or committee. "Independent expenditure" does not  
6 include expenditures made by persons, other than political parties and political committees, in  
7 the regular course and scope of their business, including political messages sent solely to  
8 members.

9 "Issue" is synonymous with ballot proposition.

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

15 "Material change" shall mean any change in information required to be reported pursuant to  
16 paragraphs 13-2-3(b)(1), (3) or (4).

17 "Official candidate committee" - see definition of "candidate committee."

18 "Other household income" means any income earned by a spouse, domestic partner, or partner in  
19 a civil union who resides in the same household as the reporting person that is reportable by a  
20 candidate or incumbent for federal or state income tax purposes.

21 "Other household member" means a spouse, domestic partner, or partner in a civil union who  
22 resides in the same household as the reporting person.

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

1 **"Reportable interest" means:**

2 (a) In the case of a corporation, either more than 10 percent of the total combined voting  
3 power of all classes of stock of the corporation entitled to vote, or more than 10 percent  
4 of the capital, profits, or beneficial interest in the voting stock of the corporation;

5 (b) In the case of a partnership, association, trust, or other entity, more than 10 percent of  
6 the capital, profits, or beneficial interest in such partnership, association, trust, or other  
7 entity; or

8 (c) Any interest in any entity that owns real property, if more than 50 percent of the  
9 entity's holdings are in Boulder County.

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

17 **Section 2.** Section 13-2-3, B.R.C. 1981 is amended to read:

18 **13-2-3 Candidate's Financial Disclosure Statement.**

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

24 (b) Any person required to file a financial disclosure statement required by this chapter shall file  
25 a statement on a form provided by the city clerk as follows: No more than three days after a  
26 candidate's petition of nomination for city council has been certified as sufficient by the city  
27 clerk pursuant to charter section 26, the candidate shall file a statement of financial  
28 disclosure that contains:

29 (1a) The reporting candidate's person's employer and occupation and the nature;

30 (2) The and source of any other income in excess of \$1,000.00 per year, including, without  
31 limitation, other household income, capital gains, whether or not taxable, dividends,  
32 interest, wages, salaries, rents, and profits, and retirement accounts;

33 (3b) The name, location, and nature of activity of any business entities or enterprises for  
34 profit, with holdings of real or personal property or with business dealings in the area  
35 encompassed by the Boulder Valley Comprehensive Plan, in which the  
36 candidatereporting person or other household member has any financial interest or is

1 actively engaged as an officer, director, or partner and the nature of the reporting person  
2 ~~candidate's or other household member's~~ interest or activity. A reporting person or  
3 other household member is not required to report any financial interest in any business  
4 entity in which the reporting person's or other household member's only interest is  
5 through an investment in an excepted investment. A charitable donation is not a  
6 financial interest;

7 (4e) The location of any real property within Boulder County in which the ~~candidate~~reporting  
8 person or other household member has an interest or, if the reporting person or other  
9 household member candidate has a controlling-reportable interest in an entity or  
10 enterprise disclosed pursuant to subsection paragraph (b)(3) of this section, in which the  
11 ~~controlled~~-entity or enterprise has any interest and the nature of such interest;

12 (5d) Any other information that the reporting person~~candidate~~ feels would be helpful or  
13 should be disclosed; and

14 (e6) Notwithstanding any other provision of this chapter, no reporting person or other  
15 household member~~candidate~~ is required to disclose any confidential relationship  
16 protected by law.

17 **Section 3.** Section 13-2-4, B.R.C. 1981 is amended to read:

18 **13-2-4 Incumbent's Financial Disclosure Statement, Filing Dates and Disclosure Periods.**

19 ~~On April 15 of each calendar year, each incumbent council member shall file an amended~~  
20 ~~statement for the previous calendar year concerning the financial disclosures in Section 13-2-3,~~  
21 ~~"Candidate's Financial Disclosure Statement," B.R.C. 1981, with the city manager or notify the~~  
22 ~~manager in writing that the council member has no change of financial condition regarding the~~  
23 ~~disclosed items since previously filing a disclosure statement.~~

24 (a) On or before September 10, any candidate having filed a petition of nomination shall file a  
25 statement of financial disclosure as set forth in section 13-2-3, "Financial Disclosure  
26 Statement." B.R.C. 1981. The candidate shall file a supplemental report if there is any  
27 material change in the information reported after the date of filing within 15 days after the  
28 material change.

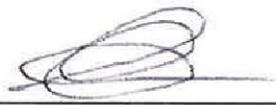
29 (b) On or before April 15 of each year, every member of the city council shall file a statement of  
30 financial disclosure as set forth in section 13-2-3, "Financial Disclosure Statement." B.R.C.  
31 1981. Council members shall report any material changes to the information reported, except  
32 information reported pursuant to paragraph 13-2-3(b)(2), within 15 days of the end of the  
33 calendar quarter in which the material change occurred.

34 (c) Each Financial Disclosure Statement shall include all information current of the date of filing,  
35 except information required by 13-2-3(b)(2) shall be reported as of the end of the previous  
36 calendar year.

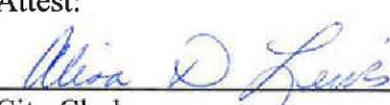
1           **Section 4.** This ordinance is necessary to protect the public health, safety, and welfare of  
2 the residents of the city, and covers matters of local concern.

3  
4           **Section 5.** The City Council deems it appropriate that this ordinance be published by title  
5 only and orders that copies of this ordinance be made available in the office of the city clerk for  
6 public inspection and acquisition.

7           INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
8 TITLE ONLY this 1st day of April, 2014.

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\_\_\_\_\_  
Mayor

11 Attest:

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

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15           READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY  
16 TITLE ONLY this 6th day of May, 2014.

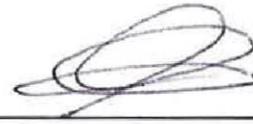
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Mayor

19 Attest:

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City Clerk

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

2 BY TITLE ONLY this 3<sup>rd</sup> day of June, 2014.

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Mayor

5 Attest:

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City Clerk

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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE**

Certification to council of sufficient valid signatures on a petition to add a code section for implementation of a new tax on sugar-sweetened drinks, and appointment of council committee.

**PRESENTER/S**

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

**EXECUTIVE SUMMARY**

The petition committee for a new tax on sugar-sweetened drinks submitted its completed petition on June 27, 2016. On July 7, 2016, the City Clerk, after examining 9,417 signatures, determined that there were sufficient valid signatures to meet the 9,062 signature requirement. All of the petitions were reviewed. The City Clerk found 355 signatures not valid. The City Clerk provided the committee with the attached Certificate of Sufficiency. That certificate triggers two timelines; one for council and one for anyone that may want to protest the petitions. The copy of the Certificate attached is certification to the council as to the validity and sufficiency of the petition.

The options for council are to either adopt the proposed code language as an ordinance or place the measure on the ballot. If the measure is not going to be adopted by council, the council must put it on the ballot for the November 2016 election and set the ballot title. The charter provides that the petition be referred to a council committee, which may be a committee of the whole. Charter Section 40. The charter gives the council committee 60 days to make a recommendation to the council, and requires the committee to hold at least one public hearing. The council must then take final action on the ordinance placing the measure on the ballot within 60 days of the committee recommendation. The petition committee must then unanimously certify to the council to proceed with the measure for it to be on the ballot.

## STAFF RECOMMENDATION

Appoint a council committee, which may be a committee of the whole, to hold a public hearing and make a recommendation to the full council. That committee could hold a public hearing before or on August 2<sup>nd</sup>.

### **Suggested Motion Language:**

I move that a council committee of the whole hold a public hearing and review the initiative as provided in the charter, and make a recommendation to the full council on August 2<sup>nd</sup>.

## BACKGROUND

Initiative Procedure. For an initiated measure to be on the ballot, the following steps occur:

1. Petition committee (5 registered electors that represent the petition in all matters) present the form of the initiative petition for approval by the City Clerk.
2. The City Clerk can require the form to be corrected and make comments on the content. The City Clerk also writes the summary that must appear at the top of every page of the petition under the warning.
3. The petition committee is responsible for getting the required number of signatures on the approved petition form and submitting all sections of the completed petition to the City Clerk in the appropriate format.
4. The City Clerk must then review all of the petition signatures to determine whether a sufficient number are valid signatures of electors registered to vote in Boulder. The circulator of each section must sign, in the presence of a notary, that the petition attached is the petition that circulator watched each signer sign. The City Clerk verifies all of the circulator affidavits before verifying voter signatures. All signatures on a petition without a valid circulator's affidavit are invalid. The City Clerk must compare each signature with the city's voter records to determine that the person is registered to vote at the address they wrote on the petition and that person has not signed the petition more than once.
5. If the petitions contain the required number of valid signatures, the City Clerk issues a Certificate of Sufficiency to the committee and conveys it to council.
6. At its next meeting, council must refer the initiative to a council committee, which may be a committee of the whole, to hold a public hearing and recommend to the full council whether the initiative should be adopted as presented, or a ballot title to put the initiative on the ballot.

7. When the council receives the committee's recommendation, it must decide whether to adopt the initiated measure or place it on the ballot with a ballot title determined by council and whether to place a competing measure on the ballot if it believes an alternative could accomplish the intent in a better manner than the initiative.

8. Within 40 days of the filing of the petition (which is August 8 for this petition), opponents to the measure can file a protest with the city challenging the sufficiency of the petition. If a protest is filed, Council could hold all matters related to the petition (Steps 6 and 7) in abeyance until that protest is resolved. The City Clerk or an appointed hearing officer must conduct a hearing on the protest. The goal of a protest is to invalidate additional signatures to put the number of valid signatures below the threshold. This is usually done by bringing matters before the City Clerk that are not on the face of the petition. Reasons for protest usually include testimony that circulators did not accurately represent the petition to potential signers, a petition section was not always in the custody of the circulator, or other matters that could invalidate signatures.

Status of Initiative Regarding Sugar-Sweetened Drinks. This petitions is at Step 6. The charter allows 60 days for the council committee to make its recommendation, then 60 days for council to take final action. Obviously the two sequential 60 day time frames go far beyond the September 9 date by which the City Clerk must certify the ballot issues to the county. Therefore, staff recommends that the committee appoint a council committee, which may be a committee of the whole, to come back with a recommendation to council at the August 2, 2016 meeting.

Staff can prepare ordinance(s) for adoption of the code section by council or with ballot titles for that meeting based on the committee recommendations. This will place this measure on the same schedule as all of the other ballot measures from council for the November election.

Legal Issues. Ballot issues can only have one subject. Charter section 16. This is called the single subject rule. Staff expressed concern to the committee that its original form, submitted with both a TABOR issue and a code amendment could violate that rule. The committee changed its form to be only the code section, and the summary describes the initiative as an amendment to the code, not adoption of a tax. The attorney for the committee has expressed her opinion that she believes the council must adopt a TABOR compliant ballot title for this measure. Staff does not support this requirement. Last week, the Colorado Supreme Court overturned two titles set by the Colorado Title Setting Board for violating the single subject rule. While there is still no bright line between a ballot issue that is one subject and one that is not, the decisions last week narrow the ballot measures that qualify as "single subject." Therefore, staff recommends the ballot title for the initiative not include a TABOR issue. The petitions circulated and signed included only a code amendment without any provision for a tax. A fair reading is that the initiative provides for the process of collecting an expending a tax, if one is imposed, but does not itself impose a tax. Council can propose a separate TABOR question imposing the tax, linked to the passage of the initiative. That is, including language that if either fails neither goes into effect. In the alternative, council can place the initiated

measure on the ballot and wait until 2017 to consider whether to place the TABOR question on the ballot.

Second, the initiative proposes amendments to the city's tax code in a manner different than the way the city code is implemented. While staff can deal with that, it is difficult to have a "people's ordinance" in the tax code as it is more difficult to amend. As a home rule city that collects its own tax, the city is exempt from many state rules, but there are continuing efforts to standardize certain tax issues as a matter of statewide concern. Further, the tax code adopts the same procedures for enforcement and collection of all taxes to avoid different appeal and processing times among the various taxes collected by the city. The city is best served when council can amend city codes as necessary to implement the taxes the city collects, and that the enforcement procedure for all taxes is the same. Staff had urged the committee not to present the initiative as code provisions, but the committee rejected that advice.

Third, the mechanism for imposition of the tax is on distributors rather than retailers. That requires the city to set up a new taxing procedures on a class of taxpayers that currently have no relationship with the city. In trying to initiate a similar initiative, Berkeley had a significant expenditure on administrative implementation of the tax rather than for health education. Philadelphia recently adopted a tax on sugar-sweetened drinks taxing the distributors, but instead of going through Berkeley's expensive procedure, Philadelphia made the retailers the primary enforcers of the tax. While that solves one problem, it puts the time and expense of enforcement on the individual retailers rather than the city.

To avoid the above issues, when council imposes a new tax, it usually does so by putting a TABOR issue on the ballot, with a cross reference to an ordinance adopted by council to be effective if the TABOR issue passes. That way it is clear to the voters by the ballot what they are voting on. If a voter wanted to see the details of how council plans initial implementation the ordinance is available for review. Because that ordinance is not a people's ordinance, the implementation procedure can be amended by council if necessary to reduce the administrative costs of implementation, comply with changes to Colorado law, or other issues that arise.

Staff recommends that the council committee and council follow the usual procedure related to imposition of a tax on sugar-sweetened beverages - a TABOR question with a cross-reference to an implementation ordinance adopted by council. If the petition committee agreed to the council manner of imposing the tax, the council's TABOR issue could appear on the ballot and the initiative would not. If the petition committee would not agree, both the initiative and the TABOR issue could appear on the ballot with the TABOR issue as a competing measure so that the one with the most votes would be the version adopted.

Council Options: The council committee could recommend, and council could choose the following:

A. Adopt the initiative amending the code as presented in the initiative. In this case the code would be amended but no tax would be imposed because there had not been a TABOR issue approved by the voters: OR

B. Place the initiative on the ballot with a ballot title set by council.

C. Because addition of the code section does not implement a tax, if the tax were to be imposed, council would also have to put a TABOR issue on the ballot. If council does not put a TABOR question on the November 2016 ballot, and the initiative was approved by the voters, council could put a TABOR issue on the November 2017 ballot if it wanted to levy the tax.

D. Place a competing ballot measure on the same ballot as the initiative declaring that the one obtaining the most votes would be the one effective. Council may want to place a competing measure on the ballot if it believes the intent can be accomplished in a manner more beneficial to the city than as proposed in the initiative.

Council MUST do A or B. With either A or B council CAN add C. Council CAN add D in conjunction with any of these options.

## **ATTACHMENTS**

Attachment A – Certificate of Sufficiency

ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

STATE OF COLORADO )  
COUNTY OF BOULDER ) SS. Certificate of Sufficiency  
CITY OF BOULDER )

I, Lynnette Beck, City Clerk of the City of Boulder, Colorado, pursuant to Boulder Home Rule Charter Sections 37 through 41 and Colorado Revised Statutes 31-11-101, *et seq.*, do hereby certify as follows:

1. On April 21, 2016, there was filed in my office a petition to submit to the voters at the general election on Tuesday, November 8, 2016, the following change to the Boulder Revised Code:

SHALL THE CITY OF BOULDER TAXES BE INCREASED BY \$3.8 MILLION ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITJON OF AN EXCISE TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, BUT EXEMPTING:(1) SWEETENERS SOLD SEPARATELY TO THE CONSUMER AT THE GROCERY STORE; (2) MILK PRODUCTS (3) BABY FORMULA (3) [sic] ALCOHOL, AND (5) DRINKS TAKEN FOR MEDICAL REASONS.

SHALL THE REVENUES COLLECTED BE USED BY THE CITY OF BOULDER TO ADEQUATELY ADMINISTER THE TAX AND SHALL THEY BE USED FOR HEALTH PROGRAMS IN THE CITY OF BOULDER THAT SUPPORT COMMUNITY HEALTH AND GENERAL WELLNESS BY FUNDING ACTIVITIES, INCLUDING BUT NOT LIMITED TO, IMPROVING ACCESS TO DRINKING WATER, HEALTHY FOODS, NUTRITION EDUCATION, PHYSICAL ACTIVITY, AND HEALTH PROGRAMS IN BOULDER, ESPECIALLY FOR COMMUNITY MEMBERS WITH LOW INCOME AND THOSE MOST AT RISK FOR CHRONIC DISEASE LINKED TO SUGARY DRINK CONSUMPTION. SHALL THERE BE ESTABLISHED A COMMITTEE OF HEALTH EXPERTS TO DIRECT THE CITY COUNCIL ON HOW AND TO WHAT EXTENT THE CITY SHOULD ESTABLISH AND/OR FUND SUCH COMMUNITY HEALTH AND GENERAL WELLNESS PROGRAMS.

IF APPROVED BY THE VOTERS, EFFECTIVE JULY 1, 2017, THE BOULDER MUNICIPAL CODE IS AMENDED TO ADD A NEW CHAPTER 16 TO READ AS FOLLOWS:

Chapter 16 Sugar-Sweetened Beverage Product Distribution Tax.

(The full text of the measure is attached at tab A.)

2. On May 4, 2016, my office issued a comment letter that, among other things, approved the following summary to be on the approved petition form with just the TABOR tax increase language ending after "... sugary drink consumption":

*An initiative to approve a new tax of 2 cents per ounce on the distribution of drinks with added sugar, and sweeteners used to produce such drinks, with certain exceptions, and directs that the revenue collected be used for the administration of the tax and health programs.*

(The comment letter is attached at tab B.)

3. On May 16, 2016, a revised petition was filed. (The text of the measure is attached at tab C.)

4. On May 26, 2016, my office issued a letter conditionally approving the petition for circulation with the condition that the summary be amended to read as follows:

*An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

(The comment letter is attached at tab D.)

5. On Tuesday, June 27, 2016, the signed petition to add Chapter 16 to Title 3 of the Boulder Revised Code was filed with my office. Our receipt stated that the petition sections were declared to contain 9,417 signatures and were numbered 1-13, 15-30, 33-41, 44-50, 52-53, 56, 58-64, 67, 69-74, 79-84, 86-161, 163-171, 173-176, 179-187, 189, 191-195, 197-247, 249-252, 256, 258-263, 267-271, 273-278, 280-297, 300-307, 310, 316-322, 325, 328-329, 331, 333-334, 338-353, 355-365, 368-369, 376, 379, 381-382, 384-385, 387-390, 392-399, 403, 405, 407, 409-412, 414-417, 419-422, 424-427, 429, 436, 443-447 and 462.

6. On June 27, 2016, the petitioners also filed a certificate stating that the petition was intended to be a five per-cent petition (which is placed on the ballot at an election held in November), pursuant to Boulder Home Rule Charter section 38A.

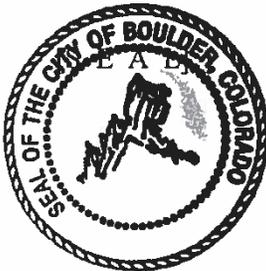
7. On June 27, 2016, the Boulder County Clerk and Recorder determined that there were 92,981 registered electors residing in the City of Boulder, Colorado. Therefore, the number of valid signatures required is 4,650.

8. Within ten calendar days of the filing of the petition, the city clerk shall certify to the governing body as to the validity and sufficiency of such petition. Boulder Home Rule Charter section 39. The deadline for certification is July 7, 2016.

ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

9. A final review of the petition indicated a total of 357 sections containing 9,449 declared signatures and numbered 1-13, 15-30, 33-41, 44-50, 52-53, 56, 58-64, 67, 69-74, 79-84, 86-161, 163-171, 173-176, 178-187, 189-195, 197-247, 249-252, 256, 258-263, 267-271, 273-277, 280-297, 300-307, 310, 316-322, 325, 328-329, 331, 333-334, 338-353, 355-365, 368-369, 376, 379, 381, 383-385, 387-390, 392-399, 403, 405, 407, 409-412, 414-417, 419-422, 424-427, 429, 436, 443-447 and 462. The petition numbering is slightly different than indicated on the receipt.
10. After a review of the petition, I find that 14 petition sections containing 355 proposed signatures and numbered 2, 20, 22, 24, 50, 59, 107, 108, 122, 125, 214, 247, 251 and 344, do not meet the threshold. (Initiative Petition Verification Forms for the 14 petition sections are attached at Tab E.)
11. The remaining 343 petition sections were examined by comparing the names on the petition with the names in the voter registration rolls of Boulder County.
12. These petition sections have on their face a sufficient number of signatures, with 7,197 examined and deemed sufficient.
13. I hereby certify to the Boulder City Council, pursuant to Boulder Home Rule Charter section 40, that the petition is declared to be sufficient.

IN WITNESS WHEREOF, I have hereto affixed my signature and the official seal of the City of Boulder, Colorado this 7<sup>th</sup> day of July, 2016.



A handwritten signature in blue ink that reads "Lynnette Beck".

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Lynnette Beck  
City Clerk, City of Boulder

ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

PETITION TO INITIATE: Cover Letter

To: The City of Boulder, City Clerk Lynnette Beck, City Manager Jane Brautigam, and City Attorney Kathy Haddock

We, the undersigned registered electors of the State of Colorado, do hereby respectfully order and demand that the following proposed change to the Boulder Municipal Code shall be submitted to the legal voters of the state for their adoption or rejection at the polls at the general election to be held on Tuesday, November 8, 2016. Each of the signers hereto says:

I sign this petition in my own proper person only. I am a registered elector of the State of Colorado. My residence address and the date of my signing this petition are correctly written immediately after my printed name. I hereby designate the following persons to represent me in all matters affecting this petition:

Dakota-Rae Westveer  
2600 9th Street  
Boulder, CO 80304  
dakotarae.westveer@gmail.com

Nicole Christensen  
2995 Jefferson Street  
Boulder, CO 80304  
nicole@crossfitroots.com

Lynn Gilbert  
2144 17th Street  
Boulder, CO 80302  
lynn.gilbert@comcast.net

Manuela Sifuentes  
2530 5th Street  
Boulder, CO 80304  
manuela.sifuentes@gmail.com

Brenden Nackerman  
2127 16th Street  
Boulder, CO 80302  
bnack09@gmail.com

CITY OF BOULDER  
CITY MANAGER'S OFFICE  
2016 APR 21 - PM 8:44

**WARNING: IT IS AGAINST THE LAW:**

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning. By signing this petition, you are indicating that you want this measure to be included on the ballot as a proposed change to the Boulder Municipal Code. If a sufficient number of registered electors sign this petition, this measure will appear on the ballot at the November 8, 2016 election.

C.R.S 31-11-106

**Tax on the Distribution of Sugar-Sweetened Beverage Products**

SHALL THE CITY OF BOULDER TAXES BE INCREASED BY \$3.8 MILLION ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, BUT EXEMPTING: (1) SWEETENERS SOLD SEPARATELY TO THE CONSUMER AT THE GROCERY STORE; (2) MILK PRODUCTS (3) BABY FORMULA (3) ALCOHOL, AND (5) DRINKS TAKEN FOR MEDICAL REASONS.

AND IN CONNECTION THEREWITH,

SHALL THE REVENUES COLLECTED BE USED BY THE CITY OF BOULDER TO ADEQUATELY ADMINISTER THE TAX AND SHALL THEY BE USED FOR HEALTH PROGRAMS IN THE CITY OF BOULDER THAT SUPPORT COMMUNITY HEALTH AND GENERAL WELLNESS BY FUNDING ACTIVITIES, INCLUDING BUT NOT LIMITED TO, IMPROVING ACCESS TO DRINKING WATER, HEALTHY FOODS, NUTRITION EDUCATION, PHYSICAL ACTIVITY, AND HEALTH PROGRAMS IN BOULDER, ESPECIALLY FOR COMMUNITY MEMBERS WITH LOW INCOME AND THOSE MOST AT RISK FOR CHRONIC DISEASE LINKED TO SUGARY DRINK CONSUMPTION. SHALL THERE BE ESTABLISHED A COMMITTEE OF HEALTH EXPERTS TO DIRECT THE CITY COUNCIL ON HOW AND TO WHAT EXTENT THE CITY SHOULD ESTABLISH AND/OR FUND SUCH COMMUNITY HEALTH AND GENERAL WELLNESS PROGRAMS.

IF APPROVED BY THE VOTERS, EFFECTIVE JULY 1, 2017, THE BOULDER MUNICIPAL CODE IS AMENDED TO ADD A NEW CHAPTER 16 TO READ AS FOLLOWS:

**Chapter 16 Sugar-Sweetened Beverage Product Distribution Tax.**

**Section 16 -1 Findings and Purpose.**

AN EXCISE TAX ON THE DISTRIBUTION OF SUGAR SWEETENED BEVERAGES IS INTENDED TO PROTECT THE HEALTH, SAFETY, AND WELL BEING OF ALL IN THE CITY OF BOULDER.

WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK FOR CHILDHOOD OBESITY BY 55%<sup>1</sup>

WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK OF DEVELOPING TYPE TWO DIABETES BY 25%<sup>2</sup>

<sup>1</sup> Morenga LT, Mallard S, Mann J. Dietary sugars and body weight: systematic review and meta-analyses of randomised controlled trials and cohort studies. *Brit Med J.* Jan 15 2013;346

<sup>2</sup> Malik VS, Popkin BM, Bray GA, Despres JP, Willett WC, Hu FB. Sugar-sweetened beverages and risk of metabolic syndrome and type 2 diabetes: a meta-analysis. *Diabetes Care.* 2010;33(11):2477-2483

WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE LIKELIHOOD OF DEATH FROM CARDIOVASCULAR DISEASE BY 30%<sup>3</sup>

**Section 16-2 Imposition and Rate of Tax.**

(A) EXCISE TAX. THERE IS LEVIED AND SHALL BE PAID AND COLLECTED AN EXCISE TAX OF TWO CENTS (\$0.02) PER FLUID OUNCE ON THE PRIVILEGE OF DISTRIBUTING SUGAR-SWEETENED BEVERAGE PRODUCTS IN THE CITY.

(B) FOR PURPOSES OF THIS CHAPTER, THE VOLUME, IN FLUID OUNCES, OF A SUGAR-SWEETENED BEVERAGE PRODUCT SHALL BE CALCULATED AS FOLLOWS:

- (1) FOR A BOTTLED SUGAR-SWEETENED BEVERAGE, THE VOLUME, IN FLUID OUNCES, OF SUGAR-SWEETENED BEVERAGES DISTRIBUTED TO ANY PERSON IN THE COURSE OF BUSINESS IN THE CITY.
- (2) FOR A SUGAR SWEETENED BEVERAGE MADE FROM SYRUPS AND POWDERS, THE LARGEST VOLUME, IN FLUID OUNCES, OF SUGAR-SWEETENED BEVERAGES THAT COULD BE PRODUCED FROM SYRUP OR POWDER UPON THE INITIAL DISTRIBUTION OF SYRUP OR POWDER. THE TAX FOR SYRUPS AND POWDERS SHALL BE CALCULATED USING THE LARGEST VOLUME OF SUGAR-SWEETENED BEVERAGE THAT WOULD TYPICALLY BE PRODUCED BY THE AMOUNT OF SYRUP OR POWDER TO PRODUCE A SUGAR-SWEETENED BEVERAGE, THE REGULAR PRACTICE OF THE DISTRIBUTOR.

(C) THE TAX SHALL BE PAID UPON THE FIRST NON-EXEMPT DISTRIBUTION OF A SUGAR-SWEETENED BEVERAGE PRODUCT IN THE CITY. TO THE EXTENT THAT THERE IS A CHAIN OF DISTRIBUTION WITHIN THE CITY OF BOULDER INVOLVING MORE THAN ONE DISTRIBUTOR, THE TAX SHALL BE LEVIED ON THE FIRST DISTRIBUTOR SUBJECT TO THE JURISDICTION OF THE CITY. TO THE EXTENT THE TAX IS NOT PAID AS SET FORTH ABOVE FOR ANY REASON, IT SHALL BE PAYABLE ON SUBSEQUENT DISTRIBUTIONS AND BY SUBSEQUENT DISTRIBUTORS, PROVIDED THAT THE DISTRIBUTION OF SUGAR-SWEETENED BEVERAGE PRODUCTS MAY NOT BE TAXED MORE THAN ONCE IN THE CHAIN OF COMMERCE.

(D) THE TAXES IMPOSED BY THIS SECTION ARE IN ADDITION TO ANY OTHER TAXES THAT MAY APPLY TO PERSONS OR PRODUCTS SUBJECT TO THIS CHAPTER.

**Section 16-3 Definitions**

(A). "BEVERAGE FOR MEDICAL USE" MEANS A BEVERAGE SUITABLE FOR HUMAN CONSUMPTION AND MANUFACTURED FOR USE AS A SOURCE OF NECESSARY NUTRITION DUE TO A MEDICAL CONDITION, OR FOR USE AS AN ORAL REHYDRATION ELECTROLYTE SOLUTION FOR INFANTS AND CHILDREN FORMULATED TO PREVENT OR TREAT DEHYDRATION DUE TO ILLNESS. "BEVERAGE FOR MEDICAL USE" SHALL NOT INCLUDE DRINKS COMMONLY REFERRED TO AS "SPORTS DRINKS" OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.

- (b) "ALCOHOLIC BEVERAGE" MEANS ANY BEVERAGE SUBJECT TO TAX UNDER 12-47-103(2) OF THE COLORADO REVENUE AND TAXATION CODE, AS THAT PART MAY BE AMENDED FROM TIME TO TIME.
- (c) "BOTTLED SUGAR SWEETENED BEVERAGE" MEANS ANY SUGAR SWEETENED BEVERAGE CONTAINED IN A BOTTLE THAT IS READY FOR CONSUMPTION WITHOUT FURTHER PROCESSING, SUCH AS, AND WITHOUT LIMITATION, DILUTION OR CARBONATION.
- (d) "BUSINESS ENTITY" MEANS ANY PERSON EXCEPT FOR A NATURAL PERSON.
- (e) "CITY" MEANS THE CITY OF BOULDER, COLORADO.
- (f) "CITY MANAGER" MEANS THE CITY MANAGER OF THE CITY OF BOULDER OR HIS OR HER DESIGNEE.
- (g) "CALORIC SWEETENER" MEANS A SUBSTANCE OR COMBINATION OF SUBSTANCES SUITABLE FOR HUMAN CONSUMPTION THAT ADDS CALORIES TO AND IS PERCEIVED AS SWEET TO HUMANS WHEN CONSUMED, INCLUDING BUT NOT LIMITED TO SUCROSE, DEXTROSE, FRUCTOSE, GLUCOSE, OTHER MONO AND DISACCHARIDES; CORN SYRUP OR HIGH-FRUCTOSE CORN SYRUP; OR ANY OTHER CALORIC SWEETENER DESIGNATED BY THE CITY MANAGER.
- (h) "CONSUMER" MEANS A NATURAL PERSON WHO PURCHASES A SUGAR-SWEETENED BEVERAGE PRODUCT

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<sup>3</sup> Yang, Q., Zhang, Z., Gregg, E., Flanders, D., Merritt, R., & Hu, F. (2014, April). Added Sugar Intake and Cardiovascular Diseases Mortality Among US Adults. *JAMA Intern Med*, 174 (4), 516-524. . doi:10.1001/jamainternmed.2013.13563

IN THE CITY FOR A PURPOSE OTHER THAN RESALE IN THE ORDINARY COURSE OF BUSINESS.

- (i) "DISTRIBUTION" OR "DISTRIBUTE" MEANS THE TRANSFER OF TITLE OR POSSESSION (1) FROM ONE BUSINESS ENTITY TO ANOTHER FOR CONSIDERATION OR (2) WITHIN A SINGLE BUSINESS ENTITY, SUCH AS BY A WHOLESALE OR WAREHOUSING UNIT TO A RETAIL OUTLET OR BETWEEN TWO OR MORE EMPLOYEES OR CONTRACTORS. "DISTRIBUTION" OR "DISTRIBUTE" SHALL NOT MEAN THE RETAIL SALE TO A CONSUMER.
- (j) "DISTRIBUTOR" MEANS ANY PERSON WHO DISTRIBUTES SUGAR-SWEETENED BEVERAGE PRODUCTS IN THE CITY.
- (k) "MILK PRODUCTS" MEANS NATURAL FLUID MILK, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, NATURAL MILK CONCENTRATE, WHETHER OR NOT RECONSTITUTED, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, OR DEHYDRATED NATURAL MILK, WHETHER OR NOT RECONSTITUTED AND REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, AND PLANT-BASED MILK SUBSTITUTES, THAT ARE MARKETED AS MILK, SUCH AS SOY MILK, COCONUT MILK, RICE MILK AND ALMOND MILK.
- (l) "PERSON" MEANS AN INDIVIDUAL, TRUST, FIRM, JOINT STOCK COMPANY, BUSINESS CONCERN, BUSINESS TRUST, GOVERNMENT, RECEIVER, TRUSTEE, SYNDICATE, SOCIAL CLUB, FRATERNAL ORGANIZATION, ESTATE, CORPORATION, INCLUDING, BUT NOT LIMITED TO, A, LIMITED LIABILITY COMPANY, AND ASSOCIATION OR ANY OTHER GROUP OR COMBINATION ACTING AS A UNIT.
- (m) "POWDER" MEANS ANY SOLID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENER AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR SWEETENED BEVERAGE BY COMBINING THE POWDER WITH ONE OR MORE INGREDIENTS.
- (n) "RETAILER" MEANS A PERSON, OTHER THAN A DISTRIBUTOR, MANUFACTURER, OR WHOLESALE WHO RECEIVES, STORES, MIXES, COMPOUNDS, OR MANUFACTURES A SWEETENED BEVERAGE AND SELLS OR OTHERWISE DISPENSES THE SWEETENED BEVERAGE TO THE ULTIMATE CONSUMER.
- (o) "SIMPLE SYRUP" MEANS A MIXTURE OF WATER AND ONE OR MORE NATURAL OR COMMON SWEETENERS WITHOUT ANY ADDITIONAL INGREDIENTS.
- (p) "SUGAR-SWEETENED BEVERAGE" MEANS ANY NON-ALCOHOLIC BEVERAGE WHICH CONTAINS AT LEAST 5 GRAMS OF CALORIC SWEETENER PER 12 FLUID OUNCES.
  - (1) "SUGAR-SWEETENED BEVERAGE" INCLUDES, BUT IS NOT LIMITED TO ALL DRINKS AND BEVERAGES COMMONLY REFERRED TO AS "SODA," "POP," "COLA," "SOFT DRINKS," "SPORTS DRINKS," "ENERGY DRINKS," "SWEETENED ICE TEAS," "SWEETENED COFFEES." OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.
  - (2) "SUGAR-SWEETENED BEVERAGE" SHALL NOT INCLUDE ANY OF THE FOLLOWING:
    - I. ANY BEVERAGE IN WHICH MILK IS THE PRIMARY INGREDIENT, I.E., THE INGREDIENT CONSTITUTING A GREATER VOLUME OF THE PRODUCT THAN ANY OTHER;
    - II. ANY BEVERAGE FOR MEDICAL USE;
    - III. ANY LIQUID SOLD FOR USE FOR WEIGHT REDUCTION AS A MEAL REPLACEMENT;
    - IV. ANY PRODUCT COMMONLY REFERRED TO AS "INFANT FORMULA" OR "BABY FORMULA"; OR
    - V. ANY ALCOHOLIC BEVERAGE.
    - VI. ANY BEVERAGE CONSISTING OF ONE HUNDRED (100) PERCENT NATURAL FRUIT OR VEGETABLE JUICE WITH NO ADDED CALORIC SWEETENER. FOR PURPOSES OF THIS PARAGRAPH, "NATURAL FRUIT JUICE" AND "NATURAL VEGETABLE JUICE" MEAN THE ORIGINAL LIQUID RESULTING FROM THE PRESSING OF FRUITS OR VEGETABLES
    - VII. SWEETENED MEDICATION
- (q) "SUGAR-SWEETENED BEVERAGE PRODUCT" MEANS A BOTTLED SUGAR-SWEETENED BEVERAGE OR A SUGAR SWEETENED BEVERAGE MADE FROM THE DILUTION OF SYRUP OR POWDER.
- (r) "SYRUP" MEANS ANY LIQUID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENERS AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR-SWEETENED BEVERAGE BY COMBINING THE SYRUP WITH ONE OR MORE OTHER INGREDIENTS.

**Section 16-4 Exemptions**

THE TAX IMPOSED BY THIS CHAPTER SHALL NOT APPLY:

- A. TO ANY DISTRIBUTOR THAT IS NOT SUBJECT TO TAXATION BY THE CITY UNDER THE LAWS OF THE UNITED STATES OR THE STATE OF COLORADO;

- B. TO ANY DISTRIBUTION OF SYRUPS AND POWDERS FOR PERSONAL USE BY A CONSUMER.
- C. TO ANY MILK PRODUCT
- D. TO INFANT FORMULA
- E. TO ANY ALCOHOLIC BEVERAGE
- F. TO ANY BEVERAGE FOR MEDICAL USE

**Section 16-5 Duties, Responsibilities and Authority of the City Manager.**

- A. IT SHALL BE THE DUTY OF THE CITY MANAGER TO COLLECT AND RECEIVE ALL TAXES IMPOSED BY THIS CHAPTER, AND TO KEEP AN ACCURATE RECORD THEREOF.
- B. THE CITY MANAGER IS HEREBY CHARGED WITH THE ENFORCEMENT OF THIS CHAPTER, EXCEPT AS OTHERWISE PROVIDED HEREIN, AND MAY PRESCRIBE, ADOPT, AND ENFORCE RULES AND REGULATIONS RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER, INCLUDING PROVISIONS FOR THE REEXAMINATION AND CORRECTION OF RETURNS AND PAYMENTS, AND FOR REPORTING. SUCH RULES AND REGULATIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:
  - (1) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST CALCULATE THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.
  - (2) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST PAY THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.
  - (3) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR MUST REGISTER WITH THE CITY.
  - (4) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE NAME OF THAT DISTRIBUTOR.
  - (5) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE VOLUME OF SUGAR-SWEETENED BEVERAGE PRODUCTS RECEIVED FROM THAT DISTRIBUTOR.
  - (6) THE DETERMINATION OF WHAT OTHER DOCUMENTATION IS REQUIRED TO BE CREATED OR MAINTAINED BY A DISTRIBUTOR.
- C. THE CITY MANAGER SHALL ANNUALLY VERIFY THAT THE TAXES OWED UNDER THIS CHAPTER HAVE BEEN PROPERLY APPLIED, EXEMPTED, COLLECTED, AND REMITTED.

**Section 16-6 Collection.**

- A. THE AMOUNT OF ANY TAX, PENALTY, AND INTEREST IMPOSED UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE DEEMED A DEBT TO THE CITY. ANY DISTRIBUTOR OWING MONEY UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE LIABLE IN AN ACTION BROUGHT IN THE NAME OF THE CITY FOR THE RECOVERY OF SUCH AMOUNT.
- B. IN ORDER TO AID IN THE CITY'S COLLECTION OF TAXES DUE UNDER THIS CHAPTER, ANY RETAILER THAT RECEIVES SUGAR-SWEETENED BEVERAGE PRODUCTS FROM A DISTRIBUTOR SHALL, IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE CITY MANAGER PURSUANT TO SECTION 16-2:
  - (1) REPORT TO THE CITY ALL SUCH TRANSACTIONS, THE VOLUME IN OUNCES OF SUGAR-SWEETENED BEVERAGE PRODUCTS RECEIVED IN EACH TRANSACTION, AND THE IDENTITY AND CONTACT INFORMATION OF THE DISTRIBUTOR FROM WHOM THE SUGAR-SWEETENED BEVERAGE PRODUCTS WERE RECEIVED; OR
  - (2) IF THE CITY REQUIRES DISTRIBUTORS TO REGISTER, PROVIDE TO THE CITY EVIDENCE THAT THE DISTRIBUTOR FROM WHOM THE SUGAR-SWEETENED BEVERAGE PRODUCTS WERE RECEIVED HAS REGISTERED AS A DISTRIBUTOR WITH THE CITY AND THAT REGISTRATION IS CURRENT.

**Section 16-7 Refunds.**

WHENEVER ANY TAX UNDER THIS CHAPTER HAS BEEN PAID MORE THAN ONCE OR HAS BEEN ERRONEOUSLY OR ILLEGALLY COLLECTED OR RECEIVED BY THE CITY, IT MAY BE REFUNDED ONLY AS PROVIDED IN CHAPTER 3-2-23 OF THE BOULDER MUNICIPAL CODE

**Section 16-8 Enforcement.**

EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER OR BY RULE OR REGULATION PROMULGATED BY THE CITY

MANAGER, THE TAX IMPOSED BY THIS CHAPTER SHALL BE ADMINISTERED IN THE SAME MANNER AS TAXES IMPOSED PURSUANT TO CHAPTER 3-2-2 AND, WITHOUT LIMITATION, SHALL BE SUBJECT TO THE SAME DELINQUENCY PENALTIES, APPEALS PROCESSES AND OTHER ENFORCEMENT PROVISIONS SET FORTH IN CHAPTER 3-2-22.

**Section 16-9 Not a Sales and Use Tax.**

THE TAX IMPOSED BY THIS CHAPTER IS A TAX UPON THE PRIVILEGE OF CONDUCTING BUSINESS, SPECIFICALLY, DISTRIBUTING SUGAR-SWEETENED BEVERAGE PRODUCTS WITHIN THE CITY OF BOULDER. IT IS NOT A SALES, USE, OR OTHER EXCISE TAX ON THE SALE, CONSUMPTION OR USE OF SUGAR-SWEETENED BEVERAGE PRODUCTS. THE TAX IMPOSED HEREIN SHALL BE IN ADDITION TO ANY LICENSE FEE OR TAX IMPOSED OR LEVIED UNDER ANY OTHER LAW, STATUTE OR ORDINANCE WHERE IMPOSED OR LEVIED BY THE CITY, STATE, OR OTHER GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION.

**Section 16-10 Dedicated Revenues.**

- A. THE REVENUES FROM THIS EXCISE TAX SHALL:
  - (1) BE DESIGNATED FOR THE ADMINISTRATIVE COST OF THE TAX, NOT TO EXCEED 15% OF THE TOTAL REVENUE COLLECTED IN THE FIRST YEAR OF THE ADMINISTRATION OF THIS TAX AND 10% OF THE REVENUE RAISED IN SUBSEQUENT YEARS;
  - (2) AND ONCE THAT OBLIGATION HAS BEEN FULFILLED, USED FOR HEALTH PROMOTION, GENERAL WELLNESS PROGRAMS AND CHRONIC DISEASE PREVENTION IN THE CITY OF BOULDER THAT IMPROVE HEALTH EQUITY, SUCH AS ACCESS TO SAFE AND CLEAN DRINKING WATER, HEALTHY FOODS, NUTRITION AND FOOD EDUCATION, PHYSICAL ACTIVITY, AND OTHER HEALTH PROGRAMS ESPECIALLY FOR RESIDENTS WITH LOW INCOME AND THOSE MOST AFFECTED BY CHRONIC DISEASE LINKED TO SUGARY DRINK CONSUMPTION.
  
- B. IN ORDER TO ENSURE THAT FUNDS ARE ALLOCATED APPROPRIATELY AND IN THE PROPER AMOUNTS AS DIRECTED IN CHAPTER 16-10, THE CITY SHALL ACCURATELY TRACK AND RECORD ALL REVENUES COLLECTED FROM THE EXCISE TAX PROMULGATED IN CHAPTER 16-2 AND ACCURATELY TRACK AND RECORD ALL ADMINISTRATIVE COSTS AS DETAILED IN CHAPTER 16-10(A)
- C. THERE SHALL BE ESTABLISHED A COMMITTEE OF HEALTH EXPERTS TO DIRECT CITY COUNCIL ON HOW AND TO WHAT EXTENT THE CITY SHOULD ALLOCATE FUNDING FOR PROGRAMS TO IMPROVE COMMUNITY HEALTH AND GENERAL WELLNESS.
- D. THE CITY MANAGER SHALL APPOINT, AND SHALL ALSO HAVE THE POWER TO REMOVE, SEVEN TO NINE COMMITTEE MEMBERS. EACH COMMITTEE MEMBER MUST HAVE EXPERTISE IN AT LEAST ONE OF THE FOLLOWING AREAS, ALTHOUGH A COMMITTEE MEMBER MAY FILL MORE THAN ONE AREA OF EXPERTISE:
  - 1. AT LEAST ONE PERSON WHO IS AN EXPERT IN COMMUNITY-BASED FOOD AND NUTRITION PROGRAMS OR HAS EXPERIENCE IN SCHOOL-BASED FOOD AND NUTRITION PROGRAMS
  - 2. AT LEAST ONE PERSON WHO HAS EXPERIENCE IN EARLY CHILDHOOD EDUCATION
  - 3. AT LEAST ONE PERSON WHO HAS EXPERIENCE RESEARCHING PUBLIC HEALTH ISSUES OR EVALUATING PUBLIC HEALTH PROGRAMS RELATED TO DIABETES, OBESITY, HEART DISEASE AND SUGARY DRINK CONSUMPTION
  - 4. AT LEAST ONE PERSON WHO REPRESENTS AN ORGANIZATION WORKING DIRECTLY WITH BOULDER'S UNDERSERVED POPULATIONS OR WHOSE MISSION INCLUDES HEALTH EQUITY
  - 5. AT LEAST ONE PERSON WHO IS A LICENSED MEDICAL PROVIDER
  - 6. AT LEAST ONE PERSON WHO IS A PARENT
  - 7. AT LEAST ONE PERSON WHO IS AN EXPERT IN PHYSICAL ACTIVITY PROGRAMS
  - 8. AT LEAST ONE PERSON WHO IS AN ORAL HEALTH EXPERT

## ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

9. AT LEAST ONE REGISTERED DIETICIAN
  10. WHERE POSSIBLE, THE CITY MANAGER MUST APPOINT MEMBERS FROM THE CATEGORIES OUTLINED IN 16-10(D) WHO HAVE DEMONSTRATED A KNOWLEDGE OF AND COMMITMENT TO HEALTH EQUITY
- E. COMMITTEE MEMBERS SHALL BE RESIDENTS OF THE CITY OF BOULDER AT THE TIME, AND FOR THE DURATION OF, THEIR APPOINTMENT
- F. COMMITTEE MEMBERS WILL SERVE A TERM OF TWO YEARS, BUT MAY BE REAPPOINTED AND SERVE UP TO SIX CONSECUTIVE YEARS
- G. THE COMMITTEE SHALL, BY A MAJORITY VOTE, DO THE FOLLOWING:
1. ANNUALLY APPOINT ONE OF ITS MEMBERS AS CHAIR AND ONE OF ITS MEMBERS AS VICE CHAIR;
  2. APPROVE BYLAWS TO FACILITATE THE PROPER FUNCTIONING OF THE COMMITTEE
  3. ESTABLISH A REGULAR TIME AND MEETING PLACE. ALL MEETINGS SHALL BE NOTICED AS REQUIRED BY LAW AND SHALL BE SCHEDULED IN A WAY TO ALLOW FOR MAXIMUM INPUT FROM THE PUBLIC. MINUTES FROM EACH MEETING SHALL BE RECORDED, KEPT, AND MAINTAINED
  4. ANNUALLY PROVIDE BINDING DIRECTIVE TO THE CITY COUNCIL TO ALLOCATE FUNDS BASED ON THE STATED PURPOSES IN THIS SECTION AND AFTER THE CITY HAS BEEN REIMBURSED FOR THE COST OF THE ADMINISTRATION OF THIS TAX; AND
  5. PUBLISH AN ANNUAL REPORT THAT INCLUDES A FULL ACCOUNTING OF THE GRANTS DISBURSED FOR THE YEAR; INFORMATION, IF AVAILABLE, CONCERNING THE IMPACT OF THIS CHAPTER ON THE PUBLIC HEALTH AND RESIDENTS OF THE CITY OF BOULDER; AND ANY OTHER INFORMATION THE COMMITTEE DEEMS APPROPRIATE
- (E) WITHIN 30 DAYS OF RECEIPT OF THE PUBLICATION OF THE COMMITTEE'S ANNUAL REPORT, THE CITY MANAGER SHALL CAUSE THE REPORT TO BE PUBLIC ON THE CITY'S WEBSITE AND TO BE TRANSMITTED TO THE CITY COUNCIL.

