



**Information Packet  
September 27, 2018**

**1. INFORMATION ITEMS**

**A. 2018 Food Tax Rebate Program Update**

- The Food Tax Rebate Program (FTRP) is a statutory program administered by the Human Services Department to provide rebates to help compensate qualified residents with lower incomes for the city sales tax they pay on food.
- In 2018, 943 rebates were issued for the 2017 tax year for a total of \$103,769.
- In 2018, the total number of applicants increased by eight percent over the prior year with a five percent increase in qualified applicants.

**B. Update on SmartRegs Compliance - **Feedback requested by Thursday, Oct. 11****

- History of SmartRegs and how it relates to city Energy Strategy
- Update to compliance metrics for SmartRegs
- Breakdown of types of compliance (prescriptive path, weatherization, technically impractical, exempt by build date)
- Challenges anticipated with technically impractical properties
- Summary of communication strategy during program
- 2019 Enforcement Plan

**2. BOARDS & COMMISSIONS**

- A. Boards and Commissions – July 18, 2018**
- B. Boards and Commissions – August 15, 2018**
- C. Human Relations Commission – September 17, 2018**
- D. Planning Board - September 6, 2018**

**3. DECLARATIONS**

- A. Energy Efficiency Day, October 5, 2018**



**INFORMATION PACKET  
MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager  
Kurt Firnhaber, Director, Housing and Human Services  
Betty Kilsdonk, Deputy Director, Human Services  
Eden Mayne, Senior Services Manager, Housing and Human Services  
Jason Allen, Food Tax Rebate Administrator, Housing and Human Services

Date: Sept. 27, 2018

**Subject: Information Item: 2018 Food Tax Rebate Program**

---

**EXECUTIVE SUMMARY**

The Food Tax Rebate Program (FTRP) is a statutory program administered by the Housing and Human Services Department. Each year since 1967 the City of Boulder has provided rebates to help compensate qualified residents with lower incomes for the city sales tax they pay on food. Residents seeking a rebate in 2018 had to complete an application and meet the required guidelines. To be eligible, each applicant must have had city residency for the entire 2017 calendar year and completed an Immigration Status Affidavit as required by state law. The categories for eligibility are: an older adult age 62 or over for the entire calendar year, a person with a disability, or a family with children under 18 years of age. All applicants must meet financial eligibility requirements established by the Department of Housing and Urban Development (HUD) shown below.

Financial Eligibility Guidelines:

<b>Family Size</b>	1	2	3	4	5	6	7	8
<b>Income Limit</b>	\$34,400	\$39,300	\$44,200	\$49,100	\$53,050	\$57,000	\$60,900	\$64,850

Since 2001, rebate amounts for qualified households are indexed each year for inflation based on the Consumer Price Index (CPI) that includes Boulder County. In 2018 the rebate amount for families with children under 18 years of age was \$253 and amount for individuals (either an older adult or a person with a disability) was \$83. In 2018, the FTRP receive a total of 1001 applications. Of those 1001 applications, 58 were denied because they were incomplete or were submitted past the deadline or did not meet the established qualification guidelines. As a result, 943 rebates were processed, and refunds were issued totaling \$103,769.

**FISCAL IMPACT**

Administrative Costs	\$18,823.77
Rebates	\$103,769.00
Total Fiscal Impact	\$122,592.77

**COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic: A positive impact on the business community is anticipated if FTRP recipients reinvest their rebate dollars back into city businesses.
- Social: The rebate program has a positive impact on community residents with lower incomes by providing a direct financial payment than can be used as needed by the individual resident.

**BACKGROUND**

Since passage of a voter initiative in 1967, Boulder has operated the FTRP to help lessen the burden on residents with lower incomes for sales tax paid on food items.

Applications were accepted March 1 through June 30, 2018 for the 2017 calendar year. Outreach efforts included the following:

- Residents who applied to the program in 2017 automatically received a 2018 application via the mail;
- Regular information emails were sent to community partner agencies;
- Bilingual applications, staff support, and Latino community outreach was provided;
- Information was posted on the city’s social media outlets;
- Program information was sent through electronic newsletters;
- Program information was published in the Senior Services Program Guide;
- Human services networking groups were contacted;
- Two press releases were issued, one at the beginning of the program and one near the program deadline; and
- Program information was posted online for the duration of the program:  
<https://bouldercolorado.gov/seniors/food-tax-rebate-program>

## ANALYSIS

In 2018 the total number of applicants increased by eight percent over the prior year. In addition, there was a five percent increase in qualified applicants who received a rebate. The financial distribution was 11 percent higher than the previous year. Distribution of 2018 rebates by category of qualified applicants is as follows:

- 69 percent were older adults;
- 16 percent were families with children under the age of 18; and
- 15 percent were individuals with disabilities.

DESCRIPTION	NUMBER OF REBATES	AMOUNT
Families with children under the age of 18	150	\$37,950
Adults 62 years of age or older	645	\$53,535
Individuals with a disability	148	\$12,284
<b>TOTAL</b>	<b>943</b>	<b>\$103,769</b>

### Applicants by Category: 2014-2018

Year	Total Applicants	Total Unqualified Applicants	Total Qualified Applicants	Qualified Families	Qualified Older Adults	Qualified Individuals with Disabilities
2018	1001	58	943	150	645	148
2017	930	36	894	128	642	124
2016	889	35	854	143	591	120
2015	857	28	829	160	528	141
2014	910	26	884	172	540	172
<b>FIVE-YEAR TOTAL</b>	<b>4,587</b>	<b>183</b>	<b>4,404</b>	<b>753</b>	<b>2,946</b>	<b>705</b>

## NEXT STEPS

The Food Tax Rebate Program will be administered from March through June 2019. Outreach efforts will begin in February 2019 for rebates on food tax paid during the 2018 calendar year.



**INFORMATION PACKET  
MEMORANDUM**

To: Mayor and Members of Council

From: Jane S. Brautigam, City Manager  
Mary Ann Weideman, Deputy City Manager/Interim Public Works Director  
Jim Robertson, Director of Planning and Sustainability  
Trish Jimenez, Deputy Director of Public Works for Development Services  
Kendra Tupper, Chief Sustainability and Resilience Officer  
Carolyn Elam, Energy Program Strategy Manager  
Jon Bergelin, Code Compliance Supervisor  
Tonia Pringle, Administrative Supervisor  
Elizabeth Vasatka, Sustainability Coordinator

Date: September 27, 2018

**Subject: Information Item: Update on SmartRegs Compliance – Feedback requested by Thursday, Oct. 11**

---

**EXECUTIVE SUMMARY**

On [Sept. 21, 2010](#), City Council adopted energy efficiency requirements for existing residential rental properties, referred to as the SmartRegs ordinance. SmartRegs requires a basic level of energy efficiency to be achieved in all licensed rental housing units by Dec. 31, 2018. This type of energy efficiency policy was identified in the city's first Climate Action Plan adopted by council in 2006. SmartRegs implementation started in 2011 and was aligned with the voluntary residential EnergySmart services. With an eight-year compliance timeline, SmartRegs allowed rental property owners time for inspection, planning, budgeting and implementing of energy efficiency improvements, if necessary, over two rental license cycles (four years each). At launch of the program, there were an estimated 20,000 licensed rental units subject to the new efficiency requirements. Over the eight-year compliance timeline, the number of rental units has increased to approximately 23,000.

By Dec. 31, 2018 the goal of the city is to have all 23,000 licensed rental units, inspected and compliant with SmartRegs. As of Sept. 18, 2018, over 95 percent (21,850) of the licensed rental units have been inspected and 87 percent (20,010) are SmartRegs compliant.

The rental license is connected to the property, whether it's a single rental unit or an entire multifamily apartment complex and to date, the 2,990 non-compliant rental units equate to approximately 1,500 non-compliant rental licenses. Property owners must have all rental units associated with the license compliant with SmartRegs before they can renew their rental license.

Rental licenses will expire for the rental units that do not achieve compliance by the deadline of Dec. 31, 2018. In October 2018, all non-compliant property owners will be sent a warning of potential violation letter and the enforcement process will begin in January 2019 when all expired rental licenses will be subject to fines and fees defined in the Boulder Revised Code ([B.R.C\) 10-3-16.](#)

Staff estimates another 1,000 rental units will achieve compliance (average over 300 compliant units per month) by the end of the year. Leaving an estimated 2,000 units which equates to approximately 1,000 rental licenses that may need to go through an enforcement process in 2019.

Since 2018 is the last year of the compliance timeline, staff is providing council with an update on the program's compliance numbers and future enforcement process.

### **FEEDBACK FROM COUNCIL**

Council questions and feedback about this update are requested by Oct. 11, 2018, contact Elizabeth Vasatka at [vasatkae@bouldercolorado.gov](mailto:vasatkae@bouldercolorado.gov) or 303-441-1964.

### **FISCAL IMPACT**

Since 2011, the city has contributed an average of \$350,000 per year to support SmartRegs implementation, services and rebates. The program was originally funded 100 percent through the CAP tax and went three years longer than anticipated. In 2017, the city implemented a SmartRegs Fee to assist in paying for the continuation of EnergySmart services that assist non-compliant SmartRegs property owners through the duration of the compliance timeline.

Since the tenants and landlords benefit from the SmartRegs program similar to the Rental Housing Licensing program, it was determined they should pay a portion of the costs consistent with the cost recovery model for the Rental Licensing Fee. This meant that 60 percent of the EnergySmart service costs are covered by the fee while the remaining 40 percent is covered by the city.

Ongoing outreach and enforcement are included under the existing Planning and Sustainability and Public Works Departments' work plans. The fiscal impact is limited to these costs. However, the city will not know the total volume of non-compliant units until the end of this year, at which time staff will better understand the workload impact in January 2019.

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

- **Economic**: From the onset of the SmartRegs ordinance implementation, rental property owners experienced a fiscal impact for the cost of the SmartRegs' inspection and potential efficiency upgrades. Additionally, if property owners did not become SmartRegs compliant before 2017, they are subject to a SmartRegs fee that pays for EnergySmart services for SmartRegs assistance. If property owners do not achieve SmartRegs compliance by Dec.31, 2018, additional enforcement fines and fees may apply. There are, however, economic benefits to the renters who rent the more energy efficient, SmartRegs' compliant properties, which are both more comfortable and potentially include efficiency upgrades that they would not otherwise have access to and that may reduce their monthly energy bills.
- **Environmental**: Energy efficiency improvements in rental housing reduces energy use and reduces greenhouse gas (GHG) emissions, which in turn has many other environmental benefits; such as air quality. EnergySmart contracted services has tracked a subset of energy and GHGs from those rental property owners who have taken advantage of its services. Energy and cost saving data for SmartRegs implementation is quantified on an ongoing

accumulative basis and posted quarterly on the [city's website](#)<sup>1</sup>. As of Q2, 2018 the property owners participating in EnergySmart services have saved nearly 2 million kilowatt-hours (kWh) savings and over 3,600 metric tonnes of carbon dioxide (MtCO<sub>2</sub>) are avoided annually because of improvements made to rental properties.

