

# **City of Boulder**

## City Council Handbook



November 2019

# Table of Contents

The Legislative Body: Its Powers and Duties .....1

Section 3. Legislative Officers – The Council.....1

Section 4. Qualifications of Council Members .....1

Section 5. Terms of Office – Election – Recall.....1

Section 6. Council Judge of Election .....1

Section 7. Compensation.....2

Section 8. Vacancies.....2

Section 9. Meetings of Council .....3

Section 10. Rules – Quorum .....5

Section 11. General Powers of Council.....5

Section 12. Specific Duties of Council.....5

Section 13. Powers Expressly Withheld from Council .....5

Section 14. Selection and Term of Office of Mayor .....6

Section 15. Powers and Duties of Mayor .....6

Section 16. Legislative Procedure .6

Section 17. Emergency Measures.7

Section 18. Publication of Ordinances.....7

Section 18A. Publication by Reference .....7

Section 19. Amendment or Repeal .....7

Section 20. Ordinances Granting Franchises.....7

Section 21. Record of Ordinances.8

The City Manager.....9

Section 63. Qualifications and Appointment .....9

Section 64. Special Powers and Duties as City Manager .....9

Council Procedure.....11

I. Presiding Officers: Mayor and Mayor Pro Tem .....11

II. Communication with Council..11

III. Agenda.....12

IV. Council Meeting Agenda .....16

V. Rules of Speaking .....20

VI. Procedure in Handling Motions .....21

VII. Procedure in Handling Ordinances, Resolutions and Important Motions.....22

VIII. Voting .....24

IX. Nominations and Elections.....	25	Owner’s Accessory Units.....	40
X. Research and Study Sessions..	28	Community and Environmental Assessment Process (CEAP).....	40
XI. Procedure in Handling Major Capital Improvement Projects.....	29	Quasi-Judicial Decisions .....	41
XII. Council Calendar .....	29	Typically Associated with Call-up Items .....	41
XIII. Council Member Appointments.....	29	Procedure Summary for Quasi- Judicial Public Hearings: .....	41
XIV. Parliamentary Procedure ....	30	City Council Hotline Guidelines .....	43
XV. Declarations, Proclamations and Resolutions .....	30	Hotline Background.....	43
XVI. Rules of Decorum.....	31	Hotline Protocol.....	43
Call-Up and Appeal Guidelines .....	37	Board and Commission Guiding Principles .....	46
Use Review, Site Review.....	37	Public Meeting Notification Requirements .....	48
Interpretations of Chapters 9-6, “Use Standards,” 9-7, “Form and Bulk Standards,” .....	38	What is a “local public body?” ....	48
Growth Management System.....	38	What constitutes a “meeting?” ..	49
Vacation of Public Easements.....	38	Full and timely notice.....	49
Wetland Permits .....	38	Public meeting notification options/requirements – Including city council and board/commission meetings.....	50
Landmark Alteration Certificates	39	Legal notices .....	50
Landmark Designation Denial or Revocation.....	39	Meeting minutes.....	51
Floodplain Development Permits, Boundary Determinations and Variances .....	39	Code of Conduct .....	52
Accessory Dwelling Units .....	39		

2-7-1 Purpose, Legislative Intent and Findings.....	52	2-7-9 Disclosure and Recusal Procedure .....	62
2-7-2 Prohibited Acts .....	52	2-7-10 Enforcement .....	63
2-7-3 Duty to Maintain the Confidentiality of Privileged Information.....	53	2-7-11 Sanctions and Remedies for Violation .....	64
2-7-4 Gifts to Public Officials and Public Employees .....	53	2-7-12 Role of the City Attorney .	65
2-7-5 Prior Employment, Outside Employment, and Subsequent Employment .....	55	2-7-13 Exemptions From Chapter .....	65
2-7-6 Employment of Relatives ..	56	2-7-14 Definitions .....	66
2-7-7 Representing Others Before the City Prohibited .....	57	2-7-15 Examples of Violations ....	68
2-7-8 Expectations .....	59		

# **The Legislative Body: Its Powers and Duties**

---

*Article II, Boulder Home Rule Charter, B.R.C. 1981*

## **Section 3. Legislative Officers – The Council**

The legislative officers of the city shall consist of nine council members elected from the city at large, and collectively called the council.

## **Section 4. Qualifications of Council Members**

No person shall be eligible to office as council member unless, at the time of the election, such person is a qualified elector as defined by the laws of the State of Colorado, at least twenty-one years of age, and shall have resided in the City of Boulder for one year immediately prior thereto.

No person shall be eligible to the office of a council member if such person has previously been elected to three or more terms of office.

## **Section 5. Terms of Office – Election – Recall**

The terms of office for council members shall be four years and two years hereinafter provided: the four candidates receiving the highest number of votes shall be elected for four-year terms, and the candidate receiving the fifth highest number of votes shall be elected for a two-year term.

If there shall be vacancies to be filled at a general municipal election, other than those occurring due to the expiration of a regular term, the vacancy term shall be for two years, and additional council members shall be elected until there shall be a council of nine council members.

The terms of all council members shall begin at 10:00 a.m. on the third Tuesday in November following their respective elections. In the event that one or more of the prevailing candidates is not determined by such time because the vote count is incomplete or inconclusive, or a recount is required, the terms for such council member(s) shall not begin until the business day following the final determination of the election results for that candidate. All council members shall be subject to recall as provided by this charter.

## **Section 6. Council Judge of Election**

Subject to review by the courts, the council shall be the judge of the qualifications and election of its own members.

## **Section 7. Compensation**

Council members shall receive as compensation \$100.00 per meeting at which a quorum of city council is present, not to exceed fifty-two meetings per calendar year, plus an annual escalation each January 1 in a percentage equivalent to any increase over the past year in the Consumer Price Index (All Items) for the statistical area which includes the city maintained by the United States Department of Labor, Bureau of Labor Statistics; this amendment shall become effective January 1, 1990. For the purposes of this section only, a “meeting” shall mean a gathering of a quorum of the council, which gathering is noticed to the public as a regular or special meeting as provided in this Charter. Council members serving on January 1, 2020 and after may elect to receive benefits under the same terms and conditions that are available to full-time city employees including without limitation participation in city health, vision, dental, and life insurance plans.

## **Section 8. Vacancies**

A vacancy shall exist in the council whenever a duly elected council member fails to qualify within ten days after notice of the election, dies, resigns, removes from the city, is absent from five consecutive regular meetings of the council unless formally excused therefrom, is convicted of a felony while in office, or is judicially declared a lunatic; or, in case of a recall, no successor is elected, or if elected, fails to qualify.