### **16-11 Enactment.**

IF A MAJORITY OF ALL THE VOTES CAST AT THE ELECTION ON THE ISSUE SUBMITTED SHALL BE FOR THE ISSUE, THE ISSUE SHALL BE DEEMED TO HAVE PASSED AND SHALL BE EFFECTIVE JULY 1, 2017.

### **16-12 Severability.**

THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THEY WOULD HAVE ADOPTED EACH SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, OR ANY APPLICATION THEREOF, BE DECLARED INVALID OR UNENFORCEABLE AND, TO THAT END, THE PROVISIONS OF THIS ORDINANCE ARE SEVERABLE. IF ANY SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, OR ANY APPLICATION THEREOF IN ANY CIRCUMSTANCE, IS FOR ANY REASON HELD TO BE INVALID OR UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, THE REMAINING SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, AND APPLICATIONS THEREOF, SHALL NONETHELESS REMAIN IN FULL FORCE AND EFFECT.

### **16-13 Municipal Affair.**

- A. THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THE TAXATION OF THE PRIVILEGE OF DISTRIBUTING SUGAR-SWEETENED BEVERAGE PRODUCTS AND THAT THE PUBLIC HEALTH IMPACT OF SUGAR-SWEETENED BEVERAGE PRODUCTS SEPARATELY AND TOGETHER CONSTITUTE MUNICIPAL AFFAIRS.
- B. THE PEOPLE OF THE CITY OF BOULDER HEREBY FURTHER DECLARE THEIR DESIRE FOR THIS MEASURE TO COEXIST WITH ANY SIMILAR TAX ADOPTED AT THE COUNTY OR STATE LEVELS.

**AFFIDAVIT OF CIRCULATOR**

**I do solemnly affirm under penalty of perjury that:**

- I have read and understand the laws governing the circulation of petitions;
- I am at least 18 years of age at the time this section of the petition was circulated and signed by the listed electors;
- I circulated this section of the petition;
- Each signature on this petition was affixed in my presence;
- Each signature on this petition is the signature of the person whose name it purports to be;
- To the best of my knowledge and belief each of the persons signing this petition section was, at the time of signing, a registered elector;
- I have not paid or will not in the future pay and I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition.

**Circulator Name (please print)**

Last Name	First Name

**Permanent Residence Address (or location if homeless)**

Street name and number (no P.O. Boxes)	City/Town	County	State	Zip Code

**Temporary Colorado Address (if you are not a Colorado Resident)**

Street name and number (no P.O. Boxes)	City/Town	County	State	Zip Code

**Sign and Date in the Presence of a Notary**

Signature of Circulator	Date of Signing

**A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION:**

STATE OF COLORADO

COUNTY OF \_\_\_\_\_

Subscribed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
Day Month Year Printed name of Circulator above

Type of ID provided by circulator: \_\_\_\_\_

**(ID provided must be from "Acceptable Forms of Identification" list; "Personally Known" is not an acceptable entry)**

Signature (and Title) of Notary / Official Administering Oath: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

Dakota-Rae Westveer  
2600 9th Street  
Boulder, CO 80304  
dakotarae.westveer@gmail.com

Nicole Christensen  
2995 Jefferson Street  
Boulder, CO 80304  
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Lynn Gilbert  
2144 17th Street  
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Manuela Sifuentes  
2530 5th Street  
Boulder, CO 80304  
manuela.sifuentes@gmail.com

Brenden Nackerman  
2127 16th Street  
Boulder, CO 80302  
bnack09@gmail.com

## ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

**WARNING: IT IS AGAINST THE LAW:**

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure  
**DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.**

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning. By signing this petition, you are indicating that you want this measure to be included on the ballot as a proposed change to the Boulder Municipal Code. If a sufficient number of registered electors sign this petition, this measure will appear on the ballot at the November 8, 2016 election.

C.R.S 31-11-106

**SUMMARY OF PROPOSED MEASURE:** SHALL THE CITY OF BOULDER TAXES BE INCREASED BY \$3.8 MILLION ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, BUT EXEMPTING: (1) SWEETENERS SOLD SEPARATELY TO THE CONSUMER AT THE GROCERY STORE; (2) MILK PRODUCTS (3) BABY FORMULA (3) ALCOHOL, AND (5) DRINKS TAKEN FOR MEDICAL REASONS.

The ballot title and submission clause as designated and fixed by the Initiative Title Setting Review Board is as follows:

<b>1</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>2</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>3</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>4</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>5</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>6</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>7</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>8</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>9</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>10</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>11</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>12</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
<b>13</b>	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing

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**DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.**

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning. By signing this petition, you are indicating that you want this measure to be included on the ballot as a proposed change to the Boulder Municipal Code. If a sufficient number of registered electors sign this petition, this measure will appear on the ballot at the November 8, 2016 election.

C.R.S 31-11-106

**SUMMARY OF PROPOSED MEASURE:** *SHALL THE CITY OF BOULDER TAXES BE INCREASED BY \$3.8 MILLION ANNUALLY AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN EXCISE TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, BUT EXEMPTING: (1) SWEETENERS SOLD SEPARATELY TO THE CONSUMER AT THE GROCERY STORE; (2) MILK PRODUCTS (3) BABY FORMULA (3) ALCOHOL, AND (5) DRINKS TAKEN FOR MEDICAL REASONS.*

The ballot title and submission clause as designated and fixed by the Initiative Title Setting Review Board is as follows:

14	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
15	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
16	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
17	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
18	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
19	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
20	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
21	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
22	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
23	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
24	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
25	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
26	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing



**CITY OF BOULDER  
OFFICE OF THE CITY CLERK**

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May 4, 2016

Dakota-Rae Westveer  
2600 9<sup>th</sup> St.  
Boulder, CO 80304

Nicole Christensen  
2995 Jefferson St.  
Boulder, CO 80304

Lynn Gilbert  
2144 17<sup>th</sup> St.  
Boulder, CO 80302

Manuela Sifuentes  
2530 5<sup>th</sup> St.  
Boulder, CO 80304

Brenden Nackerman  
2127 16<sup>th</sup> St.  
Boulder, CO 80302

Re: Petition to Initiate – TABOR Issue to Increase Taxes for Sugar-Sweetened Drinks and New Code Section

Dear Committee of Petitioners:

These comments are presented pursuant to Charter Section 38B and CRS 31-11-101, *et seq.* which govern the procedure for initiated legislation.

Format

- The red language of the petition must be as specified in 31-11-106(3)(a). To comply with that requirement, the last two sentences and the statutory cite must be removed from the petition.
- The summary is to be prepared by the city clerk as required by 31-22-106(3)(b) and not by the committee. I cannot prepare a summary of this proposal because it contains more than one subject. If the initiated language were to be only the TABOR portion of the initiative, I authorize the summary below. I have used your summary language as a basis for the summary; however, I do not believe that the summary proposed includes all of the major components of the measure and therefor would be misleading. The summary I approve to be on the approved petition form with just the TABOR tax increase language ending after “. . . sugary drink consumption” is:

An initiative to approve a new tax of 2 cents per ounce on the distribution of drinks with added sugar, and sweeteners used to produce such drinks, with certain exceptions, and directs that the revenue collected be used for administration of the tax and health programs.

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- The initiated language must be in the form of a question such that a vote for the measure is a vote for the proposition and that a vote against the measure would be a vote against the proposition. Charter 38. To be a question, it can only include one sentence.
- The proper warning and the summary must be printed on each page.
- The names and mailing addresses of the committee members must be after the ballot text.
- The petition must be in the proper order: Warning and Summary on each page, then the order of each petition is: initiated language; petition committee; signature pages; circulator affidavit.
- Initiated measures can only contain one subject. The proposed measure includes both a tax increase and a new code section with numerous subjects, and therefore violates that rule. Further, initiatives must be "worded clearly and simply so the petition is not misleading or likely to cause confusion to voters."

Content

- Both the TABOR portion and the code portion of the initiative include language that authorizes third parties to direct city council on how to spend city revenue. That language violates the charter and no charter amendment is proposed. Therefore, both the TABOR and the Code portion must be amended to eliminate language that violates the powers of the city council granted by the people in the Boulder Home Rule Charter.
- The proposed TABOR question is fine if it ends after "... sugary drink consumption."
- The proposed code language creates several difficulties. Following are some of them, with suggested corrections:
  - A. It appears that you are trying to add a new chapter to Title 3. If so, the proper format would be same as all of the other chapters of the code, with the Sections numbered 3-16-1, 3-16-2, etc.
  - B. The code is structured so that the definitions that apply to the entire code are in Chapter 1-2 and the only words that have different definitions for a separate title, chapter or section are in a definition section of that title, chapter or section. The definition section includes duplicate terms with different definitions than Chapter 1-2 and Section 3-1-1 with no explanation as to why the definitions are different. For instance, so far I have found discrepancies in the definitions of the terms City, City Manager, Person, and Retailer. If you intend to use the same terms with different definitions, the reason for the difference should be explained. If you do not intend to use different definitions for already defined terms, they should not be included in the proposed amendments to the section. The amendments that are included in this initiative to apply only for the added language should have introductory language that the changed definitions only apply to the new Chapter 3-16 and no other part of the Code.
  - C. The code does not number or letter definitions, but simply put them in alphabetical order for ease of the user and future amendments.
  - D. Several sections of the proposed additions cannot be enforced because they are too vague or ambiguous for the city to prevail in a regulatory or legal proceeding to enforce the new tax on specific distributors. For instance, the levy does not define who has the duty to pay the tax and the

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exemption has no meaning, so it could be interpreted that there is no exemption or there is no tax imposed.

E. The percentage of the tax allocated for administration of the tax may not be sufficient for the first year or ensuing years. The costs of administration include several factors, including budget, accounting and financial reporting, audit, enforcement, collections, as well as the additional staff that will be required to implement a tax program on a different class than current taxpayers, many of whom have no nexus with the city. For those that do have a nexus with the city, the proposal requires separation of this tax from other taxes so requires a different procedure than that used for all other taxes collected by the city. To implement a program to tax a different group of people and a different basis of measuring the tax requires new forms, new procedures and additional personnel.

F. Having people appointed to a committee by the city manager with power over the city council is directly contrary to the charter and would require a charter amendment. The provision that allows appointed officials to impose binding directives on elected officials is further exacerbation of the conflict with the charter.

G. The city has a budget and audit process that involves several steps to be performed at different times. This proposal includes nothing that requires the committee to participate in that process. In order to comply with applicable law, and keep the city's excellent credit ratings, the revenues from this tax would have to be fully self-sustaining and require no subsidy from the general fund, and even with those fixes would run afoul of state budget laws that apply to the city.

We discussed with Mr. Olvera on April 20, 2016 several ways in which appropriate code provisions could be referenced in the TABOR question without violating the single subject rule. However, I cannot approve the petition form you submitted to me on April 21, 2016, because it does not comply with the applicable law. If you decide to submit a new petition form for comment, at a minimum, the changes that should be made include:

1. The petition form to meet all applicable requirements
2. The petition to only include one subject in the form of a question properly structured
3. Any attempts to circumvent existing charter provisions must be presented in a separate petition that meets the requirements for initiated changes to the city's charter

If you would like to meet, we would be happy to help you with options for language that would accomplish the goal you are trying to accomplish.

Sincerely,



Lynnette Beck  
City Clerk

Cc: Kathy Haddock via email to [haddockk@bouldercolorado.gov](mailto:haddockk@bouldercolorado.gov)

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DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.  
Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

**SUMMARY OF PROPOSED MEASURE:**

AN INITIATIVE TO APPROVE A NEW TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, WITH CERTAIN EXCEPTIONS, AND DIRECTS THAT THE REVENUE COLLECTED BE USED FOR ADMINISTRATION OF THE TAX AND HEALTH PROGRAMS.

**PETITION TO INITIATE**

The full text of the proposed measure is as follows:

Be it Enacted by the People of the City of Boulder, Colorado:

**SECTION 1.** In the Boulder Revised Code, add Chapter 16 to Title 3 as follows:

**Chapter 16 Sugar-Sweetened Beverage Product Distribution Tax**

**Section 3-16 -1 Findings and Purpose.**

- (a) AN EXCISE TAX ON THE DISTRIBUTION OF SUGAR SWEETENED BEVERAGES IS INTENDED TO PROTECT THE HEALTH, SAFETY, AND WELL-BEING OF ALL IN THE CITY OF BOULDER.
- (b) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK FOR CHILDHOOD OBESITY BY 55%.
- (c) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK OF DEVELOPING TYPE TWO DIABETES BY 25%.
- (d) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE LIKELIHOOD OF DEATH FROM CARDIOVASCULAR DISEASE BY 30%.

**Section 3-16-2 Imposition and Rate of Tax**

- (a) EXCISE TAX. THERE IS LEVIED AND SHALL BE PAID AND COLLECTED AN EXCISE TAX OF TWO CENTS (\$0.02) PER FLUID OUNCE OF SUGAR- SWEETENED BEVERAGE PRODUCTS THAT ARE DISTRIBUTED IN THE CITY.
- (b) FOR PURPOSES OF CALCULATING THE TAX IMPOSED UNDER THIS CHAPTER, THE VOLUME, IN FLUID OUNCES, OF A SUGAR- SWEETENED BEVERAGE PRODUCT SHALL BE:
  - (1) FOR A BOTTLED SUGAR-SWEETENED BEVERAGE THE TAX SHALL BE CALCULATED ON THE VOLUME, IN FLUID OUNCES, OF SUGAR- SWEETENED BEVERAGES DISTRIBUTED TO ANY PERSON IN THE COURSE OF BUSINESS IN THE CITY.
  - (2) FOR A SUGAR SWEETENED BEVERAGE MADE FROM SYRUPS AND POWDERS THE TAX SHALL BE CALCULATED ON THE LARGEST VOLUME OF FLUID OUNCES OF SUGAR- SWEETENED BEVERAGES THAT COULD BE PRODUCED FROM SYRUP OR POWDER UPON THE INITIAL DISTRIBUTION OF SYRUP OR POWDER.

**Section 3-16-3 Distributor Liable for Tax**

EACH DISTRIBUTOR OF SUGAR-SWEETENED BEVERAGE PRODUCTS SHALL PAY THE TAX IMPOSED IN SUBSECTION 3-16-2 ON EACH NON-EXEMPT DISTRIBUTION OF A SUGAR-SWEETENED BEVERAGE PRODUCT, EXCEPT THAT IF THERE IS A CHAIN OF DISTRIBUTION WITHIN THE CITY OF BOULDER INVOLVING MORE THAN ONE DISTRIBUTOR, THE TAX SHALL BE LEVIED ON THE FIRST DISTRIBUTOR SUBJECT TO THE JURISDICTION OF THE CITY, UNLESS THE TAX IS NOT

CITY OF BOULDER  
CITY MANAGER'S OFFICE  
2016 MAY 16 PM 11:56

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PAID BY THE FIRST DISTRIBUTOR FOR ANY REASON, IT SHALL BE LEVIED ON SUBSEQUENT DISTRIBUTORS, PROVIDED THAT THE DISTRIBUTION OF SUGAR-SWEETENED BEVERAGE PRODUCTS MAY NOT BE TAXED MORE THAN ONCE IN THE CHAIN OF COMMERCE.

## **Section 3-16-4 Definitions**

FOR THE PURPOSES OF THIS CHAPTER 16, UNLESS THE CONTEXT OTHERWISE REQUIRES:

“BEVERAGE FOR MEDICAL USE” MEANS A BEVERAGE SUITABLE FOR HUMAN CONSUMPTION AND MANUFACTURED FOR USE AS A

- (1) SOURCE OF NECESSARY NUTRITION DUE TO A MEDICAL CONDITION, OR
- (2) FOR USE AS AN ORAL REHYDRATION ELECTROLYTE SOLUTION FOR INFANTS AND CHILDREN

FORMULATED TO PREVENT OR TREAT DEHYDRATION DUE TO ILLNESS.

“BEVERAGE FOR MEDICAL USE” SHALL NOT INCLUDE DRINKS COMMONLY REFERRED TO AS “SPORTS DRINKS” OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.

“BOTTLED SUGAR SWEETENED BEVERAGE” MEANS ANY SUGAR SWEETENED BEVERAGE CONTAINED IN A BOTTLE THAT IS READY FOR CONSUMPTION WITHOUT FURTHER PROCESSING, SUCH AS, AND WITHOUT LIMITATION, DILUTION OR CARBONATION.

“CALORIC SWEETENER” MEANS A SUBSTANCE OR COMBINATION OF SUBSTANCES SUITABLE FOR HUMAN CONSUMPTION THAT ADDS CALORIES TO AND IS PERCEIVED AS SWEET TO HUMANS WHEN CONSUMED, INCLUDING, BUT NOT LIMITED TO SUCROSE, DEXTROSE, FRUCTOSE, GLUCOSE, OTHER MONO AND DISACCHARIDES; CORN SYRUP OR HIGH-FRUCTOSE CORN SYRUP; OR ANY OTHER CALORIC SWEETENER DESIGNATED BY THE CITY MANAGER.

“CONSUMER” MEANS A NATURAL PERSON WHO PURCHASES A SUGAR-SWEETENED BEVERAGE PRODUCT IN THE CITY FOR A PURPOSE OTHER THAN RESALE IN THE ORDINARY COURSE OF BUSINESS.

“DISTRIBUTION” OR “DISTRIBUTE” MEANS THE TRANSFER OF TITLE OR POSSESSION

- (1) FROM ONE BUSINESS ENTITY TO ANOTHER FOR CONSIDERATION OR
- (2) WITHIN A SINGLE BUSINESS ENTITY, SUCH AS BY A WHOLESALE OR WAREHOUSING UNIT TO A RETAIL

OUTLET OR BETWEEN TWO OR MORE EMPLOYEES OR CONTRACTORS. “DISTRIBUTION” OR “DISTRIBUTE” SHALL NOT MEAN THE RETAIL SALE TO A CONSUMER.

“DISTRIBUTOR” MEANS ANY PERSON WHO DISTRIBUTES SUGAR-SWEETENED BEVERAGE PRODUCTS IN THE CITY.

“MILK PRODUCTS” MEANS NATURAL FLUID MILK, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, NATURAL MILK CONCENTRATE, WHETHER OR NOT RECONSTITUTED, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, OR DEHYDRATED NATURAL MILK, WHETHER OR NOT RECONSTITUTED AND REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, AND PLANT-BASED MILK SUBSTITUTES, THAT ARE

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MARKETED AS MILK, SUCH AS SOY MILK, COCONUT MILK, RICE MILK AND ALMONDMILK.

“POWDER” MEANS ANY SOLID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENER AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR SWEETENED BEVERAGE BY COMBINING THE POWDER WITH ONE OR MORE INGREDIENTS.

“RETAILER OF SUGAR-SWEETENED BEVERAGE PRODUCTS” MEANS A PERSON, OTHER THAN A DISTRIBUTOR, MANUFACTURER, OR WHOLESALER WHO RECEIVES, STORES, MIXES, COMPOUNDS, OR MANUFACTURES A SUGAR-SWEETENED BEVERAGE AND SELLS OR OTHERWISE DISPENSES THE SUGAR-SWEETENED BEVERAGE TO THE ULTIMATE CONSUMER.

“SIMPLE SYRUP” MEANS A MIXTURE OF WATER AND ONE OR MORE NATURAL OR COMMON SWEETENERS WITHOUT ANY ADDITIONAL INGREDIENTS.

“SUGAR-SWEETENED BEVERAGE” MEANS ANY NON-ALCOHOLIC BEVERAGE WHICH CONTAINS AT LEAST 5 GRAMS OF CALORIC SWEETENER PER 12 FLUID OUNCES.

(1) “SUGAR-SWEETENED BEVERAGE” INCLUDES ALL DRINKS AND BEVERAGES COMMONLY REFERRED TO AS “SODA,” “POP,” “COLA,” “SOFT DRINKS,” “SPORTS DRINKS,” “ENERGY DRINKS,” “SWEETENED ICE TEAS,” “SWEETENED COFFEES,” OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.

(2) “SUGAR-SWEETENED BEVERAGE” DOES NOT INCLUDE ANY OF THE FOLLOWING:

- i. ANY BEVERAGE IN WHICH MILK IS THE PRIMARY INGREDIENT, I.E., THE INGREDIENT CONSTITUTING A GREATER VOLUME OF THE PRODUCT THAN ANY OTHER;
- ii. ANY BEVERAGE FOR MEDICAL USE;
- iii. ANY LIQUID SOLD FOR USE FOR WEIGHT REDUCTION AS A MEAL REPLACEMENT;
- iv. ANY PRODUCT COMMONLY REFERRED TO AS “INFANT FORMULA” OR “BABY FORMULA”; OR
- v. ANY ALCOHOLIC BEVERAGE.
- vi. ANY BEVERAGE CONSISTING OF ONE HUNDRED (100) PERCENT NATURAL FRUIT OR VEGETABLE JUICE WITH NO ADDED CALORIC SWEETENER. FOR PURPOSES OF THIS PARAGRAPH, “NATURAL FRUIT JUICE” AND “NATURAL VEGETABLE JUICE” MEAN THE ORIGINAL LIQUID RESULTING FROM THE PRESSING OF FRUITS OR VEGETABLES.
- vii. SWEETENED MEDICATIONS SUCH AS COUGH SYRUP, LIQUID PAIN RELIEVERS, FEVER REDUCERS, AND SIMILAR PRODUCTS

“SUGAR-SWEETENED BEVERAGE PRODUCT” MEANS A BOTTLED SUGAR-SWEETENED BEVERAGE OR A SUGAR SWEETENED BEVERAGE MADE FROM THE DILUTION OF SYRUP OR POWDER.

“SYRUP” MEANS ANY LIQUID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENERS AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR-SWEETENED BEVERAGE BY COMBINING THE SYRUP WITH ONE OR MORE OTHER INGREDIENTS.

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**Section 3-16-5 Exemptions**

THE TAX IMPOSED BY THIS CHAPTER SHALL NOT APPLY:

- (a) TO ANY DISTRIBUTION OF SYRUPS AND POWDERS SOLD DIRECTLY TO A CONSUMER AND INTENDED FOR PERSONAL USE BY A CONSUMER THAT ARE NOT ALREADY PRE-MIXED INTO A SUGAR SWEETENED BEVERAGE PRODUCT SUCH AS GRANULATED SUGAR, HONEY, AGAVE AND SIMILAR PRODUCTS.
- (b) TO ANY MILK PRODUCT
- (c) TO INFANT FORMULA
- (d) TO ANY ALCOHOLIC BEVERAGE
- (e) TO ANY BEVERAGE FOR MEDICAL USE

**Section 3-16-6 Duties, Responsibilities and Authority of the City Manager**

- (a) THE CITY MANAGER IS AUTHORIZED TO COLLECT AND RECEIVE ALL TAXES IMPOSED BY THIS CHAPTER, AND TO KEEP AN ACCURATE RECORD THEREOF.
- (b) THE CITY MANAGER SHALL DEVELOP A REGISTRATION SYSTEM WHEREBY DISTRIBUTORS OF SUGAR-SWEETENED BEVERAGES MUST REGISTER WITH THE CITY PRIOR TO DISTRIBUTING ANY SUGAR-SWEETENED BEVERAGES.
- (c) THE CITY MANAGER SHALL ANNUALLY VERIFY THAT THE TAXES OWED UNDER THIS CHAPTER HAVE BEEN PROPERLY APPLIED, EXEMPTED, COLLECTED, AND REMITTED.
- (d) THE CITY MANAGER IS AUTHORIZED TO ENFORCE THIS CHAPTER AND MAY PRESCRIBE, ADOPT, AND ENFORCE RULES AND REGULATIONS RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER, INCLUDING PROVISIONS FOR THE REEXAMINATION AND CORRECTION OF RETURNS AND PAYMENTS, AND FOR REPORTING. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:
  - (1) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST CALCULATE THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.
  - (2) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST PAY THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.
  - (3) THE DETERMINATION OF THE MANNER IN WHICH A DISTRIBUTOR MUST REGISTER WITH THE CITY.
  - (4) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE NAME OF THAT DISTRIBUTOR.
  - (5) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE VOLUME OF SUGAR-SWEETENED BEVERAGE PRODUCTS RECEIVED FROM THAT DISTRIBUTOR.
  - (6) THE DETERMINATION OF WHAT OTHER DOCUMENTATION IS REQUIRED TO BE CREATED OR MAINTAINED BY A DISTRIBUTOR OF SUGAR-SWEETENED BEVERAGE PRODUCTS.

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**Section 3-16-7 Collection**

(a) THE AMOUNT OF ANY TAX, PENALTY, AND INTEREST IMPOSED UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE DEEMED A DEBT TO THE CITY. ANY DISTRIBUTOR OWING MONEY UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE LIABLE IN AN ACTION BROUGHT IN THE NAME OF THE CITY FOR THE RECOVERY OF SUCH AMOUNT.

(b) IN ORDER TO AID IN THE CITY'S COLLECTION OF TAXES DUE UNDER THIS CHAPTER, ANY RETAILER OF SUGAR-SWEETENED BEVERAGE PRODUCTS THAT RECEIVES SUGAR-SWEETENED BEVERAGE PRODUCTS FROM A DISTRIBUTOR, IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE CITY MANAGER PURSUANT TO SECTION 3-16-2, SHALL PROVIDE TO THE CITY EVIDENCE THAT THE DISTRIBUTOR FROM WHOM THE SUGAR-SWEETENED BEVERAGE PRODUCTS WERE RECEIVED HAS REGISTERED AS A DISTRIBUTOR WITH THE CITY AND THAT REGISTRATION IS CURRENT.

**Section 3-16-8 Refunds**

WHENEVER ANY TAX UNDER THIS CHAPTER HAS BEEN PAID MORE THAN ONCE OR HAS BEEN ERRONEOUSLY OR ILLEGALLY COLLECTED OR RECEIVED BY THE CITY, IT MAY BE REFUNDED ONLY AS PROVIDED IN CHAPTER 3-2-23 OF THE BOULDER MUNICIPAL CODE.

**Section 3-16-9 Enforcement**

EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER OR BY RULE OR REGULATION PROMULGATED BY THE CITY MANAGER, THE TAX IMPOSED BY THIS CHAPTER SHALL BE ADMINISTERED IN THE SAME MANNER AS TAXES IMPOSED PURSUANT TO CHAPTER 3-2-2 AND, WITHOUT LIMITATION, SHALL BE SUBJECT TO THE SAME DELINQUENCY PENALTIES, APPEALS PROCESSES AND OTHER ENFORCEMENT PROVISIONS SET FORTH IN CHAPTER 3-2-22.

**Section 3-16-10 Not a Sales and Use Tax**

THE TAX IMPOSED BY THIS CHAPTER IS A TAX UPON THE PRIVILEGE OF CONDUCTING BUSINESS, SPECIFICALLY, DISTRIBUTING SUGAR- SWEETENED BEVERAGE PRODUCTS WITHIN THE CITY OF BOULDER. IT IS NOT A SALES, USE, OR OTHER EXCISE TAX ON THE SALE, CONSUMPTION OR USE OF SUGAR-SWEETENED BEVERAGE PRODUCTS. THE TAX IMPOSED HEREIN SHALL BE IN ADDITION TO ANY LICENSE FEE OR TAX IMPOSED OR LEVIED UNDER ANY OTHER LAW, STATUTE OR ORDINANCE WHERE IMPOSED OR LEVIED BY THE CITY, STATE, OR OTHER GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION.

**Section 3-16-11 Dedicated Revenues**

THE REVENUES FROM THIS EXCISE TAX SHALL BE DESIGNATED FOR THE ADMINISTRATIVE COST OF THE TAX, AND ONCE THAT OBLIGATION HAS BEEN FULFILLED, USED FOR HEALTH PROMOTION, GENERAL WELLNESS PROGRAMS AND CHRONIC DISEASE PREVENTION IN THE CITY OF BOULDER THAT IMPROVE HEALTH EQUITY, SUCH AS ACCESS TO SAFE AND CLEAN DRINKING WATER, HEALTHY FOODS, NUTRITION AND FOOD EDUCATION, PHYSICAL ACTIVITY,

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AND OTHER HEALTH PROGRAMS ESPECIALLY FOR RESIDENTS WITH LOW INCOME AND THOSE MOST AFFECTED BY CHRONIC DISEASE LINKED TO SUGARY DRINK CONSUMPTION. IN ORDER TO ENSURE THAT FUNDS ARE ALLOCATED APPROPRIATELY AS DIRECTED IN CHAPTER 3-16-10, THE CITY SHALL ACCURATELY TRACK AND RECORD ALL REVENUES COLLECTED FROM THE EXCISE TAX PROMULGATED IN CHAPTER 3-16-2 AND ACCURATELY TRACK AND RECORD ALL ADMINISTRATIVE COSTS AS DETAILED IN CHAPTER 3-16-10(a). THE CITY COUNCIL SHALL ANNUALLY PUBLISH A PUBLIC REPORT ON THE CITY'S WEBSITE DETAILING THE AMOUNT OF REVENUE COLLECTED AS A RESULT OF THE TAX AND THE TYPE AND AMOUNT OF EXPENDITURES MADE AS A RESULT OF THE TAX LEVIED IN CHAPTER 3-16-2.

### **3-16-12 Enactment**

IF A MAJORITY OF ALL THE VOTES CAST AT THE ELECTION ON THE ISSUE SUBMITTED SHALL BE FOR THE ISSUE, THE ISSUE SHALL BE DEEMED TO HAVE PASSED AND SHALL BE EFFECTIVE JULY 1, 2017.

### **3-16-13 Severability**

THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THEY WOULD HAVE ADOPTED EACH SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, OR ANY APPLICATION THEREOF, BE DECLARED INVALID OR UNENFORCEABLE AND, TO THAT END, THE PROVISIONS OF THIS ORDINANCE ARE SEVERABLE. IF ANY SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, OR ANY APPLICATION THEREOF IN ANY CIRCUMSTANCE, IS FOR ANY REASON HELD TO BE INVALID OR UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, THE REMAINING SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, AND APPLICATIONS THEREOF, SHALL NONETHELESS REMAIN IN FULL FORCE AND EFFECT.

### **3-16-14 Municipal Affair**

THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THE TAXATION OF THE PRIVILEGE OF DISTRIBUTING SUGAR- SWEETENED BEVERAGE PRODUCTS AND THAT THE PUBLIC HEALTH IMPACT OF SUGAR-SWEETENED BEVERAGE PRODUCTS SEPARATELY AND TOGETHER CONSTITUTE MUNICIPAL AFFAIRS. THE PEOPLE OF THE CITY OF BOULDER HEREBY FURTHER DECLARE THEIR DESIRE FOR THIS MEASURE TO COEXIST WITH ANY SIMILAR TAX ADOPTED AT THE COUNTY OR STATE LEVELS.

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1	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
2	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
3	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
4	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
5	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
6	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
7	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
8	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
9	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
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11	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
12	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
13	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
14	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
15	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
16	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
17	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
18	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
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**ATTACHMENT A - CERTIFICATE OF SUFFICIENCY**

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**For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.**  
**DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.**  
**Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.**

**SUMMARY OF PROPOSED MEASURE:**

AN INITIATIVE TO APPROVE A NEW TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, WITH CERTAIN EXCEPTIONS, AND DIRECTS THAT THE REVENUE COLLECTED BE USED FOR ADMINISTRATION OF THE TAX AND HEALTH PROGRAMS.

21	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
22	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
23	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
24	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
25	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
26	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
27	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
28	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
29	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing
30	Signature	Residence Address (Street & Number)	County
	Printed Name	City/Town	Date of Signing

ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

**WARNING: IT IS AGAINST THE LAW:**

**For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure. DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE. Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.**

**SUMMARY OF PROPOSED MEASURE:**

AN INITIATIVE TO APPROVE A NEW TAX OF 2 CENTS PER OUNCE ON THE DISTRIBUTION OF DRINKS WITH ADDED SUGAR, AND SWEETENERS USED TO PRODUCE SUCH DRINKS, WITH CERTAIN EXCEPTIONS, AND DIRECTS THAT THE REVENUE COLLECTED BE USED FOR ADMINISTRATION OF THE TAX AND HEALTH PROGRAMS.

**AFFIDAVIT OF CIRCULATOR**

**I do solemnly affirm under penalty of perjury that:**

- I have read and understand the laws governing the circulation of petitions;
- I am at least 18 years of age at the time this section of the petition was circulated and signed by the listed electors;
- I circulated this section of the petition;
- Each signature on this petition was affixed in my presence;
- Each signature on this petition is the signature of the person whose name it purports to be;
- To the best of my knowledge and belief each of the persons signing this petition section was, at the time of signing, a registered elector;
- I have not paid or will not in the future pay and I believe that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition.

**Circulator Name (please print)**

Last Name	First Name

**Permanent Residence Address (or location if homeless)**

Street name and number (no P.O. Boxes)	City/Town	County	State	Zip Code

**Temporary Colorado Address (if you are not a Colorado Resident)**

Street name and number (no P.O. Boxes)	City/Town	County	State	Zip Code

**Sign and Date in the Presence of a Notary**

Signature of Circulator	Date of Signing

**A NOTARY PUBLIC MUST COMPLETE THE FOLLOWING SECTION:**

STATE OF COLORADO

COUNTY OF \_\_\_\_\_

Subscribed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
Day Month Year Printed name of Circulator above

Type of ID provided by circulator: \_\_\_\_\_

(ID provided must be from "Acceptable Forms of Identification" list; "Personally Known" is not an acceptable entry)

Signature (and Title) of Notary / Official Administering Oath: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

BALLOT ISSUE NO. ##

Be it Enacted by the People of the City of Boulder, Colorado:

**SECTION 1.** In the Boulder Revised Code, add Chapter 16 to Title 3 as follows:

**Chapter 16 Sugar-Sweetened Beverage Product Distribution Tax**

**Section 3-16 -1 Findings and Purpose.**

- (a) AN EXCISE TAX ON THE DISTRIBUTION OF SUGAR SWEETENED BEVERAGES IS INTENDED TO PROTECT THE HEALTH, SAFETY, AND WELL-BEING OF ALL IN THE CITY OF BOULDER.
- (b) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK FOR CHILDHOOD OBESITY BY 55%.
- (c) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE RISK OF DEVELOPING TYPE TWO DIABETES BY 25%.
- (d) WHEREAS CONSUMING ONE SUGAR SWEETENED BEVERAGE A DAY INCREASES THE LIKELIHOOD OF DEATH FROM CARDIOVASCULAR DISEASE BY 30%.

**Section 3-16-2 Imposition and Rate of Tax**

- (a) EXCISE TAX. THERE IS LEVIED AND SHALL BE PAID AND COLLECTED AN EXCISE TAX OF TWO CENTS (\$0.02) PER FLUID OUNCE OF SUGAR- SWEETENED BEVERAGE PRODUCTS THAT ARE DISTRIBUTED IN THE CITY.
- (b) FOR PURPOSES OF THIS CHAPTER, THE VOLUME, IN FLUID OUNCES, OF A SUGAR- SWEETENED BEVERAGE PRODUCT SHALL BE:
  - (1) FOR A BOTTLED SUGAR-SWEETENED BEVERAGE THE TAX SHALL BE CALCULATED ON THE VOLUME, IN FLUID OUNCES, OF SUGAR- SWEETENED BEVERAGES DISTRIBUTED TO ANY PERSON IN THE COURSE OF BUSINESS IN THE CITY.
  - (2) FOR A SUGAR SWEETENED BEVERAGE MADE FROM SYRUPS AND POWDERS THE TAX SHALL BE CALCULATED ON THE LARGEST VOLUME OF FLUID OUNCES OF SUGAR- SWEETENED BEVERAGES THAT COULD BE PRODUCED FROM SYRUP OR POWDER UPON THE INITIAL DISTRIBUTION OF SYRUP OR POWDER.

**Section 3-16-3 Distributor Liable for Tax**

EACH DISTRIBUTOR OF SUGAR-SWEETENED BEVERAGE PRODUCTS SHALL PAY THE TAX IMPOSED IN SUBSECTION 3-16-2 ON EACH NON-EXEMPT DISTRIBUTION OF A SUGAR-SWEETENED BEVERAGE PRODUCT, EXCEPT THAT IF THERE IS A CHAIN OF DISTRIBUTION WITHIN THE CITY OF BOULDER INVOLVING MORE THAN ONE DISTRIBUTOR, THE TAX SHALL BE LEVIED ON THE FIRST DISTRIBUTOR SUBJECT TO THE JURISDICTION OF THE CITY, UNLESS THE TAX IS NOT PAID BY THE FIRST DISTRIBUTOR FOR ANY REASON, IT SHALL BE LEVIED ON SUBSEQUENT DISTRIBUTORS, PROVIDED THAT THE DISTRIBUTION OF SUGAR-SWEETENED BEVERAGE PRODUCTS MAY NOT BE TAXED MORE THAN ONCE IN THE CHAIN OF COMMERCE.

CITY OF BOULDER  
CITY MANAGER'S OFFICE  
2016 MAY 16 PM 11:57

**Section 3-16-4 Definitions**

FOR THE PURPOSES OF THIS CHAPTER 16, UNLESS THE CONTEXT OTHERWISE REQUIRES:

“BEVERAGE FOR MEDICAL USE” MEANS A BEVERAGE SUITABLE FOR HUMAN CONSUMPTION AND MANUFACTURED FOR USE AS A

- (1) SOURCE OF NECESSARY NUTRITION DUE TO A MEDICAL CONDITION, OR
- (2) FOR USE AS AN ORAL REHYDRATION ELECTROLYTE SOLUTION FOR INFANTS AND CHILDREN FORMULATED TO PREVENT OR TREAT DEHYDRATION DUE TO ILLNESS.

“BEVERAGE FOR MEDICAL USE” SHALL NOT INCLUDE DRINKS COMMONLY REFERRED TO AS “SPORTS DRINKS” OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.

“BOTTLED SUGAR SWEETENED BEVERAGE” MEANS ANY SUGAR SWEETENED BEVERAGE CONTAINED IN A BOTTLE THAT IS READY FOR CONSUMPTION WITHOUT FURTHER PROCESSING, SUCH AS, AND WITHOUT LIMITATION, DILUTION OR CARBONATION.

“CALORIC SWEETENER” MEANS A SUBSTANCE OR COMBINATION OF SUBSTANCES SUITABLE FOR HUMAN CONSUMPTION THAT ADDS CALORIES TO AND IS PERCEIVED AS SWEET TO HUMANS WHEN CONSUMED, INCLUDING, BUT NOT LIMITED TO SUCROSE, DEXTROSE, FRUCTOSE, GLUCOSE, OTHER MONO AND DISACCHARIDES; CORN SYRUP OR HIGH-FRUCTOSE CORN SYRUP; OR ANY OTHER CALORIC SWEETENER DESIGNATED BY THE CITY MANAGER.

“CONSUMER” MEANS A NATURAL PERSON WHO PURCHASES A SUGAR-SWEETENED BEVERAGE PRODUCT IN THE CITY FOR A PURPOSE OTHER THAN RESALE IN THE ORDINARY COURSE OF BUSINESS.

“DISTRIBUTION” OR “DISTRIBUTE” MEANS THE TRANSFER OF TITLE OR POSSESSION

- (1) FROM ONE BUSINESS ENTITY TO ANOTHER FOR CONSIDERATION OR
- (2) WITHIN A SINGLE BUSINESS ENTITY, SUCH AS BY A WHOLESALE OR WAREHOUSING UNIT TO A RETAIL OUTLET OR BETWEEN TWO OR MORE EMPLOYEES OR CONTRACTORS.

“DISTRIBUTION” OR “DISTRIBUTE” SHALL NOT MEAN THE RETAIL SALE TO A CONSUMER.

“DISTRIBUTOR” MEANS ANY PERSON WHO DISTRIBUTES SUGAR-SWEETENED BEVERAGE PRODUCTS IN THE CITY.

“MILK PRODUCTS” MEANS NATURAL FLUID MILK, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, NATURAL MILK CONCENTRATE, WHETHER OR NOT RECONSTITUTED, REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, OR DEHYDRATED NATURAL MILK, WHETHER OR NOT RECONSTITUTED AND REGARDLESS OF ANIMAL SOURCE OR BUTTERFAT CONTENT, AND PLANT-BASED MILK SUBSTITUTES, THAT ARE MARKETED AS MILK, SUCH AS SOY MILK, COCONUT MILK, RICE MILK AND ALMOND MILK.

“POWDER” MEANS ANY SOLID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENER AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR SWEETENED BEVERAGE BY COMBINING THE POWDER WITH ONE OR MORE INGREDIENTS.

“RETAILER OF SUGAR-SWEETENED BEVERAGE PRODUCTS” MEANS A PERSON, OTHER THAN A DISTRIBUTOR, MANUFACTURER, OR WHOLESALER WHO RECEIVES, STORES, MIXES,

## ATTACHMENT A - CERTIFICATE OF SUFFICIENCY

COMPOUNDS, OR MANUFACTURES A SUGAR-SWEETENED BEVERAGE AND SELLS OR OTHERWISE DISPENSES THE SUGAR-SWEETENED BEVERAGE TO THE ULTIMATE CONSUMER.

“SIMPLE SYRUP” MEANS A MIXTURE OF WATER AND ONE OR MORE NATURAL OR COMMON SWEETENERS WITHOUT ANY ADDITIONAL INGREDIENTS.

“SUGAR-SWEETENED BEVERAGE” MEANS ANY NON-ALCOHOLIC BEVERAGE WHICH CONTAINS AT LEAST 5 GRAMS OF CALORIC SWEETENER PER 12 FLUID OUNCES.

(1) “SUGAR-SWEETENED BEVERAGE” INCLUDES ALL DRINKS AND BEVERAGES COMMONLY REFERRED TO AS “SODA,” “POP,” “COLA,” “SOFT DRINKS,” “SPORTS DRINKS,” “ENERGY DRINKS,” “SWEETENED ICE TEAS,” “SWEETENED COFFEES,” OR ANY OTHER COMMON NAMES THAT ARE DERIVATIONS THEREOF.

(2) “SUGAR-SWEETENED BEVERAGE” DOES NOT INCLUDE ANY OF THE FOLLOWING:

- i. ANY BEVERAGE IN WHICH MILK IS THE PRIMARY INGREDIENT, I.E., THE INGREDIENT CONSTITUTING A GREATER VOLUME OF THE PRODUCT THAN ANY OTHER;
- ii. ANY BEVERAGE FOR MEDICAL USE;
- iii. ANY LIQUID SOLD FOR USE FOR WEIGHT REDUCTION AS A MEAL REPLACEMENT;
- iv. ANY PRODUCT COMMONLY REFERRED TO AS “INFANT FORMULA” OR “BABY FORMULA”; OR
- v. ANY ALCOHOLIC BEVERAGE.
- vi. ANY BEVERAGE CONSISTING OF ONE HUNDRED (100) PERCENT NATURAL FRUIT OR VEGETABLE JUICE WITH NO ADDED CALORIC SWEETENER. FOR PURPOSES OF THIS PARAGRAPH, “NATURAL FRUIT JUICE” AND “NATURAL VEGETABLE JUICE” MEAN THE ORIGINAL LIQUID RESULTING FROM THE PRESSING OF FRUITS OR VEGETABLES.
- vii. SWEETENED MEDICATIONS SUCH AS COUGH SYRUP, LIQUID PAIN RELIEVERS, FEVER REDUCERS, AND SIMILAR PRODUCTS

“SUGAR-SWEETENED BEVERAGE PRODUCT” MEANS A BOTTLED SUGAR-SWEETENED BEVERAGE OR A SUGAR SWEETENED BEVERAGE MADE FROM THE DILUTION OF SYRUP OR POWDER.