- **Social:** Requiring licensed rental property owners to inspect and potentially upgrade their units promotes a level of housing equity for people who rent. Renters will increasingly experience the benefits of improved efficiency such as lower utility costs and increased comfort. The SmartRegs ordinance contributes to ensuring a just transition, as outlined in the Climate Commitment, so that beneficial energy efficiency improvements reach all segments of Boulder's community. As enforcement of SmartRegs begins in January 2019, non-compliant rental property owners may be subject to civil penalties, fees and loss of rental licenses. Should property owners fail to comply with SmartRegs requirements, tenants living in these units could be displaced and need to relocate.

## **BACKGROUND**

In 2010, the city implemented energy conservation for existing residential rental properties to address energy waste and GHG emissions in the city's rental housing stock. This effort, called SmartRegs, was in response to the city's leadership adopting its first Climate Action Plan (CAP) in 2006.

When the program launched in 2011, the City of Boulder, the American Recovery and Reinvestment Act's (ARRA) Better Building grant and Boulder County have provided funding for EnergySmart services, making advising and financial rebates available to property owners. The federal grant was exhausted in 2013; however, Boulder County continued paying for residential EnergySmart services and the city continued to allocate a portion of its CAP Tax funds to residential EnergySmart services that served rental property owners. The city's annual service contract with EnergySmart for SmartRegs compliance assistance, data tracking, inspector oversight and management and mentoring, essentially subsidizing the program costs throughout the entire eight-year compliance timeline.

SmartRegs was implemented to address many issues pertaining to rental properties ownership model such as the split incentive<sup>2</sup> and how-to best address energy efficiency in the existing rental housing stock. SmartRegs, the first national energy code for rental housing, has been so effective because it successfully coupled services and incentives to address this segment of the housing stock.

Throughout the eight years of program operations, the city, its partners and contractors have learned a lot about rental energy efficiency program implementation and compliance. As cities and states across the country adopt climate plans, they have reached out to city staff to better understand the policy and implementation aspects of SmartRegs. Further, Rocky Mountain

---

<sup>1</sup> SmartRegs Program-to-Date Progress Report displays comprehensive compliance numbers but only energy and greenhouse gas savings for EnergySmart participants.

<sup>2</sup> Split incentive is a market-failure whereby neither the property owner nor the property occupant has a financial incentive to implement energy efficiency upgrades, even where those upgrades would quickly pay for themselves through energy cost savings.

Institute (RMI) developed services and peer-to-peer learning opportunities for other cities on how to best advance their residential energy goals. Numerous cities from all over the county have inquired about Boulder's program and RMI has since hosted a cohort of cities to create working groups and provide technical assistance to them as they assess their residential energy goals with SmartRegs as a key program of success. Dozens of cities have learned from the SmartRegs program implementation and data tracking process on all the benefits and lessons learned of Boulder's efforts. It has always been a goal of Boulder's Climate and Sustainability programs to ensure replicability and transferability on our adopted policies and programs. SmartRegs not only was the first of its kind but also was able to provide a successful foundation for tens, if not hundreds of cities to follow.

To-date, the program has achieved energy and GHG savings from an estimated 60 percent (12,000) of the over 20,000 rental units that have gained SmartRegs compliance. The remaining 40 percent of properties were compliant after the initial inspection, meaning they did not have to implement any efficiency upgrades to reach compliance.

Other attributes of the program helped achieve more renter equity in our community. Utility costs can be difficult for renters to predict. This program helps provide renters, who can sometimes be an at-risk population, to have more certainty with variable overhead costs. Property owners were required to measure and potentially upgrade their rental units, which provided some renters with a more efficient, lower cost rental. Staff will provide council with a final SmartRegs accomplishment report in 2019.

## **ANALYSIS**

### **Date and Compliance**

SmartRegs was adopted and implemented with an eight-year compliance timeline, requiring rental property owners time to inspect, and allowing them to plan, budget and implement energy efficiency measures, if necessary. SmartRegs requirements equate to a basic level of energy efficiency for the property, as identified with a city-developed prescriptive pathway checklist score of 100 points plus two water conservation points or an industry standard Home Energy Rating System (HERS) performance modeling score of 120.

The city and county's EnergySmart contractor, CLEAResult, who administers the residential program, has tracked participation, upgrades, costs and savings. The metrics are calculated and provided for the community on a quarterly dashboard, the latest of which is the SmartRegs [Q2, 2018 accomplishments report](#). These reports also show energy and GHG savings, though it is only a sampling of the program's overall savings, since CLEAResult only captures those efficiency upgrades done by rental property owners through EnergySmart rebates.

Through August 2018, there are still 2,990 non-compliant rental units which equate to approximately 1,500 non-compliant rental licenses. Property owners must have all rental units associated with the license compliant with SmartRegs before they can renew their rental license. These non-compliant licenses contain a mix of residential buildings, including single family dwellings, as well as larger apartment buildings, which have a greater impact on the number of dwelling units which may become unavailable for rent in 2019.

## Communication and Outreach

Throughout the duration of the program, especially over the last 21 months, the city's Rental Housing Licensing (RHL) program and EnergySmart have been active in outreach and communications to SmartRegs non-compliant property owners.

The city and its partners (EnergySmart, SmartRegs inspectors, etc.) have communicated over the years with property owners through many outreach efforts including hard copy mailings, public open houses, news releases and individual emails through RHL and EnergySmart. The city has partnered with rental property organizations to help spread the word, such as the Boulder Area Renters Housing Association (BARHA) and the University of Colorado (CU) Off-Campus Housing and participated in CU's Housing Fairs. Comprehensive outreach efforts have been organized with individual property owners and those using property management companies. Since 2011, the city and EnergySmart have worked directly with most, if not all, the property management companies (i.e. Aspen Management, Boulder Property Management FourStar Management, etc.) about the Dec. 31, 2018 SmartRegs compliance deadline. BARHA has supported SmartRegs outreach regarding EnergySmart services, the Technically Impractical pathway<sup>3</sup> and the compliance deadline through newsletter articles, notices at their monthly meetings and sponsored one-on-one information sessions.

The city organized and/or participated in many outreach events that specifically addressed SmartRegs compliance over the last two years including the following;

- **Sept. 6, 2017 - SmartRegs Open House** - RHL and Climate and Sustainability Division staff were available to discuss property owners' questions and concerns regarding SmartRegs and their property reaching compliance.
- **Sept. 27, 2017 – SmartRegs Technically Impractical Site Visit**- RHL, Climate and Sustainability Division, EnergySmart and BARHA staff, joined by two City Council members, property owners and representation from property management companies walked through a rental property to discuss the technically impractical process.
- **Oct. 11, 2017 – What's Up Boulder** - RHL and Climate and Sustainability Division staff were available to answer questions about the program and compliance.
- **Nov. 9, 2017 - BARHA Monthly Meetings** – RHL, Climate and Sustainability Division and EnergySmart staff were available for one-on-one consultations.
- **Dec. 14, 2017 - BARHA Monthly Meetings** – EnergySmart staff was available to provide one-on-one consultations.
- **April 30, 2018 – What's Up Boulder** - RHL and Climate and Sustainability Division staff were available to answer questions about the program and compliance.

In 2017, the city's RHL staff drafted a communication plan that included letters highlighting SmartRegs compliance and resources. These letters informed individual owners of their

---

<sup>3</sup> Technically Impractical pathway is available to rental property owner that cannot achieve SmartRegs compliance through the standard prescriptive or performance pathways because their rental has unforeseen structure and/or equipment challenges.

SmartRegs non-compliant property/properties with compliance deadlines and informed them of EnergySmart resources that were still available. Email communications were also used to emphasize the urgency, as the deadline was within a year. In April 2018, additional letters were sent to the remaining non-compliant properties outlining consequences and enforcement action of not becoming SmartRegs compliant by the Dec. 31, 2018 deadline. Emails have also been sent with a more urgent message to inform property owners of the need to gain compliance, and a final mailing will be sent in October 2018 as the last warning and notice of potential penalties for non-compliance. Penalties will begin in January 2019 for non-compliant properties that continue to rent with an expired license.

Throughout 2017 and 2018, RHL staff has sent email communications to all property owners that have had a SmartRegs inspection but are still non-compliant. Individual custom emails were sent specifying the rental property address, how many points they currently have towards SmartRegs compliance, resources and contact numbers for assistance. The messages became increasingly stronger and urgent, with communication geared toward property owners with the lowest points out of the required 100 points. Example of these communications are available in **Attachment A**.

The city maintains its SmartRegs [website](#) to ensure all compliance messaging remains consistent with letters, emails and verbal communications from city RHL and EnergySmart staff.

In Q2 2018, RHL enforcement staff revisited larger non-complaint multifamily complexes to provide in-person verbal communication to property management companies ensuring they are aware of the Dec. 31, 2018 compliance deadline. It is a priority of city and EnergySmart staff to inform property owners and managers that their rental license will expire, and enforcement action will be initiated on Jan. 2, 2019 to all non-compliant SmartRegs units.

### **Technically Impractical Pathway**

During the development of the SmartRegs requirements, the city understood there would be some properties that would potentially have difficulties upgrading to meet the basic level of efficiency requirements. In 2017, the city developed the [Technically Impractical \(TI\) Application](#) and review process based on property owner feedback. Prior to this application process, properties were individually evaluated by the Chief Building Official when a request for a TI exemption was submitted. This pathway is for rental properties that have been inspected, completed feasible energy efficiency upgrades and found additional efficiency recommendations to be technically impractical due to unforeseen structural or equipment issues and limitations that hinder or complicate full compliance.

The TI review team consists of city staff and CLEAResult's subject matter experts, who objectively assess each application individually, as all properties are unique and have their own specific challenges.

- **If approved** - the property owner can purchase carbon offsets for the remaining length of time on their rental license, and again at each license renewal.

- **If denied** - the review team informs the applicant of other recommendations that should be pursued to achieve the maximum amount of points toward compliance before submitting a TI application again.

To date, the review team has evaluated 10 technically impractical applications with the following outcomes;

- **Six approved** applications.
- **Two submitted back to applicant** with recommendations for implementing measures that could get them to compliance. Both applicants reached the 100-point compliance.
- **Two denied** - but provided alternative recommendations for measures which were investigated by property owner.