If a vacancy occurs, or two vacancies come to exist at the same time, other than those occurring due to the expiration of regular terms, then:

- (a) If the vacancy or vacancies occur in a calendar year before August 1, then the election shall be held in November of that calendar year. Otherwise it will be held at the November election of the next calendar year.
- (b) However, an election to fill a vacancy may be held on a date earlier than those noted above if another city election is scheduled for the earlier date and if council determines, based upon the certification of the designated election official, that it is feasible to schedule the election on that earlier date.

If three or more vacancies come to exist at the same time, other than those occurring due to the expiration of regular terms, then a special election shall be held on a Tuesday within ninety days of the date on which a total of three or more

vacancies first exists, or as soon thereafter as is feasible as determined by the city manager.

If more than four vacancies exist, prior to the special election to fill those vacancies a quorum of the council shall be comprised of a majority of all of the remaining council members.

The nomination of candidates to be voted for at any election made necessary by operation of this provision, the publication of notice, and the conduct of the same shall all be in conformity with the provisions of this charter relating to elections, but the council may, in the motion calling for the election, adjust the times for checking petitions, correcting or replacing signatures, completion and filing of petitions, withdrawal from nomination, and certification of filing of the list of candidates, as may reasonably be required to accommodate the date set for the election.

### **Section 9. Meetings of Council**

At 10:00 a.m. on the third Tuesday in November following each general municipal election, the council shall meet at the usual place of holding meetings, at which time the newly elected council members shall take office. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution and shall meet in regular session at least once in each calendar month. The mayor, acting mayor, or any five council members may call special meetings upon at least twelve hours' written notice to each council member, served personally on each, or left at each member's place of residence.

All meetings of the council or committees thereof shall be public. However, the council may meet in executive session exclusively for the purpose of obtaining and discussing legal advice, including negotiation strategy, with respect to Boulder's electric utility.

All executive sessions shall be conducted according to state law. The following additional special procedural rules shall apply to every executive session:

- (a) No final action may be taken in an executive session.
- (b) An executive session shall be initiated only by a 2/3 vote of those council members present at a council meeting.

- (c) All executive sessions shall be recorded in their entirety.
- (d) Any recording of an executive session shall be released to the public only upon a unanimous vote of the city council or as otherwise provided by state law.
- (e) Any executive session shall be part of a public meeting with the public being excluded only from that portion of the meeting strictly necessary for the purpose of obtaining and discussing legal advice, including negotiation strategy.
- (f) Each council member shall have an affirmative duty to prevent any discussion of any subject other than those strictly necessary for the purpose of obtaining and discussing legal advice, including negotiation strategy. If during any executive session, any two council members express the opinion that the subject being discussed is not strictly necessary for the purpose of obtaining and discussing legal advice, including negotiation strategy, the discussion shall cease immediately. At such time, council shall either end the executive session or return to a discussion necessary for the purpose of obtaining and discussing legal advice, including negotiation strategy.
- (g) This provision is adopted because of the unique and complex circumstances related to the potential creation of a municipal electrical utility. The adoption of this provision is not intended to establish a precedent for executive sessions for any other purpose.

The authority to hold executive sessions shall expire on December 31, 2017.

The council shall cause to be kept a complete journal of its proceedings and, except with reference to the journal of executive sessions, any citizen shall have access to the same at all reasonable times.

The council may appoint a committee of not more than two council members and any number of non-council members to screen applications for city manager, city attorney, and municipal court judge, to evaluate the performance of the persons occupying such positions, and to consider recommending disciplinary actions relating to such persons. Such committee may conduct its business in private, provided that the council as a whole takes action to determine finalists at a public meeting, to determine compensation at a public meeting, and to take disciplinary action at a public meeting.

### **Section 10. Rules – Quorum**

The council may determine its own rules of procedure, may compel attendance of members, and may punish members for misconduct.

Five council members shall constitute a quorum, but a smaller number may adjourn from time to time.

### **Section 11. General Powers of Council**

All legislative powers conferred upon the City of Boulder by the provisions of this charter, except those which may from time to time be exercised by the people through direct legislation, and all other powers of every nature conferred upon the city, except those otherwise delegated by this charter or by ordinance, shall be and are hereby vested in the council.

### **Section 12. Specific Duties of Council**

The council shall choose and appoint a city manager, a city attorney, a municipal judge and an auditor for such independent audits as are in this charter required or authorized to be made by order of the council, and such advisory boards or commissions as may be desired or are elsewhere provided for by this charter; but no member of the council shall act or be chosen as manager.

The council shall cause to be made at least annually, and at such other times as it may deem necessary, an audit of all financial accounts of the city.

The council shall consider all recommendations and reports from time to time presented by the city manager, or by any of the advisory commissions or the departments of planning and parks, and shall accept or reject the same within thirty days from the date of filing thereof with the council.

### **Section 13. Powers Expressly Withheld from Council**

Except for purposes of inquiry, the council shall deal with the administrative service solely and directly through the city manager, and neither council, its members, nor committees shall either dictate the appointment, retention or removal or direct or interfere with the work of any officer or employee under the city manager. Any such dictation, attempted direction, or interference on the part of any member of the council shall be punishable in the manner deemed appropriate by the other members of the council, which may include removal from office.

#### **Section 14. Selection and Term of Office of Mayor**

The presiding officer of the council shall be called mayor. The mayor shall be chosen by the council from its own number, upon the convening of the new council, following each general municipal election. The mayor shall serve as mayor for a term of two years, and until a successor is duly chosen and qualified. The mayor may be removed from the office of mayor (but not from the office of council member) by a two-thirds vote of all members of the council, and thereupon, or in case of vacancy from any other cause, the council shall choose a successor for the unexpired term.

#### **Section 15. Powers and Duties of Mayor**

The mayor shall have all the powers, rights, and privileges of a council member. The mayor shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by this charter or by the council. The mayor shall have no power of veto. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for serving civil processes, and by the governor for military purposes. In time of emergency, the mayor shall, if the council so orders, take command of the police and maintain and enforce the laws, temporarily superseding the city manager in police affairs. The mayor shall be ex officio a member of all council committees. During the mayor's absence or disability, the mayor's duties shall be performed by an acting mayor, appointed by the council from its own number.

#### **Section 16. Legislative Procedure**

The council shall act only by ordinance, resolution, or motion. All legislative enactments must be in the form of ordinances; all other procedure may be in the form of resolutions or motions. The enacting clause of all ordinances passed by the council shall be in these words: " Be it ordained by the city council of the City of Boulder." All ordinances and resolutions shall be confined to one subject clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The final reading shall be in full, unless the measure shall have been printed and a copy thereof furnished to each council member prior to such reading. The ayes and noes shall be taken upon the passage of all ordinances, resolutions, or motions and entered upon the journal of council proceedings, and every ordinance, resolution, or motion shall require on final passage the affirmative vote of a majority of the council members present. Should any council member being present refuse to vote on any measure, said member's vote shall be recorded in the affirmative; and no council member shall be excused

from voting except on matters involving the consideration of said member's official conduct or where said member's financial interests are involved.