“SYRUP” MEANS ANY LIQUID MIXTURE, CONTAINING ONE OR MORE CALORIC SWEETENERS AS AN INGREDIENT, INTENDED TO BE USED IN MAKING, MIXING, OR COMPOUNDING A SUGAR-SWEETENED BEVERAGE BY COMBINING THE SYRUP WITH ONE OR MORE OTHER INGREDIENTS.

### Section 3-16-5 Exemptions

THE TAX IMPOSED BY THIS CHAPTER SHALL NOT APPLY:

- (a) TO ANY DISTRIBUTION OF SYRUPS AND POWDERS SOLD DIRECTLY TO A CONSUMER AND INTENDED FOR PERSONAL USE BY A CONSUMER THAT ARE NOT ALREADY PRE-MIXED INTO A SUGAR SWEETENED BEVERAGE PRODUCT SUCH AS GRANULATED SUGAR, HONEY, AGAVE AND SIMILAR PRODUCTS.
- (b) TO ANY MILK PRODUCT
- (c) TO INFANT FORMULA
- (d) TO ANY ALCOHOLIC BEVERAGE

(e) TO ANY BEVERAGE FOR MEDICAL USE

**Section 3-16-6 Duties, Responsibilities and Authority of the City Manager**

(a) THE CITY MANAGER IS AUTHORIZED TO COLLECT AND RECEIVE ALL TAXES IMPOSED BY THIS CHAPTER, AND TO KEEP AN ACCURATE RECORD THEREOF.

(b) THE CITY MANAGER SHALL DEVELOP A REGISTRATION SYSTEM WHEREBY DISTRIBUTORS OF SUGAR-SWEETENED BEVERAGES MUST REGISTER WITH THE CITY PRIOR TO DISTRIBUTING ANY SUGAR-SWEETENED BEVERAGES.

(c) THE CITY MANAGER SHALL ANNUALLY VERIFY THAT THE TAXES OWED UNDER THIS CHAPTER HAVE BEEN PROPERLY APPLIED, EXEMPTED, COLLECTED, AND REMITTED.

(d) THE CITY MANAGER IS AUTHORIZED TO ENFORCE THIS CHAPTER AND MAY PRESCRIBE, ADOPT, AND ENFORCE RULES AND REGULATIONS RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER, INCLUDING PROVISIONS FOR THE REEXAMINATION AND CORRECTION OF RETURNS AND PAYMENTS, AND FOR REPORTING. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

(1) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST CALCULATE THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.

(2) THE DETERMINATION OF THE FREQUENCY WITH WHICH A DISTRIBUTOR MUST PAY THE TAX. THIS DETERMINATION SHALL NOT CONSTITUTE AN INCREASE OF THE TAX.

(3) THE DETERMINATION OF THE MANNER IN WHICH A DISTRIBUTOR MUST REGISTER WITH THE CITY.

(4) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE NAME OF THAT DISTRIBUTOR.

(5) THE DETERMINATION OF WHETHER AND HOW A DISTRIBUTOR WHO RECEIVES, IN THE CITY, SUGAR-SWEETENED BEVERAGE PRODUCTS FROM ANOTHER DISTRIBUTOR MUST REPORT TO THE CITY THE VOLUME OF SUGAR-SWEETENED BEVERAGE PRODUCTS RECEIVED FROM THAT DISTRIBUTOR.

(6) THE DETERMINATION OF WHAT OTHER DOCUMENTATION IS REQUIRED TO BE CREATED OR MAINTAINED BY A DISTRIBUTOR OF SUGAR-SWEETENED BEVERAGE PRODUCTS.

**Section 3-16-7 Collection**

(a) THE AMOUNT OF ANY TAX, PENALTY, AND INTEREST IMPOSED UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE DEEMED A DEBT TO THE CITY. ANY DISTRIBUTOR OWING MONEY UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE LIABLE IN AN ACTION BROUGHT IN THE NAME OF THE CITY FOR THE RECOVERY OF SUCH AMOUNT.

(b) IN ORDER TO AID IN THE CITY'S COLLECTION OF TAXES DUE UNDER THIS CHAPTER, ANY RETAILER OF SUGAR-SWEETENED BEVERAGE PRODUCTS THAT RECEIVES SUGAR-SWEETENED BEVERAGE PRODUCTS FROM A DISTRIBUTOR, IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE CITY MANAGER PURSUANT TO SECTION 3-16-2, SHALL PROVIDE TO THE CITY EVIDENCE THAT THE DISTRIBUTOR FROM WHOM THE SUGAR-SWEETENED BEVERAGE PRODUCTS WERE RECEIVED HAS REGISTERED AS A DISTRIBUTOR WITH THE CITY AND THAT REGISTRATION IS CURRENT.

**Section 3-16-8 Refunds**

WHENEVER ANY TAX UNDER THIS CHAPTER HAS BEEN PAID MORE THAN ONCE OR HAS BEEN ERRONEOUSLY OR ILLEGALLY COLLECTED OR RECEIVED BY THE CITY, IT MAY BE REFUNDED ONLY AS PROVIDED IN CHAPTER 3-2-23 OF THE BOULDER MUNICIPAL CODE.

**Section 3-16-9 Enforcement**

EXCEPT AS OTHERWISE PROVIDED BY THIS CHAPTER OR BY RULE OR REGULATION PROMULGATED BY THE CITY MANAGER, THE TAX IMPOSED BY THIS CHAPTER SHALL BE ADMINISTERED IN THE SAME MANNER AS TAXES IMPOSED PURSUANT TO CHAPTER 3-2-2 AND, WITHOUT LIMITATION, SHALL BE SUBJECT TO THE SAME DELINQUENCY PENALTIES, APPEALS PROCESSES AND OTHER ENFORCEMENT PROVISIONS SET FORTH IN CHAPTER 3-2- 22.

**Section 3-16-10 Not a Sales and Use Tax**

THE TAX IMPOSED BY THIS CHAPTER IS A TAX UPON THE PRIVILEGE OF CONDUCTING BUSINESS, SPECIFICALLY, DISTRIBUTING SUGAR- SWEETENED BEVERAGE PRODUCTS WITHIN THE CITY OF BOULDER. IT IS NOT A SALES, USE, OR OTHER EXCISE TAX ON THE SALE, CONSUMPTION OR USE OF SUGAR-SWEETENED BEVERAGE PRODUCTS. THE TAX IMPOSED HEREIN SHALL BE IN ADDITION TO ANY LICENSE FEE OR TAX IMPOSED OR LEVIED UNDER ANY OTHER LAW, STATUTE OR ORDINANCE WHERE IMPOSED OR LEVIED BY THE CITY, STATE, OR OTHER GOVERNMENTAL ENTITY OR POLITICAL SUBDIVISION.

**Section 3-16-11 Dedicated Revenues**

THE REVENUES FROM THIS EXCISE TAX SHALL BE DESIGNATED FOR THE ADMINISTRATIVE COST OF THE TAX, AND ONCE THAT OBLIGATION HAS BEEN FULFILLED, USED FOR HEALTH PROMOTION, GENERAL WELLNESS PROGRAMS AND CHRONIC DISEASE PREVENTION IN THE CITY OF BOULDER THAT IMPROVE HEALTH EQUITY, SUCH AS ACCESS TO SAFE AND CLEAN DRINKING WATER, HEALTHY FOODS, NUTRITION AND FOOD EDUCATION, PHYSICAL ACTIVITY, AND OTHER HEALTH PROGRAMS ESPECIALLY FOR RESIDENTS WITH LOW INCOME AND THOSE MOST AFFECTED BY CHRONIC DISEASE LINKED TO SUGARY DRINK CONSUMPTION. IN ORDER TO ENSURE THAT FUNDS ARE ALLOCATED APPROPRIATELY AS DIRECTED IN CHAPTER 3-16-10, THE CITY SHALL ACCURATELY TRACK AND RECORD ALL REVENUES COLLECTED FROM THE EXCISE TAX PROMULGATED IN CHAPTER 3-16-2 AND ACCURATELY TRACK AND RECORD ALL ADMINISTRATIVE COSTS AS DETAILED IN CHAPTER 3-16-10(a). THE CITY COUNCIL SHALL ANNUALLY PUBLISH A PUBLIC REPORT ON THE CITY'S WEBSITE DETAILING THE AMOUNT OF REVENUE COLLECTED AS A RESULT OF THE TAX AND THE TYPE AND AMOUNT OF EXPENDITURES MADE AS A RESULT OF THE TAX LEVIED IN CHAPTER 3-16-2.

**3-16-12 Enactment**

IF A MAJORITY OF ALL THE VOTES CAST AT THE ELECTION ON THE ISSUE SUBMITTED SHALL BE FOR THE ISSUE, THE ISSUE SHALL BE DEEMED TO HAVE PASSED AND SHALL BE EFFECTIVE JULY 1, 2017.

**3-16-13 Severability**

THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THEY WOULD HAVE ADOPTED EACH SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, OR ANY APPLICATION THEREOF, BE DECLARED INVALID OR UNENFORCEABLE AND, TO THAT END, THE PROVISIONS OF THIS ORDINANCE ARE SEVERABLE. IF ANY SECTION, SENTENCE, CLAUSE, PHRASE, WORD, OR PORTION OF THIS ORDINANCE, OR ANY APPLICATION THEREOF IN ANY CIRCUMSTANCE, IS FOR ANY REASON HELD TO BE INVALID OR UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, THE REMAINING SECTIONS, SENTENCES, CLAUSES, PHRASES, WORDS, OR PORTIONS OF THIS ORDINANCE, AND APPLICATIONS THEREOF, SHALL NONETHELESS REMAIN IN FULL FORCE AND EFFECT.

**3-16-14 Municipal Affair**

THE PEOPLE OF THE CITY OF BOULDER HEREBY DECLARE THAT THE TAXATION OF THE PRIVILEGE OF DISTRIBUTING SUGAR- SWEETENED BEVERAGE PRODUCTS AND THAT THE PUBLIC HEALTH IMPACT OF SUGAR-SWEETENED BEVERAGE PRODUCTS SEPARATELY AND TOGETHER CONSTITUTE MUNICIPAL AFFAIRS. THE PEOPLE OF THE CITY OF BOULDER HEREBY FURTHER DECLARE THEIR DESIRE FOR THIS MEASURE TO COEXIST WITH ANY SIMILAR TAX ADOPTED AT THE COUNTY OR STATE LEVELS.



**CITY OF BOULDER  
OFFICE OF THE CITY CLERK**

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May 26, 2016

Martha M. Tierney  
Tierney Lawrence LLC  
225 E. 16<sup>th</sup> Street, Suite 350  
Denver, Colorado 80203

*Sent via email to [mtierney@tierneylawrence.com](mailto:mtierney@tierneylawrence.com)*

Re: Petition to Initiate – Code Amendment for Sugar-Sweetened Drinks Tax – Second Draft  
Submitted May 16, 2016

Dear Ms. Tierney:

These comments are presented pursuant to Charter Sections 38A, 38B and CRS 31-11-101, *et seq.* which govern the procedure for initiated legislation.

Format

- Pursuant to the Boulder Home Rule Charter section 38A, the petition should contain a “certificate signed by a majority of the committee of petitioners stating whether the petition is intended to be a ‘five per-cent petition’ or a ‘fifteen per-cent petition.’”
- The summary included on the form submitted is not appropriate for this initiative; it was written for the TABOR portion of an earlier version of this amendment. The summary I approve for this version of the initiative is:

An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.

Content

As you have discussed with the attorneys for the city, if adopted by the voters, this initiative does not lawfully adopt the tax. To impose a tax, the voters must approve a TABOR ballot issue. If sufficient signatures are obtained, the Boulder City Council may or may not make the ballot title for this initiative a TABOR issue.

Best regards,

Lynette Beck  
City Clerk

cc: Kathy Haddock via email  
Committee of Petitioners via email  
J. Dominique Olvera via email

P.O. Box 791 · Boulder, Colorado 80306-0791 · [www.bouldercolorado.gov](http://www.bouldercolorado.gov) · (303)441-4222 · Fax (303)441-4478

Initiative Petition Verification Form

*Petition: An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0002

Reviewed by LBed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
2. No signature of circulator
3. No date of circulator signature
4. No printed name of circulator
5. Incomplete address of residence of circulator (no street name, number, municipality or county)
6. Warning or summary not on each page of the petition
7. Petition form changed from what was approved by removal of date line for signature of circulator
8. Petition form changed from what was approved by repositioning of Warning so it does not appear at the top of every page
9. Notary seal different than information filled in by notary
10. No signature of notary
11. No date of notary signature
12. No county or state where notarization took place
13. Improper seal
14. Seal not clear and legible

Number of Signatures Proposed on Section: 17

Initiative Petition Verification Form

*Petition: An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0020

Reviewed by URed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
2. No signature of circulator
3. No date of circulator signature
4. No printed name of circulator
5. Incomplete address of residence of circulator (no street name, number, municipality or county)
6. Warning or summary not on each page of the petition
7. Petition form changed from what was approved by removal of date line for signature of circulator
8. Petition form changed from what was approved by repositioning of Warning so it does not appear at the top of every page
9. Notary seal different than information filled in by notary
10. No signature of notary
11. ~~No date of notary signature~~ <sup>Incorrect</sup>
12. No county or state where notarization took place
13. Improper seal
14. Seal not clear and legible

Number of Signatures Proposed on Section: 30

Initiative Petition Verification Form

*Petition: An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0022

Reviewed by L Bede

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
2. No signature of circulator
3. No date of circulator signature
4. No printed name of circulator
5. Incomplete address of residence of circulator (no street name, number, municipality or county)
6. Warning or summary not on each page of the petition
7. Petition form changed from what was approved by removal of date line for signature of circulator
8. Petition form changed from what was approved by repositioning of Warning so it does not appear at the top of every page
9. Notary seal different than information filled in by notary
10. No signature of notary
11. No date of notary signature
12. No county or state where notarization took place
13. Improper seal
14. Seal not clear and legible

Number of Signatures Proposed on Section: 30

Initiative Petition Verification Form

*Petition: An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0024

Reviewed by L Beck

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
2. No signature of circulator
3. No date of circulator signature
4. No printed name of circulator
5. Incomplete address of residence of circulator (no street name, number, municipality or county)
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13. Improper seal
14. Seal not clear and legible

Number of Signatures Proposed on Section: 30

Initiative Petition Verification Form

*Petition: An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0050

Reviewed by UBee

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Number of Signatures Proposed on Section: 29

Initiative Petition Verification Form

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Petition # 0059

Reviewed by UBed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Number of Signatures Proposed on Section: 10

Initiative Petition Verification Form

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Petition # 0107

Reviewed by LBoch

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Number of Signatures Proposed on Section: 29

Initiative Petition Verification Form

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Petition # 0108

Reviewed by L Beck

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Number of Signatures Proposed on Section: 10

Initiative Petition Verification Form

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Petition # 0122

Reviewed by L Bed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Number of Signatures Proposed on Section: 23

Initiative Petition Verification Form

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Petition # 0125

Reviewed by L Bede

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Number of Signatures Proposed on Section: 30

Initiative Petition Verification Form

Petition: *An initiative to adopt a new chapter of the Boulder Revised Code setting forth the procedures for imposing on distributors, and the collecting, tracking and reporting of, an excise tax on sugar-sweetened beverages; dedicating revenues from the tax for the promotion of health issues; making the tax coexist with any similar tax imposed by another governmental entity; and setting forth related details.*

Petition # 0214

Reviewed by UBed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Initiative Petition Verification Form

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Petition # 0247

Reviewed by UBed

1. The printed circulator affidavit provisions on which the circulator is taking an oath are not consistent with CRS 31-11-106(3)(e)(I)
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Petition # 0251

Reviewed by UBed

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Number of Signatures Proposed on Section: 28

Initiative Petition Verification Form

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Petition # 0344

Reviewed by LBeck

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Number of Signatures Proposed on Section: 29



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:**

Consideration of motion to authorize the city manager to take the next steps associated with the implementation of a letter of intent between the City, Central Area General Improvement District, and the St. Julien Hotel related to the development, use, and management of the Civic Use Pad located at 9<sup>th</sup> and Canyon.

Consideration of a motion to read on first reading and order published by title only the following two ordinances submitting to the qualified electors of the City of Boulder at a special municipal election to be held on Tuesday, the 8<sup>th</sup> day of November, 2016, the question of:

- Amending Section 84 of the Boulder City Charter regarding the height limitations to allow rooftop decks and floor area appurtenant thereto and setting the ballot title; and
- Amending Section 84 of the Boulder City Charter regarding the height limitations for the area known as the Civic Use Pad located on the northwest corner of Canyon Boulevard and 9th Street to allow rooftop decks and floor area appurtenant thereto; and setting the ballot title.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
David Gehr, Deputy City Attorney  
Molly Winter, Executive Director, Community Vitality  
Susan Connelly, Deputy Director, Community Vitality  
Eric Ameigh, Projects Coordinator, Public Works

**EXECUTIVE SUMMARY**

The purpose of this agenda item is to seek council input on:

1. Taking the next steps anticipated in the Letter of Intent (LOI) that was entered into by the City, the Central Area General Improvement District (CAGID), and the St. Julien Partners, LLC; and
2. Whether a measure to amend the city's charter to exempt certain rooftop uses from the 55 foot height limit should be added to the ballot for the 2016 election.

The CAGID parking garage and the St. Julien Hotel is the result of a public-private partnership that grew out of an urban renewal plan that included the block between 9<sup>th</sup> Street and 10th Street Extended and Walnut Ave. and Canyon Blvd. Part of the urban renewal plan included the addition of 20 percent of the floor area as civic use space. The original proposal was to have four floors of civic space on the civic use pad in a building approximately 55' in height. The anticipated civic use space users were unable to put projects together to utilize the space. The City, CAGID and the St. Julien Partners have completed three major efforts, prior to the present effort at securing a civic user without success.

The present effort, the Civic Use Task Force IV resulted in the 2015 letter of intent for the use of the civic use pad between the city, the Central Area General Improvement District (CAGID), and the St. Julien Partners, LLC.

Potential Charter Amendment for Rooftop Decks. At the May 10, 2016 study session related to potential ballot measures, council members indicated some interest in exploring a ballot measure related to constructing rooftop decks on buildings that needed additional structure to support them that might exceed the 55 foot height limit. Staff drafted two alternatives related to height. The first is site specific and would only apply to the civic use pad on the St. Julien Hotel Property. The other alternative is more generic and would allow rooftop decks to be permitted on top of buildings generally. There is a requirement that limits any supporting floor area to be included within the 25% limitation of roof area for appurtenances. Also permitted throughout rooftop decks are shade structures and safety railings.

Potential Rooftop Deck at Civic Use Pad. Some members of council and the Civic Use Task Force (CUTF) expressed concerns that the rooftop deck will not be included in the project under existing circumstances. The rooftop deck could possibly become part of the project if a charter amendment were to pass.

## **STAFF RECOMMENDATION**

### **LOI Recommendation:**

Staff recommends proceeding with the project as presented in the LOI – a four story building with a first floor civic use space, three floors of hotel use, and no rooftop deck – and developing a management agreement with the St. Julien which will be presented for Council's consideration in late 2016. Should Council decide to put a height exemption measure on the ballot, staff would work with the St. Julien, pending passage of the ballot measure, to analyze the economic viability of the rooftop deck.

**Charter Amendment Recommendation:**

The proposed charter amendments related to height were requested by council members at the ballot measure study session. The staff does not have a recommendation regarding the charter height amendment proposals. If the council is interested in further considering these amendments, it should complete the first reading and, if necessary provide staff with direction on any proposed charter amendments and ballot titles.

**Suggested Motion Language:**

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

Motion to authorize the city manager to take the next steps associated with the implementation of a letter of intent between the City, Central Area General Improvement District, and the St. Julien Hotel related to the development, use, and management of the Civic Use Pad located at 9<sup>th</sup> and Canyon as further described in this memorandum.

Motion to introduce and order published by title only the following two ordinances submitting to the qualified electors of the City of Boulder at a special municipal election to be held on Tuesday, the 8<sup>th</sup> day of November, 2016, the question of:

Amending Section 84 of the Boulder City Charter regarding the height limitations to allow rooftop decks and floor area appurtenant thereto and setting the ballot title; and

Amending Section 84 of the Boulder City Charter regarding the height limitations for the area known as the Civic Use Pad located on the northwest corner of Canyon Boulevard and 9th Street to allow rooftop decks and floor area appurtenant thereto; and setting the ballot title.

**BACKGROUND**

An urban renewal plan adopted in 1988 for the Ninth and Canyon site in downtown Boulder called for hotel and convention facilities, including retail, restaurants, entertainment, transportation facilities and underground parking. In 1995, City Council modified the plan to include design guidelines for the site, as well as requiring that a minimum of 20 percent of the gross floor area be committed to civic uses.

The urban renewal plan envisioned a development to be built on property owned by the downtown parking district, Central Area General Improvement District (CAGID), at Ninth Street and Walnut and property owned by St. Julien Partners located to the south of the CAGID property. The two properties were combined and then divided again pursuant to a condominium. The CAGID below-grade parking facility constructed under both

properties opened in November 2004 and the St. Julien hotel fronting on Walnut opened in February 2005. Incorporated in the mixed use project is an 11,000 square foot pad east of the hotel constructed with a concrete structural deck capable of supporting a building (“the civic use pad”). The parties anticipated the civic use component of the urban renewal plan would be developed on four levels on the pad. The first potential developers of the civic use pad were two local nonprofits, the Villages Arts Coalition and the Collage Children’s Museum. The two nonprofits received city site review approval of a four story building that was approximately 55’ in height (LUR2001-00017). As the process moved forward, both groups decided that it was not feasible for them to construct on the civic use pad. Since that time there have been a variety of efforts supported by the City, CAGID and the St. Julien to find a use for the civic use pad under the terms of the agreement. See Attachment E - Civic Use Pad Task Forces History.

The stated purposes of the Ninth and Canyon Urban Renewal Plan adopted by the Boulder City Council in July 1995 were:

1. To implement the Boulder Valley Comprehensive Plan.
2. To eliminate existing conditions in the Urban Renewal Area that are detrimental to the project area, adjacent neighborhoods and facilities, and to the City as a whole.
3. To redevelop and rehabilitate the area in a manner which is compatible with and complementary to existing development and uses in the general area, and to provide an improvements framework which is based on community-wide goals and values.
4. Through redevelopment, contribute to a sustainable downtown Boulder community and economy.
5. To facilitate the redevelopment of the area by private enterprise by cooperating with other public bodies to provide needed infrastructure improvements.
6. To effectively utilize undeveloped and underdeveloped land.

The context of the project at the time was quite different from what exists in the area today. As stated in the URP, the Walnut/Canyon corridor of downtown Boulder, located between the historic commercial area and the civic park, had limited retail uses, street life and pedestrian activity. Since the implementation of the URP, the community has received the following benefits, which were consistent with the plan’s original purposes:

- Development of a quality hotel in downtown Boulder as the primary use, meeting the URP design guidelines including:
  - Retail activity at the street level
  - 50,000 s.f. of south facing urban open space and landscaping
  - Landscaping along Canyon Boulevard and amenities for public enjoyment
  - Pedestrian access corridor through the site – the 10<sup>th</sup> Street alley – and improved pedestrian access across Canyon connecting to the civic area
  - Unique western gateway to downtown
  - Establish the project area as a community focal place with uses, buildings and improvements that attract community activities and interaction,

- including public outdoor spaces oriented to views of the Flatirons and mountains to the west, with ample places to site, relax and eat meals
  - Floodplain improvements
  - Construction of a below-grade off-street parking structure that (1) replaced a CAGID surface parking lot, (2) provided parking for the hotel uses, and (3) –provided additional parking for the anticipate additional development/redevelopment that the hotel project was expected to generate along the corridor
- Hotel and parking structure development has, in fact, served as a catalyst for redevelopment on and activation of Walnut.
- The civic use anticipated in the URP to occupy a minimum of 20% of the gross developed floor area (civic uses “such as recreation center, museum, cultural center, City office space, and transit facilities”) was determined after 20 years of exploration of financial and operational feasibility by four different citizen and city council member task forces to be best achieved through provision of 8,000 s.f. of flexible event/meeting space on the first floor of a new building to be constructed on the portion of the site known as the Civic Use Pad, for use by local community groups and nonprofit organizations with a priority for scheduling and a discounted rate. The new building would house hotel uses (currently anticipated to be extended stay suites) on the second, third and fourth floors, connecting to the main hotel building. The hotel would construct, manage and operate the civic use space on the first floor.

In the memorandum for the January 28, 2014 study session, the CUTF IV recommended to City Council a new vision for civic use at the pad adjacent to the St. Julien Hotel - a facility to be developed as a public-private partnership with the St. Julien Hotel within the context of the Civic Area Plan. St. Julien Partners supported the Task Force recommendations, as did city staff. The concept proposes a facility at the first floor level that is approximately 18,000 s.f. of event and meeting space, pre-function areas, restrooms, warming kitchen, storage, and areas to support the event space. The 8,000 square feet event space will be located on the pad for shared hotel and “civic use” on the first floor. The upper three floors of the hotel are intended for hotel uses, and a multi-purpose rooftop deck that will be managed by the hotel. Incorporated in the vision is a potential pedestrian connection across Canyon Boulevard to a future cultural facility at the current Library location. In the opinion of the Task Force, after the exhaustive 15-year process, this collaborative partnership represents the most workable, exciting and viable path to achieving the requirement for civic use set out in the 9<sup>th</sup> and Canyon Urban Renewal Plan before it expires in 2020 by the terms of the condominium declaration that was entered into by CAGID and the St. Julien Partners, LLC in 2003. .

Council approved on second reading on May 19, 2015 and amendment to the 9<sup>th</sup> and Canyon Urban Renewal Plan to facilitate the recommended civic use. (Ordinance 7989)

In August 2015, the city and the St. Julien signed a LOI that outlines the key issues, process, and responsibilities for moving forward. A copy of the letter of intent can be found in Attachment C. The project has a deadline of Jan. 1, 2020 as outlined in Article 6 of the condominium agreement, which governs the relationship between the St. Julien and the Central Area General Improvement District (CAGID). The relevant language in the condo agreement is as follows: "...in the event the [condominium] Association fails to enter into a Civic Use Lease on or before January 1, 2020, the [St. Julien] will be free to construct improvements, lease, operate, use and otherwise manage the Civic Use Site in any manner without requiring the consent of the Association or any other Unit Owner, but subject to all other provisions of this Declaration and applicable Laws, including any zoning requirements." The proposed project, as reflected in the Letter of Intent, will not require a civic use lease as envisioned in the condominium agreement, but execution of a civic use management agreement and completion of the project before Jan. 1, 2020 will ensure the deadline never becomes an issue.

The key elements of the LOI include:

- First floor event space for rental by civic users at a reduced rate;
- Three floors of hotel uses connected at each level of the existing hotel;
- Exploration of the feasibility of architectural constraints and commercial functionality of an outdoor rooftop area; access to be through the rental of the first floor space;
- St. Julien to finance, design, construct, own and maintain the facility;
- City and/or CAGID to identify any subsidy necessary to facilitate the affordable use of the space by community groups; and
- Management agreement between St. Julien, the city of Boulder and CAGID to be approved by city council to set forth the standards of operation of the civic use space.

As anticipated by the LOI, city staff worked with the St. Julien to study the feasibility of a rooftop deck at the future civic use project. After extensive analysis over the past year, it was not deemed feasible to accommodate a rooftop deck within the 55 foot height limit with the planned program – first floor event space and three levels of hotel space connected to the main building. Factors influencing this conclusion are the pre-determined building site on the elevated pad, floor to ceiling heights, connections to the hotel, and the project's height measurement.

### *Rooftop Public Space*

The LOI acknowledges that certain details of the project are yet to be fully addressed. One of the details is the feasibility of a rooftop public space. City staff have been working with the St. Julien on an analysis of the rooftop's feasibility. The analysis shows that a rooftop deck, as previously imagined through the Civic Use Taskforce process, is not be feasible with the proposed building program as it would exceed the legal height limit.

Staff shared the results of the rooftop analysis at the April 5, 2016 City Council Meeting. Council Members expressed concern that the rooftop deck might not be a part of the eventual project. City Council indicated that the rooftop access is an important aspect of the community benefit gained from this building, and future work should support this outcome. Council emphasized the importance of ensuring the average person has appropriate access to the space and that it should be addressed in the management agreement.

Council requested that the City Council's Charter Committee consider the possibility of proposing an amendment to the city's Charter which would be placed on the ballot for the 2016 election. The potential amendment would allow exceptions to the city's 55-foot height limit under certain circumstances. In late April, City Council's Charter Committee withdrew a request for a ballot amendment for the exception citing the complexity of the issue. During conversation with the full council at its May 10 study session, however, it was determined that the City Attorney's office should provide options for council consideration later in the year.

## **PUBLIC FEEDBACK**

The Civic Use Task Force IV met most recently on June 16, 2016 to discuss the outcome of the rooftop design feasibility analysis, which concluded that the desired rooftop amenity to the first floor civic use space is not possible because various required or desired access and safety equipment would exceed the 55-foot height limit in the city charter. Various design and equipment possibilities were explored, with explanations of design, operational and financial viability offered by St. Julien Partners. Concerns were raised about the time and cost of additional study. There was general consensus about the desirability of some outdoor space to be available in conjunction with the first floor civic use space. There was no consensus as to the need for or desirability of a ballot measure to change the 55-foot height limit as it applies to this site or city-wide. See Attachment F for meeting notes.

## **ANALYSIS**

### *Letter of Intent and Rooftop Deck*

The LOI required the city and St. Julien to explore the feasibility of a rooftop deck. Following the height analysis completed in early 2016, it was determined that the rooftop is not viable. See attachment F for a summary of the Civic Use Task force discussion on the feasibility of the rooftop deck.

The site's area (approximately 11,000 sf), its position atop the civic pad platform, and the height limit create a limited "box" of space within which to accomplish the project's main objectives. With the roof and foundation levels fixed, and ceiling heights designed to industry standards of functionality, no additional space could be created in order to achieve a rooftop patio under the height limit without eliminating space dedicated to the

project's main objectives. Those objectives, per the LOI, are a civic use space on the first level with three floors of hotel use above.

If the voters pass an amendment to the Charter to provide relief from the existing height limit, the rooftop deck would become feasible from a regulatory and design perspective while meeting the objectives of the LOI. It would not guarantee, however, that the project would move forward because there are still other important details to be addressed in bringing the project to fruition.

### *Other Considerations*

St. Julien is still supportive of the project as envisioned in the LOI – a first floor civic use space and three floors of hotel use – and has agreed that if there is a height exemption for the site for elevator access, parapet walls and certain amenities, not including rest rooms, a rooftop area would be commercially functional for uses auxiliary to the civic use space on the first floor. It is not clear if the space will be financially viable. It is not envisioned, as outlined in the LOI, to be open to the general public. The St. Julien would be willing to consider including the construction costs of the rooftop deck within the project costs contingent on determining the viability of the rental fees of the rooftop space to cover operating costs. Based on their experience with outdoor space, there is concern about how frequently the space will be used during the year given weather considerations.

It will need to be determined if rentals and other potential revenue sources will cover the additional construction and operating costs. If Council proceeds with a ballot measure which is approved by the voters, St. Julien would be willing to incorporate elements of a rooftop deck – parapet walls, elevator access, a shelter and amenities (tables, chairs, etc.) into the hotel design contingent on the financial viability. Based on the St. Julien's experience, outdoor space use is seasonal, subject to unpredictable weather conditions, and requires the reservation of indoor space as a backup.

The Letter of Intent states that the civic use space will be financed and constructed by the St. Julien. It also states that any subsidy or contribution by the city will be identified after the signing of the LOI but before the project is built. Based on early estimates, the cost to construct the first floor civic use space and adjoining mezzanine level storage could approach \$6 million. Construction costs have also escalated significantly in recent years, impacting the project's finances both for the civic use space and for the St. Julien's hotel uses.

### *Project Next Steps*

Based on Council's decision regarding the proposed charter amendment and subsequent voter approval, staff will work with the St. Julien on a viable scenario for a rooftop deck.

As staff and St. Julien come to a better understanding of the building's design, likely construction costs can be projected with better accuracy. In turn, St. Julien's financial

needs related to future management of the civic use space will be better understood and can become part of the discussion of the management agreement.

To ensure the management agreement will address the needs of future civic use space users, input will be sought from community groups in August and September. Staff is in the process of convening a limited duration advisory group to provide input on the terms of use for the space as well as potential costs. The advisory group's input will be critical in helping staff and the St. Julien craft a proposed agreement for council consideration in late 2016 that also identifies the extent of subsidy required of the city to make use of the space affordable for local not-for-profit and community organizations.

### *Charter Amendments*

At the May 10, 2016 study session related to potential ballot measures, council members indicated some interest in exploring a potential ballot measure related to constructing rooftop decks on buildings that needed additional structure to support them that might exceed the 55 foot height limit. If the council decides to pursue a charter amendment to provide exemptions to the height limit, whether for the civic use project or citywide, voters will need to consider the measure in the 2016 election.

Staff has drafted two alternatives related to height. The first one is site specific and would only apply to the civic use pad on the St. Julien Hotel Property. The other alternative is more generic and would allow rooftop decks to be permitted on top of buildings generally. There is a limitation on floor area that limits any supporting floor area to be included in within the 25% limitation of roof area for appurtenances. Also permitted throughout rooftop decks are shade structures and safety railings.

In 1971, the voters approved a height limit for the community. Charter § 84 provides that "all buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet." It further defines "height" as the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

The charter also provides exceptions from the height limit for a number of items on buildings that are above 55 feet. They include, among other things, "necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area." This provision allows equipment on the top of buildings that serve the areas of the building that are below the 55' height limit. Typical appurtenances include things like elevator equipment, heating, air conditioning, and other mechanical equipment. The charter has not been interpreted to allow anything that could be considered floor area above the 55' height limit. The proposed amendments, as described below, are intended to permit the creation of floor area above the 55' height limit that will serve the use of a roof as a rooftop deck.

There are some general themes that run through both of the options. The themes include the following:

- Appurtenances. The present height limit allows up to 25 percent of the roof deck to be used for appurtenances. The proposed charter amendments are drafted so that any floor area that serves the rooftop decks is intended to serve the rooftop deck use may be included in the 25% of the roof area that can be counted as appurtenances. The uses include things like elevators, stairs or ramps that provide access to the rooftop; restrooms, and food and drink preparation areas.
- Rooftop Deck improvements or equipment. The proposed charter amendments allow improvements and equipment that will allow the rooftop deck to be used comfortably and safely. The charter amendment permits awnings, temporary shade structures, or improvements that allows the rooftop area to be inhabited in a safe manner consistent with adopted building codes including safety railings, and parapet walls associated with the roof deck.

## **OPTIONS**

The project as laid out in the LOI, and found feasible from regulatory and design perspectives, is a four story building with a first floor civic use space, three floors of hotel use, and no rooftop deck. Staff is prepared to move forward with this project and begin negotiation of a management agreement with the St. Julien. In accordance with the strong interest from council and members of the CUTF, staff and the St. Julien would also work diligently to take advantage of the unique views and create some outdoor space. If council disagrees with the current direction, other options include:

- 1) Place a height exemption measure on the ballot and await the outcome of the election. If the ballot measure to amend the charter passes, staff and the St. Julien will endeavor to incorporate a rooftop deck and address the inherent financial issues through the negotiation of the management agreement.

Revisit the project concept and the LOI. If council is no longer supportive of the project as outlined in the LOI, it is likely that the St. Julien will choose to cease its collaboration with the city and wait for the Jan. 1, 2020 deadline when requirements related to the civic use pad expire under the condominium declaration that was executed by CABID and the St. Julien Partners LLC in 2003.

## **ATTACHMENTS**

- A. Ballot measure Related to Height Citywide for Rooftop Decks.
- B. Ballot Measure Related to Height for the Civic Use Pad for Rooftop Decks.
- C. Letter of Intent between the City, CAGID, and St. Julien Partners.
- D. Civic Use Pad Height Illustrations.
- E. Civic Use Pad Task Forces History.
- F. Summary of Civic Use Task Force IV Meeting June 16, 2016.

ORDINANCE NO. 8126\_\_\_\_\_

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 8<sup>TH</sup> DAY OF NOVEMBER, 2016, THE QUESTION OF AMENDING SECTION 84 OF THE BOULDER CITY CHARTER REGARDING THE HEIGHT LIMITATIONS TO ALLOW ROOF TOP DECKS AND FLOOR AREA APPURTENANT THERETO; SETTING THE BALLOT TITLE; AND SETTING FORTH FURTHER DETAILS IN RELATION THERETO.

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

COLORADO:

**Section 1.** A special municipal coordinated election will be held in the City of Boulder, County of Boulder and State of Colorado, on Tuesday, November 8, 2016.

**Section 2.** At that election, there shall be submitted to the electors of the City of Boulder entitled by law to vote the question of making the following addition to Section 84 of the City Charter: (material to be added to the Charter is shown in underlined type):

Sec. 84. - Height limit.

All buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet. This height limit shall not apply to spires, belfries, cupolas, or domes not used for human occupancy, nor to silos, parapet walls, cornices without windows, antennas, chimneys, ventilators, skylights, nor to floor area that supports the use of a roof-top deck including without limitation elevators, stairs or ramps that provide access to the roof-top, restrooms, or food and drink preparation areas, or other necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area, nor to light poles at government-owned recreation facilities, nor to light and traffic signal poles in the right-of-way, nor to service and transmission line electrical utility poles. Awnings, parapet walls, safety railings, temporary shade structures or improvements that allow the roof-top area to be used safely and in a manner consistent with adopted building codes are permitted in association with a roof-top deck. "Height" means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

1 The purposes of this height limitation are to promote the health, safety, and general welfare  
2 of the community; to secure safety from fire, panic, wind turbulence, and other dangers; to  
3 provide adequate light and air to abutting properties and the neighborhood; to prevent the  
4 overcrowding of land; to avoid undue concentration of population; to prevent the encroachment  
5 of privacy; to lessen traffic congestion in the streets; to facilitate the adequate provision of  
6 transportation, water, sewerage, schools, parks, and other public requirements; to insure personal  
7 safety by encouraging intensive use at the sidewalk level; to encourage the most appropriate use  
8 of land; to conserve and enhance property values; to preserve the integrity and character of  
9 established neighborhoods; to preserve scenic views of the mountain backdrop, which are a  
10 unique asset to the community and provide a distinctive character and setting for the city and  
11 which provide an attraction to tourists, visitors, and students of the University of Colorado; and  
12 to protect a public investment of over \$3,000,000.00 in the mountain backdrop.

13 Notwithstanding anything to the contrary in this Section 84, the following provisions shall  
14 apply solely to that portion of the area known as Boulder Crossroads which is delineated by (i)  
15 the northern boundary line of Arapahoe Avenue, (ii) the southern boundary line of Canyon  
16 Boulevard as extended eastward to 30th Street, (iii) the eastern boundary line of 28th Street, and  
17 (iv) the western boundary line of 30th Street:

18 Subject to approval through the development review process, "height" shall be defined as  
19 the vertical distance measured from the Federal Emergency Management Agency's flood  
20 protection elevation at 28th Street of 5,288 feet, as determined in accordance with the North  
21 America Vertical Datum of 1988, to a plane above such elevation.

22  
23 The official ballot punch card and the official absentee ballot shall contain the following  
24 ballot title, which shall also be the designation and submission clause for the measure:

25 QUESTION NO. \_\_\_\_\_

26 ROOF TOP DECK HEIGHT REGULATIONS  
27  
28

29 Shall Section 84 of the City Charter be amended to permit to floor area that supports the use  
30 of a roof-top deck including without limitation elevators, stairs or ramps that provide access to  
31 the roof-top, restrooms, or food and drink preparation areas to exceed the 55 foot height limit as  
32 building appurtenances and awnings, safety railings, temporary shade structures or improvement  
33 that allows the roof-top area to be used in a manner consistent with adopted building codes as  
34 more particularly described in Ordinance No. 8126—?

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36 For the measure \_\_\_\_\_ Against the measure \_\_\_\_\_

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**Section 3.** If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

**Section 4.** The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance.

**Section 5.** The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

**Section 6.** If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

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

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

1 INTRODUCTION, READ ON FIRST READING, AMENDED AND ORDERED

2 PUBLISHED BY TITLE ONLY this 19<sup>th</sup> day of July, 2016.

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

5 Attest:  
6 \_\_\_\_\_  
7 City Clerk

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9 READ ON SECOND READING, ADOPTED AND ORDERED PUBLISHED BY

10 TITLE ONLY this 2nd day of August, 2016.

11  
12 \_\_\_\_\_  
Mayor

13 Attest:  
14 \_\_\_\_\_  
15 City Clerk  
16

ORDINANCE NO. 8127\_\_\_\_\_

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 8<sup>TH</sup> DAY OF NOVEMBER, 2016, THE QUESTION OF AMENDING SECTION 84 OF THE BOULDER CITY CHARTER REGARDING THE BUILDING HEIGHT LIMITATIONS FOR THE AREA KNOWN AS CIVIC USE PAD LOCATED ON THE NORTHWEST CORNER OF CANYON BOULEVARD AND 9<sup>TH</sup> STREET; SETTING THE BALLOT TITLE; AND SETTING FORTH FURTHER DETAILS IN RELATION THERETO.

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

COLORADO:

**Section 1.** A special municipal coordinated election will be held in the City of Boulder,

County of Boulder and State of Colorado, on Tuesday, November 8, 2016.

**Section 2.** At that election, there shall be submitted to the electors of the City of

Boulder entitled by law to vote the question of making the following addition to Section 84 of

the City Charter: (material to be added to the Charter is shown in underlined type):

Sec. 84. - Height limit.

All buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet. This height limit shall not apply to spires, belfries, cupolas, or domes not used for human occupancy, nor to silos, parapet walls, cornices without windows, antennas, chimneys, ventilators, skylights, or other necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area, nor to light poles at government-owned recreation facilities, nor to light and traffic signal poles in the right-of-way, nor to service and transmission line electrical utility poles. "Height" means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

The purposes of this height limitation are to promote the health, safety, and general welfare of the community; to secure safety from fire, panic, wind turbulence, and other dangers; to provide adequate light and air to abutting properties and the neighborhood; to prevent the

1 overcrowding of land; to avoid undue concentration of population; to prevent the encroachment  
2 of privacy; to lessen traffic congestion in the streets; to facilitate the adequate provision of  
3 transportation, water, sewerage, schools, parks, and other public requirements; to insure personal  
4 safety by encouraging intensive use at the sidewalk level; to encourage the most appropriate use  
5 of land; to conserve and enhance property values; to preserve the integrity and character of  
6 established neighborhoods; to preserve scenic views of the mountain backdrop, which are a  
7 unique asset to the community and provide a distinctive character and setting for the city and  
8 which provide an attraction to tourists, visitors, and students of the University of Colorado; and  
9 to protect a public investment of over \$3,000,000.00 in the mountain backdrop.

10 Notwithstanding anything to the contrary in this Section 84, the following provisions shall  
11 apply solely to that portion of the area known as Boulder Crossroads which is delineated by (i)  
12 the northern boundary line of Arapahoe Avenue, (ii) the southern boundary line of Canyon  
13 Boulevard as extended eastward to 30th Street, (iii) the eastern boundary line of 28th Street, and  
14 (iv) the western boundary line of 30th Street:

15 Subject to approval through the development review process, "height" shall be defined as  
16 the vertical distance measured from the Federal Emergency Management Agency's flood  
17 protection elevation at 28th Street of 5,288 feet, as determined in accordance with the North  
18 America Vertical Datum of 1988, to a plane above such elevation.

19 Notwithstanding anything to the contrary in this Section 84, the following provisions shall  
20 apply solely to that portion of the area commonly known as the Civic Use Pad that is located on  
21 the west side of the 10<sup>th</sup> Street right of way extended to the eastern-most property line, south of  
22 the alley way and north of Canyon Boulevard as shown on the 9<sup>th</sup> and Canyon Hotel and Parking  
23 Condominium recorded at P-65, F-2, #36 to 45 with Boulder County Clerk and Recorder on May  
24 19, 2006.

25 Subject to approval through the development review process, the following items may be  
26 considered appurtenances: any floor area that is necessary to support the use of a rooftop that is  
27 below the fifty-five foot height limit including without limitation the following: elevators, stairs  
28 or ramps that provide access to the rooftop; restrooms, and food and drink preparation areas. In  
29 addition, any awning, temporary shade structure, or improvement that allows the rooftop area to  
30 be inhabited in a safe manner consistent with adopted building codes including safety railings  
31 and parapet walls may be permitted with the roof deck.

32  
33 The official ballot punch card and the official absentee ballot shall contain the following  
34 ballot title, which shall also be the designation and submission clause for the measure:

35 QUESTION NO. \_\_\_\_\_

HEIGHT REGULATIONS FOR THE AREA KNOWN AS  
THE CIVIC USE PAD AT 9<sup>th</sup> AND CANYON

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Subject to approval through the development review process, shall Section 84 of the City Charter be amended to allow roof-top decks that are below the 55 foot height limit to construct floor area improvements above the height limit that support the roof-top decks such as stairs, ramps, elevators, restrooms, and service areas as building appurtenances and to permit the installation of safety improvements and temporary shade structures in that area commonly known as the Civic Use Pad located on the west side of the 10<sup>th</sup> Street right of way extended to the eastern-most property line, south of the midblock alley way and north of Canyon Boulevard as more particularly described in Ordinance No. 8127—?

For the measure \_\_\_\_\_ Against the measure \_\_\_\_\_

**Section 3.** If a majority of all the votes cast at the election on the measure submitted are for the measure, the measure shall be deemed to have passed and the Charter shall be amended as provided in this ordinance. If this ballot measure is approved by the voters, the Charter shall be so amended, and the City Council may adopt any necessary amendments to the Boulder Revised Code to implement this change.