### **Enforcement**

Beginning Jan. 2, 2019, all non-compliant SmartRegs rental properties will have an expired license and these units will no longer be eligible to rent. Compliance staff will begin individual site visits to properties with expired licenses to verify tenant status. Visits to larger multifamily properties will be prioritized first, then visits by geographic location to ensure efficient use of staff time. All properties rented or advertised to rent without a valid license will be issued penalties according to the civil penalty and fee schedule in [B.R.C 10-3-16](#). The penalties may continue to be assessed until the property becomes SmartRegs compliant and is issued a valid rental license or is no longer in use as a rental property. The first three penalties will follow the escalation detailed below and each additional penalty after the 3<sup>rd</sup> will be an additional \$1,000. Each penalty assessed is in addition to the penalties previously assessed. Each time a penalty is assessed the property owner will have an opportunity to appeal.

#### **Civil Penalty for renting without a license:**

- 1<sup>st</sup> violation - \$150 - \$500
- 2<sup>nd</sup> violation - \$300 - \$750
- 3<sup>rd</sup> violation - \$1,000

#### **Investigation fees from enforcement staff:**

- Each investigation - \$250
- Continued non-compliance after civil penalties are assessed may result in a court summons, which carries a \$250 bond per violation.

Once a civil penalty is assessed, the property owner will have the right to an appeal per [B.R.C. 1-3-3](#). The request for an appeal must be submitted to municipal court within ten days of receiving the notice. Each notice will provide instructions for filing an appeal with the municipal court. The appeal hearing is held in municipal court with a municipal judge acting as a hearing officer. During the hearing, the property owner will have an opportunity to ask questions of staff members under oath and present their arguments opposing the penalties. The hearing officer will have the authority to uphold the actions taken by staff, uphold but adjust the penalties, or dismiss the action along with all penalties at the end of the hearing. An appeal hearing is not required in

all cases and is only held if the property owner submits a request within ten days of receiving a notice of agency action. If a request is not submitted within the ten-day time frame prescribed by B.R.C 1-3-3, the penalties are final.

If the property owner does not pursue SmartRegs compliance and re-apply for a rental license the property must cease use as a rental. The property owner then has the options to release the tenants from the lease and occupy the property themselves, allow a family member to live there under the exemption in BRC 10-3-2(b), or sell the property. The city does not intend to pursue evictions, but, tenants may be displaced by the property owner during the course of enforcement.

### **NEXT STEPS**

During the first week of October, council will be notified in a *Heads Up* that SmartRegs non-compliant property owners will receive a warning letter of potential violation for renting their property without a valid rental license if they do not achieve SmartRegs compliant before the Dec. 31, 2018 deadline.

In mid-October, the RHL staff will send all non-compliant SmartRegs property owners a letter which will serve as the first Warning of Violation (**Attachment B**) of potential loss of their rental license due to SmartRegs non-compliance and that enforcement will begin in January of 2019.

Starting in 2019, the city will no longer be providing EnergySmart services to assist property owners with SmartRegs compliance. However, the EnergySmart Hotline will direct property owners to the city and EnergySmart websites that will continue to host step-by-step instructions on how to achieve SmartRegs compliance. In addition, the SmartRegs inspectors will continue to assist non-compliant property owners through the compliance process. As RHL staff will continue to process compliant SmartRegs inspections and renew rental licenses.

In Q1 2019, staff will provide council with an update on the final SmartRegs accomplishments of energy, GHG savings, economic and other community benefits, as well as final enforcement numbers and process to-date.

Throughout 2019, for anyone seeking a new rental license for a property that hasn't been a rental before, they must have both a rental housing inspection and be SmartRegs compliant before a new rental license will be issued.

### **ATTACHMENTS:**

Attachment A: Sample correspondences to non-compliant SmartRegs rental property owners (email, letter and hand-out)

Attachment B: Sample Warning of Violation letter

## ATTACHMENT A

### SAMPLE Email to Customers

Greetings from EnergySmart!

According to the SmartRegs inspection you previously provided, your rental property at 123 Test St is not yet compliant and currently has 70 energy efficiency points and 0 water conservation points. SmartRegs compliance requires your property to achieve at least 100 energy efficiency points and 2 water conservation points.

**The deadline to reach SmartRegs compliance is Dec 31, 2018;** if this deadline is not met, your property's rental license will expire. Properties continuing to rent without a license after expiration are subject to rental license enforcement penalties and fees.

EnergySmart Energy Advisors are currently available to **review SmartRegs points** and **help you plan** how to comply before the deadline! Additionally, EnergySmart is offering **incentives** for eligible insulation and air sealing upgrades as well as heating and water heating equipment replacements completed through **March 31<sup>st</sup>, 2018** (see attached). These incentives are first-come, first-served, and are only available for projects meeting the requirements which include achieving minimum efficiencies, completing safety testing, and using pre-qualified contractors.

To find out about project eligibility before you move forward with work and to discuss your plan to reach compliance, connect with your personal EnergySmart Energy Advisor or call **303-544-1001**. **Rebates are limited and advisors and contractors will become increasingly busy as we approach the end of 2018, so call soon!**

If you have already completed energy efficiency work towards compliance, a SmartRegs inspector needs to update the inspection information for your property to be considered compliant. Our Energy Advisors will be able to help you with this as well.

Best regards,

The EnergySmart Advising Team  
303-544-1001

## SAMPLE 2018 Spring Mail Letter



### City of Boulder Planning, Housing and Sustainability

May 15, 2018

Dear Property Owner,

The implementation of changes to Boulder's housing and rental license regulations, including options for energy efficiency requirements like SmartRegs, began in 2010 as part of a broad effort to improve energy efficiency across all building types in the city. The city's SmartRegs program is in its final year of an eight-year compliance timeline (two four-year rental license cycles), with a deadline of Dec. 31, 2018. Currently, approximately 80 percent of the city's 23,000 licensed rental units have achieved compliance with SmartRegs.

**Your property has been identified as one of the remaining non-compliant licensed rental properties in the city.** The eight-year timeframe incorporated in the SmartRegs Ordinance was meant to allow the required energy efficiency improvements to be completed over time. If your property does not meet the SmartRegs requirement prior to December 31, 2018, your rental license will expire, making the unit unavailable to rent.

If you want to continue renting your property, the steps you need to take are:

- Review the SmartRegs Inspector list on the city's website (<https://bouldercolorado.gov/plan-develop/smartregs-inspection-information>) and schedule a baseline inspection.
- Once your unit is inspected, the results will reveal whether or not your rental is SmartRegs compliant.
  - **If compliant** (100 points or more), your inspector should file the paperwork to the city and you are done!
  - **If non-compliant** (under 100 points), contact EnergySmart for free one-on-one energy advising. Advising will help you with efficiency upgrade options and implement efforts that will help your property achieve compliance.

Beginning in January 2019, any properties found to be rented or advertised to rent without a valid license will be issued penalties according to the fine schedule in B.R.C 10-3-16.

- **Civil Penalty for renting without a license:**
  - 1<sup>st</sup> violation - \$150 - \$500
  - 2<sup>nd</sup> violation - \$300 - \$750
  - 3<sup>rd</sup> violation - \$1,000
- **Investigation fees from enforcement staff:**
  - Each investigation - \$250
  - Continued non-compliance may result in a court summons, which carries a \$250 bond per violation.

As noted above, EnergySmart services provide energy advising with SmartRegs compliance assistance and implementation pathways. Please contact EnergySmart at 303-544-1001 to discuss your SmartRegs inspection and/or compliance process with an advisor.

Thank you for doing your part to help the Boulder community reach its energy goals.

Respectfully,

Tonia Pringle  
Administrative Supervisor, Rental Housing Licensing, City of Boulder



Physical Address  
1739 Broadway, Third Floor  
Boulder CO 80302

Mailing Address  
PO Box 791  
Boulder CO 80306-0791

BoulderPlanDevelop.net  
plandevlop@bouldercolorado.gov  
P: 303-441-1880 F: 303-441-4241

**SAMPLE 2017 Mailing**

**SmartRegs**



You are receiving this notice because city records indicate that you are the owner or agent of a residential rental property in the City of Boulder that is not yet compliant with the city's SmartRegs requirement. The City of Boulder's SmartRegs Ordinance No. 7726 requires that residential rental units comply with adopted energy efficiency standards by Dec. 31, 2018. Improving energy efficiency in existing rental housing enhances tenant comfort and supports the community's energy goals and Climate Commitment.

Boulder City Council approved a \$50 SmartRegs services fee in 2017, and an additional \$100 SmartRegs services fee for 2018 to cover the costs of administering the SmartRegs program and to provide EnergySmart advising services. The new fee will be effective January 2, 2018. The fee applies to any rental housing license that has not passed a SmartRegs inspection by December 31, 2017, and is due at the time of application.

### Frequently Asked Questions Regarding SmartRegs and Fees

**I thought I had until Dec. 2018 to become compliant, why is there a fee now?**

Owners still have until Dec. 31, 2018, to bring their properties into SmartRegs compliance. After that date, the rental housing license for non-compliant properties will no longer be valid, and a new license will not be issued until compliance is reached.

**What happens if I don't reach compliance?**

All rental licenses for properties which are non-compliant will expire on 12/31/2018. Properties continuing to rent without a license after expiration will be subject to enforcement including:

Civil Penalty for renting without a license:

1st violation - \$150 - \$500

2nd violation - \$300 - \$750

3rd violation - \$1,000

Each investigation - \$250

*Continued non-compliance may result in a court summons, which carries a \$250 bond per violation.*

BoulderRentalHousingLicensing.com | smartregs@bouldercolorado.gov | 303-441-3152

Printed on recycled paper

**ATTACHMENT B – SAMPLE Warning of Violation letter, Fall 2018**



**WARNING OF VIOLATION**

September, 2018

**PROPERTY OWNER  
MAILING ADDRESS FOR PROPERTY OWNER  
BOULDER, CO 8030?**

**RE: SMARTREGS COMPLIANCE REQUIRED, PROPERTY ADDRESS**

Dear Property Owner,

This letter shall serve as notice and to advise you of the **potential violation** of the City of Boulder's rental license regulations. Public records identify you as the current owner of the above-mentioned property in the City of Boulder and show that this property has **not yet complied with the SmartRegs** requirement for licensed rental properties in the city.

The City of Boulder's SmartRegs Ordinance (No. 7726) was adopted in 2010 and requires that residential rental units comply with energy efficiency standards by Dec. 31, 2018. The eight-year timeframe incorporated in the SmartRegs Ordinance was meant to allow for the required energy efficiency improvements to be completed over time. **If your property does not meet the SmartRegs requirement prior to Dec. 31, 2018, your rental license will expire, making the unit unavailable to rent.**

All residential rental properties in the City of Boulder require a valid rental license per Boulder Revised Code (B.R.C) section 10-3-2(a), 1981. Any property found to be rented, advertised or offered to rent without a valid license will be issued fees and penalties according to the fine schedule in B.R.C 10-3-16.