### **Section 17. Emergency Measures**

No ordinance shall be passed finally on the date it is introduced, except in cases of emergency, for the preservation of the public peace, health, or property, and then only by a two-thirds vote of the council members present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

### **Section 18. Publication of Ordinances**

Every proposed ordinance shall be published once in full with all amendments in final form in a daily newspaper of the city, at least ten days before its final passage. Within five days after such final passage, it shall be again published once in a daily newspaper, and shall not take effect until thirty days after final passage, except that an emergency ordinance shall take effect upon passage, and be so published on the following day; and except that the tax levy ordinance, the annual appropriation ordinance, any ordinance providing for a vote by or submission to the people, and ordinances ordering improvements initiated by petition and to be paid for by special assessments shall take effect immediately upon publication.

### **Section 18A. Publication by Reference**

When the council deems it appropriate, publication of the title of an ordinance, or the title of an amendment thereto, together with a statement that the published text is available for public inspection and acquisition in the office of the city clerk, shall be sufficient publication. Publication by title shall be deemed to meet all requirements of Section 18.

### **Section 19. Amendment or Repeal**

No ordinance or section thereof shall be amended, superseded, or repealed except by an ordinance regularly adopted.

### **Section 20. Ordinances Granting Franchises**

No proposed ordinance granting any proposed franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for two consecutive weeks in one daily newspaper of the city in general circulation.

**Section 21. Record of Ordinances**

A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "Ordinance Record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signatures of the mayor and city clerk. The ordinances adopted by the vote of the registered electors of the city shall be separately numbered and recorded, commencing with "people's ordinance No. 1."

# **The City Manager**

*Article V, Administrative Service, Boulder Home Rule Charter, B.R.C. 1981*

---

## **Section 63. Qualifications and Appointment**

The city manager shall be the chief executive and administrative officer of the city. As such, the manager shall possess, have, and exercise all the executive and administrative powers vested in the city. The manager shall be chosen by the council solely on the basis of executive and administrative qualifications. The choice need not be limited to the inhabitants of the city or state.

The city manager shall devote full time and business interest to the management of the city's affairs, and shall not, during the manager's term of office, be an employee of, or perform any executive duty for any person, firm, corporation, or institution other than the City of Boulder. The manager's salary shall be fixed by the council. The manager shall be appointed for an indefinite period, and shall be removable by the council at pleasure. If removed at any time after six months of service, the manager may demand written charges and a public hearing on the same before the council, and the same shall be given the manager prior to the date on which the manager's final removal shall take effect. Pending such hearing, the council may suspend the manager from office; and during such suspension, or in case of the manager's absence or disability from any other cause, the council shall designate some properly qualified person, other than a member of the council, to perform the duties of the office.

## **Section 64. Special Powers and Duties as City Manager**

The city manager shall have the special powers and duties hereinafter enumerated, and shall be directly responsible to the council for the proper administration thereof, to-wit:

- (a) To see that all laws and ordinances governing the city are enforced;
- (b) To appoint and to remove at pleasure, except as otherwise in this charter provided, all directors of departments and all subordinate officers and employees in such departments in both classified and unclassified service, such appointments and removals to be made upon the basis of merit and fitness alone, including proper subordination;
- (c) To exercise control and supervision over all departments herein created, except as otherwise in this charter provided;

- (d) To make a monthly report to the council, and to attend all meetings of the council with the right to take full part in the discussion, but having no vote;
- (e) To recommend to the council for adoption such measures as the manager deems necessary or expedient;
- (f) To keep the council fully advised as to the financial condition of the city;
- (g) To see that all franchise rights and provisions are justly enforced;
- (h) To prepare and submit to the council an annual budget as by this charter required;
- (i) To submit to the council at each meeting thereof an order of business covering the manager's recommendations;
- (j) To hire a clerk of the council with power to take acknowledgements and administer oaths, to approve documents under seal of the city, to make and keep a journal of proceedings of the council; to serve as the designated election official and to have custody of all public records of the city not specifically entrusted to any other department by this charter or by ordinance; and
- (k) To perform such other duties as may be prescribed by this charter or required of the manager by ordinance or resolution of the council.

# **Council Procedure**

---

*Appendix, Title 2, Government Organization, B.R.C. 1981*

This procedure is intended to govern the actions of the city council in the general conduct of its business and to serve as a reference in settling parliamentary disputes. In handling routine business, the council may by general consent use a more informal procedure than that set forth in this procedure.

This procedure may be suspended at any time by vote of five council members or of two-thirds of the council members present, whichever is the greater.

## **I. Presiding Officers: Mayor and Mayor Pro Tem**

Council members shall be selected to serve as mayor and mayor pro tem. The mayor pro tem shall fulfill the position identified as "acting mayor" in Charter Section 15. All council members are equal; the mayor and mayor pro tem have no additional authority except as set forth in the City Charter, the City Code, or in these procedures. The mayor, or the mayor pro tem in the mayor's absence, shall serve as the chair of the council. The mayor or the mayor pro tem are responsible for conducting meetings in an orderly and democratic manner and assuring that minority opinion may be expressed and that the majority is allowed to rule. At the same time, the mayor and mayor pro tem retain all of the prerogatives of a duly elected council member: The mayor or mayor pro tem may make and second motions and take part in discussions and must vote on all matters not involving their personal financial interest or official conduct. In addition to chairing council meetings, the mayor is frequently called upon to perform certain ceremonial duties or to serve on intergovernmental committees. Whenever possible, the mayor shall attempt to share these responsibilities equitably among the other council members, including the mayor pro tem.

## **II. Communication with Council**

It is very important for the council to hear the views of members of the public. There are several ways in which a person can participate.

- (a) City phone numbers and email addresses are provided to reach all council members.
- (b) Electronic means of communication with and from council members as a group is provided through Hotline and Council Correspondence on the City's website. The Hotline is an electronic means for council members to ask

questions of staff and convey information to the public that is posted in a manner that is available to the public on the City's website. Staff responses to Hotline questions of council members are posted on Hotline in order to be available to the public. The City's website contains a Council Correspondence email which directs the comment of the person to each council member and many staff members. The city manager's office directs questions from Council Correspondence to the appropriate staff member for response. Computers are available at city libraries for those who may not be able to view the City's website from other locations. Correspondence regarding matters on the council agenda shall be included in the council packet. Correspondence regarding matters on the council agenda received after the packet deadline shall be posted online.

- (c) Open Comment. At the beginning of every regular council meeting, forty-five minutes are set aside for open comment. During that time, twenty randomly selected members of the public are invited to express their views on any issue, except those set for public hearing later in the meeting.
- (d) Public Hearings. Public hearings are held to seek input on a particular ordinance or policy decision. These hearings provide an organized forum to address a particular subject. Statements made during a public hearing become part of the record for council's decision on the issue. Quasi-judicial hearings have different procedures addressed in Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. Provided, however, witnesses shall not be required to testify under oath.
- (e) Comment on Motions Made Under Matters. The council will consider motions arising from matters raised by the mayor, members of council, the city manager, or the city attorney. No vote will be taken on these motions until the public has been given an opportunity to comment.