**Section 4.** The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance.

**Section 5.** The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

**Section 6.** If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

K:\CCCO\O-HEIGHT - CIVIC USE PAD-2463.DOC



CITY OF BOULDER, COLORADO

Municipal Building  
1777 Broadway  
Post Office Box 791  
Boulder, Colorado 80306  
Telephone (303) 441-3020  
Facsimile (303) 441-3859



LETTER OF INTENT

City of Boulder,  
Central Area General Improvement District, and  
St Julien Partners LLC

July 30, 2015

Re: Letter of Intent ("LOI") regarding the responsibilities of the St Julien Partners LLC ("St Julien"), Central Area General Improvement District, and the City of Boulder for the development of the civic use pad.

BACKGROUND

A. The Ninth and Canyon Hotel and Parking Condominium (the "Project") is a multi-use development that incorporates the combination of hotel and ancillary hotel services. The Project also includes a major parking facility for the Central Area General Improvement District (CAGID).

B. The Project was developed in a manner that is generally consistent with the Boulder Urban Renewal: Ninth & Canyon - 1995 revised plan (the "Urban Renewal Plan").

C. The Urban Renewal Plan envisioned a development to be built on property owned by CAGID at Ninth Ave and Walnut Street generally located in the northern portions of Block 45, of the West Boulder plat and property owned by St. Julien that is generally located on the southern portions of Blocks 44 and 45 of the West Boulder plat. The two properties were combined and a hotel was constructed that fronts on Walnut Ave and parking constructed below grade under both properties.

D. The urban renewal plan anticipated that a minimum of 20% of the gross floor area developed in the project area would be civic uses. The civic use component envisioned under the Urban Renewal Plan has not been constructed yet. Numerous task force committees were formed over the years with both citizen volunteers and City representatives to address the implementation of the civic use portion with the conclusion that the civic use component as envisioned by the Urban Renewal Plan is not commercially and/or financially feasible as defined. The Civic Use Task Force IV ("CUTF IV") made the recommendation to the City Council (and such recommendation was accepted) to modify the concept to allow for civic uses in conjunction with commercial uses.

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July 30, 2015

Re: Letter of Intent -- For the development of the civic use pad between St. Julien, Central Area General Improvement District, and the City of Boulder

E. This LOI is written to inform the intention of the parties, St Julien, CAGID, and the City, subject to the assumptions and provisions stated within. St Julien intends to design, construct, maintain, own and operate the civic use component of the building (the "Facility"). The Facility will be a part of the Project and is intended to meet the civic use requirement of the urban renewal plan. It is anticipated that assistance and/or coordination by CAGID and/or the City will be an integral part of the Project.

F. The parties agree to modify any documents to allow meeting space as a civic use on this site.

G. As used in this LOI, when the term "civic use space" is used, it is intended to describe a first floor event space and rooftop deck area over all or a portion of the new building on the civic use pad that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations. It is anticipated the civic use space will be used for meetings, celebrations, exhibits, fund raising events and art exhibits.

H. The Facility will be constructed on the Civic Use pad and will be maintained by St Julien.

### RESPONSIBILITIES AND NEXT STEPS

1. **Purpose.** Each party acknowledges that this letter is a good faith effort to set forth some of the basic understandings concerning the implementation of the urban renewal plan, as modified to allow the Facility. An assortment of decisions, reviews, and approvals are necessary for any of the terms within to be completed. The Parties state that no commitment should be assumed until all such approvals are obtained and necessary agreements completed. This letter serves as the basis to identify the fundamental issues underlying the subsequent approvals and agreements.

2. **Project Concept.** St Julien will provide specific benefit anticipated in the urban renewal plan through the creation of the first floor event space, and possibly a rooftop deck that may be used by the community as well.

a. St Julien will finance and construct the building on the Civic Use Pad and any cost contribution/civic use subsidy by the City and/or CAGID will be identified during this process.

b. The event space and the rooftop deck will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations. It is anticipated the civic use space will be used for meetings, celebrations, exhibits, fund raising events and art exhibits.



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Re: Letter of Intent -- For the development of the civic use pad between St. Julien, Central Area General Improvement District, and the City of Boulder

c. Above the first floor event space, St Julien will construct three (3) floors of an ancillary and compatible use connected at each level to the existing hotel.

3. **Design of the Space.** The parties will develop the process for the design of the space so that it will meet the purposes of carrying out this memorandum.

a. The City and St Julien will reach out to local civic users to understand the space needs and the requirements of such groups for meeting or event space. The Parties will agree on a process to engage the civic community in the design approval process for the civic use space.

b. The parties intend to design space in order to optimize its use for a wide range of events including performances and arts events, as well as others..

c. The first floor will be designed with transparent window and door openings in the event space on the south side of the building and to the west (to the extent possible) to provide for views to the west and south.

d. Consideration will be given to the integration of design for the potential of adding a pedestrian bridge over Canyon Boulevard, although the actual design of such a bridge is a future effort.

e. The building will be designed, if deemed feasible through the design process as to architectural constraints and commercial functionality, with an outdoor rooftop area that will be available for use by community members and visitors through rental of space by civic groups and not-for-profit organizations at a reduced rate and exploration of circumstances when the space could be used for free.

4. **Regulatory Approvals.** The Parties anticipate that the following regulatory approvals will need to occur to accommodate the project.

a. **Amend Urban Renewal Plan.** The Parties will cooperatively seek to amend the Urban Renewal plan and change those portions necessary to make the vision of the Urban Renewal plan consistent with this Letter of Intent, including without limitation amending the civic use floor area requirement and to make the general floor area regulations in the Urban Renewal Plan to be consistent with the underlying zoning.

b. **Development Review Approvals.** St Julien will be responsible for preparing and submitting the applications that may be necessary for concept review, site review, or use review that may be required by the Boulder Revised Code.



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July 30, 2015

Re: Letter of Intent -- For the development of the civic use pad between St. Julien, Central Area General Improvement District, and the City of Boulder

c. Technical Documents, Building Permits, Construction and Inspection. St Julien will be responsible for preparing and submitting the applications necessary for constructing the project, including without limitation, technical documents, building permits, and inspection reports that may be necessary for the construction of the Facility.

d. Business Licenses. The St Julien will be responsible for seeking approval of the necessary business licenses for the use and rental of the event space and the roof top deck, including without limitation assistance with the coordination of any appropriate liquor licenses for events catered by third parties. The parties intend that the event space and outdoor deck will be used by community groups in a manner that does not violate any regulatory approvals.

5. Agreements. The Parties anticipate that the following Agreements will need to be developed to implement this Letter of Intent.

a. Management Agreement. CAGID, the City, and St. Julien will enter into a management agreement which will set forth the standards under which the event space and rooftopdeck will be operated. The Parties will analyze the needs and criteria for the management of the civic use spaces. The management agreement will include the standards and criteria for the management of the event space, including without limitation the following:

i. A statement of the intent of the event space will be that it can be used by local not-for-profit groups or other civic groups at a reduced rate (e.g. to be defined in discussions with local civic users). The event space will be used in a manner so as to at least be cost neutral to St Julien (e.g. to be defined to cover basic utilities, maintenance and repairs, etc). The St. Julien will separately track those direct expenses related to the civic space rentals to ensure St. Julien is not deriving profit from those designated as civic use. In addition, St. Julien will use its various staff (e.g. sales, marketing, accounting, etc) without reimbursement to be available as a resource to the various civic groups to present the space, manage the logistics of usage, and coordinate maintenance, repairs/replacements.

ii. The Parties will develop a list of qualified caterers that will be eligible to provide service to entities that will use the event space. St Julien will be an authorized caterer for the space. The list of qualified caterers will be reviewed and updated on a regular basis to be determined in the management agreement.

iii. The Parties will develop a method for scheduling the space. It is anticipated that there will be an opportunity to schedule events approximately one year in advance of the activity. After local not-for-profit and civic groups have had an opportunity to schedule events, St Julien will be able to schedule the space for other groups as part of the overall marketing efforts of the hotel.

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July 30, 2015

Re: Letter of Intent -- For the development of the civic use pad between St. Julien, Central Area General Improvement District, and the City of Boulder

iv. The City will consider and analyze options for the creation of civic benefits subsidies that will be intended to make the use of the space affordable for local not-for-profit or civic groups.

b. Condominium Agreement. The Parties will review and amend the Condominium Declaration for the Ninth and Canyon Hotel and Parking Condominium and associated agreements to insure that those agreements are consistent with this letter of intent.

c. Easements. The Parties will review existing easements, and modify them as necessary to permit the construction of the project, including the easements in the alignment of 10<sup>th</sup> Street and any access easements, rights, or agreements associated with a pedestrian bridge over Canyon Boulevard to the Library Building or other civic space or building that may be constructed in the future.

d. Parking Garage Storage Area. The Parties acknowledge that the needs of mechanical and/or event space storage will likely necessitate the creation of additional space below the pad (e.g. mezzanine to the existing garage) and may encroach on existing garage storage space. Final agreement with CAGID, the owner of the garage parking unit, will be part of the management agreement.

6. Miscellaneous

a. The Parties intend to support such other agreements and approval between and among each other, and BURA. The parties also support the idea that the application will be required to demonstrate compliance with local building and zoning laws. Under no circumstances will CAGID, Julien, or the City be represented as partners or joint venturers with each other in any way which would impute liability from one party to the other.

This LOI will not be construed as creating any obligations, contractual or otherwise, on the part of the Parties until the Parties have executed the subsequent agreements. Actions taken by any of the Parties, including but not limited to expenditure of funds, incurring or canceling other commitments or acts taken to implement any of the provisions of this LOI, will not be construed as part of the performance of the terms and conditions contained herein, nor will the party taking such action be regarded as having changed its position in reasonable reliance on the terms and conditions contained herein, so as to give rise to a claim of promissory estoppel or other equitable claims.

Sincerely,

The Parties.

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July 30, 2015

Re: Letter of Intent -- For the development of the civic use pad between St. Julien,  
Central Area General Improvement District, and the City of Boulder

**APPROVAL**

**St. Julien Partners LLC**

By: 

Name: Bruce Porcelli

Title: Managing Member

Date: 10 August 2015

**Central Area General Improvement District**

By: 

Name: Jane S. Brautigam

Title: City Manager as the ex officio General Manager

Date: Aug 26, 2015

**City of Boulder**

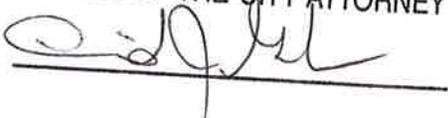
By: 

Name: Jane S. Brautigam

Title: City Manager

Date: Aug 26, 2015

APPROVED AS TO FORM  
OFFICE OF THE CITY ATTORNEY



# ATTACHMENT D - CIVIC USE PAD HEIGHT ILLUSTRATIONS

4240 Architecture, the firm that provided the original conceptual design for the civic pad in 2013, has provided revised illustrations which measure height per the city's code. They show that elevators and other infrastructure necessary to support access and events, as previously considered, will exceed the height limit. Both figures below show the height limit in red.

Figure 1 – Aerial View of Civic Pad Looking Northeast

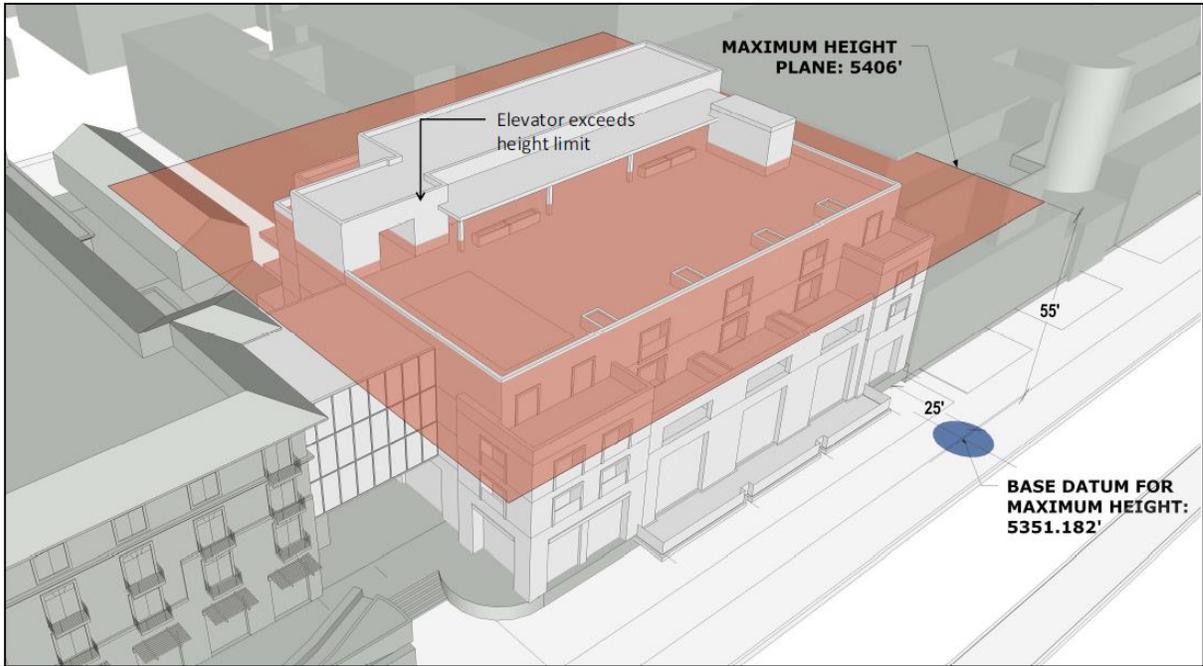
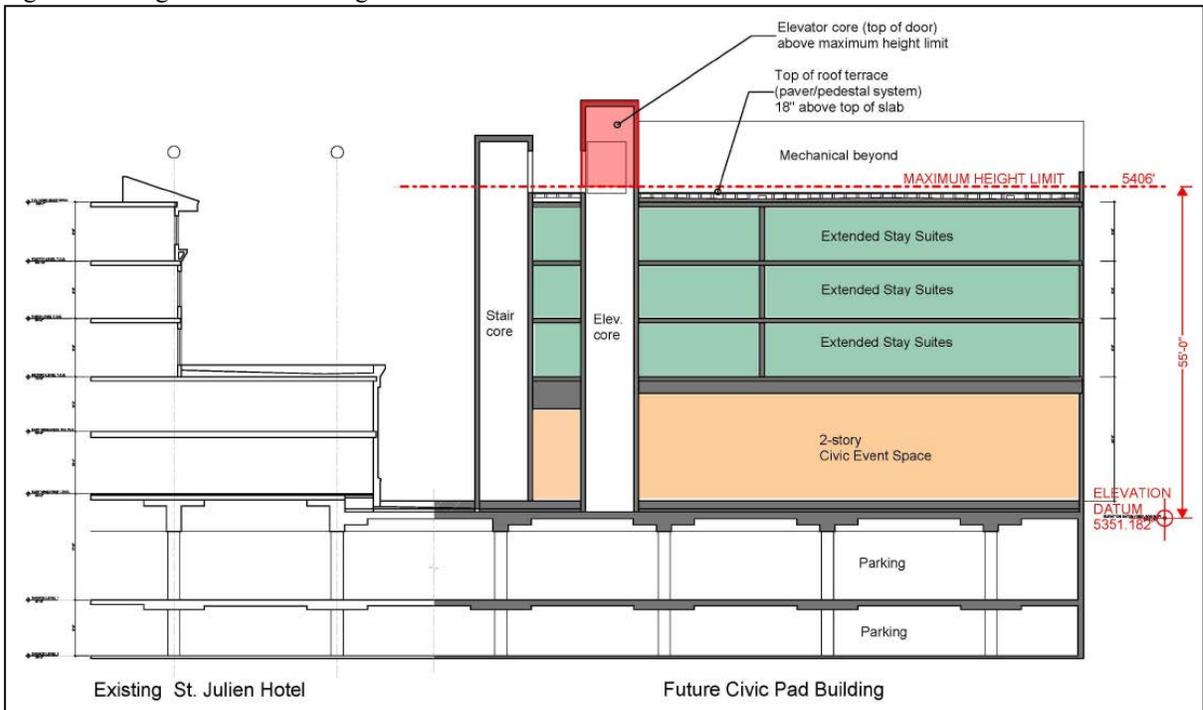


Figure 2 – Diagrammatic Building Section



### **Civic Use Pad Task Force History**

An urban renewal plan adopted in 1988 for the 9<sup>th</sup> and Canyon site in downtown Boulder called for hotel and convention facilities, including retail, restaurants, entertainment, transportation facilities and underground parking. In 1995, City Council modified the plan to include design guidelines for the site, as well as requiring that a minimum of 20 percent of the gross floor area be committed to civic uses. As stipulated in the 9<sup>th</sup> and Canyon Condominium Declaration, the Condominium Association comprised of the property owners (the hotel owner, St. Julien Partners, and the Central Area General Improvement District - CAGID) has the right to lease the civic use pad at the southeast corner of the site in accordance with the civic use lease up until January 1, 2020. After such time, the civic use restriction will end and St. Julien Partners may develop the site as they see fit within existing zoning regulations. The civic use lease must be approved by owner of the hotel unit (St. Julien Partners) and CAGID.

The underground CAGID parking garage opened in November 2002 and the St. Julien Hotel opened in February 2003. Incorporated in the mixed use project is an 11,000 square foot pad east of the hotel constructed with a concrete structural deck capable of supporting a building (“the civic use pad”).

The civic use component of the project first came under consideration in 1998 when a citizen task force comprised of city board, downtown and community members was appointed to review submitted proposals and make a recommendation to City Council. The civic use criteria approved by the City Council in 1998, and currently applicable to the civic use pad, are:

- Financial ability to construct and/or operate and maintain a use over time.
- Acceptance as civic use defined by attraction/benefit to the cultural or scientific or educational or entertainment or artistic or humanistic or civic life of the community.
- Compatibility to the other urban renewal site uses, i.e. the hotel, the parking garage and open space.
- Enhancement to the vitality of the downtown by generating interest in coming downtown, diversifying the downtown experience for citizens, visitors and downtown users or complementing other downtown uses.

Subsequently, three different task forces have sought solutions and approaches to achieve a civic use on the site, but without success. These first three task forces considered a wide variety of ideas and formal proposals including location for the Depot, a children’s museum and community dance facility, the Boulder History Museum, a 500 seat performance venue, a community dance facility with hotel meeting space, and the entry of a conference facility connected to buildings to the east. In 2009, City Manager Jane Brautigam appointed a fourth Civic Use Task Force with the charge to:

1. Assess the challenges that have been identified through past efforts and make recommendations that would increase the likelihood of a successful endeavor;
2. Review the civic use criteria to ensure they reflect the current city priorities and goals and needs of the community; and
3. Assist in the development of a proposal solicitation strategy and process.

## ATTACHMENT E - CIVIC USE PAD TASK FORCE HISTORY

The original members of the CUTF IV were: Boulder City Council Members Mary Young, George Karakehian and Lisa Morzel; Michael Smith, the Boulder Arts Commission; Susan Connelly, Boulder Convention and Visitors Bureau Advisory Board and the Boulder Urban Renewal Authority and vice chair of the task force; Fern O'Brien, Downtown Boulder Business Improvement District; Matt McMullen, Downtown Management Commission and chair of the task force; Josie Heath representing non-profits; Wendy Reynolds representing the financial sector; and Cindy Carlisle representing the community sector. Bruce Porcelli from the St. Julien was invited to join the task force in May 2012. City Council members KC Becker and Suzanne Jones served on the task force.

The CUTF IV conducted a thorough and comprehensive investigation of the challenges, options and possibilities presented by the civic use requirement. The following is a summary of their efforts and accomplishments.

- Analyzed the opportunities and constraints of the site and its legal agreements which govern the outcome. These include the 1988 Urban Renewal Plan (ATTACHMENT B) (amended in 1995) and documents associated with the Condominium Association.
- Developed vision and performance criteria to evaluate reasonable and feasible opportunities for civic use based on the current realities.
- Communicated with dozens of Boulder-based organizations and thought leaders in the community about the opportunities for the civic use pad; conducted focus groups with non-profit organizations serving the Boulder Area; and discussed opportunities with UCAR, NCAR, the Climate Center, the Fort Collins Museum, CU Museum of Natural History and the Exploratorium.
- Created a video promoting the site.
- Determined that a 500 seat music/performance theatre is not a realistic fit for this site.
- Commissioned a property valuation of the pad and associated constructed site improvements.
- Explored the possibility of a mixed use, "layer cake" approach with both civic and commercial uses: hotel functions, meeting space and an art house cinema.
- Commissioned a market and financial feasibility analysis of the "layer cake" mixed use approach.
- Enhanced the relationship with St. Julien Partners; Bruce Porcelli joined the task force in 2012.
- Issued a Request for Information (RFI) to developers seeking the expertise and perspective of the local private development community to identify obstacles to financing and development of the site, and identifying incentives desirable for a successful project. No responses to the RFI were received.

Based on the accumulation of feedback, analysis and discussion, the CUTF IV concluded the following:

- A single user concept is unrealistic given the size, character and financial resources of Boulder.
- Based on the feedback from the community, the required building space - 20% of the existing building equates to 37,000 square feet - is too much for any one user to afford, and the Task Force recommends the Urban Renewal Plan be modified to meet the realities and needs of the current proposal.

## ATTACHMENT E - CIVIC USE PAD TASK FORCE HISTORY

- A redefinition of “civic use” as a specific building or portion of a building to “civic benefit” within the context of a public private partnership. As noted above, the expectation of a stand-alone facility is not realistic for civic and non-profit entities within our community. However, there is a periodic need for many organizations for sharing a venue, hence the concept of civic benefit rather than a single use.
- Coordination with the Civic Area Planning effort provides a design synergy within the broader context of the area and opportunity for a viable and dynamic use for the site.
- A public-private partnership with the St. Julien will be necessary to achieve a successful result and achieve the civic use concept prior to the expiration date.

After the Task Force’s comprehensive review of the options and thorough outreach to the community, a key breakthrough came with the realization that partnering with the St. Julien Partners offered the most viable, realistic and sustainable approach to achieving the goal of a civic benefit on the pad within the shrinking window of opportunity. Having Bruce Porcelli join the Task Force created the opportunity to jointly develop a mutual vision with shared benefits.

The Downtown Management Commission (DMC) (as the advisory board for CAGID) reviewed the CUTF IV’s new vision and recommendations at its January 6, 2014 meeting and supported the proposal as a win/win for the city, the downtown, St Julien Partners and CAGID.

In the memorandum for the January 28, 2014 study session, the CUTF IV recommended to City Council a new vision for civic use at the pad adjacent to the St. Julien Hotel - a facility to be developed as a public-private partnership with the St. Julien Hotel within the context of the Civic Area Plan. St. Julien Partners supported the Task Force recommendations, as did city staff. The concept proposes a facility on the pad including 8,000 square feet of event space for shared hotel and “civic use” on the first floor, upper floors of hotel uses, and a multi-purpose rooftop deck. Incorporated in the vision is a potential pedestrian connection across Canyon Boulevard to a future cultural facility at the current Library location. In the opinion of the Task Force, after the exhaustive 15-year process, this collaborative partnership represents the most workable, exciting and viable path to achieving the requirement for civic use set out in the 9<sup>th</sup> and Canyon Urban Renewal Plan before it expires in 2020 when the site reverts to its owner, St. Julien Partners.

The CUTF IV recommends formal exploration of the collaborative partnership to understand its constraints, challenges, opportunities, benefits and issues. The areas for further analysis, study, potential change and negotiation include: existing legal agreements associated with the site including the Urban Renewal Plan and Condominium Association; planning and zoning regulations; building design and compatibility with the hotel and garage; financing; lease and user options to support civic use of the event space and multi-purpose rooftop deck for the community; and the negotiations with St. Julien to define the facility management and parameters of the public/private partnership. Both the vision and the next steps were embodied in the July 20, 2015 LOI among the City, CAGID and St. Julien Partners.

**Civic Use Pad Task Force IV Meeting  
Thursday, June 16, 2016**

**Summary of Discussion/Action Items**

Attendees:

Task Force members: Council members Mary Young and Liza Morzel (phone), Bruce Porcelli (with Kristin Shrader), Matt McMullen, Josie Heath, Wendy Reynolds (Absent: Cindy Carlisle, Fern O'Brien, Michael Smith)

City staff: Jane Brautigam, David Gehr, Molly Winter, Eric Ameigh, Susan Connelly  
After introductions, Molly Winter recapped where we are in the Civic Use Pad process. The bulk of the ensuing discussion was about the viability of the rooftop deck.

- Eric Ameigh explained the rooftop deck design feasibility analysis and the conclusion that it is not possible due to city charter height limit of 55 feet.
- David Gehr responded re: city charter and code provisions and that there were no exceptions available in this case.
- Mary Young noted that the required safety railing would exceed the 55 feet height limit by two and a half feet or so and asked whether a slight variance in ceiling height on lower floors could be accommodated to address that issue.
- Bruce Porcelli explained the layout of hotel suites and corridors to help describe why it is not an option for St. Julien to reduce a floor of hotel use or even half a floor in order to accommodate a rooftop event space. In the discussion of lowering the height of each floor, he said that nine-foot ceiling heights are required for first class hotels as (1) the finished design will result in lower ceilings for parts of the rooms for mechanical/electrical/plumbing plenums, (2) the resulting connection to the hotel on the upper floors would be too great of an incline to be within ADA guidelines, and (3) the new hotel use floors must be able to connect to the existing hotel. And with David's explanations toward the end of the meeting of allowable temporary amenities (e.g., tents, umbrellas), there is no amount of lowering ceiling heights that would make any difference anyway.
- Matt McMullen acknowledged that lowering the height of the first floor civic use space would impede the ability to divide the room effectively for multiple simultaneous uses.
- The idea of cantilevering space over public-right-of-way was discussed but discarded because of restrictions in air space above the high hazard zone to the south and it not being feasible to block hotel rooms on the west or north.
- It was noted that the basic "box" of the proposed new building is very expensive, with construction costs rising.
- It was suggested to explore possible outdoor open space adjacent to the first floor civic use.
- Following the discussion of possible alternatives, it was suggested that the City seek voter approval of an amendment to the 55' height limit in the City Charter so that the

project could include a full rooftop amenity as imagined in conjunction with the civic use space on the first floor, including elevators and shade structure in order to make it fully functional and to foster greatest usage.

- Concerns were raised about the time and cost of additional study.
- It was agreed that we need to explore every possible design to get outdoor space.
- Bruce said before beginning any costly design and review process there needs to be assurances that the rooftop isn't an absolute requirement (as per the LOI) and he can proceed with the four-story building as currently planned with the potential 18,000 sf of civic event and related space.
- Mary said that the vision was public space, not events space.
- Bruce stated that the rooftop amenity could be only as an adjunct to the first floor civic use space because a "weather backup" is a necessary element in event planning. It would not be a public access amenity as unrestricted access by the general public was never envisioned outside of planned civic events. He said the utilization of the ground floor space would be much greater as events could be planned year-round regardless of the weather and it was more efficient space, being closer to restrooms, the loading dock and warming kitchen.
- Josie said that we would need to understand the economics of constructing and operating the rooftop, saying there was no need to try to sell a charter amendment if the rooftop just won't work. David Gehr noted the LOI language acknowledging that the rooftop would have to be commercially viable, and that analysis is up to Bruce. Bruce said the rooftop as currently envisioned in the 4240 drawings of 11/2013 would use two elevators that would run express from the first floor civic use space, and that there was no understanding of how the basic improvements would be subsidized let alone the additional permanent improvements being contemplated in today's discussion for a more built-out rooftop.
- Matt opined that the matter is now owner-to-owner discussion and no longer aided by the Task Force.
- There was no consensus about the desirability of a potential charter amendment.
- Next steps: possible ballot issues discussion at Council on July 19<sup>th</sup>, Civic Use Pad update to Council on August 2<sup>nd</sup>.



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt 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 Eichem, Chief Financial Officer  
Maureen Rait, Executive Director Public Works  
Jeff Arthur, Director Public Works for Utilities  
Cheryl Pattelli, Finance Director  
Jessica Paul-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. The ordinance was scheduled for the council consent calendar at the May 17, 2016 council meeting, because there was a public hearing at the May 3, 2016. A council member requested a second public hearing. The

ordinance was pulled from the May 17, 2016 council meeting and rescheduled for continued second reading for the July 19, 2016 council meeting. Adoption of the ordinance in the current form would be an amendment of the ordinance approved at first reading and therefore will require a third reading. In the interim, staff has made settlement proposals for all of the claims arising from the February 15, 2016 water main break, most of which have been accepted and paid. In light of staff's ability to address the claims with existing authority, staff does not recommend that council adopt the proposed ordinance. To help preserve this policy decision, the city manager will issue a directive to the finance director and risk manager setting forth the policy.

**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 motion to adopt 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 memorandum](#), the [May 3, 2016 agenda memorandum](#) and the [May 17, 2016 agenda memorandum](#).

### 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.

**Status of Claims**

Based on council’s direction staff analyzed the February 15, 2016 water main claims. Staff offered to pay for basic remediation, but not for finishes. The following chart summarizes the status of the claims to date:

<b>Claimant</b>	<b>Claimed Damages</b>	<b>Status</b>
Emily Baumbach 1551 Norwood Avenue	\$4,477.94 + personal property	Paid - \$2,596.88
Lisa Brusino 1620 Oak Avenue	\$20,067	Paid - \$15,267.42
Karen & Malcolm Daly 1545 Norwood Avenue	\$620	No settlement offered
Thomas Debus & Christine Vanston 1660 Oak Avenue	\$5,600	Paid - \$4,016.54
Carla Graubard 1555 Norwood Avenue	\$37,744.44	Offered - \$26,734.26
Meredith & Drew Kurry 1548 Oak Avenue	\$10,000	Paid – \$3,857.53
Stanley Peterson 1629 Norwood Avenue	\$2,279.68	Offered - \$2,000
Dan Spiegler 1535 Norwood Avenue	\$6,402.08	Paid - \$5,023.83
Cristina Stoica 1640 Oak Avenue	\$95,000	Paid - \$3,350
Simon & Diane Terr 1680 Oak Avenue	\$15,979.83	Paid - \$12,265.47
	Claimed - \$198,170.97	Offered - \$71,095.39

Staff made the settlement offers in letters dated June 6, 2016. Two of the offers remain outstanding. Mr. Peterson does not use electronic mail. Staff is awaiting his response via regular mail. Ms. Graubard has objected to the proposed offer. She seeks compensation for paint, baseboards and other finishes, which staff considered to be beyond the scope of council’s direction. Staff’s understanding of council’s direction was

that finishes were not to be included, because the cost of finishes, including paint and baseboards, can vary greatly based upon an individual's tastes. The payments were intended to provide assistance, not necessarily to compensate for all losses.

Some council members have expressed concern that if there is no ordinance, this policy change may not survive the tenures of the current city manager and city attorney. Accordingly, staff has prepared a draft directive memorializing the policy. A copy is attachment C.

## **ATTACHMENT**

Attachment A – Ordinance 8116 as passed on first reading  
Attachment B – Proposed amended version of Ordinance 8116  
Attachment C – Draft Directive

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>
¾"	\$ 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%

Attachment A – Ordinance 8116 as Passed on First Reading

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 3<sup>rd</sup> day of May, 2016.

\_\_\_\_\_  
Suzanne Jones  
Mayor

Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

**Attachment B – Proposed amended version of Ordinance 8116**

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.

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

**Attachment B – Proposed amended version of Ordinance 8116**

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

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

6  
7 (g) Billing for water service and any other notices relating to the water utility are effective on  
8 the date that they are deposited in the mail addressed to the last known address of the water user  
9 as shown on the records of the city water utility.

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

12  
13 (i) To the extent that appropriated funds are available for the purpose, the city attorney, with the  
14 city manager's approval, is authorized to settle any claim against the **water utility-city** arising  
15 from damage to a **Single Unit Dwelling** caused by water released from **facilities a water main**  
16 **break on a pipeline owned and** operated by the water utility. Such payments shall be limited to  
17 payments for **basic remediation of damage to basements** and replacement or repair of  
18 equipment and appurtenances normally found in basements, such as **common** flooring, drywall,  
19 furnaces, boilers and water heaters. No funds shall be provided for extraordinary **basement**  
20 finishes, including but not limited to **kitchens appliances, cabinetry,** bathrooms or upgraded tile  
21 flooring or carpeting. **No payment shall be made for damage to furniture or other**  
22 **possessions.** Payments under this section shall be funded through fees collected through  
23 Section 4-20-25(e), "Water User Charges," B.R.C. 1981. Payment of such claims shall be  
24 **supplemental to and not in lieu of any private insurance obligation and shall be** subject to  
25 the limitations of Section 2-2-14, "Initiation and Settlement of Claims and Suits," B.R.C. 1981.

1 **Nothing in this section shall be interpreted or construed to create an entitlement to**  
2 **payment or as any type of waiver of any of the provisions of the Colorado Governmental**  
3 **Immunity Act.**

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

6  
7 Section 3. The city council deems it appropriate that this ordinance be published by title  
8 only and orders that copies of this ordinance be made available in the office of the city clerk for  
9 public inspection and acquisition.

10 Section 4. The city council finds this ordinance is necessary for the immediate  
11 preservation of public peace, health, safety, and property justifying the adoption of this ordinance  
12 as an emergency measure. Passage of this ordinance immediately is necessary because the  
13 ordinance is intended to address claims that arose as early as February 15, 2016. Additional  
14 delay could adversely affect those intended to benefit through this ordinance. This ordinance  
15 shall become effective immediately.

16 INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY  
17 TITLE ONLY THIS 19TH DAY OF APRIL 2016.

18  
19  
20 \_\_\_\_\_  
Suzanne Jones  
Mayor

21 Attest:

22  
23 \_\_\_\_\_  
Lynnette Beck  
24 City Clerk

**Attachment B – Proposed amended version of Ordinance 8116**

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 19 DAY OF JULY, 2016.  
4

5 \_\_\_\_\_  
Suzanne Jones  
6 Mayor

7 Attest:

8 \_\_\_\_\_  
Lynnette Beck  
9 City Clerk



**CITY OF BOULDER  
OFFICE OF THE CITY MANAGER**

---

To: Department of Finance  
Risk Manager  
From: Jane Brautigam, City Manager  
Date: July \_\_, 2016  
Re: Settlement of Claims for which the City is Not Legally Liable

As a general matter the city only pays claims for which the city could be held legally liable. As the result of a water main break on February 15, 2016, the city council directed staff to adopt a policy of paying some claims for which there is no legal liability. The purpose of this directive is to document this policy for those directly responsible for handling claims against the city.

In certain circumstances an individual city resident will suffer damages caused by city infrastructure. Notwithstanding any city culpability or negligence, it is city policy that such residents will be provided financial assistance. At this time, such payments will be limited to damage caused by water main breaks. If, in the future, other similar situations are identified, I will consider extending this directive to cover those situations. Payment will be limited to payments for basic remediation of damage and replacement or repair of common flooring, drywall, furnaces, boilers and water heaters. No funds will be provided for extraordinary finishes, including but not limited to appliances, cabinetry, bathrooms or upgraded tile flooring or carpeting. No payment will be made for damage to furniture or other possessions.



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Second reading and consideration of a motion adopt Ordinance No. 8122 amending section 12-2-4, “Written Disclosures Required,” B.R.C. 1981 to update the required disclosure by landlords, and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Janet Michels, Senior Assistant City Attorney

**EXECUTIVE SUMMARY**

Currently, section 12-2-4, “Written Disclosures Required,” B.R.C. 1981 identifies ten specific ordinances that landlords must disclose to their residential tenants in writing, the majority of which deal with quality of life ordinances. The most recent amendments to section 12-2-4 were in 2009. The proposed amendment designates additional ordinances enacted since 2009 that must be included in the tenant disclosures. The proposed amendment also corrects typographical errors and an oversight in providing a specific Boulder Revised Code citation for the section relating to the responsibility of owners, managers or operators to maintain a valid trash hauler contract.

The proposed ordinance for this item (**Attachment A**) makes these changes.

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

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

Second Reading and motion to adopt Ordinance No. 8122 amending section 12-2-4, “Written Disclosures Required,” B.R.C. 1981 to update the required disclosure by landlords, and setting forth related details..

## FIRST READING QUESTIONS

At the June 7, 2016 council meeting, council asked the following questions, with responses following:

1. Why were those three marijuana ordinances selected to be included in the landlord disclosure document?

*Staff response:*

*A Boulder Police Department officer primarily responsible for marijuana enforcement recommended those three ordinances as addressing the issues most frequently raised by both landlords and tenants.*

- *5-10-2, “Consumption of Marijuana in Public Prohibited,” is included because of frequent complaints about residents and visitors of apartment complex rentals smoking marijuana in their vehicles, parked outside of the complexes.*
- *5-10-6, “Marijuana Odor Emissions,” is included because police receive numerous complaints about the smell of burning marijuana from and within residential units, such as marijuana smoke coming wafting across a yard, or through the ventilation system of a multi-unit residence.*
- *Paragraphs 6-14-13(a)(6) and 6-16-13(a)(4), prohibiting possession of more than six marijuana plants without a license is included because police and code enforcement observe many instances of, regularly respond to complaints of, marijuana cultivation in excess of the number of plants allowed without a license. In addition, enforcement continues to get questions from both property owners and tenants regarding how many plants can legally be grown on a premises.*

*Since first reading, the proposed amendment was modified to delete the requirement that BRC 5-10-2, “Consumption of Marijuana in Public Prohibited,” in response to concerns expressed by city council and members of the community.*

2. Have courts addressed the issue of not allowing marijuana in rental properties?

*Staff Response:*

*Amendment 64 provisions allow for a landlord to restrict the use, cultivation, or possession of marijuana on their property. Colo. Const. Art. XVIII, section 16(6)(d) states:*

***“Nothing in this section shall prohibit a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.”***

*There are no reported court decisions that this section of the Colorado constitution is not enforceable.*

3. What limitations can landlords place on people in their personal premises?

*Staff Response:*

*A lease agreement (verbal or written) is a contract between the landlord and the tenant. The parties can mutually agree on any terms. A term that is illegal, such as one that discriminates against a protected class (age, race, religion, gender, gender identification, marital status, sexual orientation) or violates the Fair Housing Act, is unenforceable.*

4. Does the Ordinance need the saving clause (a separate section that states any operator may prohibit conduct that is otherwise permitted by law)?

*Staff Response:*

*The saving clause was suggested by the Boulder Area Rental Housing Association. That group expressed concern about the section on prohibiting possession of more than six marijuana plants without a license. BARHA indicated most landlords do not allow any growing on the property, even for medical purposes. The group felt the reference to the six-plant limitation may be seen as it being permissible to grow since the City will allow it even though the lease states differently.*

*The saving clause is not necessary. However, to clarify that section 12-2-4 does not change the legal rights of any landlord or tenant other than the written disclosure obligation on landlords, a new subsection (a)(1)(e) has been added to the proposed amendment:*

*(e) The requirements of this paragraph (a)(1) are not intended to change the legal rights of any operator, tenant or lessee other than the obligation of operators to provide the written disclosure required by this section.*

## **COMMUNITY SUSTAINABILITY ASSESSMENT AND IMPACTS**

- **Economic:** The proposed changes are procedural in nature and should not significantly affect the local economy.
- **Environmental:** The ordinances section 12-2-4, B.R.C. 1981 requires landlords to disclose, in writing, to tenants, primarily address quality of life violations, and not traditional environmental issues.
- **Social:** Residential tenants may not be fully aware of certain city regulations, especially some that are unique to the City. By requiring landlords to provide tenants with written disclosures of certain regulations that impact the quality of life of neighborhoods in the City, tenants will have the opportunity to comply with these community expectations.

## **OTHER IMPACTS**

- **Fiscal:** None anticipated, the proposed changes are procedural in nature.
- **Staff time:** Creation of a new model disclosure form that satisfies the requirements of subsection (a) of section 12-2-4 is within existing staff work plans.

## **BACKGROUND AND ANALYSIS**

In the early 2000s, the city manager established a University Hill Action Group (“UHAG”), to recommend specific actions to the city council to improve the quality of life of the University Hill neighborhood. As a part of the involved process of adopting a nuisance abatement ordinance, in 2001, UHAG proposed a new requirement that certain disclosures be made to all tenants in writing by landlords. One of the concerns expressed during UHAG discussions was that some tenants in the University Hill area may not be fully aware of certain applicable City regulations.

In August 2002, city council adopted Ordinance 7158, codified as section 12-2-4, B.R.C. 1981. That ordinance identified ten specific city ordinances that landlords must disclose to residential tenants, in writing. Section 12-2-4(b) charged the city manager with approving a form that, if fully executed, will satisfy the requirements of subsection (a) of section 12-2-4, B.R.C. 1981.

The ordinances that landlords are currently required to disclose, in writing, to residential tenants are:

- 5-3-11, “Nuisance Party Prohibited,”
- 5-6-6, “Fireworks,”
- Chapter 5-9, “Noise,”
- 6-2-3, “Growth or Accumulation of Weeds Prohibited,”
- 7-6-13(a)(1), concerning parking prohibited on sidewalks.
- 8-2-13, “Duty to Keep Sidewalks Clear of Snow,”
- 6-3-3(b), relating to the responsibility to maintain a valid contract with a commercial trash hauler,
- Notification that interest must be paid to tenants upon any security deposit collected pursuant to the provisions of sections 12-2-2, “Definitions,” and 12-2-7, “Interest Rate on Security Deposits,” and
- Notification to tenants of the date and nature of law violations for which the owner, manager or operator has received written notice of violation pursuant to section 10-2.5-6, “Required Procedures Prior to Commencement of Public Nuisance Action.”

The list of ordinances required to be disclosed has not been expanded since the adoption of Ordinance 7685 in September 2009. Several ordinances enacted since that time have been identified by community members and law enforcement personnel as so impactful to the community that requiring written disclosure, alone, could mitigate the negative impacts of noncompliance. Most people want to comply with the law. If they are aware of the law, the expectation is they will comply.

The proposed amendment will add the following ordinances to those that section 12-2-4 already requires be disclosed to residential tenants:

- 5-4-12, “Depositing Trash on Property in Violation of Sign;”
- 5-4-16, “Outdoor Furniture Restrictions,”
- 6-3-12, “Bear-Resistant Containers Required,”
- 5-10-6, “Marijuana Odor Emissions,” and
- Paragraphs 6-14-13(a)(6) and 6-16-13(a)(4), prohibiting possession of more than six marijuana plants without a license.

The proposed amendment will also provide the specific code section, 6-3-3(b), to the ordinance paragraph (a)(1)(C), which currently describes the code section relating to the responsibility to maintain a valid contract with a commercial trash hauler, but which did not provide the specific code section.

The proposed amendment additionally corrects the language in paragraph (a)(1)(c). That paragraph is an incomplete sentence. The amendment clarifies the sentence by providing a subject.

## **ATTACHMENTS**

Attachment A – Proposed Ordinance

ORDINANCE NO. 8122

AN ORDINANCE AMENDING SECTION 12-2-4, "WRITTEN DISCLOSURES REQUIRED," B.R.C. 1981 TO UPDATE THE REQUIRED DISCLOSURES BY LANDLORDS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 12-2-4, B.R.C. 1981, is amended to read:

**12-2-4. - Written Disclosures Required.**

(a) No operator shall allow any person to occupy a rental property as a tenant or lessee or otherwise for valuable consideration unless and until that operator has satisfied each of the following conditions:

(1) The operator has executed and provided to the tenant a copy of a written lease, rental agreement, set of site rules or other written instrument containing the following information:

(A) The maximum occupancy levels permitted in the rental unit;

(B) Notice of the provisions contained in sections 5-3-11, "Nuisance Party Prohibited," 5-6-6, "Fireworks," ~~and~~ chapter 5-9, "Noise," 5-4-12, "Depositing Trash on Property in Violation of Sign," and 5-4-16, "Outdoor Furniture Restrictions," B.R.C. 1981;

(C) Notice of the provisions contained in sections 6-2-3, "Growth or Accumulation of Weeds Prohibited," 6-3-3, "Trash Accumulation Prohibited," paragraph 7-6-13(a)(1), concerning parking prohibited on sidewalks, ~~and~~ section 8-2-13, "Duty to Keep Sidewalks Clear of Snow," section 6-3-3(b), B.R.C. 1981, relating to the responsibility of every owner, manager or operator of rental property to maintain a valid contract with a commercial trash hauler providing for the removal of accumulated trash from the property, and section 6-3-12, "Bear-Resistant Containers Required," B.R.C. 1981;

(D) The names of those individuals permitted, pursuant to the tenancy agreement, to occupy the rental unit;

(E) Notification to tenants that violation of the city's noise regulation requirements or residency within the rental unit of persons other than those lawfully

1 occupying the unit pursuant to the tenancy agreement is cause for the termination of the  
2 tenancy; and

3 (F) Notification that interest must be paid to tenants upon any security deposit  
4 collected pursuant to the provisions of sections 12-2-2, "Definitions," and 12-2-7,  
5 "Interest Rate On Security Deposits," B.R.C. 1981;

6 (G) Notification to tenants of the date and nature of any violations of law  
7 during the preceding twenty-four months for which the owner, manager or operator has  
8 received written notice of violation pursuant to Section 10-2.5-6, "Required Procedures  
9 Prior to Commencement of Public Nuisance Action," B.R.C. 1981; and

10 (H) Notification of the provisions contained in sections 5-10-6, "Marijuana  
11 Odor Emissions," and paragraphs 6-14-13(a)(6) and 6-16-13(a)(4), B.R.C. 1981,  
12 prohibiting possession of more than six marijuana plants without a license.

13 (b) The city manager shall approve a form that, if fully executed, will satisfy the  
14 requirements of subsection (a) of this section. Use of the approved form shall not be mandatory  
15 and individual operators may utilize other writings in lieu of such form so long as those writings  
16 satisfy the requirements of subsection (a) of this section.