**Civil penalty for renting without a license:**

- 1<sup>st</sup> violation: \$150 - \$500
- 2<sup>nd</sup> violation: \$300 - \$750
- 3<sup>rd</sup> violation: \$1,000

**Investigation fees from enforcement staff:**

- Each investigation: \$250

**A court summons may also be served with a mandatory court appearance.**

To continue renting your property, please follow the steps detailed on our website below. If you need SmartRegs compliance assistance, contact EnergySmart at 303-544-1001.

<https://bouldercolorado.gov/plan-develop/smartregs-steps-for-action>.

**Yours sincerely,**

**Jennifer Ross**  
**Code Compliance Specialist**  
303-441-3239  
rossj3@bouldercolorado.gov

Physical Address  
1739 Broadway, Third Floor  
Boulder CO 80302

Mailing Address  
PO Box 791  
Boulder CO 80306 0791

BoulderPlanDevelop.net  
plandevelop@bouldercolorado.gov  
P. 303 441 1880 F. 303 441 4241

**CITY OF BOULDER  
BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING  
MINUTES**

<b>Name of Board/ Commission:</b> Boulder Arts Commission	
<b>Date of Meeting:</b> July 18, 2018 at the Main Boulder Public Library, 1001 Arapahoe Ave.	
<b>Contact information preparing summary:</b> Celia Seaton, 303-441-3206	
<b>Commission members present:</b> Mark Villarreal, Felicia Furman, Kathleen McCormick, Devin Hughes, Erica Joos <b>Commission members absent:</b> none	
<b>Library staff present:</b> Matt Chasansky, Office of Arts & Culture Manager Lauren Click, Coordinator, Grants Mary Haan, Coordinator, Programs for Artists Mandy Vink, Public Art Coordinator David Farnan, Director Celia Seaton, Administrative Specialist <b>City staff present:</b> None <b>Members of the public present:</b> Kathy Blegen-Huntley, Melissa Fathman, and Sophia Katsikas (affiliated with The Dairy Arts Center)	
<b>Type of Meeting:</b> Regular	
<b>Agenda Item 1: Call to order and approval of agenda</b>	<b>[0:00:00 Audio min.]</b>
The meeting was called to order at 6:01 p.m. Villarreal asked for any addendums to the agenda. Joos added a report on the HRC meeting and the Indigenous Peoples Day funding under Matters from Commissioners. McCormick moved to approve the agenda as amended. Furman seconded, and all were in favor.	
<b>Agenda Item 2: Review of Minutes</b>	<b>[0:01:21 Audio min.]</b>
<b>Item 2A, Approval/Review of June 2018 Meeting Minutes</b> Villarreal asked the commission for changes or addendums regarding these minutes. Furman asked for clarification on the flexibility in cost of funding equity grant – Villarreal explained that this was a measure to prevent being locked into a certain amount when there might be a travel group with larger costs than others; with this flexibility, the commission would have latitude to address that situation. Furman made a motion to accept the May minutes, McCormick seconded, and the motion was approved.	
<b>Agenda Item 3: Public comment</b>	<b>[0:02:50 Audio min.]</b>
Kathy Blegen-Huntley introduced herself. She began employment with The Dairy last week, stepping on board as their Development Director.	
<b>Agenda Item 4: Grant Program</b>	<b>[0:03:43 Audio min.]</b>
A. ACTION: Grant Reports	
1. Boulder Museum of Contemporary Art, ARTlab, \$3,000	
2. Diana Sabreen, Americans for the Arts Annual Convention in Denver, CO, \$500	
3. Frequent Flyers Productions, Inc., Horizons Flyers, \$3,000	
4. Julia Joun, Americans for the Arts Annual Convention in Denver, CO, \$500	
5. Kelley Ann Walsh, LABAN 2018 International Conference in New York City, NY, \$1,000	
6. Lisa Nesmith, Americans for the Arts Annual Convention in Denver, \$500	
7. Merlyn Holmes, Turning the Wheel Summer Intensive, “The Body Now” facilitator training in Whidbey Institute, Whidbey Island, WA, \$1,000	
8. Patti Bonnet, Americans for the Arts Annual Convention 2018 in Denver, CO, \$500	
9. Studio Arts Boulder, Clay Classes at the Lab: Partnership with YSI project, \$3,000	

Furman moved to accept the reports; there was no second. McCormick raised an unanswered request for clarification on BMoCA's part regarding the meaning behind the student statistics. Villarreal noted the frustration of needing to ask the same group for the same information as in a previous year. "477 students" doesn't provide enough information for proper review – e.g., is one student tallied a dozen times for different programs or is each student counted as an individual? Clarification from BMoCA is needed indicating how many individual people benefitted. Villarreal moved to accept the grant reports except for BMoCA (with their pending acceptance until response to the commission's inquiry). McCormick seconded, and all were in favor.

B. DISCUSSION: 2019 Grants Blueprint, Concepts and Options – Click explained that after commission recommendation, proposed adjustments are being presented for further feedback (see [handouts](#)). Reviewing the adjustments individually, staff seek commission input on guidance and focus on such topics as the equity statement and panel workload concerns. Another feedback round will occur at a future meeting.

- Discussion began regarding the grant program structure with respect to the anchor organizations. Either 2018 can be replicated with no change, or noncompetitive "anchor" funding can emerge. In the latter scenario, either a flat annual \$30,000 for 10 anchor organizations can be applied, or funding can be calculated as a percentage of the anchor institution's organizational budget. The options are provided below in table format.

A. Replicate 2018 grant levels					
GRANT TYPE	CATEGORY	Quantity	AWARD/AMT	Totals	CYCLE
GENERAL OPERATING SUPPORT GRANTS	Large Orgs	4	\$ 50,000	\$ 200,000	Triennial
	Large Orgs	7	\$ 20,000	\$ 140,000	Triennial
	Small / Mid Orgs	16	\$ 10,000	\$ 160,000	Triennial
PROJECT GRANTS	Community Projects - Organizations	6	\$ 10,000	\$ 60,000	Annual
	Community Projects -- Individuals	4	\$ 5,000	\$ 20,000	Annual
	Arts Education	10	\$ 3,000	\$ 30,000	Annual
STRATEGIC FUNDS	Rental Assistance Fund	18	\$ 1,000	\$ 18,000	Monthly
SCHOLARSHIPS	Professional Development	17	\$ 1,000	\$ 17,000	Twice Annual
	Certificate Scholarships	5	\$ 2,000	\$ 10,000	Annual
	Cultural Field Trips	10	\$ 1,000	\$ 10,000	Annual
EQUITY GRANTS	Partnership with HRC	Various	Varies	\$ 10,000	Annual
			Total Funds =	\$ 675,000	

B. Flat \$30K for the Anchor Organizations					
GRANT TYPE	CATEGORY	Quantity	AWARD/AMT	Totals	CYCLE
GENERAL OPERATING SUPPORT GRANTS	Anchor Orgs	10	\$ 30,000	\$ 300,000	Quintennial
	<del>Large Orgs</del>	<del>0</del>	<del>\$ 50,000</del>	<del>\$</del>	<del>Triennial</del>
	Large Orgs	4	\$ 20,000	\$ 80,000	Triennial
	Small / Mid Orgs	14	\$ 10,000	\$ 140,000	Triennial
PROJECT GRANTS	Community Projects - Organizations	5	\$ 10,000	\$ 50,000	Annual
	Community Projects -- Individuals	4	\$ 5,000	\$ 20,000	Annual
	Arts Education	8	\$ 3,000	\$ 24,000	Annual
STRATEGIC FUNDS	Rental Assistance Fund	14	\$ 1,000	\$ 14,000	Monthly
SCHOLARSHIPS	Professional Development	17	\$ 1,000	\$ 17,000	Twice Annual
	Certificate Scholarships	5	\$ 2,000	\$ 10,000	Annual
	Cultural Field Trips	10	\$ 1,000	\$ 10,000	Annual
EQUITY GRANTS	Partnership with HRC	Various		\$ 10,000	Annual
			Total Funds =	\$ 675,000	

C. Anchor organizations funding is dependent upon a % of their budget					
GRANT TYPE	CATEGORY	Quantity	AWARD/AMT	Totals	CYCLE
GENERAL OPERATING SUPPORT GRANTS	Anchor Orgs	10	\$ 24,230	\$ 242,300	Quintennial
	Large Orgs	0	\$ 50,000		Triennial
	Large Orgs	6	\$ 20,000	\$ 120,000	Triennial
	Small / Mid Orgs	15	\$ 10,000	\$ 150,000	Triennial
PROJECT GRANTS	Community Projects - Organizations	5	\$ 10,000	\$ 50,000	Annual
	Community Projects - Individuals	5	\$ 5,000	\$ 25,000	Annual
	Arts Education	9	\$ 3,000	\$ 27,000	Annual
STRATEGIC FUNDS	Rental Assistance Fund	14	\$ 1,000	\$ 14,000	Monthly
SCHOLARSHIPS	Professional Development	17	\$ 1,000	\$ 17,000	Twice Annual
	Certificate Scholarships	5	\$ 2,000	\$ 10,000	Annual
	Cultural Field Trips	10	\$ 1,000	\$ 10,000	Annual
EQUITY GRANTS	Partnership with HRC	Various		\$ 10,000	Annual
				Total Funds =	\$ 675,300

**Anchor Organizations PERCENTAGE CALCULATIONS**

\*Budget is as reported to us by the organization on their annual GOS report unless otherwise noted

\*\*Chautauqua has not received GOS support so does not have an operating budget on record. This quantity is their claimed total expenses (line 18) from the 2016 990.

BUDGET PERCENTAGE			
	2017 BUDGET*	1.5% of budget	8% of budget
Boulder Museum of Contemporary Art	\$ 953,766	\$ 14,306	\$ 76,301
Boulder Philharmonic Orchestra	\$ 1,314,648	\$ 19,720	\$ 105,172
Boulter International Film Festival	\$ 600,579	\$ 9,009	\$ 48,046
Chautauqua Association**	\$ 4,969,799	\$ 74,547	\$ 397,584
Colorado Music Festival & Center for Mus	\$ 2,362,127	\$ 35,432	\$ 188,970
Dairy Arts Center	\$ 1,470,800	\$ 22,062	\$ 117,664
eTown	\$ 2,140,584	\$ 32,109	\$ 171,247
Frequent Flyers	\$ 653,235	\$ 9,799	\$ 52,259
KGNU (Boulder Community Broadcast Ass	\$ 837,235	\$ 12,559	\$ 66,979
Parlando School of Musical Arts	\$ 850,260	\$ 12,754	\$ 68,021
		\$ 24,230	\$ 129,224
<b>TOTALS</b>	<b>\$ 16,153,033</b>	<b>\$ 242,295</b>	<b>\$ 1,292,243</b>

Villarreal called for more discussion between the office of Arts + Culture and the anchor groups. “Competitiveness makes us better as Boulder artists” – Hughes hates to take that democratic aspect out of the process with formulaic awards. Villarreal, though agreeing with Hughes, noted the potentially larger future fund bucket and the dynamic force that alliance-building could engender. Hughes: there can be stagnation there – it would be stronger if we could get a larger variety of arts leaders. Joos noted that she has heard smaller groups relay that they don’t like competing against these large bodies – removing the largest from the pool would provide space. The Dairy representation in attendance imagined “we can leverage more as a team than as individuals.” Joos envisioned a mandatory partnership for the larger organization to offer space to a smaller one at little or no fee, “anchor[ing] them to the community,” and thereby “anchoring” large and small groups together in a sponsoring relationship. Furman: “big organizations need to be supported by government too.” Click plans to have next year’s timing schedules complete and ready for approval after the cultural summit in September. While this discussion indicated desire for change, there was no single idea more compelling than another at this time, so staff will further explore options.