### **III. Agenda**

- a. Notice. The agenda is generally distributed to council members no later than the Thursday preceding the council meetings, whether regular, special, or continued meetings. Items will generally not be added, but may be added or deleted by the agenda committee or by a majority of council. Whenever practicable, notice shall be given of all agenda items by publication of the title or a general description thereof in the Boulder Daily Camera on the weekend

preceding the council meeting. However, failure to give such notice shall not invalidate any action taken by the council, and such provision shall not apply at all to items adopted by emergency.

- b. Council Agenda Committee (CAC). Items are placed on the agenda by the staff, with the approval of the members of an agenda committee in attendance at a meeting called by the mayor to review the agenda, which normally takes place in the manager's office on Monday mornings. In addition to the mayor and the council member designated as the acting mayor (generally referred to as the mayor pro tem), the council designates a third council member for six to seven weeks at a time (depending on the council meeting cycle) to serve on the agenda committee. A sign-up list is circulated to council members. Replacements are solicited from all remaining council members whenever an agenda committee member cannot attend a meeting. If more council members wish to attend than there are vacancies, the mayor makes the appointment. Meetings of the agenda committee are open to the public and the press/media, but are not advertised. No more than four council members may attend an agenda committee meeting at any time. "Drop-ins" should notify the mayor in advance whenever possible. Presence of staff members at agenda committee meetings is subject to the discretion of the city manager.
- c. Agenda Review. The agenda committee holds an agenda review to review the successes and the difficulties of the council in dealing with agenda items during the preceding calendar quarter and to schedule agenda items for the next calendar quarter, when such items are known in advance. Council members who wish to have the entire council address an agenda issue should identify the issue and ask the agenda committee to schedule a discussion under Matters.
- d. CAC Mission. Representing the views of the entire city council, the agenda committee: 1) sets the agenda for council meetings and study sessions; 2) comments on written agenda materials to assure that all reasonable questions anticipated from the public and any member of the council are answered; 3) acts as a sounding board for staff; 4) informs the city council and staff of emerging issues; 5) requests that staff supply information to the council concerning emerging issues; and 6) discusses correspondence and email to the mayor and the city council and responses to open comment. The agenda committee assigns the responsibility for drafting and signing such responses. But individual council members may respond as well, at their discretion. 7)

The agenda committee determines when boards and commissions should be requested to address the council concerning their deliberations, and when matters should be referred back to a board or commission before council action is scheduled. Generally, it is expected that boards and commissions with an adopted mission statement that includes a certain area of concern will be asked to advise council about any agenda item dealing with that area of concern. 8) The agenda committee also establishes check points for council input on important staff projects. 9) Agenda committee minutes are made available to the council by email. Approved draft agendas and the council calendar for the upcoming meeting agendas are attached to the minutes.

e. CAC Ground Rules.

1. No Decisions. The agenda committee should not make a "decision" on anything except for specific decisions relating to the council agenda and assignment of correspondence for a response. If a scheduling item is controversial, the CAC shall bring the matter to the entire council.

2. No References. Agenda committee members should avoid reference to the meeting in debate, as by statements such as: "This was discussed in the agenda committee meeting," or "We dealt with that question in the agenda committee meeting." Above all, there should be no reference to any "decision" having been made by the agenda committee.

3. CAC Communications with Council. If, as a result of an agenda committee meeting, the committee determines that it is necessary to contact the remaining council members to convey information or to obtain advice about proposed staff action, staff should contact each available council member. Council members, including agenda committee members, generally should not be involved in such communications. But this does not restrict any council member from contacting other council members and conveying any information or requesting any advice or action. Agenda committee members and other council members may communicate with other council members about any matter, but such process should not substitute for staff action as set forth above, and is subject to the "open meeting" requirements of state law (§ 24-6-402(2)(d)(III), C.R.S.).

4. CAC to Focus on Council Concerns Rather Than Personal Point of View. It is not appropriate for agenda committee members to use the agenda committee

meeting to advance their own political agendas or points of view. This is conceded to be difficult to avoid, especially when three council members are discussing an upcoming decision, but it is essential.

5. CAC Not to Indicate Council Support. Prior to approval by the council, the agenda committee and staff are prohibited from indicating any city commitment to city sponsorship or support of an event or to city support for a development proposal.

6. Questions to CAC. Council members are urged to send questions, comments, and suggestions to the staff or to members of the agenda committee prior to its meeting. The agenda committee will endeavor to discuss all such questions, comments, and suggestions at its meeting.

7. Postponement of Issues. It is acceptable for members of the city council to ask for postponement of issues to accommodate a brief absence, when the rescheduling will not inconvenience other council members and the individual council member has a significant interest in the particular issue being decided. However, no council member has a right to require such a change, and the decision of the CAC is generally treated as final, although the council is, as always, the final decision maker.

8. No Rule of Three. Meetings of the CAC shall not be used to indicate a "rule of three" for information/research requests. See Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three.

9. Tuesday Meetings. CAC shall not schedule council meetings on dates other than Tuesdays without polling all council members for their availability.

10. Consent Items, Urgent Items, Time Budget, and Order of Agenda. The CAC designates potential consent items, so that they can be dealt with in a summary fashion. The CAC also designates urgent items, for which delay is not possible or inadvisable, so that the council can deal with such items prior to adjournment. The CAC sets the order of the agenda and sets a time budget for each item. Based on the estimated time budget, CAC shall not schedule any meeting with an expected adjournment time after 10:30 p.m.

#### **IV. Council Meeting Agenda**

a. Council meetings shall be conducted as follows:

1. Call to Order and Roll Call. Meetings are generally called to order at 6 p.m. sharp.

2. Open Comment.

A. Time for open comment on any subject not scheduled for public hearing is provided for at each regular business meeting of the council. Up to forty-five minutes is provided at the beginning of the meeting. Speaking shall be limited as set forth in subsection (C) below. During open comment, an individual speaker can speak for up to two minutes.

B. A speaker shall begin by stating his or her name and address. If a speaker believes that providing such information would put the speaker at risk, the speaker need not disclose his or her name or address, but should say whether or not he or she resides in the City of Boulder.