17 (c) The No operator shall allow any person to occupy a rental property as a tenant or  
18 lessee or otherwise for valuable consideration unless and until that operator has established and  
19 maintained an accurate listing of the identities of each of the persons who are authorized to  
20 reside in the subject rental unit.

21 (d) The maximum penalty for any violation or violations of this section that are  
22 charged as part of a single court proceeding shall be \$500.00.

23 (e) The requirements of this paragraph (a)(1) are not intended to change the legal  
24 rights of any operator, tenant or lessee other than the obligation of operators to provide the  
25 written disclosure required by 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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 7th day of June, 2016.

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\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY  
TITLE ONLY this 19th day of July, 2016.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON THIRD READING, PASSED, ADOPTED AND ORDERED PUBLISHED  
BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

Attest:

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



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt Ordinance No. 8123 repealing Chapter 4-16, "Police Alarm Systems," B.R.C. 1981 and replacing it with a new Chapter 4-16, "Police Alarm Systems," to require alarm verification before initiating police response and setting forth related details.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Greg Testa, Police Chief  
Carey Weinheimer, Deputy Chief

**EXECUTIVE SUMMARY**

One of the recommendations in the Police Department's Master Plan, approved by Council in 2013, was to implement changes to the department's policy, to reduce the amount of time spent responding to false alarms. For the two-year period from 2014 through 2015, 99.79% of the intrusion alarms the police department responded to were false. The police department supports the for-profit alarm industry by responding to these alarms, yet it receives no funding for providing this service. A response to an alarm usually requires two officers. Given that the vast majority of alarms are false, a large amount of officer time, in addition to dispatch time, could be spent on other duties and responsibilities.

The police department has worked in collaboration with the alarm industry, and the non-profit Security Industry Alarm Coalition (SIAC), to modify the city's alarm ordinance in order to implement alarm permit fees and fines to offset the costs associated with responding to alarms, with the ultimate goal of reducing false alarms. The alarm industry is in favor of annual alarm permit fees and fines for repeated false alarms.

## STAFF RECOMMENDATION

**Suggested Motion Language:** Staff requests council consideration of this matter and action in the form of the following motion: Motion to adopt ordinance repealing Chapter 4-16, "Police Alarm Systems," B.R.C. 1981, and replace it with a new Chapter 4-16, "Police Alarm Systems," to require alarm verification before initiating police response and setting forth related details.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** The proposed changes will not negatively impact city revenues. Reducing false alarms will free up officer time to respond more effectively to other crime and community matters.
- **Environmental:** A 50% reduction in false alarms results in over 1,000 fewer calls that officers respond to, which will result in a small decrease in the number of miles driven annually.
- **Social:** Reducing calls for service due to false alarms frees officers to focus on crime and disorder issues within the community and allows officers more time to devote to community policing initiatives.

## OTHER IMPACTS

- **Fiscal:** The proposed changes to the ordinance will not impact the current budget. Alarm permit fees and fines may produce net revenue. Income from permit fees and fines will be used to off-set the costs of a third party administrator that will handle the administrative tasks associated with processing permits and collecting fines.
- **Staff time:** Reducing false alarms will free up officer time to respond more effectively to other crime and community matters.

## BACKGROUND

During the two-year period from 2014 through 2015, the police department responded to 4,915 alarms. Only 10 alarms were determined to be legitimate, resulting in a false alarm rate of 99.79%. The police department's master plan identified the need to address the large amount of personnel time and resources wasted responding to false alarms. The police department worked with the local alarm business community, as well as the national non-profit Security Industry Alarm Coalition (SIAC) to address the problem. The alarm companies recommended instituting annual alarm permit fees, as a method of insuring alarms are installed and maintained properly. They also suggested implementing fines for repeated false alarms and eventual suspension of police response to chronic alarms.

The police department collaborated with SIAC to draft changes to the current city ordinance to include requirements for permit fees and fines. Police department representatives have consulted with Downtown Boulder Incorporated (DBI) and the

Boulder Chamber of Commerce, as a large percentage of false alarms are generated by commercial alarm users. Permit fees will be set by the city manager so they can be changed without revising the ordinance. A \$25.00 fee is charged to reinstate a suspended alarm permit. These amounts are based on SIAC, industry recommendations and alarm policies throughout the country. A discount may be considered for senior citizens or others.

Below is the proposed civil penalty fine schedule for activation of false alarms within a twelve month period:

For the second violation, \$100;  
For the third violation, \$200;  
For the fourth violation, \$300; and  
For the fifth and subsequent violation \$450.

Other violations of this Chapter, \$100.

The city manager may offer an alarm user awareness class which will provide information about the issues created by false alarms and provide instructions on how they can be reduced. At the city's discretion, an alarm user may have the option of attending a class in lieu of paying one assessed fine not to exceed \$100 in a twelve (12) month period. The goal of the ordinance change is to reduce false alarms through education, progressive fines and suspension of response. The police department will not suspend response to panic or robbery alarms. The ordinance does not affect fire, carbon monoxide or medical alarms.

The differences between the current ordinance and the proposed ordinance include:  
Alarm users will be liable for civil penalties if they have more than one false alarm in a twelve month period. The penalties increase for each false alarm. The current ordinance only imposes penalties for intentional false alarms.

- Alarm companies will be required to collect contact information from alarm user to verify alarms;
- Alarm companies will be required to use enhanced call verification to verify the need for police response before reporting the alarm to the police;
- There will be civil penalties; and,
- Police response will be suspended for nonpayment of penalties, failure to have a current permit or for five false alarms in a twelve month period.

## **ANALYSIS**

Cities that have implemented fines for repeated false alarms, and suspension of response to chronic false alarms, have experienced 20-70% reductions in false alarms over time. Cheyenne, Wyoming instituted fines in 2013 and experienced a 40% reduction in false

alarms within the first year. Marietta, Georgia observed a 70% reduction in false alarms within four years of instituting a progressive fine schedule.

A major challenge to implementing a fee and fine approach is the administrative burden of issuing permits and collecting fines. The police department does not have staff to administer such a program. Therefore, the department will use the revenue from fees and fines to hire a third party administrator to handle the administrative functions. This is a common approach and best practice in cities throughout the country.

*The police department requests that the ordinance become effective March 1, 2017. Once council approves the ordinance, the department will need approximately six months to issue an RFP and secure a third party administrator.*

### **ATTACHMENTS**

- Attachment A – Proposed Revised Ordinance.
- Attachment B – Proposed Revised Ordinance with changes.
- Attachment C – Current Ordinance.
- Attachment D – DBI Letter of Support.

ORDINANCE NO. 8123

AN ORDINANCE REPEALING CHAPTER 4-16 B.R.C. 1981, "POLICE ALARM SYSTEMS" AND REPLACING IT WITH A NEW CHAPTER 4-16 B.R.C. 1981 "POLICE ALARM SYSTEMS" TO REQUIRE ALARM VERIFICATION BEFORE INITIATING POLICE RESPONSE AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 4-16, B.R.C. 1981, is repealed and replaced by a new Chapter 4-16, to read: Police Alarm Systems.

**4-16-1. - Legislative Intent.**

The purpose of this chapter is to reduce the frequency of false alarms, their associated costs to the city, and to establish reasonable expectations of alarm users and alarm businesses.

**4-16-2. - Definitions.**

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

"Alarm Administrator" means a person and/or entity designated by the city manager to administer, control and review false alarm reduction efforts and administer the provisions of this ordinance.

"Alarm Company" means a person engaged in selling, leasing, installing, servicing or monitoring alarm systems.

"Alarm Location" means the property which is monitored by an alarm system.

"Alarm Permit" means a permit issued by the city, allowing the operation of an alarm system within the city.

"Alarm Signal" means any activation generated by an alarm system, to which the police are requested to respond.

"Alarm System" means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other illegal activity requiring immediate attention and to which the police are requested to respond, but does not include motor vehicle or boat alarms, fire alarms, carbon monoxide alarms, domestic violence alarms, or alarms designed to elicit a medical response.

1 “Alarm User” means any person any other entity owning, leasing or operating an alarm system, or  
2 on whose property an alarm system is maintained for the protection of such property.

3 “Cancel, Cancelled or Cancellation” means the process where police response is terminated to an  
4 alarm site before police personnel arrive at the alarm location.

5 “Conversion” means the transaction or process by which one alarm company begins the servicing  
6 or monitoring of a previously unmonitored alarm system or an alarm system that was previously  
7 serviced or monitored by another alarm company.

8 “Dual-Activation Device” means a device which requires that two buttons be depressed together  
9 to activate an alarm signal for a robbery in progress.

10 “False Alarm” means the activation of an alarm system when, upon inspection by the city, evidence  
11 indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in  
12 or at the alarm location which would have activated a properly functioning alarm system.  
13 Notwithstanding the foregoing, a false alarm shall neither include an alarm activated by unusually  
14 violent conditions of nature nor an alarm which is cancelled before police personnel respond to  
15 the alarm location. Multiple alarms caused by a single technical malfunction in single alarm system  
16 for a period up to 12 hours shall constitute only one false alarm. Each 12-hour period shall  
17 constitute a new violation.

18 “Panic Alarm” means an audible alarm signal generated by the manual activation of a device  
19 intended to signal a life-threatening or emergency situation, requiring an officer’s response.

20 “Permit Year” means a 12-month period beginning on the day and month on which an alarm permit  
21 is issued.

22 “Responsible Party” means a person accountable for appearing at the alarm location upon request,  
23 who has access to the alarm location and the code to the alarm system.

24 “Robbery Alarm” means a silent alarm signal generated by the manual activation of a device  
25 intended to signal a robbery in progress.

“Runaway Alarm” means an alarm system that produces repeated alarm signals that do not appear  
to be caused by separate human action.

“Verify” means an attempt by the alarm company to contact the alarm location or alarm user by  
telephone or other electronic means, whether or not actual contact with a person is made, to attempt  
to determine whether an alarm signal is valid, before requesting police dispatch.

#### 22 **4-16-3. - Alarm Permit Required.**

- 23 (a) No alarm user shall use an alarm system, whether the system is monitored or not,  
24 without first obtaining a permit for such alarm system from the city manager. Each  
25 alarm permit shall be assigned a unique permit number and shall be specific to the  
alarm location. No alarm user shall use the alarm system in a manner that violates an  
approved alarm permit.

- 1 (b) Upon transfer of ownership of the property at which an alarm system is maintained, the  
2 new owner shall either file an application for an alarm permit within thirty (30) days of  
obtaining possession of the property or cease operating the alarm system.
- 3 (c) Any alarm system which was installed before the effective date of this ordinance must  
4 be registered by the alarm user within ninety (90) days after that date.

5 **4-16-4. - Duties of the Alarm User.**

6 No alarm user shall fail to:

- 7 (a) Maintain the alarm system and the premises protected by the alarm in a manner that  
will not generate false alarms;
- 8 (b) Provide a responsible party to respond to the alarm location within 30 minutes when  
9 notified by the city;
- 10 (c) Use reasonable care to ensure that an alarm is only activated for the occurrence of an  
event needing police response;
- 11 (d) Inform the alarm administrator of changes in contact information for responsible parties  
12 or changes in ownership of the business or residence where the alarm system is located;  
and,
- 13 (e) Use reasonable care to prevent runaway alarms.

14 **4-16-5. - Duties of the Alarm Company.**

- 15 (a) No alarm company shall fail to provide a list of existing names and addresses of alarm  
16 users in the city to the alarm administrator within thirty (30) days after being notified  
in writing from the alarm administrator.
- 17 (b) No alarm company that installs an alarm system on premises located within the city  
18 shall fail to notify the alarm administrator within ten (10) days after the date of  
installation that an alarm system has been installed and provide the name and address  
19 of the alarm user.
- 20 (c) No alarm company that purchases any alarm system account from another person shall  
21 fail to notify the alarm administrator of such purchase and shall provide the alarm  
22 administrator a complete list of the acquired customers within thirty (30) days of  
purchase. This information shall include the alarm user name; alarm site address; and  
alarm permit number.
- 23 (d) No alarm company shall fail to provide the alarm administrator with a complete list of  
24 active customer names; the alarm locations; and the alarm permit numbers on or before  
the first of January of each year.
- 25 (e) No alarm company shall fail to:

- 1 (1) Upon request by the city, provide the name, address, and telephone number of an  
2 alarm user or a designee; and
- 3 (2) Upon the activation of an alarm, contact a responsible party to respond to the  
4 alarm premises.
- 5 (f) No alarm company shall fail to provide instructions explaining the proper operation of  
6 the alarm system, including prevention of false alarms, to the alarm user prior to  
7 activation of an alarm system.
- 8 (g) No alarm company shall fail to provide the alarm user with information on how to  
9 obtain an alarm permit prior to the installation of the alarm system.
- 10 (h) Upon an activation of an alarm, no alarm company performing alarm monitoring  
11 services shall fail to:
- 12 (1) Utilize enhanced call verification to verify the need for police response by making  
13 at least two attempts to reach a responsible party by calling at least two different  
14 telephone numbers to determine whether an alarm signal is valid before  
15 requesting police response. Call verification is not required for a panic alarm;  
16 robbery alarm; or a crime-in-progress alarm which has been verified by video or  
17 audible means.
- 18 (2) Provide alarm permit number, responsible party name and phone number to the  
19 city manager or designee.
- 20 (3) Communicate any and all available information about the location and nature of  
21 the alarm.
- 22 (4) Communicate a cancellation to the police department as soon as possible  
23 following a determination that police response is unnecessary.
- 24 (5) Keep a record of the date and time of each notification and activation of an alarm  
25 system is received and the date, time and method by which the responsible party  
was notified. Such records shall be retained for 12 months and be released to the  
city manager upon request. If released to the city manager, the record shall be  
considered a trade secret of the alarm company and not a public record.
- (i) No alarm salesperson, alarm service person or alarm installer shall activate an alarm  
signal that results in a false alarm.
- (j) No alarm installation companies shall fail to install only dual-activation devices for  
robbery alarm devices on all new and upgraded alarms.

#### 4-16-6. - Enforcement Provisions.

If the city manager finds a violation of any provision of this chapter, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-

1 Judicial Hearings,” B.R.C. 1981, the city manager may impose a civil penalty according to the  
 2 following schedule:

3 (a) Activation of a false alarm within a twelve month period:

4 For the second violation, \$100;  
 5 For the third violation, \$200;  
 6 For the fourth violation, \$300; and  
 7 For the fifth and subsequent violation \$450.

8 (b) Other violations of this Chapter, \$100.

9 (c) The city manager may offer an alarm user awareness class. If offered, the class will  
 10 provide information to alarm users about the problems created by false alarms and  
 11 provide instruction on how to help reduce false alarms. In the city’s discretion, an alarm  
 12 user may be provided the option of attending a class in lieu of paying one assessed fine,  
 not to exceed \$100.00 in one twelve (12) month period.

13 (d) The city manager’s authority under this section is in addition to any other authority the  
 14 city has to enforce this chapter, including but not limited to Section 5-2-4, “General  
 15 Penalties,” B.R.C. 1981, and election of one remedy by the manager shall not preclude  
 16 any other remedy.

17 **4-16-7. - Suspension of Alarm Permit and Police Response.**

18 (a) An alarm permit and police response to alarms, excluding robbery and panic alarms,  
 19 may be suspended after a notice of suspension is sent by either first class mail or email  
 20 to the alarm user’s and alarm company’s addresses located on the permit stating the  
 21 amount due and the opportunity for a hearing if:

- 22 (1) The alarm user fails to make payment of any civil penalty assessed under this  
 23 ordinance within 30 (thirty) days from the date of the invoice; or  
 24 (2) The alarm user fails to have a current permit; or  
 25 (3) An alarm site has accumulated five (5) false alarm responses in a twelve (12)  
 month period.

(b) Police response to an alarm site will be reinstated as soon as practical, after receiving  
 notice of reinstatement from the alarm administrator.

(c) If an alarm permit is reinstated after suspension, the city may again suspend the alarm  
 permit if two false alarms occur within 60 (sixty) days after the reinstatement date.

(d) Police response will be reinstated upon submittal of the following to the alarm  
 administrator:

- (1) Payment of reinstatement fee;

1 (2) A written statement describing how false alarms will be prevented; and

2 (3) A written statement from an alarm company that the alarm has been inspected or  
3 repaired.

4 Section 2. 4-20-16, B.R.C. 1981, is amended to read:

5 **4-20-8. - Police Alarm Permit Fees.**

6 (a) An applicant for an alarm permit shall pay an annual fee to be determined by the city  
7 manager.

8 (b) An alarm user shall pay a \$25 reinstatement fee to reinstate a suspended alarm permit.

9 Section 3. 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 4. 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 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
15 TITLE ONLY this 21st day of June, 2016.

16  
17 \_\_\_\_\_  
Mayor

18 Attest:

19 \_\_\_\_\_  
20 City Clerk

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

BY TITLE ONLY this 19th day of July, 2016.

\_\_\_\_\_  
Mayor

Attest:

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

ORDINANCE NO. 8123

AN ORDINANCE REPEALING CHAPTER 4-16 B.R.C. 1981, "POLICE ALARM SYSTEMS" AND REPLACING IT WITH A NEW CHAPTER 4-16 B.R.C. 1981 "POLICE ALARM SYSTEMS" TO REQUIRE ALARM **CONFIRMATION-VERIFICATION**—BEFORE INITIATING POLICE RESPONSE AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 4-16, B.R.C. 1981, is repealed and replaced by a new Chapter 4-16, to read: Police Alarm Systems.

**4-16-1. - Legislative Intent.**

The purpose of this chapter is to reduce the frequency of false alarms, their associated costs to the city, and to establish reasonable expectations of alarm users and alarm businesses.

**4-16-2. - Definitions.**

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

“Alarm Administrator” means a person and/or entity designated by the city manager to administer, control and review false alarm reduction efforts and administer the provisions of this ordinance.

“Alarm Company” means a person engaged in selling, leasing, installing, servicing or monitoring alarm systems.

“Alarm Location” means the property which is monitored by an alarm system.

“Alarm Permit” means a permit issued by the city, allowing the operation of an alarm system within the city.

“Alarm Signal” means any activation generated by an alarm system, to which the police are requested to respond.

“Alarm System” means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other illegal activity requiring immediate attention and to which the police are requested to respond, but does not include motor vehicle or boat alarms,

1 fire alarms, carbon monoxide alarms, domestic violence alarms, or alarms designed to elicit a  
2 medical response.

3 “Alarm User” means any person any other entity owning, leasing or operating an alarm system, or  
4 on whose property an alarm system is maintained for the protection of such property.

5 “Cancel, Cancelled or Cancellation” means the process where police response is terminated to an  
6 alarm site before police personnel arrive at the alarm location.

7 “Conversion” means the transaction or process by which one alarm company begins the servicing  
8 or monitoring of a previously unmonitored alarm system or an alarm system that was previously  
9 serviced or monitored by another alarm company.

10 “Dual-Activation Device” means a device which requires that two buttons be depressed together  
11 to activate an alarm signal for a robbery in progress.

12 “False Alarm” means the activation of an alarm system ~~through mechanical or electronic failure,  
13 malfunction, improper installation, or the negligence of the alarm user, his/her employees or  
14 agents, and signals activated to summon police personnel, unless the police response is cancelled  
15 by the user’s alarm company before police personnel arrive at the alarm location. An alarm is false  
16 within the meaning of this article~~ when, upon inspection by the city, evidence indicates that no  
17 unauthorized entry, robbery, or other such crime was committed or attempted in or at the alarm  
18 location which would have activated a properly functioning alarm system. Notwithstanding the  
19 foregoing, a false alarm shall neither include an alarm activated by unusually violent conditions of  
20 nature nor an alarm which is cancelled before police personnel respond to the alarm location.  
21 Multiple alarms caused by a single technical malfunction in single alarm system for a period up to  
22 12 hours shall constitute only one false alarm. Each 12-hour period shall constitute a new violation.

23 “Panic Alarm” means an audible alarm signal generated by the manual activation of a device  
24 intended to signal a life-threatening or emergency situation, requiring an officer’s response.

25 “Permit Year” means a 12-month period beginning on the day and month on which an alarm permit  
is issued.

“Responsible Party” means a person accountable for appearing at the alarm location upon request,  
who has access to the alarm location and the code to the alarm system.

“Robbery Alarm” means a silent alarm signal generated by the manual activation of a device  
intended to signal a robbery in progress.

“Runaway Alarm” means an alarm system that produces repeated alarm signals that do not appear  
to be caused by separate human action.

“Verify” means an attempt by the alarm company to contact the alarm location or alarm user by  
telephone or other electronic means, whether or not actual contact with a person is made, to attempt  
to determine whether an alarm signal is valid, before requesting police dispatch.

**4-16-3. - Alarm Permit Required.**

- 1 (a) No alarm user shall use an alarm system, whether the system is monitored or not,  
2 without first obtaining a permit for such alarm system from the city manager. Each  
3 alarm permit shall be assigned a unique permit number and shall be specific to the  
4 alarm location. No alarm user shall use the alarm system in a manner that violates an  
5 approved alarm permit.
- 6 (b) Upon transfer of ownership of the property at which an alarm system is maintained, the  
7 new owner shall either file an application for an alarm permit within thirty (30) days of  
8 obtaining possession of the property or cease operating the alarm system.
- 9 (c) Any alarm system which was installed before the effective date of this ordinance must  
10 be registered by the alarm user within ninety (90) days after that date.

#### 11 **4-16-4. - Duties of the Alarm User.**

12 No alarm user shall fail to:

- 13 (a) Prevent false alarms;
- 14 ~~(a)~~(b) Maintain the alarm system and the premises protected by the alarm in a manner that  
15 will not generate false alarms;
- 16 ~~(b)~~(c) Provide a responsible party to respond to the alarm location within 30 minutes when  
17 notified by the city;
- 18 ~~(c)~~(d) Use reasonable care to ensure that an alarm is only activated for the occurrence of an  
19 event needing police response;
- 20 ~~(d)~~(e) Inform the alarm administrator of changes in contact information for responsible parties  
21 or changes in ownership of the business or residence where the alarm system is located;  
22 and,
- 23 ~~(e)~~(f) Use reasonable care to prevent runaway alarms.

#### 24 **4-16-5. - Duties of the Alarm Company.**

- 25 (a) No alarm company shall fail to provide a list of existing names and addresses of alarm  
users in the city to the alarm administrator within thirty (30) days after being notified  
in writing from the alarm administrator.
- (b) No alarm company that installs an alarm system on premises located within the city  
shall fail to notify the alarm administrator within ten (10) days after the date of  
installation that an alarm system has been installed and provide the name and address  
of the alarm user.
- (c) No alarm company that purchases any alarm system account from another person shall  
fail to notify the alarm administrator of such purchase and shall provide the alarm  
administrator a complete list of the acquired customers within thirty (30) days of

1 purchase. This information shall include the alarm user name; alarm site address; and  
2 alarm permit number.

3 (d) No alarm company shall fail to provide the alarm administrator with a complete list of  
4 active customer names; the alarm locations; and the alarm permit numbers on or before  
5 the first of January of each year.

6 (e) No alarm company shall fail to:

7 (1) Upon request by the city, provide the name, address, and telephone number of an  
8 alarm user or a designee; and

9 (2) Upon the activation of an alarm, contact a responsible party to respond to the  
10 alarm premises.

11 (f) No alarm company shall fail to provide instructions explaining the proper operation of  
12 the alarm system, including prevention of false alarms, to the alarm user prior to  
13 activation of an alarm system.

14 (g) No alarm company shall fail to provide the alarm user with information on how to  
15 obtain an alarm permit prior to the installation of the alarm system.

16 (h) Upon an activation of an alarm, no alarm company performing alarm monitoring  
17 services shall fail to:

18 (1) Utilize enhanced call ~~confirmation~~~~verification~~ to verify the need for police  
19 response by making at least two attempts to reach a responsible party by calling  
20 at least two different telephone numbers to determine whether an alarm signal is  
21 valid before requesting police response. Call ~~confirmation~~~~verification~~ is not  
22 required for a panic alarm; robbery alarm; or a crime-in-progress alarm which has  
23 been verified by video or audible means.

24 (2) Provide alarm permit number, responsible party name and phone number to the  
25 city manager or designee.

(3) Communicate any and all available information about the location and nature of  
the alarm.

(4) Communicate a cancellation to the police department as soon as possible  
following a determination that police response is unnecessary.

(5) Keep a record of the date and time of each notification and activation of an alarm  
system is received and the date, time and method by which the responsible party  
was notified. Such records shall be retained for 12 months and be released to the  
city manager upon request. If released to the city manager, the record shall be  
considered a trade secret of the alarm company and not a public record.

- 1 (i) No alarm salesperson, alarm service person or alarm installer shall activate an alarm  
2 signal that results in a false alarm.
- 3 (j) No alarm installation companies shall fail to install only dual-activation devices for  
4 robbery alarm devices on all new and upgraded alarms.

#### 4-16-6. - Enforcement Provisions.

5 If the city manager finds a violation of any provision of this chapter, the manager, after  
6 notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-  
7 Judicial Hearings," B.R.C. 1981, the city manager may impose a civil penalty according to the  
8 following schedule:

- 8 (a) ~~Activation of a~~ false alarm within a twelve month period:

9 For the second violation, \$100;  
10 For the third violation, \$200;  
11 For the fourth violation, \$300; and  
12 For the fifth and subsequent violation \$450.

- 11 (b) Other violations of this Chapter, \$100.

- 12 (c) The city manager may offer an alarm user awareness class. If offered, the class will  
13 provide information to alarm users about the problems created by false alarms and  
14 provide instruction on how to help reduce false alarms. In the city's discretion, an alarm  
15 user may be provided the option of attending a class in lieu of paying one assessed fine,  
16 not to exceed \$100.00 in one twelve (12) month period.

- 17 (d) The city manager's authority under this section is in addition to any other authority the  
18 city has to enforce this chapter, including but not limited to Section 5-2-4, "General  
19 Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude  
20 any other remedy.

#### 4-16-7. - Suspension of Alarm Permit and Police Response.

- 19 (a) An alarm permit and police response to alarms, excluding robbery and panic alarms,  
20 may be suspended after a notice of suspension is sent by either first class mail or email  
21 to the alarm user's and alarm company's addresses located on the permit stating the  
22 amount due and the opportunity for a hearing if:

- 22 (1) The alarm user fails to make payment of any civil penalty assessed under this  
23 ordinance within 30 (thirty) days from the date of the invoice; or
- 24 (2) The alarm user fails to have a current permit; or
- 25 (3) An alarm site has accumulated five (5) false alarm responses in a twelve (12)  
month period.

- 1 (b) Police response to an alarm site will be reinstated as soon as practical, after receiving  
2 notice of reinstatement from the alarm administrator.
- 3 (c) If an alarm permit is reinstated after suspension, the city may again suspend the alarm  
4 permit if two false alarms occur within 60 (sixty) days after the reinstatement date.
- 5 (d) Police response will be reinstated upon submittal of the following to the alarm  
6 administrator:
- 7 (1) Payment of reinstatement fee;
- 8 (2) A written statement describing how false alarms will be prevented; and
- 9 (3) A written statement from an alarm company that the alarm has been inspected or  
10 repaired.

11 Section 2. 4-20-16, B.R.C. 1981, is amended to read:

12 **4-20-8. - Police Alarm Permit Fees.**

- 13 (a) An applicant for an alarm permit shall pay an annual fee to be determined by the city  
14 manager.
- 15 (b) An alarm user shall pay a \$25 reinstatement fee to reinstate a suspended alarm permit.

16 Section 3. 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 4. 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.

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25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 21st day of June, 2016.

3  
4  
5 Attest: \_\_\_\_\_ Mayor  
6  
7 \_\_\_\_\_  
8 City Clerk

9 READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY  
10 TITLE ONLY this 19th day of July, 2016.

11  
12  
13 \_\_\_\_\_ Mayor  
14  
15 READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

16 BY TITLE ONLY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

17  
18  
19 Attest: \_\_\_\_\_ Mayor  
20  
21 \_\_\_\_\_  
22 City Clerk

Chapter 16 - Police Alarm Systems<sup>[30]</sup>

Footnotes:

--- (30) ---

Adopted by Ordinance No. 4760. Amended by Ordinance No. 7312.

4-16-1. - Legislative Intent.

The purpose of this chapter is to reduce the frequency of false alarms and to provide the police department with alarm company contact information by establishing standards and controls for various types of alarm devices.

4-16-2. - Definitions.

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

*Alarm* means any activation of a police alarm device.

*Alarm business or burglar alarm business* means a person in the business of installing, servicing, or monitoring police alarm devices at remote alarm sites owned by other persons.

*Audible alarm* means any police alarm device designed to produce an audible signal at the property where it is installed.

*Police alarm device* means any device that is designed or used to signal the occurrence of a burglary, robbery or other criminal offense. This term does not include an alarm affixed to an automobile.

4-16-3. - Alarm Business Registration Required.

- (a) No person shall conduct an alarm business within the city without first registering the business with the city manager on forms provided by the manager. These forms may require the name and address of the alarm business, together with the telephone numbers which the manager may use to contact the business to notify it of an alarm malfunction, and to contact responsible parties if response to the location of the alarm is required.
- (b) No fee shall be charged for a registration issued under this chapter.

4-16-4. - Length of Audible Signal.

Every audible alarm shall incorporate a mechanism that will cause the audible signal to terminate automatically within ten minutes of the time it is activated.

4-16-5. - Intentional False Alarms Unlawful.

No person shall intentionally cause the transmission or report the activation of an alarm such person knows to be false.

4-16-6. - Responsibilities of a Police Alarm Owner.

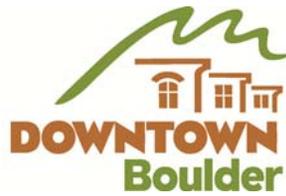
No police alarm owner or user shall fail to:

- (a) Inspect, maintain and repair a police alarm device to insure its proper operation.

- (b) Educate and train all employees and other persons who may in the course of their activities be in a position to accidentally activate a police alarm device.
- (c) Assure that a responsible person responds to every activation of a police alarm device within twenty minutes of being requested to respond by the city's police communications center.

4-16-7. - Right of Inspection.

The city manager may inspect any police alarm device at any time to determine whether it is being used in conformity with the provisions of this chapter.



June 14, 2016

Boulder City Council  
1777 Broadway  
Boulder, CO 80302

Dear Council Members,

The board of Downtown Boulder, Inc. supports the proposed ordinance to implement annual permit fees for commercial alarm systems and assess fines for repeated false alarms. The time and effort required to respond to alarms is substantial and is wasted when those alarms are false.

Of the nearly 5,000 alarms that required police response during the two most recent calendar years, 99.79% were false. This represents thousands of hours of officers' time that could have been used far more productively towards protecting our community.

Most false alarms are preventable and occur due to poor training and operator errors. So it makes perfect sense to create an incentive for business owners and employees to be careful and take an extra minute to ensure their alarms are set properly.

The result will be a more efficient and productive police force and a safer community.

Sincerely,

A handwritten signature in blue ink that reads "Sean Maher". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Sean Maher  
CEO, Downtown Boulder, Inc.

A handwritten signature in blue ink that reads "Richard Foy". The signature is cursive and somewhat stylized.

Richard Foy  
Chair, DBI Board of Directors



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE: Update on progress regarding initiatives that support Council's goal of ensuring Boulder is a safe and welcoming community**

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Greg Testa, Police Chief  
Karen Rahn, Human Services Director

**EXECUTIVE SUMMARY**

Recent news from Louisiana, Minnesota, and Texas serves as a vivid reminder that racial disparities and community tensions are significant, ongoing, nationwide concerns. We are reminded that investment in community relations, focused on mutual understanding and community trends around safety, equity, and inclusion, are critical for proactively strengthening the quality of life for all in Boulder. Since April of 2015 when Council passed a motion to approve a work plan in support of further research to guide decisions in support of the city's commitment to a safe and welcoming community, several departments have been working collaboratively on a number of projects. The purpose of this memo is to provide an update on the progress of several of the initiatives that support Council's goal of ensuring that Boulder is a safe and welcoming community for all.

**I. Hillard Heintze's Recommendations:**

In April of 2015, the City Council approved the city manager's recommendation to retain an independent outside consultant to review police data, as well as best practices regarding our professional standards review board. After a nationwide search, Hillard Heintze was hired to analyze and review data on stops, arrests and summons as well as to make recommendations to ensure that the structure and processes of the Professional Standards Review Panel (PSRP) meet current best practices for cities and police departments similar in size and complexity to Boulder. The Hillard Heintze Report, which was reviewed by City Council on February 23, 2016, commended the department

for its excellent professional standards work and also recommended ways in which the department could improve its policies and performance in terms of documenting arrests and contacts. The department is working to implement each of the recommendations – including tracking race-related data for traffic stops and arrests, and enhancing communications with residents.

A short summary of the work accomplished on each of the recommendations is below:

**Recommendation #1: Adopt New Policy and Procedures for Data Collection During Traffic Stops**

The Police Department is currently in the process of replacing its records management system and signed a contract with SunGard, a records management system (RMS) vendor, on March 30, 2016. SunGard's system includes a data collection module. Staff has been working with SunGard on the development and implementation of the RMS, with a goal to go-live in December 2016. The data collection module will be able to collect the required data as recommended by Hillard Heintze and meet our needs for an electronic process and facilitate ease of data entry. It also has a robust reporting capability. Data collection can occur once the RMS is fully operational in December. Policy development and training will be completed prior to use of the RMS. Based on staff's research about best practices, officers will ascertain race and ethnicity from persons contacted by making an independent assessment during the contact. This process will document the officers' assessment of the individual contacted, which is an important aspect in data collection.

**Recommendation #2: Conduct a Comprehensive Review of the Field Interview Process**

Staff believes that field interview cards are valuable in documenting information that may be used for investigating criminal activity. A review of our current department policy, practices and revisions is in process, based on national best practices, with a goal of fair, impartial and consistent application and documentation of data. SunGard's field interview module is part of the larger RMS system, which is expected to be fully operational in December 2016.

**Recommendation #3: Capture Stop-Related Information from Citizens**

Staff is developing a survey instrument to gather feedback from individuals stopped and contacted by officers. Each quarter, two surveys will be completed through a mailed postcard/letter and a telephone survey conducted by a community member volunteer. The surveys will be in both English and Spanish and will begin in the third quarter of 2016.

**Recommendation #4: Revise BPD Policy on the Use of Race as a Proxy for Criminality**

Department policy has been revised based on Hillard Heintze's recommendation and state statute.

**Recommendation #5: Make Police Ethics and Accountability a Key Public Message**

The department website has been updated to be more intuitive and to more efficiently provide information, including programs, services, community engagement, Department and Professional Standards annual reports and the complete department policy manual. Key information is available in Spanish and the entire webpage can be electronically translated into multiple languages. Additional website improvements are planned.

Staff continues to refine our means for communicating with the Boulder community, including the University of Colorado. Community engagement continues to be a priority and focus for the department. The department is developing a Neighborhood Policing Area program where officers are assigned smaller geographical areas, within a larger policing district, to engage and work with community members to prevent crime and solve problems. This concept will be tested in two police districts before a larger implementation occurs. Project website information will include area maps with photo and contact information of the officers assigned to specific geographical areas.

**Recommendations #6 and #7: Keep Website Complaint-Filing Instructions Up-to-Date and Consider Providing More PSRP-Related Information on the Website**

The department website has been updated to facilitate more effective dissemination of information. The Professional Standards department policy, in PDF form, is posted on the website. Complaint forms are available in both English and Spanish, in hardcopy and in electronic copy on the website. Additionally, the entire website can be translated into multiple languages. The website includes specific information in the form of frequently asked questions:

- What happens when I file a complaint?
- What if I am afraid to make a report?
- What do the results of an investigation mean?
- How do I commend an employee or file a complaint about an employee?
- Information about the Professional Standards Review Panel and photographs of panel members
- Videos that provide general information on the Professional Standards Review Panel and the council study session on the Hillard Heintze report and recommendations

Staff will continue to look for ways to provide enhanced information on the website, and available to the public, to facilitate understanding of the complaint process for a diverse group of readers. A process to allow for complaints to be received at the City Manager's Office, in addition to the police department and Human Services Office of Community Relations and Human Rights, is being finalized.

**Recommendation #8: Solicit Public and Private Partners in "Getting the Message Out"**

Staff is continuing to work on this recommendation, while also expanding the focus on social media and community engagement.

**Recommendation #9: Cast a Wide Net in Announcing Upcoming PSRP Vacancies**

Staff is finalizing changes to the selection of community members of the PSRP that will provide for a more objective review and selection of applicants. In addition to the current process, which has included social media, press releases, a radio interview and the development of two Channel 8 videos, staff continues to focus on more robust messaging to all communities within our city.

**Recommendation #10: Consider Expanding Membership in the Residents' Advisory Panel**

Staff has explored best practices and researched other community's policies on community advisory panels. A draft policy is being completed and will be reviewed for final approval.

**Recommendation #11: Expand Training on Critical Policing Concepts**

In 2015, all employees of the police department participated in an eight-hour cultural awareness and implicit bias training presented by an outside trainer. Newly hired officers continue to receive training on these topics from Intercambio. Officers recently completed de-escalation training. In addition to other mandated training officers receive, our focus continues to be on scenario-based decision making training with an emphasis on de-escalation.

Police department training staff will continue to explore new ways to enhance department-wide training on the concepts of bias-free policing, implicit bias, procedural justice, and constitutional-based policing, as well as other contemporary training topics.

**Recommendation #12: Leverage the PSRP in Other Areas**

PSRP members receive updated information on Class Two investigations and outcomes. In addition, members were updated on the Hillard Heintze process and received copies of the report and recommendations, plus copies of the department annual report, and the PSU annual report. Incumbent community members of the PSRP will be included in the interview process to select new PSRP members. Staff continues to explore training opportunities for PSRP members.

**II. Community Perception Assessment:**

Creating a safe and inclusive community goes beyond the relations between the community and the police, and extends to areas such as access to community services, housing, employment and protection of human rights. Given Council's direction to engage in research that would provide recommendations for action items that support the city's commitment to a safe and welcoming community, the City Manager's Office, the Human Services Department and the Police Department worked together to develop a

Request for Proposal that would provide data to better understand how community members perceive and experience safety and inclusiveness in their daily lives. After a national search, the Community Perception Assessment project was awarded to an organization called the National Council on Crime and Delinquency (NCCD). NCCD is a private, non-profit social research and consulting firm.

It was important to ensure that the assessment be culturally appropriate, include statistically valid survey questions, and also, additionally, intentionally sample under-represented members of the community. The departments also involved the Human Relations Commission in its role to advise City Council on efforts that foster inclusivity and a safe and welcoming community and in the development of the Community Perception Assessment.

To date, NCCD has completed over 20 stakeholder interviews and conducted six focus groups. Using the information garnered from those interactions, work continues on the development of the assessment which will inform recommendations for improvement in the Boulder community's actual and perceived safety and inclusiveness. The assessment will not be focusing on any one area of city services or programs, but will look to determine the satisfaction level of the community as it relates to both the city's and the community's commitment to the protection of human and civil rights and social equity. The assessment is tentatively scheduled to begin in August.

### **III. Engage Community Partners in Dialogue**

Beginning in the fall of 2015, representatives from the City, the University of Colorado and the Boulder Valley School District have met to collaborate on how to advance mutual goals of creating and contributing to safety and inclusiveness in the community and within the three organizations. Participants have discussed overlapping interests and potential efforts. The group will share related survey data and other information to inform how we collectively measure progress on future efforts. For Boulder, this will include results of the Community Perception Assessment currently underway and a customer service satisfaction survey.

### **IV. City Leadership Efforts to Expand Cultural Competency**

Boulder leadership has recently completed an Intercultural Development Inventory administered by a certified facilitator. The results assess intercultural competence both individually and as a team and addresses ways to shift cultural perspective and appropriately adapt behaviors to cultural differences and commonalities. This tool has been adopted by some of our community partners also, including CU, and focuses on building the diverse talents of individuals and their work teams.

The City is committed to protecting civil and human rights, facilitating positive community relations, and promoting social equity policies. In light of the recent tragic events across the nation, our commitment is strengthened to continue to explore the dynamics around the experiences and perceptions of residents and others and address

potential concerns. The city is committed to working proactively and collaboratively with the community to ensure that Boulder remains welcoming, safe and respectful for all.



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: July 19, 2016**

**AGENDA TITLE:** Consideration of a motion authorizing the city manager to enter into a settlement agreement in the litigation brought against the city by Sally Dieterich.

**PRESENTER/S**

Jane S. Brautigam, City Manager  
Tom Carr, City Attorney  
Yvette Bowden, Director of Parks & Recreation

**EXECUTIVE SUMMARY**

This matter arises out of an employment discrimination lawsuit brought against the city by Sally Dieterich.

If City Council approves, the parties have agreed to settle all claims for a proposed payment of \$64,000 to the plaintiff, of which \$21,333.33 is attributable to Ms. Dieterich's attorneys' fees, and dismissal of the city. The city manager and city attorney recommend approval of the settlement.

Because the amount of the proposed settlement exceeds \$10,000, City Council approval of the proposed settlement is necessary pursuant to 2-2-14 (c) B.R.C., 1981.

**STAFF RECOMMENDATION**

**Suggested Motion Language:**

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

Motion to authorize the city manager to enter into an agreement to settle the lawsuit brought by Sally Dieterich from the city in the amount of \$64,000.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: Not applicable.
- Environmental: Not applicable.
- Social: The resolution of disputes is generally of social benefit and the resolution of this dispute will free up city attorney time to work on other projects.

## **OTHER IMPACTS**

- Fiscal-Budgetary: Payment for the proposed settlement will be made from the city's Property and Casualty Fund which was established and funded for the purpose of paying claims and settling cases. This settlement is within the city's anticipated loss planning parameters.
- Staff Time: The city attorney's office represents the city in this matter together with outside counsel from the firm of Kelly & Walker, LLC. The city estimates that outside counsel fees would far exceed the amount of the settlement.

## **BOARD AND COMMISSION FEEDBACK:**

None

## **PUBLIC FEEDBACK:**

None

## **BACKGROUND:**

In her lawsuit, Sally Dieterich seeks compensation for damages arising out of allegations of sexual harassment and discrimination. Ms. Dieterich alleges four causes of action against the city asserting the following counts: (1) Sex Discrimination in violation of Title VII, (2) Retaliation in violation of Title VII, (3) Sexual Orientation Discrimination in violation of the Colorado Anti-Discrimination Act ("CADA"), and (4) Retaliation in violation of CADA.

The settlement is in the amount of \$ 64,000. As a condition of settlement, plaintiff agrees to withdraw all allegations against Yvette Bowden.

## **ANALYSIS:**

It is not possible to predict the outcome of a trial. In cases brought under Title VII and CADA, even a nominal jury award can result in significant liability for the plaintiff's attorneys' fees. Given the projected costs of litigation and the potential for an attorney's fee award, the city attorney believes that it is unlikely that the city will be in a significantly better economic position by litigating the case as compared to accepting the settlement offer. The city manager supports the proposed settlement.

A copy of the proposed settlement agreement is attached. Ms. Dieterich passed away on July 7, 2016. There will be some delay while the details of her estate are worked out.

Accordingly, staff seeks authorization for the city manager to enter into an agreement in substantially the form attached.

**OPTIONS:**

Council has the option of approving or rejecting the proposed settlement. If the settlement is rejected, the matter will continue to trial.

**ATTACHMENT:**

Draft Settlement Agreement

**SETTLEMENT AND GENERAL RELEASE**

This Settlement and General Release (“Release”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Sally Dieterich and/or her estate (the “Employee” or “Ms. Dieterich”) and the City of Boulder (the “City”). The term “the City” when used in this Release, includes the City of Boulder, and any parent, subsidiary, partner or affiliated entities, or the predecessors, successors or assigns of any of them, and further including any and all past, present, or future appointed or elected officials, directors, governing bodies, employees, managers, supervisors, members, contractors, representatives, agents, predecessors, successors, servants, administrators, attorneys, assigns, licensees and insurers. Ms. Dieterich and the City are sometimes referred to collectively as the “Parties.”

**RECITALS**

A. On or about March 7, 2016, the Employee filed a civil action in United States District Court for the District of Colorado, Case No. 1:16-CV-00557-JLK, against the City claiming that the City was responsible for certain injuries allegedly suffered by Employee (the “Civil Action”).

B. The Parties, without admitting to any liability or wrongdoing, have agreed to enter into settlement for purposes of compromising, resolving and settling any and all claims, liabilities, duties, judgments and obligations, whether known or unknown, that have been made or could have been made by or on behalf of the Employee relating to conduct or events occurring at any time prior to and including the date this Release is executed as set forth below and subject to the terms and conditions herein.

**AGREEMENT**

1. Warranty and Withdrawal of Claims. As part of the settlement and full compromise of the claims described above and herein, the Parties hereby agree as follows:

(a) The Employee states that while maintaining the position in the Complaint, the allegations as to Yvette Bowden are withdrawn.

(b) No later than seven (7) days following payment of the settlement amount described below, the Employee and/or her representative will sign and file with the Court a stipulation of dismissal with prejudice of the Civil Action, dismissing all claims asserted in the lawsuit against all defendants, with each party to bear its own attorneys’ fees and costs.

(c) The Employee specifically represents that she has no other pending claims, charges, complaints, or lawsuits against the City with any state or federal court or any local, state or federal agency based upon any event(s) relating to her employment relationship with the City or occurring prior to the date of execution of this Release.

(d) The Employee specifically represents that, except to enforce this Release, she will not in the future file, participate in (unless required to do so by law), encourage or instigate the

filing of any lawsuit by any party in any state or federal court, or of any proceeding before any local, state or federal agency, related to her relationship with the City based upon events occurring prior to and including the date of execution of this Release.