- Discussion of the general operating support grants category sizes followed. The commission considered separating small and mid-sized, thereby creating three categories (or four, if accounting for the potential

anchor group). Furman liked the idea of more GOS grants. Staff discussed capping funding limits to a budgetary percentage. Hughes agreed with Furman, further encouraging capping to the percentage. McCormick agreed but has further questions. Chasansky promised the commission GOS fund adjustments that run from moderate to extreme scenarios, while still protecting certain individual funding (e.g., rental assistance and educational).

- Next, staff recommended that there not be black out dates for applicants. McCormick: there still needs to be accountability for these applicants who are reapplying before completing past grant-funded work – overlap is extremely uncomfortable. Fairness issue. Villarreal agreed. Furman: “that’s too cut and dry,” suggesting an interim report would assist. McCormick doesn’t see that helping and encouraged blackouts for those that are asking for extensions. Farnan reminded the commission that their scoring will decide things – low scores can be the deciding factor instead of bureaucratic limitations. Click can alert the commissioners about outstanding reports, allowing all to be on the same page during scoring. McCormick, still uncomfortable with overlap, stated that the process must be cleaner. Furman: they should be able to overlap and have up to 18 months. McCormick reasserted the importance of accountability when working with public money. Joos’s inclinations fall in-between. Hughes – as this overlap only happened twice, it doesn’t seem significant enough to warrant any changes to policy.
- Next, staff recommended exclusions to include capital construction and acquisition of real estate with caveats. Villarreal agreed, and the group was favorable.
- Staff recommendation followed that access to winning applications be readily available on boulderarts.org allowing artists to learn from other’s winning applications. The commission was favorable. If presented as an optional check box, McCormick suggested “encouraging” language on the application, e.g., “we request you check this box to release your application to the website in furtherance of transparency.”
- Next, the commissioners agreed with staff recommendation to not add limitations to the presentations.
- Professional development grant cycles were then discussed and whether the applications should be moved to administrative approval. McCormick noted that she would need to see what the staff criteria would be.
- Discussion of (a) staff recommendations of allowing multiple staff from a single org to apply and (b) limit the number of applications from a single organization for professional development grants followed.
- Staff then recommended either an “additional comment” section on the review document or creating a new scoring category to include the budget and/or marketing plans, as opposed to maintaining 2018 process. Commission endorsed staff recommendation of exploring alternatives.
- Click then asked whether the scoring process schedule should remain as in 2018, or update scores with adjustments at the end. Allowing for this scoring adjustment at the end option appealed to the commission.
- Click next queried whether preliminary scores should be posted online and whether comments should be required for lower scores (e.g., written explanation mandatory for any score of 5 and under.) The group responded affirmatively. Staff will relay this to the panelists as well.

Click mentioned ongoing commissioner and panel bias training, celebration and promotion of grantees, and review of application language. Staff will offer scheduling recommendations at September’s commission meeting. Group took a break at this time.

**Agenda Item 5: Matters from Commissioners**

**[1.59.00 Audio min.]**

- A. Joos debriefed the group on the HRC’s Monday meeting that she and Furman attended. Grant applicants presented, vying for funding that includes the enhancement grant that Arts Commission built onto the HRC’s existing grant. She noted that the scoring process was “arduous.” One organization’s application for an “artisan market” was denied as the panel felt an ethical dilemma in funding a commercial activity. Another request that encountered an issue with funding was Right Relationship Boulder’s collaboration with the Northern and Southern Arapahoe tribes in the “Welcoming Arapaho Home” project. Due to Indigenous Peoples Day coinciding time-wise with CU’s “Parents Weekend,” this group had to reschedule to the following week as there were no accommodations. Much debate and “splitting of hairs” about how to spread the small bucket of money meant that this funding was going to be denied based on falling outside the Indigenous Peoples Day celebration window of time. Joos asked the commission to consider supporting a re-appropriation of \$2,000 from the ticket fund to instead fund the travel of these Arapahoe presenters (who will incorporate elements of dancing and drumming) here that following week. Hughes queried whether this amount of funding would be meaningful. Joos – it would be monumental. Chasansky explained to Joos that this is “unchartered territory” as the original motion did not

include this exceptional sponsorship; however, the money exists in the ticket fund and could be redistributed. Furman read a text message from Nikhil Mankekar, the chair of the HRC, expressing support for the proposed funding and appreciation. Furman made a motion to removing \$2,000 from the ticket fund, putting it in the Arts + Culture sponsorship program, and then dedicating it to this funding request from Right Relationship Boulder. Hughes seconded, and all were in favor.

**Agenda Item 6: Matters from Staff**

[2.21.20 Audio min.]

- A. DISCUSSION: Questions About the Manager's Memo - none. Seaton took the opportunity to alert the group to an upcoming volunteer opportunity with the planning department regarding planning process meetings with the Alpine Balsam and Civic Area East Bookend projects, with the first meeting to occur sometime in October. McCormick and Joos expressed interest, and Seaton will follow up with the memo email from Alice Huang once it is ready.
- B. DISCUSSION: Update on the Artist Census – Chasansky apprised the group on preliminary findings regarding artist demographics, economic and social impact on our community (see [handouts](#)) After working with a consultant (Vicky Johns) and focus groups in August, the final report is expected in November 2018. The commission was asked for input on the proposed focus group topics. Hughes asked whether respondents can be queried on arts organization affiliation and the accompanying budget of that arts organization. This knowledge would better inform the commission's grant-making decision process. Chasansky invited the group to email him with any additional thoughts.
- C. DISCUSSION: Final Fellowship Program Structure and Timeline - Haan updated the group on this item; after sending around a draft for feedback, she is hoping the final document will be ready by August.

**Agenda Item 7: Adjournment**

[2.40.11 Audio min.]

There being no further business to come before the commission at this time, the meeting was adjourned.

**Date, time, and location of next meeting:**

The next Boulder Arts Commission meeting will be at 6 p.m. on Wednesday, August 15, 2018, in the Boulder Creek Room at the Main Library, 1001 Arapahoe Ave., Boulder, CO 80302.

APPROVED BY:

*Kathleen McMahon*

Board Chair (vice chair)

*September 19, 2018*

Date

ATTESTED:

*Celia Seaton*

Board Secretary

*9-19-18*

Date

**CITY OF BOULDER  
BOULDER, COLORADO  
BOARDS AND COMMISSIONS MEETING  
MINUTES**

<b>Name of Board/ Commission:</b> Boulder Arts Commission	
<b>Date of Meeting:</b> August 15, 2018 at the Main Boulder Public Library, 1001 Arapahoe Ave.	
<b>Contact information preparing summary:</b> Celia Seaton, 303-441-3206	
<b>Commission members present:</b> Mark Villarreal, Felicia Furman, Kathleen McCormick, Devin Hughes, Erica Joos	
<b>Commission members absent:</b> none	
<b>Library staff present:</b> Matt Chasansky, Office of Arts & Culture Manager Lauren Click, Coordinator, Grants Mary Haan, Coordinator, Programs for Artists Mandy Vink, Public Art Coordinator David Farnan, Director Celia Seaton, Administrative Specialist	
<b>City staff present:</b> None	
<b>Members of the public present:</b> Mary Horrocks (Open Studios), Traci McDonald (CU Arts Administration Certificate applicant), Aurélie Roy (Anchor Art Advising), Sarah Shirazi (KGNU), Tim Russo (KGNU), and D.J. Razee (SCFD/RZ Foundation)	
<b>Type of Meeting:</b> Regular	
<b>Agenda Item 1: Call to order and approval of agenda</b>	<b>[0:00:00 Audio min.]</b>
The meeting was called to order. Villarreal asked for any addendums to the agenda. Chasansky requested a discussion of panelists for the 2019 grant cycle as "F" under the Agenda Item 4.	
McCormick moved to approve the agenda as amended. Joos seconded, and all were in favor.	
<b>Agenda Item 2: Review of Minutes</b>	<b>[0:01:16 Audio min.]</b>
<b>Item 2A, Approval/Review of July 2018 Meeting Minutes</b>	
Villarreal asked the commission for changes or addendums regarding these minutes. McCormick corrected the conflict for the Indigenous Day participant's lodging as "Parent's Weekend" (not CU graduation). Villarreal noted that he would like the draft documents included that presented the three different scenarios of grant program restructuring (no change, flat annual \$30,000, and funding calculated as a percentage). Furman made a motion to accept the July minutes as amended, Joos seconded, and the motion was approved.	
<b>Agenda Item 3: Public comment</b>	<b>[0:03:35 Audio min.]</b>
Horrocks, program director of Open Studios, updated the commission on several recent and upcoming activities. Pop! A Local Artist's Gallery incorporates work from 37 different artists. Opening night garnered 650 attendees. Villarreal: Pop! is a good use of the space. McCormick noted that she attended opening night and was impressed by the attendance.	
Shirazi, community development director of KGNU, alerted the group to an interactive exhibit at the Museum of Boulder that showcases community radio and engagement with the public. The exhibit, "Listening Together," opened August 9 and will run until September 17.	
Roy introduced herself to the group as the founder of Anchor Art Advising in Boulder. She expressed desire to support the arts both at a local and international level.	
<b>Agenda Item 4: Grant Program</b>	<b>[0:12:50 Audio min.]</b>
<b>A. ACTION: Grant Reports</b>	
1. Rebecca Remaly Weitz, Theatre Communications Group National Conference in St. Louis, MO, \$1,000	
2. Kathleen Spencer Johns, The New Solarplate in Santa Fe, NM, \$1,000	

3. Rita Valente-Quinn, Americans for the Arts Annual Convention 2018 in Denver, CO, \$500
4. Ashley Shires, Creative Writing Club at Casey Bilingual School, \$3,000

Regarding the small class size for Shires, Furman wondered about opportunity in the future to build support beforehand in hope of larger success. McCormick, while acknowledging the small number that benefitted, felt impressed by the report and the students impacted. Furman moved to accept the reports by Weitz, Johns, Valente-Quinn, and Shires. Villarreal seconded, and all were in favor.