C. Sign up for speakers will be available via the internet, beginning at 6:00 p.m. on the day that the agenda for the meeting is made available. Online sign up shall end at 2:00 p.m. on the day preceding a meeting, even if the day preceding a meeting is a holiday. No later than 5:00 p.m. on the day prior to the meeting or noon on the day of the meeting, if the day prior to the meeting is a city holiday, the city clerk shall post on the internet a list of no more than fifteen individuals who will be invited to speak at the meeting. If more than fifteen people register to speak, the city clerk shall select fifteen names at random from among those who have registered. Prior to the opening of registration, the city clerk shall post the methodology to be used for randomization. In addition to those selected through the foregoing process, individuals may sign up to speak in person at council chambers beginning at 5:00 p.m. on the day of the meeting. Sign up shall close promptly at 6:00 p.m. Prior to open comment the presiding officer shall announce the names of five individuals selected at random to speak. If fewer than fifteen persons have registered online and there are more than five individuals who have signed up in person, the presiding officer may, if the meeting is scheduled to end no later than 10:30 p.m., add additional speakers to bring the total number of speakers to no more than twenty.

D. Any person selected to speak who requires an interpreter shall be invited to speak first. Any person wishing to use an electronic presentation as part of his or her comments shall provide the presentation to the city clerk no later than 2:00 p.m. on the day of the meeting.

E. At the conclusion of Open Comment, the presiding officer may ask city staff for any response to matters raised during Open Comment. At the conclusion of the staff response, any council member may ask that the original speaker be recalled to reply to the staff response. Such comment shall be limited to one minute.

3. Consent Agenda. Including generally, but not strictly limited to:

A. Minutes. Minutes of previous meetings are approved as made available beforehand, and as corrected by the city clerk, in response to council suggestions, in the discretion of the clerk. This procedure should not be used to alter remarks to express a more considered point of view. Such remarks should be made under item 8, Matters from Mayor and Members of Council. A motion to approve the minutes is deemed to include such corrections, as well as any corrections made at the meeting.

B. First Readings. Although generally calendared as part of the consent agenda, the city manager may request that a particular first reading be scheduled early on the agenda when staff/council interaction on the item is important on first reading. See Section V, Procedure in Handling Ordinances, Resolutions and Important Motions, Subsection C, First Reading.

C. Second Readings. Second Readings shall generally be scheduled for a public hearing. The Council Agenda Committee may schedule second reading of ordinance on consent only for the following:

1. The Quarterly Supplement codifying previously adopted ordinances.
2. Ordinances for which the council has previously held a public hearing.
3. Other ordinances that are routine in nature, which do not elicit public interest and to which no council member objects.

4. Call-Up Check-In. Call-ups (typically appeals to council) are considered during item 8, Matters from Mayor and Members of Council. During call-up check-in, council members are provided an opportunity, and are generally expected, to announce that they have questions or concerns with respect to a potential call-up. This advance warning, while not binding on any council member, would generally indicate those potential call-ups for which staff or interested parties should be present. Notwithstanding the failure of any council member to indicate questions or concerns, Council may still consider any potential call-up should a council member change their views during the meeting. If the decision about whether to exercise the council's call-up authority is a matter of substantial public interest, the agenda committee shall schedule a public hearing for consideration of the potential call-up. Call-ups scheduled for public hearing shall not be considered as part of a call-up check-in.
  
5. Public Hearings. Expected substantial public comment items are generally placed first on the agenda, in the order of public interest in the item, as anticipated by the council agenda committee, but critical short items may be placed first when deemed appropriate by the agenda committee. Items from the city manager, city attorney, or mayor and members of council which are of substantial public interest are placed in this section of the agenda, in the order of public interest. A speaker shall begin by stating his or her name and address. If a speaker believes that providing such information would put the speaker at risk, the speaker need not disclose his or her name or address, but should say whether or not he or she resides in the City of Boulder. During a public hearing an individual speaker can speak for up to three minutes. However, a speaker's time may be limited to two minutes if more than fifteen people have signed up to speak. Three or more people can pool their time so one speaker can speak for five minutes if all of the people pooling time have signed up to speak when the spokesperson is called to speak and are in the council chambers when the speakers are called. The five minutes of pooled time can be reduced to four minutes by the presiding officer if the time for individuals has been reduced to two minutes. An applicant may request additional time as reasonably required to present his or her case. In response, the mayor may designate a longer time period for applicants, generally not to exceed fifteen minutes and to occur immediately upon the opening of the public hearing, in order to give the public an opportunity to respond. Additional support for applicant's positions should come from individual witnesses. Board or commission members, whose board or commission acted on a matter and who have been designated to speak by

the board or commission, will be allowed to speak during staff presentation or at the beginning of the public hearing. A board or commission may designate a person who voted with the majority or a person who voted with the minority or one speaker from each side.

6. Matters from the City Manager. No final decision may be made under this item, or item 7, Matters from the City Attorney, or 8, Matters from Mayor and Members of Council, until after an opportunity for public comment. Prior to council decisions on motions made during this item, or item 7, Matters from the City Attorney, or 8, Matters from Mayor and Members of Council, an opportunity shall be given for public comment on such motions. The rules are the same as for public hearings. The Mayor shall open a public hearing immediately after the council had concluded debate on each motion.
7. Matters from the City Attorney.
8. Matters from the Mayor and Members of Council. At this point, any council member may place before the council matters which are not included in the formal agenda. This item is generally limited to responses to open comment, appointments to boards and commissions, sharing of information, and requests for advice concerning matters pending before other bodies, consideration of call-ups, requests for staff work, and requests for scheduling future agenda items. Matters requiring a formal council vote, such as motions to sponsor an event or to allocate funds, are normally placed on the agenda through the regular agenda review process, rather than dealt with under this item.
9. Discussion Items. Discussion items are generally scheduled for study sessions rather than council meetings. If discussion items are scheduled for a council meeting, such matters will be discussed under this agenda item.
10. Debrief. Council will have a brief discussion of no more than five minutes for council members to discuss issues regarding that evening's meeting. The discussion is intended to identify issues to be addressed by the Council Agenda Committee or by the council at a future meeting. This time should not be used to revisit arguments raised earlier in the meeting. The intent is to improve council's process by identifying issues concerning process, scheduling, and

meeting implementation while fresh in council members' minds to allow for later discussion and resolution.

11. Adjournment. The council's goal is that all meetings be adjourned by 10:30 p.m. An agenda check will be conducted at or about 10:00 p.m., and no later than at the end of the first item finished after 10:00 p.m. Generally, absent a deadline which the council cannot affect, no new substantial item will be addressed after 10:30 p.m. The Debrief is not a substantial item. No new item shall be introduced after 10:30 p.m. unless a majority of the council members in attendance at that time agree. All council meetings shall be adjourned at or before 11:00 p.m., unless the meeting is extended by a vote of two-thirds of the council members present. Council shall attempt to schedule any matter not heard before adjournment as the first item at the next study session. If necessary, the council shall schedule a special meeting to coincide with the scheduled study session. It is assumed that council will reschedule items previously scheduled for the study session to accommodate any newly added items.