2. Conditioned on City Council Approval. Pursuant to § 2-2-14, B.R.C. 1981, any settlement by the City in an amount in excess of \$10,000 must be approved by the City of Boulder City Council (“City Council”). This Release is conditioned on the City Council’s acceptance and approval of this Release, and is expected to be on the City Council agenda for decision on July 19, 2016. This Release has no force or effect until approved by a majority vote of the City Council. Should the City Council reject this Release, it will be void and unenforceable.

3. Consideration and Terms of Payment. In consideration of the covenants and undertakings set forth in this Release, provided that this Release is executed by Employee, Sally Dieterich, and signed by Attorney Charlotte N. Sweeney, and accepted and approved by the City Council, the City agrees to pay a gross settlement amount of sixty-four thousand and No/100 (**\$64,000.00**) Dollars, with each party to bear its own attorney’s fees and costs except as modified by (a) ii below. The settlement amount shall be paid, as follows:

- (a) Should the City Council accept and approve the Release, and upon the Employee’s and Attorney Charlotte N. Sweeney’s execution of this Release, and the expiration of the seven day revocation period provided by 29 U.S.C. §626(f) without revocation, the City will cause to be issued as soon as practicable, but no later than fourteen (14) days after the City Council’s acceptance and approval of the Release or the eighth (8<sup>th</sup>) day after the Employee’s execution of this Release without revocation, whichever is later:
  - i. One check made payable to Sally Dieterich in the total gross amount of forty-two thousand six hundred sixty-six and 67/100 (**\$42,666.67**) Dollars, which shall be designated as “other income” and for which an IRS form 1099-Misc will be issued; and
  - ii. One check made payable to Sweeney & Bechtold, LLC in the total gross amount of twenty-one thousand three hundred thirty-three and 33/100 (**\$21,333.33**) Dollars, representing Employee’s attorneys’ fees and costs incurred in this matter, for which an IRS form 1099-Misc will be issued.

Such payment does not in any way amend or alter the complete release set forth in paragraphs herein below, which includes a release for any and all injuries and damages suffered including, but not limited to, back pay, front pay, medical expenses and other expenses, losses, costs and fees in addition to physical and emotional injury.

4. Release and Discharge from Employee. In consideration of the good and adequate consideration provided for herein, the sufficiency of which is hereby acknowledged and confessed, Employee does hereby for herself, her estate, descendants, dependents, heirs, executors, administrators, conservators, predecessors, successors, assigns, agents, servants and all other persons, and any and all other parties claiming through or under her, unequivocally and without

reservation, release, acquit and forever discharge the City, and its past, present, or future, appointed or elected officials, directors, governing bodies, employees, managers, supervisors, contractors, agents, predecessors, successors, servants, administrators, attorneys and insurers of and from any and all liability, actions, causes of action, judgments, claims, rights, medical or other liens, demands, damages, costs, loss of services, loss of properties, expenses, indebtedness, losses, compensation and any and all consequential damages or injuries of any kind whatsoever, which the Employee now has, or which may hereafter arise, be discovered or accrue, known or unknown, contingent or liquidated, suspected or unsuspected, which were or could have been asserted in the Civil Action or otherwise. These claims, rights and/or pursuit of damages, benefits or consideration released include, but are in no way limited to, claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981, the Genetic Information Nondiscrimination Act, the Equal Pay Act, the Americans With Disabilities Act, the Age Discrimination in Employment Act, Sections 503 and 504 of the Rehabilitation Act of 1973, the Whistleblower's Protection Act, the Family Medical Leave Act, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the Health Insurance Portability and Accountability Act, the Affordable Care Act, the Occupational Safety and Health Act, the Older Workers' Benefit Protection Act, the Workers' Adjustment and Retraining Notification Act, the Fair Labor Standards Act, the Colorado Wage Claim Act, and the Colorado Anti-Discrimination Act, as amended, as well as any federal, state, civil, statutory or common laws, including any and all human rights laws and laws against discrimination, harassment, or retaliation, any other federal, state or local fair employment statute, code or ordinance, any and all contract or tort claims, including, but not limited to, claims of defamation, invasion of privacy, breach of contract and fraudulent inducement to enter into this contract, and any and all claims for attorneys' fees but excluding any claims relating to enforcement of this Release. The Employee represents that the Employee knows of no claim that Employee has that has not been released by this paragraph, it being the Employee's clear intention to forever discharge and release all past and present claims she may have against the City. However, the Parties acknowledge that this Release has no effect on Employee's continued right to avail herself of long-term disability insurance benefits and is not intended to waive any rights under that plan.

5. General Release. The Employee hereby acknowledges and agrees that the release set forth herein is a **GENERAL RELEASE** and the Employee further expressly waives and assumes the risk of any and all claims for damages which exist as of this date, but of which the Employee does not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect the decision to enter into this Release. Employee further agrees that she has accepted the benefit of the consideration called for herein as a complete compromise of matters involving disputed issues of law and fact, and she assumes the risk that the facts or law may be otherwise than she believes. It is understood and agreed that this settlement is a compromise of a disputed claim, and the consideration provided for herein is not to be construed as an admission of liability on the part of the City.

6. Indemnification. The Employee agrees to indemnify, defend and hold harmless the City, and others released by this Release, against claims by any person, firm or corporation made pursuant to a theory of assignment, lien interest, subrogation right, or other right of substitution to any claims related to the incident, including claims already made and claims that may be made in the future. This provision shall have application to:

- a. Claims, costs, expenses, damages, recoveries and deficiencies, including interest or penalties, that the City, and others released under this Release, may incur as a result of such claims based upon actions, claims or demands by lien holders or by holders of subrogated interests;
- b. Claims by governmental entities or agencies, including but not limited to Medicare or Medicaid, or claims by other persons or third-party insurance carriers claiming a subrogation or other interest in the funds paid to the Employee pursuant to this Release; and
- c. Claims, actions, or liability for attorneys' fees or costs incurred on behalf of the Employee in connection with the incident or its aftermath, including any fees or costs with regard to which reimbursement may be permitted under Federal or State law.

If any other provision of this Release is deemed unenforceable or invalid for any reason, the Employee's obligation to indemnify, defend and hold harmless under this Release shall continue in full force and effect. This element of the Release is a separately bargained for benefit and is independently enforceable.

7. Tax Release and Indemnity. With respect to tax consequences and indemnification, the Employee and the Employee's attorneys each agree that they will each be responsible for any and all tax liabilities or consequences related to any nonpayment of taxes owed by each on the above payments. Employee agrees to release, indemnify, defend and hold the City harmless from any liability, including any fees, penalties or interest, owed by Employee to the Internal Revenue Service or the Colorado Department of Revenue that may arise due to the settlement of this dispute. Employee's attorneys agree to release, indemnify, defend and hold the City harmless from any liability, including any fees, penalties or interest, owed by Employee's attorneys to the Internal Revenue Service or the Colorado Department of Revenue that may arise due to the settlement of this dispute. The City will notify the Employee and/or the Employee's attorneys and provide each of them an opportunity to participate in any attempt to collect any additional taxes, penalties, or interest by the Internal Revenue Service or the Colorado Department of Revenue. The City will also be entitled to recover the reasonable costs of collection, including reasonable attorney's fees, incurred in enforcing this release, indemnity, and hold harmless.

8. Non-Admission. The Parties reached the settlement memorialized in this Release following negotiations. The Parties recognize that the matters at issue in the litigation are contested, and it is understood and agreed that this Release is a compromise of disputed claims. Further, it is understood that this Release does not constitute an admission by either Party of any violation of any law or statute and the Parties agree that neither this Release nor the furnishing of any consideration shall be deemed or construed for any purposes as evidence or an admission of liability or wrongful conduct of any kind. The City has denied and continues to deny any and all liability to Employee for any and all claims and for claims of monetary damages. Neither the Employee nor the City shall be considered a prevailing party for any purpose.

9. Confidentiality, Non-Disclosure and Non-Disparagement.

(a) Mutual Confidence of Negotiations. The Parties understand that the terms of this Release must be approved by the City of Boulder City Council, and therefore, the Release and its terms will not be confidential. However, all discussions and all negotiations leading up to and regarding this Release, including, but not limited to, the amount of offers and counteroffers, and the content of any discussions and information exchanged leading up to and during the course of negotiations, shall be kept strictly confidential by the Parties from all persons and entities other than the Parties to this Release. Other than the information required to be disclosed to the City Council, the Parties and their counsel shall not publish orally or in print, electronic, or any other form any information deemed confidential by this Release. In response to any question from any third party concerning the litigation, the Parties and counsel shall be limited to confirming non-confidential information that is required to be, and in fact was, disclosed to the City Council and advising such third party that they cannot comment further. An individual party may also discuss the case and settlement with his or her spouse, provided that the spouse agrees to be bound by this confidentiality, non-disclosure and non-disparagement agreement. A governmental party's representative or insurer's representative may discuss such matters with its governing body, directors, officers, employees, or consultants, to the extent reasonably necessary in the ordinary course of business, provided that each such person agrees to be bound by this confidentiality agreement.

(b) Mutual Non-Disparagement. The Parties and all others bound by this confidentiality, non-disclosure and non-disparagement agreement further agree that they will not in any way criticize, make any false statements, or otherwise disparage the other Party, including but not limited to any of the Employee's descendants, dependents, and heirs and any of the City's past or present officials, directors, employees, managers, supervisors, contractors, representatives, or agents.

(c) Breach of Non-Disparagement. The Parties and all others bound by this confidentiality, non-disclosure and non-disparagement agreement acknowledge that if the other breaches their obligations of non-disparagement under this Release, the other may suffer immediate and irreparable harm and damage for which money alone cannot fully compensate the offended party. The Parties therefore agree that upon such breach or threatened breach of any such obligations under this agreement, the moving party may be entitled to a temporary restraining order, preliminary injunction, permanent injunction or other injunctive relief, without posting any bond or other security, compelling the offending party to comply with any or all such provisions. This paragraph shall not be construed as an election of any remedy, or as a waiver of any right available to the moving party under this agreement or the law, including the right to seek damages from the party for a breach of any provision of this agreement, nor shall this paragraph be construed to limit the rights or remedies available under applicable law for any violation of any provision of this agreement. The offending Party who violates any term of non-disparagement shall be liable for all costs and fees incurred in connection with enforcing the offended party's rights.

10. Transfer of Claims. The Parties represent and warrant that they have not assigned, transferred, or purported to assign or transfer, to any person, firm, corporation, association or entity whatsoever, any released claim or counterclaim. The Parties agree to indemnify and hold the

opposing Party harmless against, without any limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, costs, court costs, expenses (including attorneys' fees), causes of action or judgments based on or arising out of any such assignment or transfer. The Parties further warrant that there is nothing that would prohibit them from entering into this Release.

11. Employment Status/Re-Employment. Should the City Council accept and approve the Release, the City will ensure that the last four digits of the Employee's social security number are removed from the City's fuel record system and otherwise not assigned to any other City employee for any purpose.

12. Return of Property. The Employee represents that she has no property of the City. Employee shall copy all remaining information, if any, pertaining to the City from any computer or other electronic storage device that she owns or that is under her control onto an electronic storage device and provide it to Charlotte N. Sweeney within 10 days of execution of this Release. Any such information will be reviewed to protect attorney-client confidentiality. Any protected information will be retained by Charlotte N. Sweeney for seven years and shall not be disclosed except by subpoena or court order with notice to the City prior to disclosure. Charlotte N. Sweeney will turn over any such information that is not protected by the attorney client privilege to the Boulder City Attorney's Office. The Employee will then delete from any such computer or other electronic storage device that she owns or that is under her control all information pertaining to the City. Employee shall not in any way use, nor disclose to any third party, any of the City's Confidential and/or Proprietary Information that she learned at any time prior to the Effective Date of this Release, regardless of whether it is in printed, written or electronic form, retained in her memory or has been compiled or created by her. Employee agrees that the City may prevent the use or disclosure of its confidential information and proprietary business information and trade secrets and acknowledges that the City has taken all reasonable steps necessary to protect the secrecy of the information.

13. Entire Agreement. This Release, its Addendum and Exhibits, and any documents incorporated herein contain the entire agreement and understanding between the Employee and the City with respect to any and all disputes or claims that the Employee has, or could have had, against the City, as of the date this Release is executed, and supersedes all other agreements between the Employee and the City with regard to such disputes or claims. The terms of this Release are contractual and not a mere recital. This Release shall not be changed unless in writing and signed by both the Employee and the City.

14. Binding Effect and Successors in Interest. This Release shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, devisees, agents, employees, officers, directors, trustees, conservators, guardians, beneficiaries, heirs, successors and assigns of each party.

15. Severability. The invalidity or unenforceability of any provision of this Release shall not affect or impair any other provisions, which shall remain in full force and effect. If any portion of this Release is found invalid, the Parties agree to enter into a full and general Release by the Employee that is valid.

16. Employee's Acknowledgement and Knowing Waiver. The Employee acknowledges that no representation, promise or inducement has been made other than as set forth in this Release, and that the Employee enters into this Release without reliance upon any other representations, promises or inducements not set forth herein. The Employee further acknowledges and represents that the Employee assumes the risk for any mistake of fact now known or unknown, and that the Employee understands and acknowledges the significance and consequences of this Release and represents that its terms are fully understood and voluntarily accepted. The Employee also acknowledges: (a) that she has consulted with or has had the opportunity to consult with an attorney of her choosing concerning this Release and has been advised to do so by the City; and (b) that she has carefully read and fully understands this Release, is fully aware of its legal effect, and has entered into it freely and voluntarily based on her own judgment and/or her Attorney's advice. The Employee acknowledges that she has been given a reasonable time of at least twenty-one (21) days to consider the terms and effect of this Release, and to ask any questions that she may have of legal or other personal advisors of her own choosing, and that she has had as much time as she needs to review and consider this Release and hereby waives any remainder of the twenty-one (21) day period. The Employee acknowledges that this Release is supported by consideration beyond that to which she is otherwise entitled. The Employee further understands and acknowledges that the Employee is only releasing claims that arose prior to the execution of this Release.

17. Twenty-One Day Consideration Period. The Employee acknowledges that she has been given a period of at least twenty-one (21) days to consider the terms of this Release and, if the Employee should execute it prior to the expiration of the twenty-one day consideration period, knowingly waives her right to consider this Release for twenty-one days.

18. Seven-Day Revocation Period. The Employee acknowledges that Employee may, for a period of seven (7) days following the execution of this Release, revoke acceptance thereof. This revocation must be done in writing and delivered to Chanda M. Feldkamp before the close of business on the seventh day. This Release shall not become effective until the expiration of this seven-day revocation period.

19. Medicare Interests. The Employee warrants and represents that she has not sought medical care and does not anticipate in the future seeking medical care for any condition for which she has or will assert the City is liable, and therefore, the Employee warrants and represents this settlement does not involve any medical liability where the burden may have been or will potentially be improperly shifted to Medicare Part A, Part B or Part C. The Employee warrants and represents that she has not submitted the costs of any medical services for payment to Medicare Part A, Part B or Part C for which she claims the City is liable. The Employee warrants and represents that there is no causal relationship between the medical treatment received and paid for by Medicare Part A, Part B or Part C and her claims against the City. For these reasons, no settlement money has been allocated for past or future medical expenses. The Employee agrees to hold harmless, indemnify and defend the City, any parent, subsidiary, partner or affiliated entities, or the predecessors, successors or assigns of any of them, and further including any and all past, present, or future appointed or elected officials, directors, governing bodies, employees, managers, supervisors, members, contractors, representatives, agents, predecessors, successors, servants, administrators, attorneys, assigns, licensees, insurance companies and reinsurance companies,

third-party administrators, or other insurance companies or entities from any cause of action, including, but not limited to, an action by Centers for Medicare and Medicaid Services ("CMS") to recover or recoup Medicare benefits or loss of Medicare benefits if CMS determines that any money set-aside has been spent inappropriately, or for any recovery sought by Medicare, including past, present, and future and/or conditional payments to Ms. Dieterich.

20. Headings. The headings contained in the Release are for reference purposes only and shall not in any way affect the meaning or interpretation of this Release.

21. Construction of Release. This Settlement and General Release is to be interpreted pursuant to the laws of Colorado, except where the application of federal law applies. Further, the Parties acknowledge that this Release was negotiated and drafted at arms-length between the Parties, and therefore, it is agreed that the general rule regarding construction of ambiguities shall not apply to this Release and, instead, the language of this Release shall be construed as a whole, according to its intent, and not strictly for or against any of the Parties, regardless of who drafted or was primarily responsible for drafting any of the language in this Release. The Parties have been given the opportunity to object to, request modification of, or reject any clause or provision herein to which they do not agree. Should any court find any provision in this Release to be ambiguous, then each party shall have an opportunity to present evidence as to the actual intent of the Parties with respect to any such ambiguous language, consistent with the parole evidence rule and such provision shall be determined in accordance with the Parties' express intention that this Release be construed in the broadest possible manner, in accordance with the Parties' express intention that all disputes asserted by the Employee against the City be forever resolved and released.

22. Additional Documents. The Parties have agreed to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms of this Release, including filing of any stipulated or voluntary motion to dismiss the Civil Action against the City with prejudice.

The Parties, through the signatories below, have executed this Release as of the date(s) noted below:

**Sally Dieterich or Estate of Sally Dieterich**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

STATE OF COLORADO    )  
  ) ss.

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires:

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Charlotte N. Sweeney  
Sweeney & Bechtold, LLC  
650 S. Cherry St., Ste. 610  
Denver, CO 80246

*Attorney for Sally Dieterich*

**CITY OF BOULDER**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

**ATTEST:**

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

**APPROVED AS TO FORM BY:**

\_\_\_\_\_  
Thomas A. Carr  
Carey T. Markel  
Boulder City Attorney's Office  
1777 Broadway  
Boulder, CO 80304

*Attorneys for the City of Boulder*

**EXHIBIT A**

**ADDENDUM TO SETTLEMENT  
AND GENERAL RELEASE**

**CONSIDERATION AND REVOCATION PERIODS**

In connection with the "Confidential Settlement and General Release" (hereinafter the "Release"), signed by SALLY DIETERICH and/or her estate ("Employee") on \_\_\_\_\_, 2016, Employee understands, agrees, and acknowledges that she was given a period of at least twenty-one (21) days within which to consider the Release, which period she voluntarily waived, and that she had a period of at least seven (7) days following execution of the Release to revoke it, after which period the Release became effective and enforceable and she received funds in connection with the Release.

The Employee acknowledges that her attorneys have explained the above provisions to her, and she fully understands and agrees to the above provisions and further agrees that this Addendum shall become part of the Release signed on \_\_\_\_\_, 2016.

\_\_\_\_\_  
**Sally Dieterich or Estate of Sally Dieterich**  
Title: \_\_\_\_\_

**EXHIBIT B**

**ADDENDUM TO SETTLEMENT  
AND GENERAL RELEASE**

**MEDICARE INTERESTS**

**Representations With Regard to Medicare's Interests**

The Employee (Sally Dieterich) and/or her estate hereby warrants and represents that she has not sought medical care and does not anticipate in the future seeking medical care for any condition for which she has or will assert the City is liable, and therefore, the Employee warrants and represents this settlement does not involve any medical liability where the burden may have been or will potentially be improperly shifted to Medicare Part A, Part B or Part C. The Employee warrants and represents that she has not submitted the costs of any medical services for payment to Medicare Part A, Part B or Part C for which she claims the City is liable. The Employee warrants and represents that there is no causal relationship between the medical treatment received and paid for by Medicare Part A, Part B or Part C and her claims against the City.

**Medicare's Interests**

In reaching an agreement on the terms of this Release, the Parties acknowledge the Employee's possible entitlement to Social Security Disability benefits pursuant to 42 U.S.C. § 423, and, if applicable, the Employee's receipt of Medicare or Medicaid benefits under 42 U.S.C. § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 U.S.C. § 1395y(b)(2) to recover any overpayment made by CMS, including recovery against the Employee and/or the Employee's attorney. The Parties to this Release agree it is not intended to shift to CMS the responsibility for payment of medical expenses for the treatment of injury related conditions, as there is no allegation that the City caused or is liable for any injury resulting in medical expenses in this case.

**Benefit Eligibility**

The Employee acknowledges that any decision regarding entitlement to Social Security Benefits or Medicare or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the Social Security Administration, the United States Government, and the U.S. Federal Courts, and is determined by Federal law and regulations. As such, the United States Government is not bound by any of the terms of this Release.

**Future Benefits**

The Employee has been apprised of her right to seek assistance from legal counsel of her choosing or directly from the Social Security Administration or other government agencies regarding the effect this Release may have on the Employee's current or future entitlement to Social Security or other governmental benefits. The Employee acknowledges that acceptance of these settlement funds may affect her rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Notwithstanding this possibility, the Employee desires to enter into this Release agreement to settle her claims according to the terms set forth in this Release.



## 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.

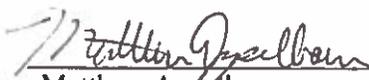
Council Committees:

- 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 29<sup>th</sup> day of February, 2016.

  
Matthew Appelbaum

  
Aaron Brockett

  
Jan Burton

  
Suzanne Jones

  
Lisa Morzel

  
Andrew Shoemaker

  
Sam Weaver

  
Bob Yates

  
Mary Young

**City Attorney’s Office - Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>• <u>Cooperative Housing Code Changes</u></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>• Council Study Session</li> </ul>	<ul style="list-style-type: none"> <li>• Draft Code changes first reading</li> </ul>	<ul style="list-style-type: none"> <li>• Finalize code changes</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
<ul style="list-style-type: none"> <li>• <u>Marijuana Code Changes</u></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>• Council approval of charter and panel</li> <li>• Possible first reading of priority items</li> </ul>	<ul style="list-style-type: none"> <li>• Implement Marijuana Panel Recommendations</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
<ul style="list-style-type: none"> <li>• <u>Open Space Land Transfer Ordinance</u></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>• OSBT Hearing</li> <li>• Introduction and first reading</li> <li>• Second reading and adopting</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
<ul style="list-style-type: none"> <li>• <u>Election Code Revisions</u></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>• Introduction and first reading</li> <li>• Second reading and adopting</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>

**City Manager’s Office Resilient Boulder Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>City Resilience Strategy</b> draft, completion, and roll out. The City Resilience Strategy provides a roadmap for building resilience in the city. The strategy should trigger action, investment, and support within city government and from outside groups. It will be published in print and online.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Contract Graphic Design</li> <li>▪ Contract Printing Services</li> <li>▪ Contract Web design services</li> <li>▪ Community event support</li> <li>▪ Impacts to other departments include content contributions, review and revisions, and implementation activities as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>▪ Drafts 1-3 – content, graphics, layout, web design</li> <li>▪ Council Study Session – Big Sort interactive exercise</li> <li>▪ 2 large public workshops in cooperation with CU</li> <li>▪ Resilience metric, valuation and scenario planning methodology development</li> </ul>		<ul style="list-style-type: none"> <li>▪ Council Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Final strategy approval and release</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
<ul style="list-style-type: none"> <li>▪ <b>Resilience Americorps</b> community preparedness volunteer program development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Time and management impacts primarily to the Neighborhood Liaison, Fire/Rescue, OEM, and climate commitment</li> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ Project initiation, foundational research, project scoping</li> </ul>	<ul style="list-style-type: none"> <li>▪ On-going program design</li> </ul>	<ul style="list-style-type: none"> <li>▪ On-going program design</li> </ul>	<ul style="list-style-type: none"> <li>▪ Present project proposal to Council</li> <li>▪ Recruit year 2 Americorps volunteers</li> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation activities per proposed program design</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation activities per proposed program design</li> </ul>
<ul style="list-style-type: none"> <li>▪ <b>CityLinks – Shimla, India</b> Climate Adaptation Exchange Program</li> </ul>	<ul style="list-style-type: none"> <li>▪ Project design alignment with Climate Commitment and scenario activity development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Draft and finalize climate impacts on water sector public participation workshop and supporting science materials</li> <li>▪ Exchange trip</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>

<ul style="list-style-type: none"> <li>▪ <b>100 Resilient Cities</b> programmatic elements, network contributions, and partner management</li> </ul>	<ul style="list-style-type: none"> <li>▪ Multiple resource contributions via technical partners to various departments including IR, Climate Commitment, BVCP, OSMP, Economic Vitality</li> </ul>	<ul style="list-style-type: none"> <li>▪ Economic resilience analysis draft</li> <li>▪ BVCP resilience assessment and recommended integration actions</li> <li>▪ Community 'Safe Haven' network design draft</li> <li>▪ Urban Forest Canopy analysis</li> <li>▪ Foundational research on resilience metric, valuation, and scenario planning methodology</li> </ul>	<ul style="list-style-type: none"> <li>▪ 100RC Network peer exchange</li> <li>▪ 100RC technical partner platform local showcase and recruitment event</li> <li>▪ Presentation on resilience metric, valuation, and scenario planning methodology</li> <li>▪ Partner alignment with strategy initiatives</li> </ul>	<ul style="list-style-type: none"> <li>▪ Development of resilience metrics</li> <li>▪ Development of community scenario planning activities and exercises</li> <li>▪ Partner alignment with strategy initiatives</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
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**Communication Department Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>Community Newsletter –</b> The City of Boulder community newsletter would be an 8 to 24–page bimonthly product mailed to postal route residences within the city and additional copies available in public buildings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Contract Graphic Design</li> <li>▪ Contract Printing Services</li> <li>▪ Contract Mailing Services</li> <li>▪ Impacts to other departments include content contributions and artwork</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hire a Communication Specialist 2 to implement newsletter</li> <li>▪ Hire a contract graphic designer</li> <li>▪ Solicit print bids and secure printer</li> <li>▪ Secure mail house services</li> <li>▪ Design newsletter templates</li> <li>▪ Develop Volume 1-issue 1 editorial slate, write content, print newsletter</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mail Volume 1-issue 1</li> <li>▪ Develop Volume 1-issue 2 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 1-issue 2</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop Volume 1-issue 3 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 1- issue 3</li> <li>▪ Develop Volume 1-issue 4 editorial slate, write content, print newsletter</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mail Volume 1-issue 4</li> <li>▪ Develop Volume 1-issue 5 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 1-issue 5</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop Volume 2-issue 1 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 2-issue 1</li> <li>▪ Develop Volume 2-Issue 2 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 2-issue 2</li> <li>▪ Develop Volume 2-issue 3 editorial slate, write content, print newsletter</li> <li>▪ Assess Newsletter for 2018 budget consideration</li> <li>▪ Mail Volume 2-issue 3</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop Volume 2-issue 4 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 2-issue 4</li> <li>▪ Develop Volume 2-issue 5 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 2-issue 5</li> <li>▪ Develop Volume 2-issue 6 editorial slate, write content, print newsletter</li> <li>▪ Mail Volume 2-issue 6</li> </ul>

**Community Vitality Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<b><u>University Hill Reinvestment Strategy</u></b>	Planning, Housing & Sustainability; Boulder Police Department; Library Arts; Finance; City Attorney’s Office; Public Works	<ul style="list-style-type: none"> <li>• RSD evaluation</li> <li>• Draft transients policy handout for businesses</li> <li>• 2A-funded tree irrigation improvements implementation</li> <li>• Coordination of Hillanthropy cleanup program</li> <li>• Engage consultant to prepare National Register Historic District Application</li> <li>• Initiate Hill Employee EcoPass Program</li> <li>• Coordinate design of 2A-funded event street</li> <li>• Coordinate recommendation for long-term Hill governance and funding</li> <li>• Prepare funding options for public improvements</li> <li>• Draft 2017 HRS Work Plan</li> <li>• Coordinate with CU to determine overall process and schedule</li> <li>• Compile data &amp; analyze preliminary options to address city goals re: CU conference center/hotel</li> </ul>	<ul style="list-style-type: none"> <li>• RSD recommendation</li> <li>• Start enforcement of commercial bear-proof can requirements</li> <li>• Hillanthropy cleanup of Hill Commercial Area</li> <li>• Submit National Register Historic District application</li> <li>• Initiate planning process for Hill Commercial Area (HCA) façade improvement program</li> <li>• Implementation of Hill Employee EcoPass Program, cont.</li> <li>• Coordinate recommendation for long-term Hill governance and funding, cont.</li> <li>• Present funding options for public improvements to Council</li> <li>• Draft 2017 HRS Budget</li> <li>• Provide input to CU’s conference center/hotel design development process &amp; explore possible city investments</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement of commercial bear-proof can requirements, cont.</li> <li>• Hillanthropy cleanup of Residential Service District</li> <li>• Revise HCA façade improvement program</li> <li>• Implementation of Hill Employee EcoPass Program, cont.</li> <li>• Coordinate recommendation for long-term Hill governance and funding, cont.</li> <li>• Pursue funding options for public improvements</li> <li>• Refine &amp; analyze city investment options relative to CU conference center/hotel</li> <li>• Seek Council direction on city investment options relative to CU conference center/hotel</li> </ul>	<ul style="list-style-type: none"> <li>• Enforcement of commercial bear-proof can requirements, cont.</li> <li>• Hillanthropy cleanup with Parks Department</li> <li>• Implementation of Hill Employee EcoPass Program, cont.</li> <li>• Coordinate recommendation for long-term Hill governance and funding, cont.</li> <li>• Pursue funding options for public improvements, cont.</li> <li>• Draft Phase Two HRS Work Plan, 2017-2019</li> <li>• Implementation of CU conference center/hotel tasks TBD depending on Council direction and CU’s issues and schedule</li> </ul>	<ul style="list-style-type: none"> <li>• Work Plan to be determined in 2016</li> </ul>	<ul style="list-style-type: none"> <li>• Work plan to be determined in 2016</li> </ul>

Access Management and Parking Strategy (AMPS)

Public Works, Transportation; Planning, Housing + Sustainability; City Manager's Office

- CAMP: Planning, process and research on the Chautauqua Access Management Plan (CAMP)
- Parking Code: next steps; data collection
- Civic Area Access/Parking implementation
- TDM plans for new development, draft refined options
- Update downtown (CAGID) development and access projections including parking supply/demand and TDM strategies

- CAMP: Data collection
- Parking Code: data collection; analysis; research coordination with other initiatives
- Satellite Parking evaluation of options, including BCH, outreach
- Civic Area Access/Parking evaluation
- Pricing (including fines): goals, research, outreach
- TDM plans for new development, review options
- Downtown development and access projections – outreach to boards
- AMPS Strategy Document outline

- CAMP: Data collection and evaluation, outreach
- NPP: Scope and analysis, outreach
- Parking Code: Analysis, data collection, best practice research, memos; coordination
- Hill Alleys Master Plan scope and consultant selection
- Satellite Parking – develop recommendations, outreach
- Civic Area Access/Parking evaluation
- Pricing: practitioners panel, outreach
- TDM plans for new development: draft recommendations
- Downtown development and access projections – program recommendations
- Car Share: develop options and draft recommendations for pilot program
- AMPS Strategy Document development

- CAMP: Develop scenarios, outreach
- NPP: Options development, outreach
- Parking Code: study off street parking regulations; coordinate with TDM plan recommendations, memo prep, research new NPP's; analysis
- Hill Alleys Master Plan – plan development, recommendations, outreach
- Satellite Parking pilot implementation
- Pricing: identification of options, outreach
- Market downtown parking cash-out pilot in conjunction with EcoPass renewal
- Car Share proposal for 2017 pilot program
- AMPS Strategy Document draft

- CAMP: evaluate and select pilot scenario
- NPP: program recommendations
- Draft/finalize Parking Code and TDM standards ordinance, Strategy Document evaluation criteria; memo prep
- Pricing: Memo prep, outreach
- Market downtown parking cash-out pilot in conjunction with EcoPass renewal
- Car share pilot program (if approved)
- Finalize AMPS Strategy Document

- CAMP: Pilot implementation
  - Code/TDM: prepare for implementation

**Energy Strategy and Electric Utility Development Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>Legal and regulatory filings</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ City Attorney's Office in lead, support from Energy Strategy and Electric Utility Development</li> </ul>	<ul style="list-style-type: none"> <li>▪ Prepare for filing of transfer of assets supplemental application, including negotiations with Xcel Energy to provide the city data (the model)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Preliminary discovery (Xcel) for Colorado Public Utilities Commission (PUC) filing of transfer of assets supplemental application</li> </ul>	<ul style="list-style-type: none"> <li>▪ File transfer of assets supplemental application with the Colorado PUC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Colorado PUC discovery process, prepare for PUC hearing and rebuttal</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hearing on transfer of assets application</li> <li>▪ PUC decision on the transfer of assets</li> <li>▪ Based on PUC outcome, update appraisals and negotiate with Xcel to acquire the assets; if negotiations are not successful, prepare to re-file condemnation with the Boulder District Court</li> <li>▪ Continue acquisition process by agreement or re-file condemnation petition with the Boulder District Court</li> <li>▪ File transition plan with the PUC</li> </ul>	<ul style="list-style-type: none"> <li>▪ Condemnation court (if necessary)</li> </ul>

<ul style="list-style-type: none"> <li>Transition work plan implementation - including analysis of information provided through discovery and PUC decisions. Key areas of focus: Information Technology systems, Operations and Maintenance, Customer Service, Power Supply, Energy Services, Finance and Accounting, and other support functions</li> </ul>	<ul style="list-style-type: none"> <li>Energy Strategy and Electric Utility Development Department</li> <li>IT Department</li> <li>PW Department <ul style="list-style-type: none"> <li>Utility Billing</li> <li>Development Review</li> </ul> </li> <li>Planning, Housing + Sustainability Department</li> <li>Finance Department <ul style="list-style-type: none"> <li>Budget</li> <li>Finance</li> <li>Accounting</li> <li>Purchasing</li> <li>Risk Management</li> </ul> </li> <li>HR Department</li> <li>Legal</li> </ul>	<ul style="list-style-type: none"> <li>Develop 2017 budget and financial forecast</li> <li>Develop agreement with Xcel Energy for discovery information provided for PUC filing and to inform system capital investment and operations planning</li> <li>Information Technology Systems: Define scope and budget of Information Technology systems needed for Day 1 operations</li> <li>Customer Service: Initiate a work plan for system modifications to the city's existing customer billing and information system, continued work on the key account program, and develop policies and procedures to support a customer focused organization</li> <li>Operations and Maintenance: Select potential vendors for operations and maintenance of the electric system</li> <li>Power Supply: Continue to work with Xcel to develop terms and conditions that could support power supply for the city</li> <li>Energy Services: Continue development of energy services for a new utility, work with the Energy Services Working Group to assist in this process, Energy Services with existing Planning, Housing + Sustainability work</li> </ul>	<ul style="list-style-type: none"> <li>Develop 2017 budget and financial forecast</li> <li>Begin analysis of Xcel Energy discovery information provided for PUC filing and to inform system capital investment and operations planning</li> <li>Information Technology Systems: Refine scope and budget, evaluate Information Technology systems needed for Day 1</li> <li>Customer Service: Continued work on the key account program, and refine policies and procedures to support a customer focused organization</li> <li>Operations and Maintenance: In discussions with selected vendors for operations and maintenance of the electric system, evaluate options and refine operations, maintenance, construction, reliability and safety policies, procedures, standards and requirements</li> <li>Power Supply: Continue to work with Xcel to develop terms and conditions that could support power supply for the city</li> <li>Energy Services: Continue development and implementation of interim energy services, coordinated with Planning, Housing + Sustainability work</li> </ul>	<ul style="list-style-type: none"> <li>Continue analysis of Xcel Energy discovery information provided through PUC transfer of assets process</li> <li>Information Technology Systems: Refine scope and budget, evaluate Information Technology systems needed for Day 1 operations based on Xcel Energy discovery information provided for PUC filing</li> <li>Customer Service: Refine the work plan for system modifications to the city's existing customer billing and information system based on Xcel Energy discovery information provided for PUC filing, continued work on the key account program, and refine policies and procedures to support a customer focused organization</li> <li>Operations and Maintenance: Further refine scope for vendors and policies/ procedure for the utility</li> <li>Power Supply: Continue to work with Xcel to develop terms and conditions that could support power supply for the city, evaluate Xcel Energy discovery information provided through PUC transfer of assets process, work with the Resource Working Group to monitor market conditions, explore resource opportunities and review potential agreements with power producers</li> </ul>	<ul style="list-style-type: none"> <li>Continue analysis of Xcel Energy discovery information provided through PUC transfer of assets process</li> <li>Information Technology Systems: Implement Information Technology systems needed for Day 1 operations based on Xcel Energy discovery information provided through PUC transfer of assets process</li> <li>Customer Service: Implement the work plan for system modifications to the city's existing customer billing and information system based on Xcel Energy discovery information provided through PUC transfer of assets process, continued work on the key account program, and refine policies and procedures to support a customer focused organization</li> <li>Operations and Maintenance: Further refine scope for vendors and policies/procedure for the utility</li> <li>Power Supply: Continue to work with Xcel to finalize terms and conditions that could support power supply for the city, evaluate Xcel Energy discovery information provided through PUC transfer of assets process, work with the Resource Working Group to monitor market conditions, explore resource opportunities and review potential agreements with power producers, develop a resource modeling tool to evaluate power supply options</li> </ul>	<ul style="list-style-type: none"> <li>Work with Xcel to negotiate a smooth transition of operations and file plan with the PUC</li> <li>Develop 2018 budget and financial forecast</li> <li>Information Technology Systems: Continue implementation of Information Technology systems needed for Day 1 operations based on PUC decision regarding transfer of assets, additional IT support staff on-board to assist with implementation</li> <li>Customer Service: Implement the work plan for system modifications to the city's existing customer billing and information system based on Xcel Energy discovery information provided through PUC transfer of assets process, continued work on the key account program, and refine policies and procedures to support a customer focused organization</li> <li>Operations and Maintenance: Finalize contract negotiations with selected vendors and work with vendors to define operations of the electric system, evaluate options and refine operations, maintenance, construction, reliability and safety policies, procedures, standards and requirements based on PUC decision regarding transfer of assets</li> <li>Power Supply: Finalize terms and conditions for power supply for the city based on PUC decision regarding transfer of assets</li> </ul>	<ul style="list-style-type: none"> <li>Information Technology Systems: Continue implementation of Information Technology systems needed for Day 1 operations</li> <li>Customer Service: Implement the work plan for system modifications to the city's existing customer billing and information system based on PUC decision regarding transfer of assets, Operations and Maintenance: Continue to work with selected vendors to define operations of the electric system, evaluate options and refine operations, maintenance, construction, reliability and safety policies, procedures, standards and requirements</li> <li>Power Supply: Continue to work with Xcel to support power supply for the city and coordinate a power delivery schedule and ancillary services, work with the Resource Working Group to monitor market conditions, explore resource opportunities and review potential agreements with power producers</li> </ul>
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		<ul style="list-style-type: none"> <li>▪ Finance and Accounting: Continue development of the cash flow and budget model, explore methodologies for designing rates for a new utility with the Rates Working Group</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>▪ Finance and Accounting: Refinement of the cash flow and budget model, continue to explore methodologies for designing rates for a new utility with the Rates Working Group, begin to develop utility chart of accounts for tracking and reporting</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>▪ Energy Services: Continue development of energy services for a new utility, work with the Energy Services Working Group to assist in this process, coordinate Energy Services with existing Planning, Housing + Sustainability work</li> <li>▪ Finance and Accounting: Use cash flow model to refine cost estimates based on Xcel Energy discovery information provided through PUC transfer of assets process, continue to explore methodologies for designing rates for a new utility with the Rates Working Group, continue to develop utility chart of accounts for tracking and reporting</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures as informed by Xcel Energy discovery information provided through PUC transfer of assets process</li> </ul>	<p>incorporating renewable resources and carbon reduction</p> <ul style="list-style-type: none"> <li>▪ Energy Services: Continue development of energy services for a new utility, work with the Energy Services Working Group to assist in this process, coordinate Energy Services with existing Planning, Housing + Sustainability work</li> <li>▪ Finance and Accounting: Use cash flow model to refine cost estimates based on Xcel Energy discovery information provided through PUC transfer of assets process, continue to explore methodologies for designing rates for a new utility with the Rates Working Group, continue to develop utility chart of accounts for tracking and reporting</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures as informed by Xcel Energy discovery information provided through PUC transfer of assets process</li> </ul>	<ul style="list-style-type: none"> <li>▪ Energy Services: Finalize energy services including costs, implementation plans, rate structures, and measurement and verification guidelines, continue work with working group and coordinate efforts with the Rate Working Group</li> <li>▪ Finance and Accounting: Use cash flow model to refine cost estimates based on PUC decision regarding transfer of assets, finalize rates for a new utility with the Rates Working Group</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures based on PUC decision regarding transfer of assets, hire key positions including chief engineer and energy financial and regulatory analyst</li> </ul>	<ul style="list-style-type: none"> <li>▪ Energy Services: Finalize energy services including costs, implementation plans, rate structures, and measurement and verification guidelines. Continue work with working group and coordinate efforts with rate working group</li> <li>▪ Finance and Accounting: Use cash flow model to refine cost estimates, work on financing of transition efforts and acquisition, potential debt issue to finance utility</li> <li>▪ Ongoing work with risk management, safety, finance, accounting, and human resources to identify needs and resources to support an electric utility, development of safety and risk management policies and procedures, hire key positions including customer service manager, and energy resource specialist</li> <li>▪ Governance: potential appointment of utility advisory board</li> </ul>
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<ul style="list-style-type: none"> <li>▪ Resilient Energy – Resilient Electricity Delivery Infrastructure (REDI) DOE Grant</li> <li>▪ Energy Policy Reform Coalition</li> <li>▪ Solar Development</li> </ul>	<ul style="list-style-type: none"> <li>▪ City Manager’s Office</li> <li>▪ Planning, Housing + Sustainability</li> <li>▪ Public Works <ul style="list-style-type: none"> <li>• Utilities</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Refine scope</li> <li>▪ Energy Policy Reform Coalition: Focus on recruiting coalition members to Colorado Communities for Climate Action (CC4CA), begin formulating policy agenda for regulatory and legislative changes that support reducing emissions and climate initiatives</li> <li>▪ Solar Development: Begin development of a comprehensive solar strategy, evaluation of potential solar garden opportunities, other recommendations from the Solar Working Group</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Continue to refine scope, issue an RFP and hire contractor</li> <li>▪ Energy Policy Reform Coalition: Develop RFP and hire lobbying firm to represent CC4CA at state capital, continue development of policy agenda</li> <li>▪ Solar Development: Continue development of solar strategy, evaluation of potential solar garden opportunities, evaluate other recommendations from the Solar Working Group</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Project Implementation</li> <li>▪ Energy Policy Reform Coalition: Develop RFP for firm to represent CC4CA at PUC and other regulatory bodies, work with legislators between sessions to develop name recognition</li> <li>▪ Solar Development: Continue development of solar strategy, evaluation of potential solar garden opportunities, evaluate other recommendations from the Solar Working Group</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Project Implementation</li> <li>▪ Energy Policy Reform Coalition: Engage in key legislative and regulatory proceedings concurrent with mission</li> <li>▪ Solar Development: Finalize solar strategy, align targets with Climate Commitment Goals, implement recommendations from the Solar Working Group</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Project Implementation</li> <li>▪ Energy Policy Reform Coalition: Ongoing work at the local and state level for regulatory and legislative changes that support reducing emissions, local decision making and a new energy future</li> <li>▪ Solar Development: Work with the Solar Working Group to develop solar projects and generation strategies to further expand solar in the city</li> </ul>	<ul style="list-style-type: none"> <li>▪ Resilient Energy Infrastructure DOE Grant: Project Implementation</li> <li>▪ Energy Policy Reform Coalition: Ongoing work at the local and state level for regulatory and legislative changes that support reducing emissions, local decision making and a new energy future</li> <li>▪ Solar Development: Work with the Solar Working Group to develop solar projects and generation strategies to further expand solar in the city</li> </ul>
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**Finance Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other <b>depts.</b>	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<b><u>Annual Budget Process</u></b>	Finance in collaboration with all city departments update Council regarding how previous year finished; serves as early warning if there are economic red flags or new concerns	<ul style="list-style-type: none"> <li>• Supplementary Appropriations (Adjustments to Base)</li> <li>• Strategic Planning for financial operations and capital</li> </ul>	<ul style="list-style-type: none"> <li>• Supplementary Appropriations (Adjustments to Base)</li> <li>• Strategic Planning</li> <li>• Budget Development</li> <li>• CIP Development, Preparation and Review</li> </ul>	<ul style="list-style-type: none"> <li>• Strategic Planning</li> <li>• Budget Development, Preparation and Review</li> <li>• CIP Review</li> <li>• Study Session on the budget</li> </ul>	<ul style="list-style-type: none"> <li>• Budget Review and Adoption</li> <li>• Adjustments to Base</li> <li>• Strategic Planning</li> </ul>	<ul style="list-style-type: none"> <li>• Adjustments to Base</li> <li>• Strategic Planning</li> <li>• Adjustments to Base</li> <li>• Strategic Planning</li> <li>• Budget Development</li> <li>• CIP Development, Preparation and Review</li> </ul>	<ul style="list-style-type: none"> <li>• Strategic Planning</li> <li>• Budget Development, Preparation and Review</li> <li>• CIP Review</li> <li>• Budget Review and Adoption</li> <li>• Adjustments to Base</li> <li>• Strategic Planning</li> </ul>
<b><u>Ballot Items</u></b>	CMO/CAO/Finance/Communications/City Clerk's office, and Departments gather ballot items	<ul style="list-style-type: none"> <li>• Gathering information and background on potential ballot items for the city and what other governmental entities may bring forward in November</li> </ul>	<ul style="list-style-type: none"> <li>• May study session and council meeting on potential ballot items.</li> </ul>	<ul style="list-style-type: none"> <li>• Final ballot items have to be passed by council by last meeting in August to meet County deadlines</li> </ul>	<ul style="list-style-type: none"> <li>• Ballot questions are voted on first Tuesday in November.</li> </ul>	<ul style="list-style-type: none"> <li>• Gathering information on potential ballot items</li> <li>• May study session and council meeting on potential ballot items.</li> </ul>	<ul style="list-style-type: none"> <li>• Final ballot items have to be passed by council by last meeting in August to meet County deadlines</li> <li>• Ballot questions are voted on first Tuesday in November</li> </ul>