- B. ACTION: Grant Report Update: Boulder Museum of Contemporary Art, ARTlab, \$3,000  
Villarreal asked the commission if they felt that the response was satisfactory. The majority did not think their pertinent question was addressed, despite the lengthy report. Joos noted that the program was beneficial. Commission asked Click to relay to BMoCA that we want the clearest, most direct report in the future. Villarreal moved to accept the report update from BMoCA, Hughes seconded, and the motion was unanimously approved.
- C. ACTION: 2018 University of Colorado at Boulder Graduate Certificate in Arts Administration Scholarship Decision  
Click introduced Traci McDonald, who was the sole applicant for this certificate program. Click presented the group with a breakdown of the scores showing unanimous approval by the commission. McDonald expressed excitement about her impending study. Furman asked what kind of nonprofit she is interested in working with. McDonald replied that she finds great value in working with children and has enjoyed her background in art and museum work. Hughes asked about her impact at CU Art Museum where she has been employed. She noted that technological innovation and evaluation has been the main thrust through this past year. She played an instrumental role in the accessibility initiative, implementing feedback to create a more welcoming environment to encourage more family attendance. McCormick asked what she would hope to do with the certificate. McDonald responded that she would like to work on increasing accessibility options for children/families with disabilities. The certificate program will develop necessary leadership skills to grow this initiative beyond just ADA guidelines. Villarreal asked McDonald what she saw as "lacking in the arts community." She replied that she observes a "disconnect" between City of Boulder's art world and that of CU. While acknowledging that the university tends to silo itself, she would like to see more of a relationship between these two entities. McCormick moved to approve funding for Traci McDonald's scholarship, Furman seconded, and the motion passed unanimously.
- D. DISCUSSION: 2019 Grants Blueprint, Concepts and Options – Chasansky spoke on the specific criteria of "Artistic Excellence" which he feels inhibitive to innovation, possibly conflated with personal taste, and reliant on western academic standards which taints the equity focus. He suggested removal of this item in favor of something else (e.g., University of Pennsylvania's "flourishing index") and asked the commission whether they are interested in pursuing alternatives. Joos spoke about KGNU's "Aesthetic Perspectives Grant Framework" which speaks to many components of the cultural plan. She doesn't like the exclusivity that seems inherent in "Artistic Excellence." For Villarreal, it functions as a "moat between [the commission] and the lowest common denominator;" this boundary is necessary to prevent inappropriate allocation of funds ("just because something is popular doesn't mean it's any good.") McCormick expressed hesitation to give up this measure, but she would be open to seeing some side-by-side comparisons of alternatives. The commission asked staff to come back with some recommendations for alternative/augmented criteria in September.
- E. UPDATE: Human Relations Commission Indigenous Peoples Day reporting process  
Click relayed that the Indigenous Peoples Day/Equity Grant recipient verbal presentations will occur at the Human Relations Commission meeting on December 17 at 6PM in Council Chambers. Attendance by the commission is optional.
- The group discussed anti-bias training occurring either September 11 or 13 – the group concurred that the 11<sup>th</sup> worked best. Click will check with the facilitator to see if this timing is feasible.
- F. 2019 panel applications were discussed and Click requested feedback from commissioners. During the grant process, five commissioners are joined by four panel members who participate in comments, advisement, and scoring (commission still tasked with final decision). Furman favored someone who is familiar with grant writing themselves. Click will send out the draft application to the commission and the form will get posted next week.

Click asked whether one-year panel veterans should be invited back; the commission agreed to solicit assistance again from Michael Conti and Bridget Law.

The group took a short break at this time.

**Agenda Item 5: Public Art Program**

[1.01.59 Audio min.]

- A. DISCUSSION: 2019 Public Art Implementation Plan -Vink presented alongside a slide-deck that showcased past, present, and upcoming temporary and permanent installations of public art (with a future focus on project management, maintenance/conservation, and feasibility).
- 2017-2018 accomplishments included 25 installations
  - 23 in-progress installations
  - Approximately \$425,000 invested in upcoming installations
  - Approximately \$30,000 annually currently invested in maintaining public art collection (~50% of need)
  - Parks & Recreation’s GIS staff working on plotting the locations of public art so that collection is available online for public engagement for improved archiving/data collection management
  - On the horizon, there is a percent for art foreseeable with the Martin Park Improvements, the West Senior Center, Valmont Phase 2, Alpine Balsam, Boulder Reservoir, Civic Area East Book End, and the Flatirons Golf Course. Ad Hoc: art in parking garages and OSMP integrated projects
  - Next steps are to finalize the implementation plan and select panel members. Adoption of the 2018-2019 updates to the Public Art Implementation Plan is planned for September 2018. Vink, welcoming feedback, intends to get the implementation plan (with changes highlighted) out to the commission for review two weeks prior to the next meeting. Vink also charged the commission with providing recommendations for panel members; the more candidates to pull from, the better the panel pool.
  - Chasansky noted that the public art budget will be included in the commission meeting updates regularly going forward, alongside the grants budget.

**Agenda Item 6: Matters from Commissioners**

[1.25.16 Audio min.]

None.

**Agenda Item 7: Matters from Staff**

[1.25.16 Audio min.]

- A. DISCUSSION: Questions About the Manager’s Memo – Farnan noted that the city manager’s recommended budget to council will be made public at the end of August. More discussion can occur at the September meeting.

Also, Chasansky reported that the proposal for the donation of the US cycling monument installed in North Boulder Park will not be considered a piece of public art; Office of Arts + Culture will have no responsibilities.

Joos raised the upcoming convening of nonprofit leadership known as Cultural Organizations Summit (COS). The main agenda item will concern the “anchor” organizations who will present and facilitate the conversation; advice and recommendation sought may affect their proposal. Chasansky and Click will attend and record audio for the commission, reporting at the September meeting. Joos expressed concern about attendees viewing the potential restructuring as a “done deal” and Chasansky assured her that staff will emphasize the uncertain status of the proposal put forth by these “anchor” groups and consequent need for debate. Joos, Hughes, and McCormick asked about advance emailing to the nonprofit groups so that they arrive well-prepared for discussion about this conceivable game-change. Furman imagined that a Q&A session during the summit might mean awkward debate. McCormick noted that representatives need to have a way to provide feedback if they are not able to attend the summit. Hughes dislikes the term “anchor organizations” as it seems to denote a predefined “class” on a forgone “march to war.” Chasansky – “pull back” on the language is possible. In September, commission can expect the “landmark’s” proposal alongside the staff proposal; at the October retreat, the commission will decide. Click encouraged the commission to invite colleagues to attend the summit to ensure the most holistic conversation. Joos: due to working on federal grant cycles, nonprofits will need to plan support if the GOS structure changes – Chasansky clarified that this won’t be discussed at the COS as the budget won’t be yet public.

Regarding the grants budget sheet, McCormick asked about the almost \$25,000 remaining; Click noted that these are just pending the final reports, they have already been allocated. The \$2,000 applied toward the HRC means an overspending for equity and underspending in the administrative fund; Chasansky clarified that the balance sheet

took \$2,000 from the "ticket fund." The admission fund should have a remaining balance in it - not technically a grant. McCormick suggests footnoting this clarification in the interest of transparency. Chasansky agreed.

B. DISCUSSION: Boulder Arts Week 2018 – the new year ushered in fresh logo, website, and swag. Cross-promotion with "Business Champions" began. City of Boulder's Office of Arts + Culture funded entirely. In place of the strategic planning committee, a small team of city staff, BCAA and Chamber advisors worked as an informal advisory group. 2018 marketing focused on social media as opposed to print. Partnership with Daily Camera proved helpful. Bus marketing – not beneficial. Key metrics were reported: increases across the board for Facebook likes, Twitter/Instagram followers, unique website visitors, visits, and pageviews, and newsletter recipients. Key components to 2018 success: emphasis on marketing (and cross-promotion with the "Business Champions,") engagement with grantees and broad contacts, and use of the City of Boulder communication outlets.

- Some recommendations presented by staff for 2019:
  - Date shift
  - Subtitle expansion from "Celebrate Artists" (Hughes suggested "Celebrate the Arts")
  - Business role expansion
  - Boulder-based contractors
  - Discounts, free passes, a "solid hook"

**Agenda Item 8: Adjournment**

[2.10.55 Audio min.]

McCormick attended the city's "Building Bridges" event and reported great conversation about making public discussion more collaborative and civil. She expressed her key takeaway of appreciation for the non-contentious and respectful atmosphere of the Arts Commission. She also relayed that the Arts Commission has a glowing reputation among the other boards and commissions of the city, known for their positive work and leadership on equity initiatives.

There being no further business to come before the commission at this time, the meeting was adjourned.

**Date, time, and location of next meeting:**

The next Boulder Arts Commission meeting will be at 6 p.m. on Wednesday, September 19, 2018, at the Museum of Boulder located at 2205 Broadway, Boulder, CO 80302.

APPROVED BY:

Kathleen McCormick  
Board Chair (Vice chair)

September 19, 2018  
Date

ATTESTED:

Celine Seaton  
Board Secretary

9-19-2018  
Date

**City of Boulder**  
**BOARDS AND COMMISSIONS MEETING SUMMARY FORM**

<b>NAME OF BOARD/COMMISSION:</b> Human Relations Commission
<b>DATE OF MEETING:</b> September 17, 2018
<b>NAME/TELEPHONE OF PERSON PREPARING SUMMARY:</b> Marla Riley 303-441-1911.
<b>NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:</b> <b>Commissioners</b> – Stan Deetz, Art Figel, Lindsey Loberg, Nikhil Mankekar, Sharon Simmons <b>Staff</b> –Clay Fong, Marla Riley <b>Commissioners absent</b> – None
<b>WHAT TYPE OF MEETING (CIRCLE ONE) [REGULAR] [SPECIAL] [QUASI-JUDICIAL]</b>
<b>AGENDA ITEM 1 – CALL TO ORDER</b> – The September 17, 2018, HRC meeting was called to order by <b>N. Mankekar at 6:02 p.m.</b>
<b>AGENDA ITEM 2 – OATH OF OFFICE, STANLEY DEETZ – M. Riley</b> administered the Oath of Office to newly appointed commissioner, <b>S. Deetz</b> , who signed the Oath of Office at 6:04 p.m.
<b>AGENDA ITEM 3 – AGENDA ADJUSTMENTS</b> 1. Approval of changes to June 21, 2018, minutes was added as Agenda Item 4B.
<b>AGENDA ITEM 4 – APPROVAL OF MINUTES</b> <b>A. August 20, 2018 – N. Mankekar</b> recommended two changes to the minutes. <b>S. Simmons moved</b> to approve the August 20, 2018, minutes with the recommended adjustments. <b>L. Loberg seconded. Motion carries 5-0.</b> <b>B. June 21, 2018</b> – Commissioners reviewed changes submitted by <b>S. Simmons. S. Simmons moved</b> to approve the June 21, 2018, retreat minutes as changed. <b>L. Loberg seconded. Motion carries 5-0.</b>
<b>AGENDA ITEM 5 – COMMUNITY PARTICIPATION (non-agenda action items)</b> 1. Darren O’Connor spoke about Boulder’s camping ban and the U.S. Circuit Court of Appeals for the Ninth Circuit ruling in <i>Bell v. City of Boise</i> . He also addressed Boulder Coordinated Entry system being a barrier to shelter. He asked for the HRC’s support in asking City Council to end the camping ban. 2. Matt Nicodemus and Karen Morgan spoke separately about the Sworn to Refuse project to inform all oath-taking U.S. federal, state and local employees about their right and responsibility to refuse to obey or carry out any order or directive which they believe to contravene their oath of office. They would like City Council to support Sworn to Refuse principles in a proclamation or other form and asked for HRC support. They will also be approaching Boulder County and the State of Colorado.  <b>Staff Response:</b> Both of these issues are appropriate for staff follow-up for the HRC. The HRC, with a nod of five, asked staff to follow-up this month with Darren O’Connor and update the HRC at a future meeting. Additionally, the HRC requested that Matt Nicodemus and Karen Morgan keep the HRC updated on their efforts with the Boulder County Sheriff, County Commissioners and the state legislature, and to communicate more details about their specific request to council.
<b>AGENDA ITEM 6– ACTION ITEMS</b>

**A. 2018 Human Relations Fund Report**

1. Bridge House – Dallas Gray presented a fund report for the Art Therapy Groups and Community Art Show on June 14. **A. Figel** moved to approve the fund report. **S. Deetz seconded. Motion carries 5-0.**

**B. 2019 MLK Day Funding Recommendations** – Commissioners reviewed the MLK

Day funding recommendations from the funding committee. **A. Figel** moved to approve the funding recommendations. **S. Simmons seconded. Motion carries 5-0.**

**C. Suggested Language Revisions Related to Gender for the HRC Handbook** –

Staff discussed the memo from the CAO's office and recommended next steps: Meet again with the HRC Liaison, **L. Loberg**, to go over more detailed suggested language changes and then meet with Out Boulder staff for more clarification. The process will include public engagement at some point. **S. Simmons** inquired about the project priority in relation to the HRC work plan. Staff noted that the HRC agreed to take action on the language revision request and that this issue will not come at the expense of other work plan responsibilities. With a nod of five, the HRC approved of staff moving forward with next steps and clarifying the complexity of the language changes, i.e., what the HRC can and cannot do.

**D. HRC Support for Holocaust by Bullets Exhibit** – Two representatives from the Boulder JCC described the upcoming exhibit. The City of Boulder is already an exhibit sponsor, but they requested the HRC be an outreach partner. **N. Mankekar moved** to support the Holocaust by Bullets Exhibit as an outreach partner. **A. Figel seconded. Motion carries 5-0.**

**AGENDA ITEM 7 – DISCUSSION/INFORMATIONAL ITEMS**

**A. Welcoming and Inclusive Community Work Plan**

1. Bias-Motivated Hate Crimes Ordinance and Sentence Enhancement Update – Staff will continue to gather information, continue the conversation and conduct outreach and should have something for the HRC to move forward with at the next meeting.
2. Revisiting Safety Zone Signage and Trainings – **N. Mankekar** reviewed the history of the HRC safe, welcoming and inclusive signage and training discussions/project. Discussion included HRO educational signage vs. safe space signage and training; bias-motivated incidents occurring in virtually every public space; whether signage is the right intervention; the importance of a comprehensive strategy; and the need to build competent allyship in the community.

**B. Human Rights Ordinance Expansion Update** – Staff updated the HRC about its efforts to develop collateral materials related to the ordinance expansion and working with the CAO to determine what is acceptable landlord conduct.

**C. Housing Advisory Board Representation Update** – **C. Fong** and **L. Loberg** discussed this and staff recommended including HRC recommendations in the end-of-the-year responses to council retreat questions.

**D. Indigenous Peoples Day Update** – Staff updated the HRC about the Northern Colorado UNITY's event cancellation. The group had requested the funds be distributed to Right Relationship Boulder, but the HRC decided against this and will revisit future uses of the funds.

**E. Tribal Consultation Update** – Staff notified the HRC that the planned October Tribal Consultation, which included several city departments, will be postponed

until at least January due to October tribal elections and the departure of several key city staff.

**F. Event Reports** – **S. Simmons, N. Mankekar, A. Figel** and **L. Loberg** attended the Out Boulder Pridefest. **N. Mankekar** presented the Pridefest declaration at the event. **L. Loberg** also attended other Pride Week programming. **N. Mankekar** and **S. Simmons** attended the Building Bridges Phase 2 event led by the city’s neighborhood liaison.

**G. Other**

1. Indigenous Peoples Day Funding – **L. Loberg** asked for clarification about what happens to the Indigenous Peoples Day funding due to an event cancellation. Staff will return to the October meeting with clarification.
2. Pronouns – **L. Loberg** raised the issue of preferred pronouns. Staff will solicit HRC member pronouns and include them on the HRC webpage.

**H. Follow Up Items** – Staff will follow-up on items identified in the meeting.

**AGENDA ITEM 8 – IMMEDIATE ACTION ITEMS**

None.

**AGENDA ITEM 9 – ADJOURNMENT**

**S. Deetz moved** to adjourn the September 17, 2018, meeting. **A. Figel seconded. Motion carries 5-0.** The meeting was adjourned at 7:44 p.m.

**CITY OF BOULDER**  
**PLANNING BOARD ACTION MINUTES**  
**September 6, 2018**  
**1777 Broadway, Council Chambers**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

**PLANNING BOARD MEMBERS PRESENT:**

Liz Payton, Chair  
Bryan Bowen, Vice Chair  
David Ensign  
John Gerstle  
Crystal Gray  
Peter Vitale

**PLANNING BOARD MEMBERS ABSENT:**

Harmon Zuckerman

**STAFF PRESENT:**

Charles Ferro, Development Review Manager  
Hella Pannewig, Assistant City Attorney  
Cindy Spence, Administrative Specialist III  
Jim Robertson, Director of Planning + Sustainability  
Shannon Moeller, Planner II  
Karl Guiler, Senior Planner – Code Amendment Specialist  
Jean Gatza, Senior Planner

**1. CALL TO ORDER**

Chair, L. Payton, declared a quorum at 6:07 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

On a motion by B. Bowen and seconded by J. Gerstle the Planning Board voted 6-0 (H. Zuckerman absent) to approve the July 19, 2018, August 2, 2018 and August 16, 2018 minutes as amended.

**3. PUBLIC PARTICIPATION**

- a) **Scott Griffin**, speaking on behalf of the Boulder County AIDS Project, asked if the AIDS Memorial Garden could be moved to the north side of Boulder Creek as a part of the Civic Area plan and made more accessible. It is currently located on the south side of Arapahoe Avenue in a somewhat isolated area that makes it less available and welcoming to the public.

**4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

No items were discussed

## 5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing and consideration of a Site Review Amendment to construct Red Oak Park Phase II, a 41-unit 100% permanently affordable development at 2625 Valmont and 2637 Valmont including 11 one-bedroom, 19 two-bedroom, and 11 three-bedroom units (LUR2018-00006). Amends Site Review LUR2008-00007.

*B. Bowen recused himself*

*Board members were asked to reveal any ex-parte contacts they may have had on this item.*

- All board members read the packet. All board members performed a site visit except for P. Vitale. Finally, C. Gray stated that she was actively sitting on City Council when Red Oak was initially approved.

### Staff Presentation:

C. Ferro introduced the item.

S. Moeller presented the item to the board.

### Board Questions:

S. Moeller answered questions from the board.

### Applicant Presentation:

Jeremy Durham, Laura Sheinbaum and Dani Vachon, with Boulder Housing Partners, and Bill Holicky, with Coburn Architecture, presented the item to the board.

### Board Questions:

Bill Holicky, the applicant's representative, answered questions from the board.

### Public Hearing:

- 1) Valerie Soraci spoke as the chair of the board of Boulder Housing Partners and as a resident of Red Oak Park. She spoke in support of the project.

### Board Comments:

**Key Issue #1: Does the project meet the relevant policies of the Boulder Valley Comprehensive Plan?**

- C. Gray, J. Gerstle, P. Vitale and D. Ensign agreed that the project meets BVCP policies. C. Gray referred specifically to *Policy 7.09 "Housing for a Full Range of Households"*.
- L. Payton agreed except for the enhanced design policy (*Policy 2.41*) within the BVCP.

**Key Issue #2: Does the project, with its proposed modifications to the development code, meet the Site Review 9-2-14(h) Criteria for Review, B.R.C. 1981?**

- D. Ensign said the height modification request would be justified. The form and bulk conform and the proposed setbacks makes sense. The site is close to transit and bike paths therefore the parking reduction would be acceptable. Regarding the proposed "in & out" on Valmont, he said the one-way turning configuration could potentially reduce impacts on the neighborhood even though it is less convenient for Red Oak Park traffic. There may be design improvements that could discourage drivers from making incorrect turns.

- **P. Vitale** said he would like to see a continuation of meeting the energy goals. He approved of the height modification requested.
- **L. Payton** said the proposal meets the Site Review criteria. She expressed concern regarding the Valmont façade. She said it did not appear pedestrian friendly and she did not see a nurturing aspect suggesting homes. She said it should be simplified and suggested the application go to the Design Advisory Board (DAB) for review. The proposed entries on front of the Valmont façade are difficult to see and the gabled roofs do not have much of a relationship to the rest of the building. She said the elevation could be simpler and more elegant. She stated that she supports the mission, the number of units, the requested height modification, the setbacks and the parking reduction.
- **J. Gerstle** did not agree with **L. Payton** regarding her comments in terms of the design character of the building. He agreed with sending the proposal to DAB for review. He asked that Transportation lend some advice regarding the “in & out” onto Valmont. He suggested a change in the layout, the number of entrances into the site or concrete barriers. He said it seems unclear if Valmont would be pedestrian friendly. He would like to see better access and entries for the Valmont elevations. In addition, the diminished setbacks do not seem appropriate and could impact the neighbors. He would like to see justification for the request.
- **C. Gray** said the requested height modification, setbacks, and parking meet the Site Review criteria. She approved of the separation between the buildings along Valmont. She approved of the wood material on the Valmont façade, but suggested that rather than carrying the colors of towers into the site, she would like to see more of the wood material. While she would also like to see a bigger setback from Valmont, the internal playground space is more important over the setback. If this is sent to DAB, she stated the review parameters would need to be defined.
- **L. Payton** recommended sending to DAB with the request for simplification of the Valmont facades, materials, modification to roof lines, forms and entry ways to achieve a more traditional residential look and feel.
- **D. Ensign** said he was not sure that needed to be done given the zone and the surrounding properties on Valmont. He thought sending it to DAB may be unnecessary.
- **P. Vitale** agreed and did not want to hold up the project up and had no issue with the design.
- **L. Payton** said these buildings are not attractive and need more curb appeal. They would not contribute to the neighborhood feel.
- **C. Gray** suggested having the city’s urban design staff review the project with the architect rather than having it delayed in DAB.
- **P. Vitale** agreed that would be appropriate given the zoning.
- **J. Gerstle** said, while stating his friendly amendment, he was concerned with the Valmont façade with respect to the neighborhood characteristics, entrances, and friendly pedestrian experience.
- **C. Gray** and **D. Ensign** said they would rather have it reviewed by the city urban design staff rather than DAB to keep the project moving forward.