## **V. Rules of Speaking**

- a. Mayor Directs Meeting. To obtain the floor, a council member or staff member addresses the mayor.
- b. Assignment of Floor. To assign the floor, the mayor recognizes by calling out the council member's name. Only one council member may have the floor at a time. A council member shall not speak while another has the floor, except to make a point of order. The mayor generally next recognizes the council member who first asks for the floor after it has been relinquished. The mayor may, in his or her sole discretion, temporarily suspend the rules of speaking in order to permit a direct colloquy between council members with respect to an issue or motion properly before the council. All council members and staff members are requested to direct their remarks to the council action under consideration.
- c. Outline of Decisions. The staff and the mayor should attempt to focus discussion of agenda items in accordance with the materials, which should contain a proposed outline of decisions.

- d. **Minimize Debates Prior to Public Hearings.** Council members should minimize debate prior to public hearings and use the period prior to public hearings to ask questions for clarification rather than to lecture, give speeches, score debating points, or ask rhetorical questions. The mayor may intervene to avoid extended debate prior to public hearings.
- e. **Minimize Debates After Decisions.** Council members should minimize debate after decisions and move on to the next item.
- f. **Motions to Table.** Tabling motions are generally discussed before they are made, in order to allow for a reasonable amount of council discussion prior to making a non-debatable motion.
- g. **Early Warning Process.** Council members should give early warning to the mayor and the city manager whenever substantial opposition is anticipated to an agenda item, so that an appropriate staff and council response can be prepared.
- h. **Rotation of Questions.** Questions are rotated so that, to the extent practicable, different council members are given the lead on each agenda item and questions are grouped by subject matter whenever it is practicable to do so.
- i. **Mayor May Intervene.** The mayor may intervene in council debate in order to solicit a motion after five to ten minutes of debate, seek to wrap-up discussion when debate seems to be proceeding longer than warranted, determine whether council wishes to postpone council action when more information or staff work appears warranted to facilitate a council decision, and ask council to group follow-up questions by topic.
- j. **No Surprises.** Council members will make every effort not to surprise each other by bringing up something new at a meeting, and rather will give notice of their intention to do so as soon as practical before the meeting.

## **VI. Procedure in Handling Motions**

- a. **Making a Motion.** A council member, after obtaining the floor, makes a motion. (If long or involved, it should be in writing.) The council member may state reasons briefly before making the motion; but may argue the motion only after it has been seconded; and having spoken once may not speak again until

everyone who wishes to be heard has had the opportunity to speak, except to answer questions asked by other council members. Having made a motion, a council member may neither speak against it nor vote against it.

- b. **Seconding a Motion.** Another council member seconds the motion. All motions require a second, to indicate that more than one member is interested in discussing the question. The seconder does not, however, have to favor the motion in order to second it, and may both speak and vote against it. If there is no second, the mayor shall not recognize the motion.
- c. **Stating the Motion.** The mayor states the motion and asks for discussion.
- d. **Debate.** General debate and discussion follow, if desired. Council members, the city manager, the city attorney or the city clerk, when wishing to speak, follow the rules of speaking outlined above. The speaker's position on the motion should be stated directly: "I favor this motion because...," "I am opposed to this because...," etc. Remarks should be addressed to the mayor.
- e. **Question.** The mayor restates the motion and puts the question. Negative as well as affirmative votes are taken.
  - 1. If the mayor is in doubt of the result of a voice vote, the mayor may call for raising of hands or a roll call vote.
  - 2. If any council member is in doubt of the result of a voice vote, the council member may obtain a vote by raising of hands or by roll call by calling for it (without need to be recognized by the mayor).
  - 3. In case of a tie vote, the motion is lost.
- f. **Result.** The mayor announces the result. The motion is not completed until the result is announced.

## **VII. Procedure in Handling Ordinances, Resolutions and Important Motions**

- a. **Two Readings.** All ordinances require at least two readings, because the city charter requires ten days' advance publication in final form. The agenda committee may require similar publication of complex or important motions and resolutions, in order to assure informed public participation.

- b. Notice. All documents delivered to council members' residences or electronically prior to any meeting shall be deemed to have been received and read, unless a council member indicates to the contrary during consideration of the matter. In the event that a council member has not received and read the document in question, the mayor shall determine an appropriate course of action, which may consist of an explanation of the substance of the document by a person familiar with its contents, or a recess. Abstentions are not permitted by the city charter under these circumstances.
- c. First Reading. On first reading, the clerk reads the title or the general description of the item set forth on the agenda, and the council has an opportunity to ask questions of the staff. Whenever practicable, council members ask first reading questions in writing or by email to "Hotline" in advance of the meeting. Any remaining questions are asked at the meeting. The deadline for first reading questions is noon on the day following the meeting. Complex questions are subject to the "rule of five" for information and research requests set forth in Section X, Research and Study Sessions, Subsection A, Information/Research Requests/Rule of Three. The mayor then requests an appropriate motion. However phrased, an affirmative motion is construed as one to order the item published. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by proposal of amendments, if any, restates the question if necessary, and puts the question to a vote. After the conclusion of the vote, the mayor declares the item to have been ordered published or to have been rejected for publication. Publication does not constitute substantive approval of an item.
- d. Second Reading. On second reading, the clerk reads the title or the general description of the item set forth on the agenda, followed by the staff presentation, and then the council has an opportunity to ask questions of the staff. Thereafter, the mayor opens a public hearing and supervises the public hearing. If any council member wishes, questions may be asked of persons testifying. Council may consider a response to public testimony at the meeting, and the agenda committee may consider a response the following week, but the normal response is in the council members' actions on the agenda. The mayor then requests an appropriate motion. The motion should be one to adopt the ordinance, and, however phrased, an affirmative motion shall be so construed. Unless otherwise stated in the motion, all publication shall be by title only. The mayor then states the question, followed by discussion by the

council, the city manager and the city attorney and dialogue with staff in response to questions raised by the council, followed by debate, proposal of amendments, if any, and consideration thereof in the form of motions. After debate, the mayor restates the question and requests that the clerk conduct a roll call vote. After the conclusion of the roll call vote, the mayor declares the ordinance adopted or defeated.

- e. Resolutions. Resolutions are handled in the same manner as the second reading of an ordinance, except that the vote need not be by roll call.
- f. Emergencies. Ordinances may be passed by emergency on first or second reading, upon appropriate findings of urgency and need. In the event of passage by emergency on first reading, the first reading is handled in the same manner as the second reading of an ordinance, and the second reading is omitted.
- g. Amendments. Non-emergency ordinances which are amended in substance rather than in form on second reading are republished in the same form originally published (either in full or by title only), as amended, and voted on again at a third reading, without further staff presentation or public hearing. The council retains the discretion to set a public hearing on third reading by majority vote. The same procedure applies to later substantive amendments as well.