**Fire Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>Fire Station Relocation Project</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Fire</li> <li>▪ FAM</li> <li>▪ Purchasing</li> <li>▪ Finance</li> <li>▪ Public Works</li> <li>▪ Legal</li> <li>▪ CMO</li> </ul>	<ul style="list-style-type: none"> <li>▪ Property Search</li> </ul>	<ul style="list-style-type: none"> <li>▪ Property search</li> <li>▪ Develop funding strategy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Property search</li> <li>▪ Develop funding strategy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Property search</li> <li>▪ Develop funding strategy</li> <li>▪ Confidential memo to council</li> </ul>		
<ul style="list-style-type: none"> <li>▪ <b>Emergency Medical Services</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Fire</li> <li>▪ Police</li> <li>▪ Purchasing</li> <li>▪ Legal</li> <li>▪ CMO</li> <li>▪ Information Resources</li> </ul>	<ul style="list-style-type: none"> <li>▪ EMS service delivery report preparation</li> </ul>	<ul style="list-style-type: none"> <li>▪ EMS service delivery report preparation</li> </ul>	<ul style="list-style-type: none"> <li>▪ EMS service delivery report preparation</li> <li>▪ Bid evaluations and award for medical direction and ambulance services</li> <li>▪ Solicitations for medical direction and ambulance service</li> </ul>	<ul style="list-style-type: none"> <li>▪ Presentation to council</li> <li>▪ Draft plan for EMS delivery</li> </ul>	<ul style="list-style-type: none"> <li>▪ Complete Ambulance specifications</li> <li>▪ Negotiations with Local 900</li> <li>▪ EMS delivery IP to city manager and city council</li> </ul>	<ul style="list-style-type: none"> <li>▪ RFP development for box type ambulance</li> </ul>

**Human Services Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<b>Human Services Strategy Update and Adoption</b>	<ul style="list-style-type: none"> <li>▪ Communications, Police, Parks and Recreation, Library, Planning, Housing, Transportation, FAM/PW, Budget/Finance</li> <li>▪ Library Commission, Human Relations Commission, Parks and Recreation Advisory Board, Immigrant Advisory Committee, Youth Opportunity Advisory Board, Human Services Fund Advisory Committee</li> <li>▪ Civic Area Plan staff coordination</li> <li>▪ Resilience Strategy coordination</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Engagement</li> <li>▪ Community Funding Options Development</li> <li>▪ Assess partnerships</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community engagement</li> <li>▪ Development of community funding and direct services options</li> <li>▪ Internal and external partnerships assessments and projects</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community engagement</li> <li>▪ Budget, Capital Program</li> <li>▪ Development of community funding and direct services options</li> <li>▪ Internal and external partnerships assessments and projects</li> </ul>	<ul style="list-style-type: none"> <li>▪ Draft strategy</li> <li>▪ Strategy adoption</li> <li>▪ Organizational Strategy</li> <li>▪ Implementation Plan</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation</li> <li>▪ Metrics and evaluation plan</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation</li> <li>▪ Metrics and evaluation</li> </ul>
<b>Homelessness Strategy and Action Plan Adoption</b>	<ul style="list-style-type: none"> <li>▪ Communications, Police, Municipal Court, Parks and Recreation, Library</li> <li>▪ Library Commission, Human Relations Commission, Immigrant Advisory Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Engagement</li> <li>▪ Homelessness Action Plan Project Implementation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Engagement</li> <li>▪ Portland/Eugene Trip</li> <li>▪ New projects - TBD</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Engagement</li> <li>▪ Draft Strategy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Strategy adoption (PH)</li> <li>▪ Continued implementation of Action Plan</li> </ul>	<ul style="list-style-type: none"> <li>▪ Homelessness Action Plan Projects Implementation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Homelessness Action Plan Projects Implementation</li> </ul>
<b>Options to Expand Living Wage Resolution 926 Council Consideration</b>	<ul style="list-style-type: none"> <li>▪ HR, CAO, Finance, FAM</li> <li>▪ Human Relations Commission</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of recommendations</li> <li>▪ City Council: Feb. – Options to Expand Resolution 926</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of Council direction</li> <li>▪ Development of options</li> <li>▪ City Council: June update on analysis and direction</li> </ul>	<ul style="list-style-type: none"> <li>▪ TBD- Analysis of Council recommendations as part of 2017 budget</li> </ul>	<ul style="list-style-type: none"> <li>▪ Final adoption of Living Wage changes</li> </ul>		

**Human Services Key 2016 and 2017 Work Items (page 2)**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
Safe + Welcoming Community	<ul style="list-style-type: none"> <li>▪ City Manager 's Office, Police Dept, Human Relations Commission, CAO</li> </ul>	<ul style="list-style-type: none"> <li>▪ HRC Meetings (3)</li> <li>▪ Report to City Council on Independent Analysis of Police Data and Review of Professional Police Complaint Processes</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Perceptions Survey contract development</li> <li>▪ Survey implementation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Report to City Council on results of Community Perceptions Survey</li> <li>▪ HRC Work Plan Recommendations to Council</li> <li>▪ HS Work Plan and Strategy recommendations</li> </ul>	<ul style="list-style-type: none"> <li>▪ Adoption of strategy</li> <li>▪ Implementation of work plan</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation of work plan</li> </ul>	

**Information Technology Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>Community Broadband and Wi-Fi Initiatives</b></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>• Continue consultant-assisted needs assessment</li> </ul>	<ul style="list-style-type: none"> <li>• Wrap up needs assessment</li> </ul>	<ul style="list-style-type: none"> <li>• Present findings and recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• TBD – dependent on outcome of council review of findings and recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• TBD – dependent on outcome of council review of findings and recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• TBD – dependent on outcome of council review of findings and recommendations</li> </ul>

**Library Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>Library Master Plan Update –</b> This includes:</p> <ul style="list-style-type: none"> <li>▪ A needs assessment</li> <li>▪ A robust community engagement process</li> <li>▪ Update of the library’s mission, vision, and guiding principles for decision making</li> <li>▪ Development and financial analysis of service delivery model options</li> <li>▪ Development of performance measures and service standards</li> <li>▪ An action plan and implementation strategy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consultants and a professional facilitator will be engaged for parts of the project</li> <li>▪ The project manager will consult colleagues in Parks and Rec, Human Services, Planning and Public Works on project process development.</li> <li>▪ Members of the City Managers and Budget Teams will serve on the staff Technical Advisory Group</li> <li>▪ The Library’s Communications Specialist III will assist with public information &amp; document review</li> <li>▪ The Library’s Budget Analyst will assist with the financial analysis &amp; budget planning</li> <li>▪ Selected M-Team members will be asked to review the final draft plan &amp; offer constructive feedback on presentations to Planning Board and City Council</li> <li>▪ Facilities and Asset Management will be consulted on the aspects of the plan that address capital and facilities maintenance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings Communications support for outreach, education, &amp; promotion kick off</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings</li> <li>▪ Communications support for public information for community engagement process including surveys</li> <li>▪ December City Council Study Session – Communications &amp; M-Team support</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings (up to 24)</li> <li>▪ Communications support for public information for community engagement process</li> <li>▪ Budget Analyst support for financial analysis</li> <li>▪ Consult with Facilities and Asset Management on the aspects of the plan that address capital and facilities maintenance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Technical Advisory Committee meetings</li> <li>▪ July Planning Board Presentation - Communications &amp; M-Team support</li> <li>▪ October City Council Final Presentation &amp; Plan adoption – Communications &amp; M-Team support</li> <li>▪ Budget Analyst support for 2018 budget and Capital Development Program planning</li> </ul>

**Library Arts Key 2016 and 2017 Work**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <u>Public Art Policy</u> Drafting and operation of a new policy to govern municipal commissioning, maintenance and legacy of public art.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consultation with Boards &amp; Commissions including the BAC, BDAB, Boulder Junction, Downtown, Landmarks, Library, PRAB, Planning, Transportation, and Univ. Hill Boards and Commissions.</li> <li>▪ Consultation on legal and budget matters.</li> <li>▪ Consultation with staff across city agencies.</li> <li>▪ Once adopted, the program will require the investment of staff from the P&amp;R, Planning, Transportation, Community Vitality, Public Works, FAM, and other agencies as a team to support Office of Arts + Culture staff on all steps in the public art process.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Drafting, vetting, and adopting the Public Art Policy</li> <li>▪ Installations for <i>Experiments in Public Art</i> begin.</li> <li>▪ Other commissioning and maintenance projects continue.</li> <li>▪ Inquiry for the Public Art Policy drafting.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Drafting, vetting, and adopting the Public Art Implementation Plans.</li> <li>▪ Commissioning begins for new projects.</li> <li>▪ New maintenance projects begin.</li> <li>▪ Events to launch the Public Art program.</li> <li>▪ Public Inquiry for new commissions begins.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commissioning continues for new projects.</li> <li>▪ Continuing events to launch the public art program.</li> <li>▪ Public Inquiry for new commissions continues.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Investigation of sustainable funding for Public Art begins.</li> <li>▪ Commissioning continues for new projects.</li> <li>▪ Public Inquiry for new commissions continues.</li> <li>▪ Annual Report.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Options for sustainable public art funding developed and vetted.</li> <li>▪ Commissioning continues for new projects.</li> <li>▪ Public Inquiry for new commissions continues.</li> <li>▪ Proposal for sustainable funding finalized.</li> <li>▪ Language for new rules, policies, procedures or ordinances finalized.</li> <li>▪ Community engagement on sustainable funding.</li> <li>▪ Public Inquiry for new commissions continues.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Adoption of new rules, policies, procedures or ordinances.</li> <li>▪ Budget integration.</li> <li>▪ Commissioning continues for new projects.</li> <li>▪ Public Inquiry for new commissions continues.</li> <li>▪ Preparations for implementation of sustainable funding in Q1 2018.</li> <li>▪ Commissioning continues for new projects.</li> <li>▪ A public vote may be required in the Nov election.</li> <li>▪ Public Inquiry for new commissions continues.</li> <li>▪ Annual Report.</li> </ul>
<ul style="list-style-type: none"> <li>▪ <u>Policy on Murals and Art in Public Places</u> A guidance document to align city staff for the encouragement of the commissioning of artworks for the public by private individuals, businesses, developers, and others.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consultation with Boards &amp; Commissions including the BAC, BDAB, Landmarks, PRAB, Planning, and Transportation Boards and Commissions.</li> <li>▪ Consultation on legal and budget matters.</li> <li>▪ Consultation with staff across city agencies.</li> <li>▪ Once adopted, the program will require the investment of staff from the Planning and Public Works departments.</li> </ul>		<ul style="list-style-type: none"> <li>▪ Drafting and vetting of the Murals and Art in Public Places Policy.</li> <li>▪ Inquiry for the draft policy.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Policy Adoption</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public communication.</li> <li>▪ Annual Report.</li> </ul>		

<ul style="list-style-type: none"> <li>▪ <u>New Cultural Grants Program</u> A new series of grants for cultural organizations, arts education, and creative professionals.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Facilitation of the process with the Boulder Arts Commission is required.</li> <li>▪ Consultation with staff in the Economic Vitality office will enhance the program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Deadline for Operational Grants.</li> <li>▪ Deadline for Community Projects and Arts Ed. Grants.</li> <li>▪ Launch of Professional Development Scholarships.</li> <li>▪ Launch of Macky Rental Grants.</li> <li>▪ Launch of Innovation Fund.</li> <li>▪ Second 2016 Grants Workshop.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Deadline for Innovation Fund.</li> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Design of 2017 Grants Program begins.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Design of 2017 Grants Program continues.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Operational Grant Reporting.</li> <li>▪ Launch of 2017 All Grants.</li> <li>▪ 2017 Grants Workshop.</li> <li>▪ Annual Report.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Recertification of Operational Grants.</li> <li>▪ Deadline for Community Projects Grants.</li> <li>▪ Deadline for Art Education Grants.</li> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Deadline for Innovation Fund.</li> <li>▪ Operational Grant Reporting.</li> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Design of 2018 Grants Program begins.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Design of 2018 Grants Program continues.</li> <li>▪ Ongoing evaluation and inquiry with grant recipients.</li> <li>▪ Operational Grant Reporting.</li> <li>▪ Launch of All 2018 Grants.</li> <li>▪ 2018 Grants Workshop.</li> </ul>
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**Open Space and Mountain Parks: Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	1 <sup>st</sup> half 2017	2 <sup>nd</sup> half 2017
<ul style="list-style-type: none"> <li><b>North TSA Plan</b> The North TSA plan sets the community vision for 7,700 acres of OSMP-managed lands north of Linden Avenue and the Diagonal Highway. The plan seeks to improve visitor experiences and increase the sustainability of trails and trailheads while conserving and restoring the area's natural, cultural and agricultural resources.</li> </ul>	<ul style="list-style-type: none"> <li>OSMP                             <ul style="list-style-type: none"> <li><u>Operating Costs:</u> 2016: \$25,000 2017: \$10,000</li> <li><u>Capital Costs:</u> 2016: \$100,000 2017: \$200,000</li> </ul> </li> <li>CAO</li> </ul>	<ul style="list-style-type: none"> <li>Draft plan document</li> <li>Recommendation that Open Space Board of Trustees approve and recommend City Council acceptance</li> </ul>	<ul style="list-style-type: none"> <li>City Council review of and acceptance of North TSA plan.</li> </ul>	<ul style="list-style-type: none"> <li>Integration with 2016 work plan (early implementation actions)</li> <li>Integration with 2017 operating budget</li> <li>Integration with 2017-2022 CIP and</li> </ul>	<ul style="list-style-type: none"> <li>Integration with 2016 work plan (early implementation actions)</li> <li>Integration with 2017 operating budget</li> <li>Integration with 2017-2022 CIP</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of priority plan actions (specific actions dependent upon timing of plan acceptance and content of accepted plan)</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of priority plan actions (specific actions dependent upon timing of plan acceptance and content of accepted plan)</li> </ul>
<ul style="list-style-type: none"> <li><b>Agricultural Resources Management Plan</b> The OSMP "Ag Plan" provides the framework for OSMP actions to ensure the long-term sustainability of agricultural operations, the ecological health of OSMP lands, and for fostering community connections with local agriculture systems.</li> </ul>	<ul style="list-style-type: none"> <li>OSMP                             <ul style="list-style-type: none"> <li><u>Operating Costs:</u> 2016: \$5,000 2017: \$5,000</li> <li><u>Capital Costs:</u> 2016: \$60,000 2017: \$170,000</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Plan element development                             <ul style="list-style-type: none"> <li>Evaluate alternative lease rate polices &amp; financing structures</li> <li>Develop monitoring protocols</li> <li>ID and prioritize infrastructure improvements</li> <li>Evaluation of community farming</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Develop Draft Plan</li> <li>Create Plan Outline and internal review of chapters</li> <li>Create content including overview and strategies</li> </ul>	<ul style="list-style-type: none"> <li>Draft Internal Review Plan Document                             <ul style="list-style-type: none"> <li>Internal review</li> <li>Draft Public Review Plan Document</li> <li>Public Review</li> </ul> </li> <li>Develop OSBT draft Plan Document for July or Aug meeting</li> </ul>	<ul style="list-style-type: none"> <li>Staff recommendation to OSBT to approve plan and recommend acceptance by City Council</li> <li><b>Oct: 2hrs</b> Recommendation to City Council to accept plan</li> <li><b>Nov: 1 hr</b></li> </ul>	<ul style="list-style-type: none"> <li>Integration with 2017 operating budget</li> <li>Integration with 2017-2022 CIP</li> <li>Implementation of priority plan actions (specific actions dependent upon timing of plan acceptance and content of accepted plan)</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of priority plan actions (specific actions dependent upon timing of plan acceptance and content of accepted plan)</li> </ul>

<ul style="list-style-type: none"> <li><b>Visitor Master Plan Update / OSMP Master Plan</b></li> </ul> <p>The Open Space and Mountain Parks (OSMP) Visitor Master Plan (VMP) was accepted by City Council in 2005 with a 10-year planning horizon. The new Master Plan will include updating/refreshing the Visitor Master Plan component and also will take a comprehensive look at delivering on all chartered purposes for the OSMP system including inventory and analysis, evaluation of options and the development of policy and strategic direction to guide the department for the next ten years. The planning process will also consider City Council identified priorities from previous retreats, including incorporating overarching issues (carrying capacity, night-time use, temporal use, etc) and climate change/adaptation.</p>	<ul style="list-style-type: none"> <li>OSMP <ul style="list-style-type: none"> <li>Operating Costs: <ul style="list-style-type: none"> <li>2016: none</li> <li>2017: none</li> </ul> </li> <li>Capital Costs: <ul style="list-style-type: none"> <li>2016: \$252,000</li> <li>2017: \$200,000</li> <li>2018: \$100,000</li> <li>2019: \$100,000</li> </ul> </li> </ul> </li> </ul> <p>OSMP Leadership team will work across department divisions and with representation from across the city to discuss plan at periodic meetings. Additional consultation likely with Parks and Recreation, Transportation, Greenways and Housing.</p>	<ul style="list-style-type: none"> <li>Background Information Gathering</li> </ul>	<ul style="list-style-type: none"> <li>Begin inventory and analysis</li> <li>Identify inventory gaps and needs</li> </ul>	<ul style="list-style-type: none"> <li>Continue inventory, surveying and analysis</li> <li>Compile inventory information into dataset with prioritized critical needs</li> </ul>	<ul style="list-style-type: none"> <li>Continue Inventory, Compilation and Analysis <ul style="list-style-type: none"> <li>Begin development of MP scope, budget and schedule for plan</li> <li>Begin development of community engagement plan</li> <li>Develop initial staff and partner project team formation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Release initial findings from inventory and analysis in terms of portfolio document for OBST, Council and Public</li> <li>Finalize MP scope, budget and schedule for plan</li> <li>Finalize community engagement plan</li> <li>Finalize staff and partner project team formation</li> <li>OSBT Study Session on scope</li> <li>City Council study session on scope</li> <li>Develop community outreach schedule beginning 3<sup>rd</sup> Qtr 17.</li> </ul>	<ul style="list-style-type: none"> <li>Prepare for community listening sessions beginning in 3<sup>rd</sup> Qtr 17, send out notifications</li> <li>Seek review/feedback</li> <li>Ask for partner input on engagement with city department, other government organizations, non-profits, and CBO's</li> <li>Develop initial needs, opportunities and benefits analysis in geographic focus areas</li> <li>Public hearing with OSBT.</li> <li>Study session with or IP for City Council.</li> <li>Develop project management plan for MP and community engagement</li> </ul> <p><b>Project continues into 2018 → → → Complete plan during 2019</b></p>
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**Parks and Recreation Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>Boulder Urban Forestry Master Plan</b> - In 2015, the Parks and Recreation Department (Forestry Group) presented to Council a proposed strategy to address the on-going Emerald Ash Borer infestation anticipated to affect roughly 11% of Boulder’s urban tree canopy over the next decade. As supported by Council (September 8, 2015), the strategy called for a series of efforts aiding in long-term tree care, directed treatment standards for public trees, community education initiatives, aggressive tree planting and the development of a comprehensive Urban Forestry Master Plan which would aid in the sustainability of Boulder’s urban tree canopy. The development of that Master Plan is the addressed in this project scope.</p> <p>Comprehensive Master Plan document contributing to the sustainability of Boulder’s urban tree canopy. Plan will include and address:</p> <ul style="list-style-type: none"> <li>• Establishment of a baseline figure for urban tree canopy and long term canopy goals;</li> <li>• Tree diversification goals;</li> <li>• Urban heat island mitigation;</li> <li>• Prioritization of tree planting activities;</li> <li>• Pesticide use guidelines for public trees;</li> <li>• Appropriate pesticide use guidelines for private property owners treating public street trees;</li> <li>• Placement and selection of tree species that are</li> </ul>	<p>Key work items include Plan Scope Definition, RFP for related Plan Development and Outreach, Contract for Services, Facilitated Community Outreach Sessions and Mechanisms including but not limited web and print materials, PRAB presentation and Council update. Project can launch and continue within the approved 2016 budget and should be concluded within the year. Launch of contract cannot proceed without purchasing approval. Contract for services will be vetted by CAO. Other Parks &amp; Recreation work (including that of the Forestry group) will not largely be affected by the launch of this project except that the Forestry Manager must devote time to development of the scope and monitoring of the consulting services throughout the year.</p>	<ul style="list-style-type: none"> <li>▪ Scope proposal/definition</li> <li>▪ Development of potential contractor’s list</li> <li>▪ Prep of RFP (with Purchasing)</li> <li>▪ RFP Issuance and selection of consultant</li> <li>▪ Update website to announce scope of project</li> <li>▪ Submit application for grant to supplement outreach/engagement and planning efforts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Coordination with Community Building Plan (tree plantings)</li> <li>▪ PRAB presentation (public meeting)</li> <li>▪ PRAB Update Presentation (45 minutes)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Preparation for Council Memo</li> <li>▪ Website Update with potential social media feedback option</li> <li>▪ Consulting services and development of the plan</li> <li>▪ Documenting recommendations and strategies</li> <li>▪ Development of summary (primary findings and plans)</li> <li>▪ Community updates, input sessions</li> <li>▪ CU or other entity involvement</li> </ul>	<ul style="list-style-type: none"> <li>▪ Communications update</li> <li>▪ Regular updates via social media and web</li> <li>▪ Exploration of discount program</li> </ul>	<ul style="list-style-type: none"> <li>▪ n/a</li> </ul>	<ul style="list-style-type: none"> <li>▪ n/a</li> </ul>

<p>compatible with optimizing rooftop solar capture capacity;</p> <ul style="list-style-type: none"> <li>• Coordination with vegetation management for potential municipalization of the electric utility;</li> <li>• Public outreach and education regarding the benefits of the urban canopy; and</li> <li>• Reforestation of creek corridors with native species.</li> </ul>							
<p><b>Capital Project Activity</b> - The department master plan and community input identified the need to keep existing assets at a high quality while also providing for enhanced and new recreation facilities and parks to meet the growing needs of the community. With the adoption of Asset Management best practices the department is working to develop a capital investment strategy plan that will reinvest in existing critical assets while developing new facilities and services within a sustainable framework.</p> <p>The Capital Investment Strategy will provide a development framework plan with specific, implementable urban park design and development recommendations for the enhancement of Boulder’s urban park system. The strategy will address the need to investment up to 40 million in existing assets as well as \$24 million in critical aging infrastructure as well as the desire to invest up to \$50 million in enhanced and new facilities as identified in the department’s Master Plan over the next ten years. The plan identifies three investment scenarios that follow the master plan framework of fiscally constrained, action plan</p>	<p>The development of a data driven capital investment strategy requires that the asset management best practices are implemented on existing assets to allow for accurate and data driven decisions on what assets are most critical to the system and which assets may be removed from the inventory to address limited financial resources. In addition the investment strategy relies on a variety of site plans and studies that identify upgrades and new facilities including the master plan, Valmont City Park, Reservoir Master Plan, urban forest management plan, the aquatics facility study as well as plans for Scott Carpenter, Mapleton, Tom Watson and the recreation facility condition report. Finally to be successful the department’s capital investment plan must align with overall city goals for enhanced capital spending to allocate limited resources to those city wide services that are most critical to the community. This process should be coordinated with the larger CIP effort.</p>	<ul style="list-style-type: none"> <li>▪ Draft CIS report</li> <li>▪ Internal staff review</li> <li>▪ PRAB meetings – 4 hours</li> <li>▪ PRAB review and recommendations on the CIP</li> </ul>	<ul style="list-style-type: none"> <li>▪ Final CIS report</li> <li>▪ manager position</li> <li>▪ Planning Board meeting 2 hours</li> <li>▪ Planning Board review and recommendation of CIP</li> <li>▪ BVSD Joint Use Agreement</li> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implementation strategy</li> <li>▪ Council meetings 4 hours as part of CIP budget</li> <li>▪ Council acceptance of CIP through the budget process</li> <li>▪ Council study session and budget meetings</li> <li>▪ Hire capital investment planning support as part of asset</li> </ul>	<ul style="list-style-type: none"> <li>▪ Review and revisions as required to CIS report</li> <li>▪ Meetings with stakeholders and potential donors</li> </ul>	<ul style="list-style-type: none"> <li>▪ Develop Funding Strategy</li> <li>▪ Implement funding strategy for key projects</li> <li>▪ Community Survey and outreach</li> <li>▪ Continued partnership development</li> <li>▪ PRAB</li> <li>▪ Planning Board</li> <li>▪ Council Study Session</li> </ul>	<ul style="list-style-type: none"> <li>▪ Implement</li> <li>▪ Implement – possible city wide bond</li> <li>▪ Partnership development</li> <li>▪ Partnership development</li> <li>▪ Council CIP</li> </ul>

and vision plan.							
<p><b>Commercial Use of Public Space</b>  Consistent with examination of the Civic Area’s potential and the City’s continuing evolution of Special Events policies, the department will explore policies and practices related to commercial use of public spaces, including those efforts that support the local economy and the vibrancy of our communities. This will include examination of policies, practices, permitting and pricing related to in-park concessions, ticketed-gated activity, facility rental and the appropriate balance of protected general public use and city park infrastructure.</p> <p>By the end of the Q3 (2016), develop policies and practices that clearly establish the department’s approach to the commercial use of public spaces.</p>	<ul style="list-style-type: none"> <li>▪ In response to the evolution of the Civic Area and in anticipation of changes necessary to sustainably and responsibly operate the City’s Parks and Recreation venues, the department will evaluate practices concerning: <ul style="list-style-type: none"> <li>○ Commercial vending</li> <li>○ Ticketed-gated activity</li> <li>○ Public private partnerships</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Review and analysis of existing policies and industry best practices</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community engagement and outreach to stakeholders</li> <li>▪ Hold meeting, round tables, focus groups with stakeholders including DBI, Farmers Market, concessionaires, and existing commercial use permit holder (15-20 hours)</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ Present policies and practices to Parks and Recreation Advisory Board (PRAB)</li> <li>▪ Public hearing at September 26, 2016 PRAB meeting</li> </ul>	<ul style="list-style-type: none"> <li>▪ n/a</li> </ul>	<ul style="list-style-type: none"> <li>▪ n/a</li> </ul>

<p>Community Building and Partnerships - The parks and recreation department will continue to foster community building and pursue/enhance partnerships critical to our sustainable provision of quality spaces and programming meeting the community's needs for recreation and respite. Included in this work will be successful conclusion of our department's negotiations with the Boulder Valley School District defining the joint use of facilities/amenities</p>	<p>This work is interrelated to almost all projects in the department in order to identify scope of need and areas of opportunity. Internal sponsor and donor recognition guidelines need to first be established to ensure consistent and appropriate action.</p> <p>Through the implementation of the departments Service Design and Delivery Model, partnership building will focus on mutually beneficial, mission focused and connection of guiding principles as demonstrated in parks, facilities, and programs. By</p>	<ul style="list-style-type: none"> <li>• Review/recommend changes to sponsorship/donor recognition policy/practice</li> <li>• Review, renew, discontinue 2015 program partnerships through evaluation and service delivery initiatives</li> </ul>	<ul style="list-style-type: none"> <li>• Grant and sponsorship solicitation</li> <li>• Activate ongoing community program volunteers</li> <li>• Pursue partnership opportunities for identified capital projects and programming needs</li> <li>• Identify and evaluate 2016 program partnership contractual scope of works</li> <li>• Implementation of service partnership</li> </ul>	<ul style="list-style-type: none"> <li>• Grant and sponsorship solicitation</li> <li>• RFP Issuance (concessions @ Golf and Res)</li> <li>• Pursue partnership opportunities for identified capital projects and programming needs</li> <li>• Evaluate JUA between COB and BVSD</li> <li>• 10-15 pre-planned community volunteer events (tree plantings, clean ups, park constructions); 3hr/event</li> </ul>	<ul style="list-style-type: none"> <li>• Grant and sponsorship solicitation</li> <li>• Pursue partnership opportunities for identified capital projects and programming needs</li> <li>• Final evaluation of program partnerships from 2016 performance</li> <li>• Finalize program partnership agreements for 2017</li> <li>• Evaluate JUA between COB and BVSD</li> </ul>	<ul style="list-style-type: none"> <li>• Issue calendar of 2017 BPR Community Building Events</li> <li>• Capital Project opportunities list finalized</li> <li>• Develop 2017 pre-planned volunteer events and ongoing programs</li> <li>• 2-3 outreach meetings re. park renovations; 2-3 hrs</li> <li>• Volunteer Appreciation event;</li> </ul>	<ul style="list-style-type: none"> <li>• Grant and sponsorship solicitation</li> <li>• Pursue partnership opportunities for identified capital projects and programming needs</li> <li>• 5 pre-planned community volunteer events (tree plantings, clean ups, park openings); 3hr/event</li> <li>• 3 department hosted</li> </ul>
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<p>owned by each organization. We will also explore the impact of existing programming partnerships (dance, tennis, biking instruction and community gardening, for example) and evaluate the viability of partnerships to support expanded service reach to the underserved and contributions to parks and recreation capital improvements. OUTCOMES: Through strategic development of public-public or public-private partnerships, the parks and recreation department will be able to leverage its resources to increase the service reach, programming impact and sustainability of public amenities. The creation of more strategic and meaningful volunteer opportunities and events will encourage a culture of stewardship and leadership in the Boulder community.</p> <p>The department is focused on Master Plan recommendations to shift the practices that facilitates the delivery of high-quality programs with community partners where most effective and limits the direct delivery of programs to those that align with the highest community values.</p>	<p>considering each individual service's alignment with mission; financial viability; market position; and the competitors that provide a similar service, the department will begin to identify those services that organization should be in the business of providing and how best to provide those services effectively and efficiently. Collaborative partnerships are opportunities to eliminate unnecessary duplication of service while providing for efficient and effective utilization of resources.</p>	<ul style="list-style-type: none"> <li>• Volunteer team restructure and new hire</li> <li>• Grant and sponsorship solicitation</li> <li>• Solidify urban forest outreach strategy for 2016</li> <li>• Issue calendar of 2016 BPR Community Building Events</li> <li>• Capital Project opportunities list finalized</li> <li>• 2-3 outreach meetings re. park renovations; 2-3 hrs</li> <li>• Volunteer Appreciation event; 3-4 hrs</li> </ul>	<p>orientations</p> <ul style="list-style-type: none"> <li>• Issue calendar of partnership milestone dates</li> <li>• Identify 2017 partnership RFP processes</li> <li>• Evaluate JUA between COB and BVSD</li> <li>• 3 department hosted community events; 3-5hr/event (Creek Fest – multiday)</li> <li>• Donor/sponsor recognition policy to PRAB; April, 5 hrs</li> <li>• Public private partnership opportunity listening sessions re. concessions at Golf Course, Res., Civic Area</li> <li>• Host 2 PPP listening session; 4 hrs total</li> </ul>	<ul style="list-style-type: none"> <li>• Roll out urban forest outreach program; ongoing</li> <li>• 5 pre-planned community volunteer events (tree plantings, clean ups, park openings); 3hr/event</li> <li>• 3 department hosted community events; 3-5hr/event</li> <li>• Ongoing volunteer projects</li> <li>• PPP PRAB review and liaison selection</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of JUA between COB and BVSD</li> </ul>	<p>3-4 hrs</p> <ul style="list-style-type: none"> <li>• Grant and sponsorship solicitation</li> <li>• Activate ongoing community program volunteers</li> <li>• Pursue partnership opportunities for identified capital projects and programming needs</li> <li>• 3 department hosted community events; 3-5hr/event</li> <li>• 10-15 pre-planned community volunteer events (tree plantings, clean ups, park constructions); 3hr/event</li> </ul>	<p>community events; 3-5hr/event</p> <ul style="list-style-type: none"> <li>• Ongoing volunteer projects</li> <li>• 5 pre-planned community volunteer events (tree plantings, clean ups, park openings); 3hr/event</li> <li>• 3 department hosted community events; 3-5hr/event</li> <li>• Ongoing volunteer projects</li> </ul>
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**Planning, Housing and Sustainability Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other dept.s	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>Comprehensive Plan</b> – This includes four major work tracks, plus renewal of the city/county Intergovernmental Agreement (IGA). Tracks include:</p> <ul style="list-style-type: none"> <li>• Areas of Focus (i.e., core values, resilience/climate, jobs/housing balance, affordable housing including middle income, built environment, subcommunity/ neighborhood issues, BCH coordination, CU South suitability analysis).</li> <li>• Plan Policy Integration</li> <li>• Plan “clean up” and organization</li> <li>• Public change request analysis</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S comprehensive planning team leads</li> <li>• Major citywide Interdepartmental effort, including necessary communications support and CAO from time to time.</li> <li>• Will need consultants for technical analysis, survey work and community engagement support</li> <li>• Significant coordination with Housing Boulder and BCH Site Planning efforts</li> </ul>	<ul style="list-style-type: none"> <li>• Jan. 5 – Council action on public requests in Area I and Area II enclaves and policy changes</li> <li>• Feb. 2 – Joint Council and Planning Board public hearing for public requests in Area II and III</li> <li>• Coordinate with Resilience Study Session (Feb. 9) and Middle Income Housing Study Session (Mar. 29)</li> <li>• Begin analysis of land use change requests</li> <li>• Start analysis of areas of focus; develop options (See Middle Income housing below).</li> <li>• Community engagement: Continued discussion of survey results</li> </ul>	<ul style="list-style-type: none"> <li>• Study Session (May 24)</li> <li>• Areas of focus – options/scenarios analysis (including land use analysis related to housing and jobs, and 3d modeling and visualization)</li> </ul>	<ul style="list-style-type: none"> <li>• Review further analysis for focused topics - continue – options/scenarios analysis</li> <li>• Complete plan organization and “clean up” (e.g., non substantive updates and graphic improvements)</li> <li>• Community engagement: Possible focus groups regarding focused topics; local listening sessions; possible survey #2</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare draft plan including the areas of focus topic policy updates; map changes; and actions, strategies, and metrics</li> <li>• Community engagement: draft plan workshops and open house</li> <li>• Council Study Session</li> </ul>	<ul style="list-style-type: none"> <li>• Approve draft plan</li> <li>• Begin implementation of BVCP including possible area planning</li> <li>• IGA renewal</li> <li>Implementation of BVCP, including possible area planning</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of BVCP, including possible area planning</li> </ul>
<p><b>Development-Related Impact Fees &amp; Excise Taxes Studies</b> - four components:</p> <ul style="list-style-type: none"> <li>• Update current capital facilities impact fee/excise tax studies</li> <li>• Multi-modal Transportation fee analysis for capital and on-going operating costs</li> <li>• Commercial linkage fee for affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead.</li> <li>• Interdepartmental staff team of all departments with capital assets; includes significant staff resources needed in: <ul style="list-style-type: none"> <li>• Finance</li> <li>• CAO</li> <li>• PW: Transportation, FAM, and Development Review</li> <li>• Planning</li> <li>• Consultant team preparing studies</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Technical Working Group Meetings (2)</li> <li>• Public outreach - 101 seminar</li> <li>• Technical Analysis</li> <li>• Policy options development</li> </ul>	<ul style="list-style-type: none"> <li>• City Council Study Session (April 12)</li> <li>• Technical Working Group meeting</li> <li>• Technical Analysis</li> <li>• Policy options development</li> <li>• Public outreach</li> <li>• Draft reports on fees and programs</li> <li>• City Council Study Session (June 14)</li> </ul>	<ul style="list-style-type: none"> <li>• City Council Public Hearing (July 19) (decision)</li> <li>• Implementation and phase in preparation for 2017 budget</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation and phase in preparation for 2017 budget</li> <li>• Scoping next steps with Transportation Operations &amp; Maintenance</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation and phase in</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation and phase in</li> </ul>
<p><b>Form-Based Code (FBC) for Boulder Junction Phase I pilot project</b></p> <ul style="list-style-type: none"> <li>• Development and adoption of a new form-based code as an appendix in the Land Use Code including new process and review criteria.</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead with support from: <ul style="list-style-type: none"> <li>• CAO</li> <li>• Public Works</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Work on final draft of FBC</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare final draft of FBC and staff memos for adoption hearings</li> <li>• Public outreach, meetings and online materials</li> <li>• Planning Board and City Council adoption hearings</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare for implementation with new worksheet materials</li> <li>• FBC training sessions with staff, review boards and local design professionals</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on evaluation of pilot and Council direction</li> </ul>		

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other dept.s	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>Site Review Criteria - update Site Review criteria to:</b></p> <ul style="list-style-type: none"> <li>• Include new minimum design standards</li> <li>• Be more prescriptive, specific and clear</li> <li>• Address when/ if additional community benefit should be required (e.g. for height modifications)</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead with support from CAO</li> </ul>	<ul style="list-style-type: none"> <li>• Receive recommendations from DoverKohl</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Develop work plan including outreach plan</b></li> </ul>	<ul style="list-style-type: none"> <li>• Review DoverKohl recommendations</li> <li>• Develop goals and objectives</li> <li>• Research and analysis</li> <li>• Solicit input from Planning Board and DAB</li> <li>• Create &amp; convene stakeholder group</li> </ul>	<ul style="list-style-type: none"> <li>• Develop options</li> <li>• Meet with stakeholder group</li> <li>• Planning Board and DAB check in</li> </ul>	<ul style="list-style-type: none"> <li>• Begin drafting code changes</li> <li>• Planning Board and DAB check in</li> <li>• City Council check in (matters or Study Session)</li> <li>• Meet with the stakeholder group</li> <li>• Public outreach</li> </ul>	<ul style="list-style-type: none"> <li>• Finalize proposed code changes</li> <li>• Host open house</li> <li>• Planning Board and City Council consideration of changes</li> <li>• Prepare for implementation</li> </ul>
<p><b>Update to the Downtown Urban Design Guidelines</b></p> <ul style="list-style-type: none"> <li>• Revisions to the guidelines for better usability and clarity</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead with support from: <ul style="list-style-type: none"> <li>• CAO</li> <li>• Communications</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Finalize draft document and prepare ordinance</li> <li>• Planning Board, Landmarks Board and City Council adoption</li> <li>• Amend height ordinance map to exempt downtown</li> </ul>					
<p><b>Civic Area Implementation</b></p> <ul style="list-style-type: none"> <li>• Final design and construction of Phase I – Park at the Core</li> <li>• Long-Term Studies of East &amp; West Bookends to determine future improvements: <ul style="list-style-type: none"> <li>• Comprehensive Flood Analysis</li> <li>• Market Hall Feasibility Study</li> <li>• Urban Design Plan/ Guidelines</li> <li>• Coordination with Canyon Complete Streets (includes Bandshell) and Municipal Facilities Study &amp; BCH</li> </ul> </li> <li>• <b>Civic Use Pad</b> - Discussions with St. Julien to construct</li> </ul>	<ul style="list-style-type: none"> <li>• Interdepartmental Team with leads from Parks, Public Works and PH+S <ul style="list-style-type: none"> <li>• Consultant support.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Final design Phase I park improvements</li> <li>• Flood Analysis</li> <li>• Market Hall Preliminary Feasibility Analysis (<i>Phase I</i>) &amp; Working Group Meeting</li> <li>• Market Hall Preliminary Space Test Fit (<i>Phase II</i>)</li> <li>• Collect data on parking changes</li> </ul> <p><b>Civic Use Pad</b></p> <ul style="list-style-type: none"> <li>• Preliminary design work</li> <li>• Financial analysis</li> </ul>	<ul style="list-style-type: none"> <li>• Permitting &amp; bidding for park construction</li> <li>• <b>Public Open House (4/4)</b></li> <li>• Council Meeting Matters (4/5)</li> <li>• Coordinate w/ Canyon Complete Streets – Design Alternatives – May Open House; Joint Board / Commission Mtg; Council Study Session 5/31</li> <li>• Continued analysis of capital projects</li> <li>• <b>Civic Use Pad</b></li> <li>• Preliminary design work</li> <li>• Negotiation of management agreement</li> <li>• Financial analysis</li> <li>• Public outreach to potential users</li> </ul>	<ul style="list-style-type: none"> <li>• Park construction begins</li> <li>• Coordinate w/ Canyon Complete Streets – Design Options Analysis</li> <li>• Continued analysis of capital projects</li> </ul> <p><b>Civic Use Pad</b></p> <ul style="list-style-type: none"> <li>• <b>Design work</b></li> <li>• <b>Negotiation of management agreement</b></li> <li>• <b>Financial analysis</b></li> <li>• <b>Public outreach to potential users</b></li> </ul>	<ul style="list-style-type: none"> <li>• Continued park construction</li> <li>• Coordinate w/ Canyon Complete Streets – Design Recommendation</li> <li>• Coordinate w/ Municipal Facilities Study &amp; BCH</li> <li>• Continued analysis of capital projects</li> </ul> <p><b>Civic Use Pad</b></p> <ul style="list-style-type: none"> <li>• Council consideration of management agreement</li> <li>• <b>Design work</b></li> </ul>	<ul style="list-style-type: none"> <li>• Continued park construction</li> <li>• Tasks related to Civic Area bookends are dependent on outcomes in 2016 &amp; 2017</li> <li>• Begin Urban Design Plan for East Bookend &amp; Outreach to Boards</li> </ul> <p><b>Civic Use Pad</b></p> <ul style="list-style-type: none"> <li>• <b>Construction activities begin (St. Julien lead)</b></li> </ul>	<ul style="list-style-type: none"> <li>• Park construction complete in 2017</li> <li>• <b>East Bookend Urban Design Plan/ Guidelines – Present to Boards &amp; Council</b></li> <li>• <b>West Bookend Urban Design Plan – Begins in 2018</b></li> </ul>

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other dept.s	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>BCH Site &amp; Municipal Facilities Planning</b></p> <ul style="list-style-type: none"> <li>Establish land use and urban form characteristics taking into consideration the site's interrelation with the larger Broadway corridor, Downtown, Civic Area and University Hill</li> <li>Develop short and long-term municipal facilities needs and locations</li> <li>Develop site specific goals and redevelopment options</li> <li>Implementation Plan</li> </ul>	<ul style="list-style-type: none"> <li>PH+S and Public Works in lead. Multi-departmental effort: <ul style="list-style-type: none"> <li>Community Vitality</li> <li>Parks and Recreation</li> <li>City Attorney</li> <li>Finance</li> <li>Consultant support</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Develop 2016 Project Scope &amp; Schedule</li> <li>Coordination with BVCP Update</li> <li>Begin development of Performance &amp; Design Guidelines for Facilities</li> <li>Conduct BCH Rehab analysis</li> </ul>	<ul style="list-style-type: none"> <li>Consultant RFP &amp; Selection for city facilities study &amp; urban design framework</li> <li>Context Analysis – past history and current conditions of BCH &amp; its larger context including Downtown, Civic Area, and Uni-Hill</li> <li>Begin “storytelling” campaign to share memories of BCH</li> <li>Conduct city space needs &amp; analysis</li> <li>Begin visioning of Future Municipal Facilities</li> </ul>	<ul style="list-style-type: none"> <li>Continue work on Context Analysis</li> <li>Define boundary for specific BCH Site/Area Planning work</li> <li>Synthesize city space needs in coordination w/Civic Area</li> </ul>	<ul style="list-style-type: none"> <li>Develop Planning &amp; Design Framework to illustrate the desired future for BCH and larger context, relationship/ roles relative to other areas.</li> <li>Adopt Guiding Principles for area wide goals and objectives to inform the future of BCH site (<i>land use, urban form, connections, cultural and other facilities, etc.</i>)</li> <li>Oct. 25 Study Session</li> <li>Begin Municipal Facilities Master Plan</li> <li>Adopt Guiding Principles for City Facilities</li> </ul>	<ul style="list-style-type: none"> <li>Site/Area Planning</li> <li>Space planning program for city departments and facilities</li> <li>Final determination of facilities &amp; locations</li> <li>Continue Municipal Facilities Masterplan</li> <li>Begin site/area planning (w/consultant support)</li> <li>Continue Municipal Facilities Master Plan</li> <li>Develop Performance &amp; Design Guidelines for Facilities</li> </ul>	<ul style="list-style-type: none"> <li>Continue work on Site/Area Planning including evaluation of options &amp; selection of preferred plan</li> <li>Complete Land Use Change &amp; Zoning Designation</li> <li>Continue with Municipal Facilities Masterplan</li> </ul>
<p><b>30<sup>th</sup> and Pearl</b></p> <ul style="list-style-type: none"> <li>Analyze options for moving forward with redevelopment of the site</li> <li>Select and refine preferred option</li> </ul>	<ul style="list-style-type: none"> <li>PH+S in lead. Multidepartment effort including: <ul style="list-style-type: none"> <li>Public Works: Transportation, Utilities</li> <li>Parks</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>Procure consultant services for options analysis.</li> <li>Begin building scenarios..</li> </ul>	<ul style="list-style-type: none"> <li>Refine scenarios and options analysis.</li> <li>Develop draft success criteria for redevelopment.</li> <li>Refine preferred option</li> </ul>	<ul style="list-style-type: none"> <li>Potential RFP for sale, redevelopment, or partnership.</li> </ul>		