**Motion:**

**On a motion by C. Gray seconded by D. Ensign the Planning Board voted 5-0 (B. Bowen recused; H. Zuckerman absent) to approve Site Review Amendment case no. LUR2018-00006 incorporating the staff memorandum and the attached Site Review Criteria Checklist as findings of fact, and subject to the recommended conditions of approval.**

Friendly amendment by J. Gerstle that the building design be revised to simplify the materials and/or colors used along the Valmont Street elevation. C. Gray and D. Ensign accepted.

**B. AGENDA TITLE:** Public hearing and recommendation to City Council on the following two ordinances:

1. An ordinance amending Title 9, "Land Use Code" by the addition of development standards restricting residential uses in the Business Community – 1 (BC-1) and Business Community - 2 (BC-2) zoning districts, and
2. An ordinance amending Title 9, "Land Use Code" by correcting and clarifying provisions in the recently adopted code changes to the Mixed Use – 3 (MU-3) zoning district.

**Staff Presentation:**

**C. Ferro** introduced the item.

**K. Guiler** presented the item to the board.

**Board Questions:**

**K. Guiler** answered questions from the board.

**Public Hearing:**

- 1) **Scott Holton** spoke as a property owner in a MU-3 zone. He said it is important to clarify the intent of retail on Pearl Street. He had concerns of placing retail down the adjacent streets off Pearl and supported that change. He recommended a minimum depth of 20 feet because some minimum depth would quantify the parking reduction. Retail in general is trending toward smaller, more affordable spaces. Therefore, a shorter depth would help to support the small business owners. He pointed out that when the first floor is devoted to commercial use and the upper stories are residential, it would force more FAR for circulation and less for residential space. He would like to have an extension of FAR for circulation.
- 2) **Paul Baryames**, the owner of Buffalo Exchange and Rapha Racing, asked the board what the return would be to a property owner that would allow retail on the first floor to build the upper stories. He recommended that Planning work with property owners to receive benefits to do that. He does not support this change as it is currently written.
- 3) **Scott Sarbaugh** said the real issue with BC zonings is that the thresholds do not interface appropriately. He asked the board to be clear with staff regarding how the small business owners would be protected.
- 4) **Steve LeBlang** clarified with the staff, surrounding the MU-3 parking reduction, if it applied to existing or new development. Staff said it would apply to residential. He urged the board to extend the same benefit to the BC-2 zone.
- 5) **Heidi Crespi** said it would make more sense to do more residential on the ground level on the interior of lots.

**Board Comments:**

**Key Issue #1: BC (Business Community) Code Change**

*Option 1 – Create a "B" category with Use Review option for exceptions (like "G" category)*

*Option 2 – Residential uses as existing "N" category; "at least 50% of uses must be non-residential of Use Review"*

**Option 3 – Create a new category with > % of non-residential uses (e.g., 70%)**

**Option 4 – if specific to Basemar Shopping Center area, make residential uses a Conditional Use in BC-2 in that specific area**

- **D. Ensign** expressed concern about creating something unstable by taking this action and noted that many existing properties in the BC-1 and BC-2 zones could become non-conforming. He said *Option 1* would be possible but he is concerned regarding the cost of Use Reviews. Predictability would be a big concern. *Options 2* and *3* do not make sense due to the arbitrary percentages. Finally, *Option 4* should be reviewed closely. However, the borders of the BC-2 zone by Basemar should be defined so that The Meadows shopping center area near Baseline and Foothills is not included.
- **P. Vitale** said this action seems inappropriate and veers away from the Comp Plan ideals. While something needs to be done, this seems illogical and intellectually fraudulent. He would only consider *Option 4* and restrict it to Basemar only, placed only on Category 1 streets (Baseline and Broadway only) with retail on the first floor.
- **B. Bowen** agreed with **P. Vitale**. He said adding another designation to the Use Table makes sense. One good option would be to focus on Basemar. In addition, if *Option 1* was looked at, it would need Use Review or a limitation on the depth.
- **L. Payton** said she could see the Basemar area having a lot of pressure to redevelop to residential. She would support limiting it to the Basemar area but not making it discretionary.
- **J. Gerstle** agreed with **L. Payton** to focus on and limit to Basemar.
- **C. Gray** would support *Option 1*. She added that Landmarking should have more available tools.
- **D. Ensign** said it is concerning to think of placing retail in the first floor of every building in the entire BC-1 and BC-2 zones. It should be looked at holistically. He mentioned the new subcommittee within Planning Board which has been formed to examine the Use Table and said he is looking forward to reviewing this further.
- **B. Bowen** said that perhaps there needs to be a condition requiring retail on primary street frontages on the ground floor and residential allowed conditionally on the non-primary street frontages on the ground floor. It should be limited to just the Basemar Shopping Center area.
- **C. Gray** said it would be worth it to develop some criteria to keep the retail.

**Motion:**

**On a motion by D. Ensign, seconded by B. Bowen, the Planning Board voted 4-2 (C. Gray and P. Vitale opposed; H. Zuckerman absent) to recommend approval of the draft ordinance found in Attachment A related to the BC code changes with the restriction of the ground floor use in the BC-2 zone for the Basemar area to be non-residential otherwise by Use Review only.**

**Key Issue#2: MU-3 (Mixed Use-3) Code Change**

- **B. Bowen** said he would support the code change. He would support a depth of 20 feet.
- **C. Gray** said it is a reasonable suggestion. She added that she hopes to see more parking enforcement in the area.
- **P. Vitale** said he has concerns regarding vacancy and adding more retail at the expense of housing, but he agreed with **B. Bowen**.
- **D. Ensign** said he was in support and would recommend a depth of 20 feet.
- **J. Gerstle** supported the code change and agreed with **D. Ensign**.
- **L. Payton** supported the code change and agreed with the depth of 20 or 25 feet.

**Motion:**

On a motion by L. Payton seconded by B. Bowen the Planning Board voted 6-0 (H. Zuckerman absent) to recommend approval of the draft ordinance language presented to the board related to the MU-3 code changes with the minimum depth of 20 feet.

**6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**

**A. AGENDA TITLE: Update on Planning for Civic Area East Bookend**

**Staff Presentation:**

**J. Gatza** presented and update to the board.

**Board Comments:**

**Key Issue: Does PB support staff moving onto the next steps of analysis and planning for the East Bookend based on the scope and prioritized list of potential uses identified in the memo and it this presentation?**

- **L. Payton** questioned if the existing AIDS memorial was scheduled to be moved into the Civic Area. She asked staff to speak with the public speaker from earlier in the meeting. She mentioned the Historic Survey be reviewed by board members.
- **J. Gerstle** questioned if the existing Arboretum had been considered to be addressed into the Civic Area plans.
- **C. Gray** was pleased to see the proposed parking structure parking drop down the list of priorities and verified with staff that it would not be underground parking.
- **D. Ensign** suggested exploring the idea of closing 13<sup>th</sup> Street completely and making it a walking pedestrian mall. In addition, the downtown station could provide some opportunities for offloading vehicle access and parking needs and perhaps the installation of a pedestrian bridge from RTD to the parking on the other side of Canyon for the Farmers Market.

**B. AGENDA TITLE: Next Steps CU South Annexation**

**Staff Presentation:**

**J. Robertson** presented an update to the board.

**Board Comments:**

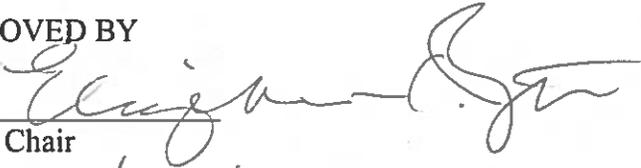
- **J. Gerstle** said he would like to see the Planning staff play a prominent role in the annexation discussions.
- **L. Payton** agrees with the approach of first working on the flood mitigation and then working on the annexation.

**7. DEBRIEF MEETING/CALENDAR CHECK**

**8. ADJOURNMENT**

The Planning Board adjourned the meeting at 10:22 p.m.

APPROVED BY

  
\_\_\_\_\_

Board Chair

DATE 9/20/18

**ENERGY EFFICIENCY DAY 2018**  
**October 5, 2018**

Energy efficiency is the art of getting the same or better performance using less energy – all while saving money.

Reliable, affordable energy is vital to our economic prosperity and energy efficiency is a productive and cost-effective way to meet our energy needs.

Implementing clean energy policies and programs helps boost economic opportunities and job creation while moving toward a sustainable future.

Smarter energy use reduces the amount of electricity we need to power our lives, which helps avoid power plant emissions that can harm our health, pollute our air and warm our climate.

Energy efficient transportation helps reduce air pollution and improve the health of all Coloradans.

The City of Boulder is a leader globally in adopting clean energy and energy efficiency programs and has pledged itself to reduce greenhouse gases to address climate change.

Boulder residents and businesses can continue to contribute to energy efficiency and implementing clean energy efforts by participating in the community's Climate Commitment initiatives, learning more about energy efficiency and practicing smarter energy use in their daily lives.

A nationwide networks of energy efficiency organizations estimate that cutting energy waste saves U.S. consumers billions of dollars on their utility bills annually, up to \$500 per household from appliance efficiency standards alone. Consumers save \$3 on their utility bills for every \$1 invested in energy efficiency.

Estimating more than 2.2 million Americans work in the energy efficiency sector in local, good-paying jobs and increasing efficiency will create more of them, including more than 32,000 in Colorado.

The City Council of the City of Boulder, Colorado, declares October 5 as

**ENERGY EFFICIENCY DAY**

and we urge residents and businesses to join us in supporting and implementing our clean energy goals now and in the future.

  
**Suzanne Jones, Mayor**