### **VIII. Voting**

Voting ultimately decides all questions. The council may use any one of the following ways of voting:

- a. Voice Vote. All in favor say "aye," and all opposed say "no." The mayor rules on whether the "ayes" or the "nos" predominate, and the question is so decided.
- b. Raising of Hands. All in favor raise their hands, and then all opposed raise their hands. The mayor decides which side predominates and notes dissents for the record.
- c. Roll Call. The clerk calls the roll of the council members, and each member present votes "aye" or "no" as each name is called. The roll is called in alphabetical order, with the following special provision: On the first roll call vote the clerk shall begin with the first name on the list; on the second vote, the

clerk shall begin with the second and end with the first; and so on, continuing thus to rotate the order. This rotation shall continue from meeting to meeting.

## **IX. Nominations and Elections**

The mayor and mayor pro tem shall be selected in the following manner:

- a. In odd-number years, after the first Tuesday in November, but no later than the second Tuesday in November, any council member with an unexpired term or council member elect may express his or her interest in serving as mayor or mayor pro tem. Any person expressing an interest shall post a Hotline message regarding his or her interest in and qualifications for either or both positions.
- b. The council meeting convened pursuant to Charter Section 9, on the third Tuesday in November of odd-numbered years, shall be chaired by the council member with the most consecutive years of service on the council who did not express an interest in serving as mayor or mayor pro tem at the meeting on the second Tuesday in November. If there is more than one council member with the most consecutive years of service on council not seeking to be elected mayor or mayor pro tem, the city clerk shall place the names of each such council member in a container and select one who shall preside at the convening meeting.
- c. In the interest of transparency and public participation, after the new council members are sworn in pursuant to Section 9 of the Charter, the meeting convened at 10:00 a.m. on the third Tuesday in November shall be continued until 6:00 p.m. At that time, the council shall hold a public hearing on the selection of the mayor and mayor pro tem.
- d. The mayor pro tem shall serve for a period of one year. In even numbered years, council members interested in serving as mayor pro tem shall express interest and speak to their qualifications at the first meeting in November. In even numbered years, nominations and election for the mayor pro tem shall be held at the second meeting in November.
- e. Nominations. At the conclusion of public testimony, council will consider nominations for mayor and mayor pro tem. Any council member may nominate anyone that expressed an interest and made a speech at the second Tuesday in November, including himself or herself, for either position. Provided, however, that the requirement of prior expression of interest shall

be waived for any council member whose election was not decided before the second Tuesday in November. Nominations for mayor and acting mayor (generally referred to as mayor pro tem) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

- f. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.
- g. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.
- h. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.
- i. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on

which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or mayor pro tem.

- j. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that has been continued to another meeting.
- k. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.
- l. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

## **X. Research and Study Sessions**

- a. Information/Research Requests/Rule of Three. Requests for information should be directed to "Hotline," or, if a public request is not appropriate, directly to the city manager or the city attorney. Requests for a briefing should be directed to the city manager or the city attorney. A single council member may require the city manager or the city attorney to provide available information at any time or to answer any question concerning an agenda item. The concurrence of three council members is required to assign a matter for research by staff. For staff to spend more time than the city manager or the city attorney considers reasonable in light of other staff time commitments, the concurrence of five council members is required. In such case, the manager or attorney shall report the results of the preliminary research and an estimate of the time required to complete the task as the manager or attorney proposes. In any case, a vote shall be taken at a council meeting, but work may proceed in an emergency pending such vote. The council shall be informed of any such emergency work.
- b. Budget Rule. A matter shall be placed before the council for decision during the deliberation of the budget by a vote equal to or greater than the number of council members remaining at the meeting after deduction of the majority thereof.
- c. Study Sessions. Materials for study sessions generally will be made available to the council and the public at least ten days before the date of the study session. Notice will be given as for other council meetings. Written comments received by staff prior to noon on the Thursday preceding study sessions will be forwarded to all council members that evening. Testimony of persons other than staff or consultants or subject-matter experts designated by the city manager is not permitted at study sessions unless a majority of the council members present votes to suspend this rule. The council will give direction to staff at study sessions for the presentation of action items at future regular council meetings. A summary list of the questions asked and direction given shall be prepared by staff and placed on the consent calendar for the next regular council meeting for council approval. Full summaries of study sessions shall be placed on a later council agenda for approval, including the direction given, any remaining issues and any staff reaction or proposed work plan in response to the study session.

## **XI. Procedure in Handling Major Capital Improvement Projects**

Major capital improvement projects shall be handled, to the extent practicable, in accordance with the City Plans and Projects Handbook, dated November 2007. Failure to follow any aspect of such processes shall not be grounds for any challenge to any city project. Prior to a development review decision by the planning board or approval of the community and environmental assessment process by an advisory board, the council may determine by motion to review the project prior to the decision on the concept review or community and environmental assessment process. If so, the manager will schedule a public hearing and consideration of a motion directing staff concerning: 1) the goals and objectives of the program which will be served by the project, and 2) the conceptual design of the project. For those projects requiring development review, the council will deal only indirectly with the factors which may ultimately be entailed in a development review application under Chapter 9-4, "Land Development Review," B.R.C. 1981, in recognition that it may later be called upon to adjudicate such questions on a call-up of a planning board decision.

## **XII. Council Calendar**

The city publishes a calendar of hearings set by city staff and boards and commissions. Any council member may attend such hearings and events, but council members may not testify at a board or commission hearing and may be disinvited from ceremonial events by the host. Council members are responsible for notifying the council office of hearings and events for which they are the liaison to the council.

## **XIII. Council Member Appointments**

The council may appoint council members to serve on ad hoc and ongoing intergovernmental committees, such as the Colorado Municipal League Policy Committee, the Denver Regional Council of Governments, the National League of Cities, or the Boulder County Consortium of Cities. Council members may be appointed for staff activities on an ad hoc basis. Appointments shall be made at council meetings, after notice to the council that the appointment will be considered as part of the agenda of the meeting. The mayor appoints one of the members to the Housing Authority and one to the Urban Renewal Authority, in conformity with state law, but council is notified at a council meeting of each such appointment, and the Urban Renewal Authority appointment is subject to council ratification. The council appoints one of its members to the board of directors of the Boulder Museum of Contemporary Art, the Boulder Convention and Visitors Bureau, the Downtown Business Improvement District Board, the Rocky Flats

Stewardship Council, the Commuting Solutions Committee, the Urban Drainage and Flood Control District, the Boulder County Resource Conservation Advisory Board, and the board of directors of the Dairy Arts Center. The mayor will serve on the Metro Mayor's Caucus and the US 36 Mayors and Commission Coalition. Council members are expected to inform the council of their committee activities and to request advice on important policy issues.

#### **XIV. Parliamentary Procedure**

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by the then current Robert's Rules of Order Newly Revised.