<p><b>Middle Income Housing Strategy</b></p> <p>- To include:</p> <ul style="list-style-type: none"> <li>• BBC study of what market is currently producing to serve the middle; how unit size and location affect pricing over time</li> <li>• Identification of potential land use and other market interventions to produce desired housing types</li> <li>• Identification of effective mechanisms to support middle income affordability</li> <li>• Methodology to monitor key indicators to measure progress</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead.</li> <li>• Citywide Interdepartmental effort.</li> <li>• Need communications support</li> <li>• Will need CMO and CAO support from time to time.</li> <li>• Consultant support for analysis and facilitation.</li> </ul>	<ul style="list-style-type: none"> <li>• Finalized consultant study</li> <li>• Identified key policy questions</li> <li>• Analyzed projected housing – what do we expect based on current trends (feeds into BVCP)</li> <li>• Identified range of potential interventions</li> <li>• Feb. 18 Planning Board</li> <li>• Feb. 23 CC Study Session</li> </ul>	<ul style="list-style-type: none"> <li>• BVCP: analysis of potential land use changes to produce desired middle income housing types (e.g., duplexes and triplexes, townhomes, courtyard apartments, bungalows)</li> <li>• Form Council and Planning Board working group to identify goals, analyze key policy questions, and recommend interventions (programmatic, funding, and regulatory)</li> </ul>	<ul style="list-style-type: none"> <li>• Draft potential policy changes for community conversation</li> <li>• Draft potential interventions (programmatic, funding, and regulatory) for community engagement with associated work plan for each.</li> <li>• Full Board and Council check- in</li> </ul>	<ul style="list-style-type: none"> <li>• Identify and monitor key market indicators to measure progress on Middle Market housing provision</li> <li>• Refine potential interventions</li> <li>• Draft strategy</li> </ul>	<ul style="list-style-type: none"> <li>• Adoption of policy changes</li> <li>• Adoption of interventions</li> </ul>	
<p><b>Other Housing Boulder priorities</b></p> <p>– Potential work efforts to prioritize include:</p> <ul style="list-style-type: none"> <li>• Housing Strategy Governance (Housing Board)</li> <li>• Neighborhood Pilot</li> <li>• Co-operative Housing</li> <li>• Mobile Home Parks</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S in lead. Multi-departmental effort</li> <li>• Need communications support</li> <li>• Will need CMO and CAO support from time to time.</li> <li>• Consultant support for analysis and/ or facilitation</li> </ul>	<ul style="list-style-type: none"> <li>• Jan. 26 CC Study Session on Co-ops</li> <li>• Jan. 5 Palo Park Annex and Concept Plan</li> <li>• Ongoing MHP work, including Ponderosa</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on Council direction</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on Council direction</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on Council direction</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on Council direction</li> </ul>	<ul style="list-style-type: none"> <li>• TBD based on Council direction</li> </ul>

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other dept.s	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<p><b>Climate Commitment</b></p> <ul style="list-style-type: none"> <li>• Coordination of community efforts to achieve 80% emissions reduction by 2050.</li> <li>• Coordination of city organization efforts to achieve 80% or more emissions reduction by 2050</li> <li>• Coordination of city organization efforts to prepare for climate change-resilience capacity building</li> </ul>	<ul style="list-style-type: none"> <li>• PH+S (Climate and Sustainability) in lead.</li> <li>• Multi-departmental effort: <ul style="list-style-type: none"> <li>▪ CMO (CRO)</li> <li>▪ Public Works (Water Resources, Utilities, Transportation)</li> <li>▪ PH+S (Comprehensive Planning, P+DS)</li> <li>▪ Energy Future</li> <li>▪ Parks and Recreation</li> <li>▪ OSMP</li> <li>▪ Finance</li> <li>▪ Communications</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Coordinate community engagement</li> <li>• Facilitate city organization staff training</li> <li>• Begin planning for community action campaigns</li> <li>• Launch “whole system energy transformation” and “thermal strategy” work</li> </ul>	<ul style="list-style-type: none"> <li>• Coordinate April “Earth Futures Week” focus on climate action</li> <li>• Coordinate staff training on local climate change impacts</li> </ul>	<ul style="list-style-type: none"> <li>• Finish revisions of Climate Commitment document and present for approval by City Council</li> <li>• Launch community action campaigns</li> <li>• Conduct climate extremes staff training exercise</li> <li>• Coordinate departmental level assessments of emission reduction/clean energy transition options</li> <li>• Complete “whole energy system transformation” and “thermal strategy” work</li> </ul>	<ul style="list-style-type: none"> <li>• Coordinate community climate action campaigns</li> <li>• Lead city organization scenario planning on multi-factor change scenarios</li> </ul>	<ul style="list-style-type: none"> <li>• Continue community action campaigns</li> <li>• Coordinate implementation of city organization energy transition implementations</li> <li>• Launch second round of staff climate change training</li> </ul>	<ul style="list-style-type: none"> <li>• Continue community climate action campaigns</li> <li>• Continue implementation of city org emissions reduction/clean energy development projects</li> <li>• Continue staff climate mitigation/climate adaptation trainings</li> </ul>
<p><b>Energy Codes: Short Term Updates and Long Term Strategy</b></p> <ul style="list-style-type: none"> <li>• Improving compliance of current commercial and residential energy codes;</li> <li>• Integrate with new Building Performance Ordinance (BPO);</li> <li>• Updating the residential and commercial energy codes for adoption in 2016 and implementation in 2017; and</li> <li>• Long term strategic planning for energy codes updates to reach net zero by 2031.</li> </ul>	<ul style="list-style-type: none"> <li>• Public Works (Building Code Compliance) in lead, support from PH+S (Climate + Sustainability)</li> <li>• Staff resources needed in: <ul style="list-style-type: none"> <li>• CAO</li> <li>• Development Review Engineering</li> <li>• Zoning</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Select consultant thru RFP process</li> <li>• Develop special lighting permit application for BPO</li> </ul>	<ul style="list-style-type: none"> <li>• Develop options for short term code updates</li> <li>• Draft recommendations for long term plans</li> </ul>	<ul style="list-style-type: none"> <li>• (4) Public Meetings for community engagement</li> <li>• EAB Feedback</li> <li>• CAO Review Needed</li> <li>• Revise short term options and make final recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• Finalize long term strategic plan recommendations</li> <li>• City Council meeting for short term code updates</li> <li>• Evaluate ways to improve compliance in the field</li> </ul>	<ul style="list-style-type: none"> <li>• Update website and provide education materials for new code changes</li> <li>• Implement changes to improve compliance</li> <li>• Stakeholder working group – long term strategic plan</li> </ul>	<ul style="list-style-type: none"> <li>• Develop proposal for long term strategic plan out to 2031</li> <li>• City Council Study session</li> <li>• Begin implementation of long term strategic plans</li> </ul>

**Police Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<b>Professional Standards Review Panel</b>		<ul style="list-style-type: none"> <li>• Feb 9<sup>th</sup> Council Study Session on HH report</li> <li>• Feb 23<sup>rd</sup> Council Study Session, HH presented their report and PD staff discussed recommendations and moving forward.</li> </ul>	<ul style="list-style-type: none"> <li>• PD staff working with CMO, Human Services and other stakeholders on HH recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>• PD staff working on recommendations and providing an update to council.</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>

**Public Works Key 2016 and 2017 Work Items**

Work Plan Item and short description/ project outcome	Project Department Resource needs and impacts to other depts.	1 <sup>st</sup> quarter 2016	2 <sup>nd</sup> quarter 2016	3 <sup>rd</sup> quarter 2016	4 <sup>th</sup> quarter 2016	First half 2017	Second half 2017
<ul style="list-style-type: none"> <li>▪ <b>2A Implementation</b> – a temporary 0.3% tax increase to fund key community, culture and safety infrastructure projects as approved by voters in the 2014 ballot measure.</li> </ul>	<p>2A is a multi-departmental effort that requires close-interdepartmental coordination to create opportunities and efficiencies and reduce impacts to the community.</p> <p><b>Project Coordinators:</b> Joanna Crean &amp; Joel Wagner</p> <p>Note: Civic Area project hours are included in the separate Civic Area section.</p>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Public outreach/open houses</li> <li>▪ Project design</li> <li>▪ Project construction</li> <li>▪ Civic Area Open House</li> <li>▪ Landmarks Board Presentation (Chautauqua)</li> </ul>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Public outreach/open houses</li> <li>▪ Project design</li> <li>▪ Project construction</li> <li>▪ Project completion (Hill Irrigation, Eben G. Fine)</li> <li>▪ Open house to present final design (Chautauqua)</li> <li>▪ CEAP Committee Review</li> <li>▪ Board/Commission meetings: TAB/OSTB/PRAB</li> <li>▪ Landmarks Board Notice of Disposition to City Council for Potential call-up (Chautauqua)</li> </ul>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Public outreach/open houses</li> <li>▪ Project design</li> <li>▪ Project construction</li> <li>▪ CEAP w/TAB &amp; PRAB recommendation to City Council for potential call-up (Boulder Creek Arapahoe Underpass)</li> <li>▪ Board/Commission brief presentation &amp; review &amp; recommendation joint meetings: TAB/ PRAB (Boulder Creek Arapahoe Underpass)</li> </ul>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Public outreach/open houses</li> <li>▪ Project design</li> <li>▪ Project construction</li> <li>▪ Project completion (Dairy Center for the Arts)</li> <li>▪ Public Open House (Boulder Creek Arapahoe Underpass)</li> </ul>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Project construction</li> <li>▪ Project completion (Chautauqua)</li> </ul>	<p>Key Tasks:</p> <ul style="list-style-type: none"> <li>▪ Project construction</li> <li>▪ Project completion (Boulder Creek Path &amp; Lighting, Hill Event Street, Civic Area, Public Art)</li> </ul>

<p><b>TMP Implementation:</b></p> <ul style="list-style-type: none"> <li>• Complete Streets: On-going O&amp;M, Safety Corridor Plans Capital Projects Renewed Vision for Transit</li> <li>• Regional</li> <li>• TDM</li> <li>• Funding</li> <li>• Integrated Planning</li> </ul> <p>*This Section is now combined with : Capital Improvement Projects for PW -Transportation</p>	<ul style="list-style-type: none"> <li>▪ PW-Transportation Division plus Communications, Comprehensive Planning, Community Vitality, Finance, City Attorney's Office</li> </ul>	<ul style="list-style-type: none"> <li>• Transportation Report on Progress</li> <li>• Corridor Plans – East Arapahoe, Canyon, 30<sup>th</sup> &amp; Colorado</li> <li>• Capital projects – construction on Diagonal, 28<sup>th</sup>, and Baseline</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>• North Broadway reconstruction project – planning/design phase</li> <li>• US36 BRT and FLEX transit service begins</li> <li>• Local transit: HOP Study; mobility hub plans; first &amp; final mile connections, analysis of transit service delivery models with agency partners</li> <li>• Regional transit: SH7 &amp; SH119 BRT studies; joint maintenance facility planning with agency partners</li> </ul>	<ul style="list-style-type: none"> <li>• Safe Streets Boulder Report</li> <li>▪ Corridor plans</li> <li>▪ Capital projects</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>▪ Living Lab program report</li> <li>▪ Local &amp; regional transit planning</li> <li>▪ Community-wide Eco Pass analysis</li> <li>▪ Analysis/review options for updating TDM plans for new development with stakeholders (coord with AMPS)</li> <li>▪ DRCOG funding for railroad quiet zones, comments to Federal Railroad Administration on national train horn rule</li> <li>▪ Transportation impact fee analysis, coordinate milestones with city's broader impact fee study</li> <li>▪ Board/Commission/Council updates on Civic Area access/parking/TDM programs</li> <li>▪ Community event with national panel of Complete Streets practitioners</li> </ul>	<ul style="list-style-type: none"> <li>• Corridor Plans</li> <li>• Capital projects</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>▪ Local &amp; regional transit planning, including eastside circulator study with CU</li> <li>▪ Community-wide Eco Pass analysis</li> <li>▪ Refine options for updating TDM plans for new development with stakeholders/boards (coord with AMPS)</li> <li>▪ Transportation impact fee analysis, coordinate milestones with city's broader impact fee study</li> <li>▪ Outreach, agency/BNSF coordination for quiet zones</li> <li>• ADA transition plan</li> <li>• Monthly TAB updates</li> </ul>	<ul style="list-style-type: none"> <li>• Corridor Plans</li> <li>• Capital projects</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>▪ Local &amp; regional transit planning</li> <li>▪ Community-wide Eco Pass study complete</li> <li>▪ Present revised/refined options for updating TDM plans for new development with boards/Council (coord with AMPS)</li> <li>▪ Transportation impact fee analysis, coordinate milestones with city's broader impact fee study</li> <li>▪ Outreach, agency/BNSF coordination for quiet zones</li> <li>• ADA transition plan</li> <li>• Monthly TAB updates</li> <li>▪ City Council Study Session – TMP Implementation Overview: Highlight Complete Streets, Funding, and Integrated</li> </ul>	<ul style="list-style-type: none"> <li>▪ Corridor plans</li> <li>▪ Capital projects</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>▪ Local and regional transit planning</li> <li>▪ Community-wide Eco Pass next steps based on outcomes of 2016 study</li> <li>▪ TDM plans for new development based on outcomes from 2016</li> <li>▪ Transportation impact fees – next steps based on 2016</li> <li>▪ Develop plans for quiet zones based on outcomes from 2016</li> <li>▪ Report on completion of TMP action plan items from 2014-2016</li> <li>• Monthly TAB updates</li> <li>▪ City Council Study Session – TMP</li> </ul>	<ul style="list-style-type: none"> <li>▪ Continuation and completion of existing projects, plans, and programs from 2016-17</li> <li>• Pavement/Asset Management Program</li> <li>• Bikeways Enhancements, Maintenance</li> <li>▪ Begin work plan items based upon TMP “near term” Action Plan (2017-2020) based on work program capacity and available funding.</li> <li>▪ Prepare next edition of Transportation Report on Progress (draft Dec 2017, final document Feb 2018)</li> <li>• Monthly TAB updates</li> <li>▪ City Council Study Session – TMP Implementation Overview: Highlights include status report on TMP “near-term”</li> </ul>
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		<ul style="list-style-type: none"> <li>Community-wide Eco Pass analysis with County/RTD</li> <li>Update TDM plans for new development (coord with AMPS)</li> <li>Transportation Impact Fee analysis (coord with city-wide broader impact fee study)</li> <li>Civic Area access, parking/TDM program monitoring</li> <li>Monthly TAB updates</li> </ul>	<p>(Spring)</p> <ul style="list-style-type: none"> <li>Monthly TAB updates</li> <li>City Council Study Session – <b>TMP Implementation Overview: Highlight on Complete Streets, including Canyon Corridor study, Living Lab Phase II – Folsom St. pilot project, and check-in on 2016-17 Renewed Vision for Transit work program</b></li> </ul>	<ul style="list-style-type: none"> <li>City Council Study Session – TMP Implementation Overview: Highlight on Renewed Vision for Transit, including Community-wide Eco Pass update</li> </ul>	Planning Focus Areas	Implementation Overview: Highlights include status report on TMP "immediate" action items (2014-2016)	action items (2017-2020)
<ul style="list-style-type: none"> <li><b>Valmont Butte</b> <ul style="list-style-type: none"> <li>Annexation</li> <li>BVCP Land Use Change</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>PH&amp;S Annexation Process</li> <li>PH&amp;S BVCP Land Use Change Consideration</li> <li>Outreach to stakeholders support</li> </ul>	<ul style="list-style-type: none"> <li>Stakeholder outreach</li> <li>Joint hearings on BVCP requests</li> <li><b>Historical and Open Space Analysis</b></li> </ul>	<ul style="list-style-type: none"> <li>Historical and Open Space Analysis</li> <li><b>Meets and Bounds Survey</b></li> <li><b>Stakeholder outreach</b></li> </ul>	<ul style="list-style-type: none"> <li>Historical and Open Space Analysis</li> </ul>	<ul style="list-style-type: none"> <li>Landmark Submission &amp; potential call-up</li> </ul>		
<ul style="list-style-type: none"> <li><b>Water, Wastewater, Stormwater and Flood Utility Rate Study</b></li> </ul>	<ul style="list-style-type: none"> <li>A project manager has been dedicated, key SMEs are engaged, and funds are available.</li> <li>No impact to other departments.</li> </ul>	<ul style="list-style-type: none"> <li>Consultant contracting.</li> <li>Data analysis and WRAB consultation.</li> </ul>	<ul style="list-style-type: none"> <li>Data analysis and WRAB consultation.</li> </ul>	<ul style="list-style-type: none"> <li>Data analysis and WRAB consultation.</li> </ul>	<ul style="list-style-type: none"> <li>Possible implementation of certain recommendations through 2017 budget process.</li> </ul>	<ul style="list-style-type: none"> <li>Refine recommendations and WRAB consultation.</li> </ul>	<ul style="list-style-type: none"> <li>Implementation through 2018 budget process.</li> </ul>
<ul style="list-style-type: none"> <li><b>Citywide Special Events</b></li> </ul>	<ul style="list-style-type: none"> <li>Project Manager and Staff Time for event policy, review and operations</li> <li>Project Manager and Staff Time for meetings and collaborations</li> <li>IT Staff Time for SharePoint and Software development</li> <li>Purchase of Software, Memberships and Operational Tools</li> </ul>	<ul style="list-style-type: none"> <li>Complete criteria and standards for all events including rest periods, capacity, etc.</li> <li>Strengthen CU / City Collaboration with regular event mtgs (ongoing)</li> <li>City Council Events Update and review of the 2017-2018 Ironman Agreement renewal; Policy update under Matters from CMO with Council.</li> </ul>	<ul style="list-style-type: none"> <li><b>Complete Interim Special Event Policy</b></li> <li>Suggest Code and Policy changes for 2017</li> <li>Develop short and long term resource needs for 2017 budget</li> </ul>	<ul style="list-style-type: none"> <li>Develop cost recovery, cost and data collection methods</li> <li>Clarify city sponsorship policy</li> <li>Finalize 2017 budget</li> <li>City Council Events Update</li> </ul>	<ul style="list-style-type: none"> <li>Review special events policy, applications, event documents and websites for changes and updates</li> </ul>	<ul style="list-style-type: none"> <li>Complete updates to 2017 Special Event Policy</li> <li>Update criteria and standards for all events including rest periods, capacity, etc.</li> <li>City Council Events Update</li> </ul>	<ul style="list-style-type: none"> <li>Finalize Special Event web-based application and payment system</li> <li>City Council Events Update</li> </ul>

<ul style="list-style-type: none"> <li>▪ <b>Capital Improvement Projects for PW - Utilities</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Bear Canyon Creek Flood Mitigation Study - Multi-year process.</li> <li>▪ Stormwater Collection System Master Plan Update - Multi-year process</li> <li>▪ Wastewater Collection System Master Plan Update - Multi-year process,</li> <li>▪ Skunk Creek, Bluebell Canyon Creek, and King's Gulch Floodplain Mapping Study - Multi-year process</li> <li>▪ Fourmile Canyon Creek Mitigation CEAP- Multi-year process</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Four mile Canyon Creek Mitigation CEAP Call Up Opportunity</b></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪ Bear Canyon Creek Flood Mitigation Study - Public Hearing/Action to Accept Study</li> <li>▪ Skunk Creek, Bluebell Canyon Creek, and King's Gulch Floodplain Mapping Study - Public Hearing/Action Item</li> <li>▪ <b>Stormwater Collection System Master Plan Update - Public Hearing/Action Item to Accept Study</b></li> <li>▪ <b>Wastewater Collection System Master Plan Update - Public Hearing/Action Item</b></li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>	<ul style="list-style-type: none"> <li>▪</li> </ul>
<ul style="list-style-type: none"> <li>▪ <b>Capital Improvement Projects for PW - Transportation</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maintenance and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maintenance and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maintenance and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maintenance and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maintenance and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maint and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>	<ul style="list-style-type: none"> <li>▪ Asset/Pavement Management Program</li> <li>▪ Sidewalk Repair Program</li> <li>▪ Bikeways Maint and Enhancements</li> <li>▪ Corridor Studies for Canyon Blvd/30<sup>th</sup> and Colorado</li> <li>▪ Transportation Capital Projects - Various</li> </ul>

## **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 <sup>nd</sup> 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 <sup>th</sup> 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

DRAFT  
2016 Study Session Calendar

Date	Topic	Time	Location	Contacts	Materials Due	Summary Due
	<b>SCIENCE TUESDAY</b> - John Walker, Rocky Mountain Institute	5:30 - 6:00	Chambers	Mayor Jones		
	<b>Special Meeting</b> prior to start of Study Session	6:00	Chambers	City Council		
07/12/16	Broadband Feasibility Study Results	6:00-9:00	Chambers	Don Ingle	06/30/16	
7/26/2016	<b>HOLD: Do not schedule without approval (ELECTION ITEMS?)</b>	6:00:9:00	Chambers		07/14/16	
08/09/16	Draft 2017 to 2021 Capital Improvement Program	6:00-9:00	Chambers	Peggy Bunzli/Devin Billingsley	07/28/16	
8/23/2016	Update from Marijuana Advisory Panel	6:00 - 9:00	Chambers	Sandra Llanes	08/11/16	
8/30/2016	Homelessness Strategy Draft and Homeless Action Plan Update	6-9:00	Chambers	Karen Rahn/Corina Marin	08/18/16	
09/13/16	2017 COB Recommended Budget	6:00-9:00	Chambers	Peggy Bunzli/Devin Billingsley	09/01/16	
9/27/2016	30th and Pearl Redevelopment Options	6:00-7:30	Chambers	Eric Ameigh/Emily Richardson	09/15/16	
	Middle Income Housing Strategy Subcommittee Report	7:30-9:00	Chambers	David Driskell/Melinda Melton	09/15/16	
Thurs,10/13/2016	This study session has been moved to a Special Meeting for the BVCP				09/29/16	
10/25/2016	Renewed Vision for Transit Update	6:00-9	Chambers		10/13/16	
Thurs 11/10/2016	Joint Study Session with Planning Board BVCP update	6:00-9	Chambers	Lesli Ellis/Emily Richardson	10/27/16	
11/29/16	Human Services Strategy Draft	6:00-9	Chambers	Patrick Mulcrone/Corina Marin	11/17/16	
12/13/16	Community Perception Assessment Report	6:00-9	Chambers	Tammye Burnette/Dianne Marshall	12/01/16	
12/22/16	No Meeting					
12/29/16	No Meeting					
<b>Removed Items</b>	Update Regarding Community Survey	6:00 - 6:15	Chambers	Patrick von Keyserling	IP 7/19/16	
	Residential and Commercial Energy Codes: Long Term Strategy	7:45 - 9:15	Chambers	Kendra Tupper/M Melton	IP 7/19/16	
	Check in for 100 Resilient Cities	7:30-9:00	Chambers	Casey Earp/Dianne Marshall	IP 8/2/16	
	Briefing - Community Dashboard	5:30-6:00	Chambers		TBD	
	Middle Income Housing Strategy Subcommittee Report	8-9:00	Chambers	David Driskell/M Melton	SS 9/27/16	
	Community Perception Assessment Report?	6:00-7:30	Chambers	Tammye Burnette/D Marshall	SS 12/13/16	
	Human Services Strategy Draft	7:30-9:00	Chambers	Karen Rahn, Corina Marin	SS 11/29/16	
	Framework for Lease Negotiations (BMoCA and the Dairy Arts Center)	6:00-7:30	Chambers	Joe Castro/Celia Seaton	CC 11/15/16	
	AMPS and CAGID Development Projections	7:30-9:00	Chambers	Jay Sugnet/Ruth Weiss	IP - TBD	



# City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, August 16, 2016

8/4/2016		Preliminary Materials Due
8/10/2016		Final Materials Due

Gray cells will be calculated for you. You do not need to enter anything in them.

City Council Meeting DRAFT Calendar

Start	End	Min	Time	Item	PP	CAO	Contact
6:00 PM	6:05 PM	5 min	0:05	<b>CALL TO ORDER AND ROLL CALL</b>			
6:05 PM	6:15 PM	10 min	0:10	Declaration Honoring Boulder's Companies to Watch		N	Molly Winter/Ruth Weiss
6:15 PM	7:00 PM	45 min	0:45	<b>OPEN COMMENT AND COUNCIL/STAFF RESPONSE</b>			
7:00 PM	7:15 PM	15 min	0:15	<b>CONSENT AGENDA</b>			
				Third Reading (if needed) Ballot Measures		Y	Kathy Haddock
				First Reading Ordinance regarding disposal of Open Space lands when management is transferred from OSMP to another city department		Y	Janet Michels
				First Reading and Emergency Adoption of Quarterly Supplement to BRC	N	Y	Mary Wallace
7:15 PM	7:20 PM	5 min	0:05	<b>CALL-UP CHECK IN</b>			
				<b>PUBLIC HEARINGS</b>			
				<b>MATTERS FROM CITY MANAGER</b>			
7:20 PM	7:40 PM	20 min	0:20	Boulder Convention and Visitors Bureau Annual Report to Council	Y	N	Molly Winter
7:40 PM	9:10 PM	90 min	1:30	Development-Related Impact Fees and Excises Tax	Y	N	Chris Meschuk
9:10 PM	9:55 PM	45 min	0:45	Information and feedback about BVCP survey questions	Y	N	Lesli Ellis
				<b>MATTERS FROM CITY ATTORNEY</b>			
				<b>MATTERS FROM MAYOR AND MEMBERS OF COUNCIL</b>			
				<b>CALL-UPS</b>			
				4500 Brookfield Drive - Vacation of a Public Utility Easement			Caeli Hill/Emily Richardson
				<b>Total</b>			
			3:55	<b>If adding your item would bring the total estimated time to over 4 hours, please choose another meeting date. "The council's goal is that all meetings be adjourned by 10:30 p.m." - Title 2 Appendix, Council Procedure, B.R.C. 1981.</b>			



















TO: Mayor and Members of City Council  
FROM: Jordan Matthews, City Clerk's Office  
DATE: July 19, 2016  
SUBJECT: Information Packet\*

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**1. CALL UPS**

- A. Vacation of a 10-foot wide public utility easement through the middle of the property located at 1590 Violet Ave (ADR2016-00098).

**2. BOARDS & COMMISSIONS**

- A. Environmental Advisory Board – June 1, 2016

**3. DECLARATIONS**

- A. Shelia Horton Day – July 19, 2016

\*Information Items have been removed as of 7/19/2016 and will be provided under separate cover from the City Manager.



**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: July 19, 2016

**Subject: Call-Up Item:** Vacation of a 10-foot wide public utility easement through the middle of the property located at 1590 Violet Ave. (ADR2016-00098).

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**EXECUTIVE SUMMARY:**

In order to develop the property consistent with the zoning, the applicant requests vacation of a 10-foot wide public utility easement located at 1590 Violet Ave (refer to **Attachment D** for exact location). The easement was dedicated on the plat of Moore's Subdivision in the records of the Boulder County Clerk and Recorder at Plat Book 5, Pages 92-94 on May 18, 1954. 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 June 20, 2016. There is one scheduled City Council meeting within the 30-day call-up period on July 19, 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 June 20, 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 July 20, 2016 unless the approval is called up by City Council.

**FISCAL IMPACTS:**

None identified.

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

Economic: None identified.

Environmental: None identified.

Social: None identified.

**BACKGROUND:**

The subject property is approximately 45,851 square feet in area located in the North Boulder subarea (refer to Attachment A, *Vicinity Map*). The site is located in a Residential-Estate (RE) zone district. The owner is requesting the easement vacation so that the property can be subdivided and developed consistent with the zoning. This easement inhibits the subdivision of the property in a way that is consistent with the regulations of 9-12-12, "Subdivision," B.R.C. 1981 and the surrounding neighborhood. The easement was originally established on the plat of Moore's Subdivision and recorded in the records of the Boulder County Clerk and Recorder at Plat Book 5, Pages 92-94 on May 18, 1954. 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

*The subject property is designated Low Density Residential which allows for two to six units per acre. It is intended that, after the vacation of the easement, the property will be subdivided which is consistent with the land use designation. If the easement remains in place, development of the property will be hindered which would a hardship on the property owner.*

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.

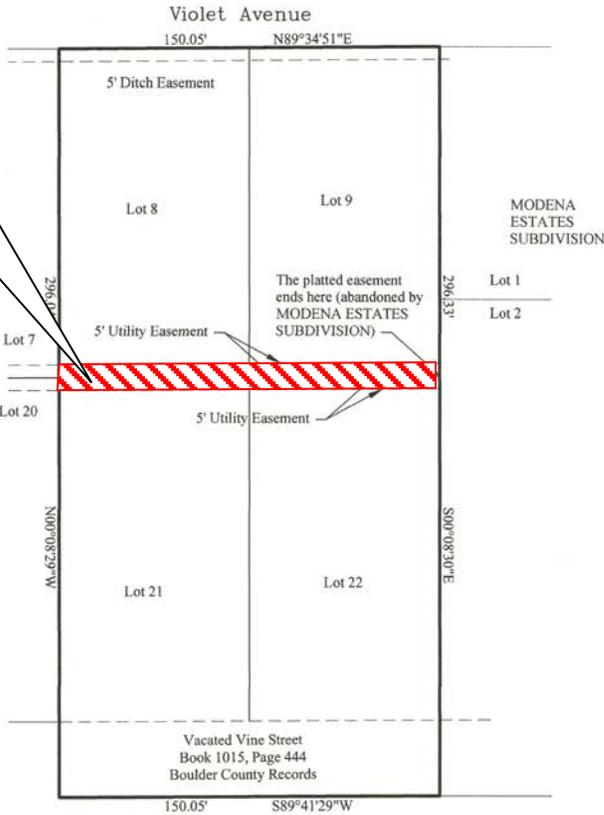
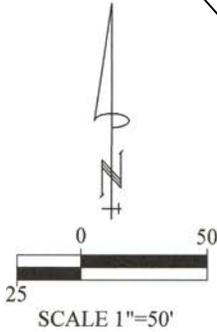
**ATTACHMENTS:**

Attachment A: Vicinity Map  
Attachment B: Site Plan  
Attachment C: Deed of Vacation  
Attachment D: Exhibit A  
Attachment E: Notice of Disposition



# EXHIBIT A

**Subject Easement**



An easement vacation over and across Lots 8-9 & 21-22, Block 3, MOORE'S SUBDIVISION, City of Boulder, County of Boulder, State of Colorado, according to the Plat recorded in Plat Book 5 Pages 92-94, more particularly described as follows:

The Southerly 5 feet of lots 8-9 and the Northerly 5 feet of lots 21-22, Block 3, MOORE'S SUBDIVISION, City of Boulder, County of Boulder, State of Colorado, according to the Plat recorded in Plat Book 5 Pages 92-94, Boulder County records.

I Paul R. Bacus a licensed Professional Land Surveyor in the State of Colorado do hereby state that this easement vacation exhibit was prepared by me. The easements as shown on this document are from the recorded plat of MOORE'S SUBDIVISION, the subject of this abandonment. It is not a Land Survey Plat, Improvement Survey Plat or an Improvement Location Certificate. There is no warranty or guarantee, expressed or implied.



NOTICE: According to Colorado law, you MUST commence any legal action based on any defect in this survey within THREE years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than TEN years from the date of the certification shown hereon.

**Bacus Land Surveying**  
 808 Bass Circle  
 Lafayette, CO 80026  
 Phone : (720) 890-0182

DATE:	5/9/2016
SCALE:	1" = 50'
DRAWN BY:	PRB
REVISION	
JOB NO.	14009
SHEET	1 OF 1

For Administrative Purposes Only  
Address: 1590 Violet Avenue  
Case No. : ADR2016-00098

**DEED OF VACATION**

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, a ten-foot wide utility easement previously dedicated to the City of Boulder on the final plat of Moore's Subdivision and recorded in the records of the Boulder County Clerk and Recorder at Plat Book 5, Pages 92-94 - Original A1 Pages 225-227 on the 18th day of May, 1954 located at 1590 Violet 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 1590 Violet 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:

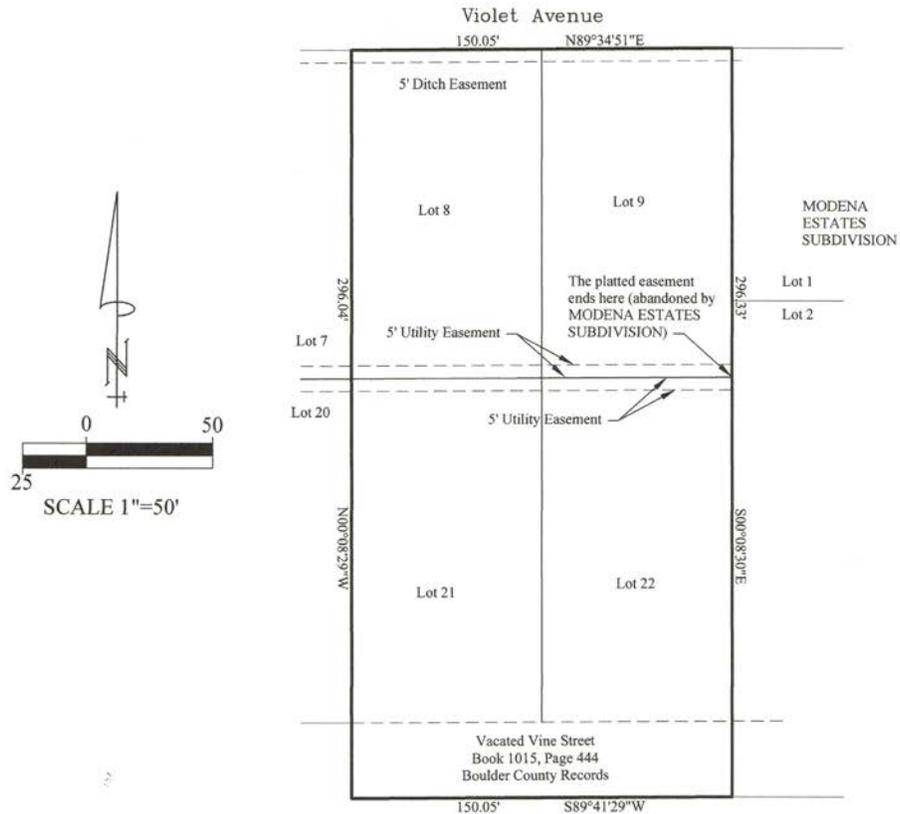
\_\_\_\_\_  
City Clerk

Approved as to form:

Hella Pannewitz  
\_\_\_\_\_  
City Attorney's Office

6-7-2016  
\_\_\_\_\_  
Date

# EXHIBIT A



An easement vacation over and across Lots 8-9 & 21-22, Block 3, MOORE'S SUBDIVISION, City of Boulder, County of Boulder, State of Colorado, according to the Plat recorded in Plat Book 5 Pages 92-94, more particularly described as follows:

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I Paul R. Bacus a licensed Professional Land Surveyor in the State of Colorado do hereby state that this easement vacation exhibit was prepared by me. The easements as shown on this document are from the recorded plat of MOORE'S SUBDIVISION, the subject of this abandonment. It is not a Land Survey Plat, Improvement Survey Plat or an Improvement Location Certificate. There is no warranty or guarantee, expressed or implied.



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<b>Bacus Land Surveying</b> 808 Bass Circle Lafayette, CO 80026 Phone : (720) 890-0182	DATE: 5/9/2016
	SCALE: 1" = 50'
	DRAWN BY: PRB
	REVISION
	JOB NO. 14009
SHEET 1 OF 1	



**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](mailto:plandevlop@bouldercolorado.gov)  
[www.boulderplandevlop.net](http://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:** June 20, 2016  
**REQUEST TYPE:** Vacation/Easement  
**ADDRESS:** 1590 Violet Avenue  
**APPLICANT:** Jon G. Rush  
**CASE #:** ADR2016-00098  
**LEGAL DESCRIPTION:** Lots 8 & 9 & 21 & 22 Block 3 Moores Subdivision, City of Boulder, County of Boulder, Colorado  
**DESCRIPTION:** ADMINSTRATIVE REIVEW for the vacation of a 10-foot wide public utility easement.

**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 ten-foot wide utility easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder on the plat of "Moore's Subdivision" at Plat book 5, pages 92-94 on May 18, 1954.

**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  
Caeli Hill, Planning Department

**CITY OF BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING SUMMARY**

**NAME OF BOARD/COMMISSION:** Environmental Advisory Board

**DATE OF MEETING:** June 1, 2016

**NAME/TELEPHONE OF PERSON PREPARING SUMMARY:** Sandy Briggs, 303-441-1931.

**NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:**

**Environmental Advisory Board Members Present:** Tim Hillman, Brad Queen, Karen Crofton and Christina Gosnell.

**Environmental Advisory Board Members Absent:** Morgan Lommele

**Staff Members Present:** Lesli Ellis, Kara Mertz, Brett KenCairn and Sandy Briggs

**MEETING SUMMARY:**

❖ **Boulder Valley Comprehensive Plan Update**

- A board member asked about the future of resilience staff at the city and how this might affect plan implementation.
- The board agreed that the energy efficiency references in the land use section are vague and will benefit from the planned restructuring to make them more congruent with the Climate Commitment.
- It was suggested to better incorporate energy efficiency modeling that not only utilizes land use snap shots, but scenarios tracking trends in resource consumption and related emissions.
- The board received clarification that the environmental metrics related to the proposed land use changes will be mostly additive, but will also be measured on a per capita basis when appropriate.
- The board was reminded that implications are not just local since Boulder's programs have regional impacts.
- There was interest in including more detail regarding the Citizens Science Data Collection Program, and how it fits in to the BVCP Update picture.

❖ **Universal Zero Waste Ordinance Update**

- The board received clarification about current city diversion rates by sector and type of material and why the ordinance requires haulers to bring all recyclables to the Boulder County Recycling Center.
- As it has traditionally been challenging for special event organizers to garner volunteers to staff zero waste stations per ordinance requirements, the board suggested offering more incentives and asking other organizations like the CU E Center or the Boy Scouts for help.
- The board suggested obtaining load tracking data and tying compliance to the hauler's billing processes to more formally encourage involvement and compliance.
- The board agreed hosting community forums may not be the best format for maximizing participation to gather community input regarding the effectiveness of UZWO implementation. Instead, they suggested using surveys and webinars, going to where

people already are, meeting during business hours and administering mobile surveys while zero waste advisors and community partners are already on the ground at businesses and in neighborhoods.

- Board members suggested including a line item on the Rental Housing Licensing Application Checklist and a section about UZWO in the model lease to inform the public of the ordinance requirements.

#### ❖ **6400 Arapahoe Development Plan Update**

- One board member feels it is not easy to find the current locations and services in place to properly sort and recycle various recyclable items.
- Smaller “transfer stations” were suggested as a way to make recycling of these items easier. This could be done internally in the Recycle Row area, or by setting up drop off points at places around town like Home Depot (similar to Best Buy for electronics).
- It was suggested a website where users could enter a type of item to find out where to take it and facility availability would be a useful tool.
- Other suggestions, like the ability to return borrowed tools to locations other than the ReSource Tool Library, were offered.

### **1. CALL TO ORDER**

Environmental Advisory Board Chair **T. Hillman** declared a quorum called the meeting to order at 6:01 pm.

### **2. APPROVAL OF MINUTES**

On a motion by **B. Queen**, seconded by **K. Crofton**, the Environmental Advisory Board voted 4-0 (**M. Lommele** absent) to approve the May 4, 2016 meeting minutes.

### **3. PUBLIC PARTICIPATION**

None.

### **4. PUBLIC HEARING ITEMS**

None.

### **5. DISCUSSION ITEMS**

#### **A. Boulder Valley Comprehensive Plan Update (Ellis)**

- Comprehensive Planning Manager, **L. Ellis**, updated the board of the current stage of the Boulder Valley Comprehensive Plan with emphasis on the Natural Environment, Climate and Energy, and Resilience policies as well as information about land use scenarios and criteria for evaluation.

The BVCP is an evolving document that is updated every five years and includes undertaking a series of steps to further the understanding of where we are and where we need to go as a community.

The early stages of public engagement began last summer and continue with numerous events planned throughout 2016. The aim is to present a draft plan in the late fall or winter, then start the adoption process in early 2017.

One of the focus areas of the BVCP is addressing changes to the land use plan and the impacts this could have on environmental goals.

There are two chapters of particular interest to the EAB – Chapter 3-Natural Environment

and Chapter 4-Climate, Energy and Resilience. New language has been suggested around these topics, with numerous clarifications and a focus on emerging issues. The BVCP will also be “tightened up” to better align with Boulder’s Climate Commitment. This will include addressing ecosystem management and the wild/urban interface to identify needs across natural areas in addition to creating green infrastructure and biodiversity within city limits.

**B. Universal Zero Waste Ordinance Update (Mertz)**

Local Environmental Action Manager, **K. Mertz**, updated the board regarding implementation of the Universal Zero Waste Ordinance (UZWO) and asked how the EAB would like to be involved moving forward.

She provided statistics regarding past and current waste diversion rates from different city sectors and explained that the city’s zero waste goal is 85% diversion from landfills by 2025.

There is a two-stage implementation plan for property owners and businesses, including special events requirements, and there are City Manager’s Rules that provide the details for implementation. It was noted that for the first year, the city will manage the ordinance to encourage compliance, not punish noncompliance.

She informed the board about the rebates, grants and exemptions that are available and provided a high-level overview of hauler reporting, compliance tracking and the potential for self-reporting requirements if voluntary compliance proves unsuccessful.

After one year, she will return to City Council with a report on compliance and implementation progress in order to determine if a different approach might be necessary.

**C. 6400 Arapahoe Development Plan Update (Mertz)**

Local Environmental Action Manager, **K. Mertz**, informed the board of the 6400 Arapahoe site’s history and current status, asked for their feedback on the Phase II Site Review amendment and for ideas for Phase III development. She further requested advice about how to best sequence the process in order to provide City Council with a broad array of options and a robust analysis of these options in advance of Concept Plan submission. Since it is not currently clear how much the nonprofits will be able to contribute to the development, it may be difficult to do a cost-benefit analysis.

While there is currently no funding available for either project, City Council was asked to approve staff’s proposal to allow application for a minor amendment to the originally approved 2011 site review for Phase II and to retain ownership of the subdivided parcel in order to flesh out Phase II options. They voted 6-2 in favor; Mayor Jones abstained as she is the Executive Director of Eco-Cycle.

Since it’s purchase in 2008 as a permanent home for community partners Eco-Cycle and ReSource, the idea has been to provide longevity for zero waste operations and continue the “Recycle Row” concept to include other creative reuse and repair options. The Phase II Site Review includes expansion plans for both current tenants.

The following ideas for potential new activities on the property for Phase III development were presented:

- Art Parts
- Blue Star Recyclers
- Small business incubator space for start-ups wanting to up-cycle materials

- Satellite parking for downtown employees
- Office space
- Maker space, fix-it clinics
- Housing – homeless, on-site employees, second story living quarters

She also noted that using the site for construction and demolition waste processing was specifically prohibited in the annexation agreement.

She will return to the Board to flesh out the options analysis prior to returning to City Council at a Study Session later this year before development of the Phase III concept plan.

## 6. OLD BUSINESS/UPDATES

### A. City/CPW Meeting Attendance by BBC (Briggs)

EAB Secretary **S. Briggs** informed the board that the BBC would not be allowed to attend CPW meetings with the city at this time and that Urban Wildlife Conservation Coordinator, **Valerie Matheson**, had been and would continue to be in contact with the interested parties regarding this issue. Hard copies of **V. Matheson's** written explanation of these answers and her actions were provided to the board members.

## 7. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY

### A. Continued Joint Board Open House Discussion (All)

The board discussed **B. Queen's** initial communication with Planning Board Chair **John Gerstle** and concluded that a different process was necessary to move forward. The following points were discussed and decisions made to begin and continue collaboration with other boards:

- Schedule a standard annual joint board meeting.
- The objective is to help other boards understand how to consider environmental concerns in their processes and integrate Climate Commitment and environmental issues into their decisions.
- Determine those elements of other boards' charters that are in the EAB's purview and how to share advice about those specific items.
- Start with Planning Board as a "test case" to establish and develop the collaboration and engagement process.
- **B. Queen** will speak with PB Member **Leonard May** about processes and contact PB Chair **John Gerstle** with suggestions that two EAB members attend to speak about EAB collaboration during the public comment period or that a more formal inter-board subcommittee be created.
- **B. Queen** and **C. Gosnell** will attend an upcoming PB meeting and report back.

## 8. DEBRIEF MEETING/CALENDAR CHECK

**S. Briggs** reminded the board that Council Members Matt Appelbaum and Jan Burton have been officially invited to attend a meeting in 2016 but which meeting they will choose is still unknown.

## 9. ADJOURNMENT

The Environmental Advisory Board adjourned at 8:20 pm.

Approved:

A handwritten signature in black ink, appearing to be "Jim [unclear]".

7/6/16

Chair

Date

**Sheila Horton Day  
July 19, 2016**

**WHEREAS**, Sheila's love for Boulder and dedication to this community positively affected renters and rental property owners throughout the city; and

**WHEREAS**, Sheila worked tirelessly and persistently, and always collaborated closely with community members and city staff on issues of importance; and

**WHEREAS**, even when Sheila did not agree with a direction the city was heading, she always made sure she addressed issues directly with honesty and integrity; and

**WHEREAS**, Sheila's involvement in city projects and programs were to ensure there was balanced representation when discussing issues; she was dedicated to fully vetting proposals and as a result the city adopted even more effective and comprehensive programs; and

**WHEREAS**, Sheila's ongoing efforts led to major improvements in the quality of life in Boulder's neighborhoods and the establishment of many of Boulder's trash and energy efficiency regulations; and

**WHEREAS**, Sheila worked closely with staff to ensure the city's zero waste goals were implemented in a way that balanced community values and provided equal access to recycling services; and

**WHEREAS**, she worked year after year with the University Hill Neighborhood Association, University Hill businesses, the University of Colorado, and the City and University restorative justice programs to combat litter, trash and other nuisance issues for the betterment of the neighborhood and initiated the six-day review trash collection program; and

**WHEREAS**, Sheila's passion and dedication in representing the Boulder Area Rental Housing Association led to a robust, effective, balanced and fair public process that resulted in groundbreaking, and first of its kind energy efficiency requirements for rental housing known as SmartRegs.

**NOW, THEREFORE, BE IT DECLARED** by the City Council of the city of Boulder, Colorado, that July 19, 2016 is designated as:

**Sheila Horton Day**

Thank you, Sheila, and the Horton family for all of Sheila's contributions to our community.



**Suzanne Jones, Mayor**