#### **XV. Declarations, Proclamations and Resolutions**

- a. Mayor to Screen. All matters proposed for council or mayoral action which commemorate a period of time or commend the actions of a person or a group or endorse a position or an idea not directly related to the affairs of the City shall be screened by the mayor.
- b. Mayoral Declarations. If a group with substantial local support requests such action, and the mayor determines that there is no substantial political issue concerning such action, the mayor may issue a declaration for the action. Such declaration shall be forwarded to a binder kept for such purpose in the city council office but shall not be placed on the agenda unless the council determines at a meeting by majority vote of the council members present to call up the matter, in which case the action shall be revoked upon the passage of the call-up motion, pending further action by the council at its next regular meeting.
- c. Council Resolutions. In extraordinary circumstances, if the group supporting the action determines that it wishes council action rather than a mayoral declaration, and the action otherwise meets the criteria set forth above, the mayor may, if the mayor considers such action appropriate in light of the importance of the action and the additional business on the council agenda, place a resolution on the agenda for council action.
- d. Resolutions. Resolutions are appropriate for legislative concerns, including, without limitation, conveyances of positions or ideas to other legislative and administrative bodies. But all legislative actions must be by ordinance.

- e. Political Questions. In the event that a substantial political issue is determined to be presented by a proposed declaration or proclamation, the mayor shall not act or place the matter on the agenda, but instead will inform the group supporting the action that the matter will be placed on the agenda only if a majority of the council members present at a meeting of the council so directs. The burden shall be on such group to present the issue to the council. The mayor may request council advice at any time concerning proposed mayoral or council action.
- f. Foreign Policy and National Policy Questions. Council shall not act on a foreign policy or national policy issue on which no prior official city policy has been established by the council or the people, unless sufficient time and resources can be allocated to assure a full presentation of the issue.
- g. Fund-Raising. Publicity for fund-raising efforts and community events will be deemed inappropriate for council action, although major efforts and events may be commemorated if the majority of the council members present at a meeting of the council so directs.

#### **XVI. Rules of Decorum**

- a. Council Intent for Rules of Decorum. The City's business is conducted at city council meetings by the elected officials of the City. All council meetings are open to the public, but the public's participation is permitted only at formal council business meetings during the time and in the manner set forth in these rules. Public participation is generally not permitted during study sessions and other informal council meetings, although the public is encouraged to express comments in writing or other communication prior to those meetings. In order for the council to conduct its business in a manner completely open to the public in person, by audio and by video recordings, rules of decorum are necessary. Historically, council meetings have lasted numerous hours which may limit the practical ability for the public to participate and the effectiveness of staff to make presentations and elected officials to discuss issues and make decisions. The intent of these rules is to:
  - 1. Provide a safe and secure setting for council and the public to attend to the City's business.

2. Enable council to conduct its deliberative process without interruption in a manner that can be heard and viewed by all in attendance and recorded for the simultaneous or later viewing by the public.
  3. Ensure that the public has a full opportunity to be heard during public hearings and open comment periods of council meetings.
  4. Facilitate transparency in the conduct of council meetings so that all persons have the opportunity to observe and hear all of the council discussion and votes.
  5. State specific rules so that all may know the rules in advance and be subject to the same rules.
  6. Limit interruptions, unreasonable delay, or duplication of comments, presentations, or discussion.
  7. Develop an atmosphere of civility that is respectful of diverse opinions and allows presentation of positions that vary from the position of others at the meeting without insults or intimidation.
  8. Balance the need for the council to conduct effective meetings without the meetings extending late into the night or early morning with the need to give a full opportunity for the public to be heard.
  9. Facilitate council meetings as business meetings, therefore public comments should relate to the business of the City and, as such, be addressed to the council as a whole, which conducts the business of the City.
  10. Adopt these rules of decorum as the standard for conduct of meetings of the city council and staff of the City.
- b. Rules of Decorum for the Public. During all times a meeting of the city council is being conducted, the following rules shall apply:
1. Prior to addressing council, a person shall sign-up providing information for the council record.
  2. All remarks to the council shall be at a microphone and only after the speaker is acknowledged by the presiding officer.

3. While in attendance at a council meeting, no attendee shall disrupt, disturb, or otherwise impede the orderly conduct of any council meeting by any means in a manner that obstructs the business of the meeting. Disorderly conduct also includes failing to obey any lawful order of the presiding officer to be seated, leave the meeting room or refrain from addressing the council.

4. No attendee shall make threats or other forms of intimidation against any person in the council chambers or meeting room, or possess any weapon or firearm while in the council chambers or meeting room unless the attendee possesses a valid permit meeting all of the requirements set forth in § 18-12-204, C.R.S.

5. To maintain the fire code occupancy limits and allow for safe exit, unless addressing the council or entering or leaving the council chambers or meeting room, all persons in the audience shall remain seated in the seats provided. No person shall stand or sit in the aisles, nor shall the doorways be blocked.

6. All persons in the council chambers or other meeting room, including, without limitation, council members, staff, and attendees, shall silence all cell phones, pagers, and other electronic devices to prevent disruption at the meeting.

7. No person at any council meeting shall be in a state of intoxication caused by the person's use of alcohol or drugs.

8. Members of the public who wish to gather in the municipal building prior to a meeting shall make every effort to accommodate those with differing views. This shall include, not blocking entrances, pathways or stairways and being respectful at all times of those with opposing views. If individuals plan to gather for a meal or otherwise in the municipal building, such gatherings shall take place in the eastern end of the municipal building lobby so as not to require individuals with opposing views to pass through the gathering.

9. No sign shall be displayed in council chambers in a manner that blocks the view of another person or in a manner that would violate subsection 5 above.

- c. Enforcement of Decorum. The mayor or other presiding officer of the council, with the assistance of the sergeant-at-arms, if any attending, shall be responsible for maintaining the order and decorum of meetings. The mayor or presiding officer may order removed from the council chambers, or other

room in which a meeting of the council is occurring, any person who fails to observe these rules of decorum:

1. The mayor or presiding officer may interrupt any speaker who is violating these rules of decorum or disrupting a meeting.
2. The mayor or presiding officer shall attempt to provide a verbal warning to any attendee or particular speaker that may be violating these rules of decorum, but such verbal warning shall not be required as a condition of removing an offender from the council chambers or meeting room.
3. These enforcement provisions are in addition to the authority held by the sergeant-at-arms or any other peace officer in attendance, to maintain order pursuant to the officer's lawful authority.
4. Any person removed from the council chambers or meeting room shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon the motion adopted by a majority vote of the council.
5. Any person who has been removed from a meeting may be charged with violation of the applicable provision of the Boulder Revised Code.
6. In addition, by vote of the council, any person removed from a meeting may be excluded from attendance at council meetings for thirty (30) days after such removal. A longer period of prohibition from attendance at council meetings may be determined by council by a vote, if the person has been removed from the council chambers or meeting room in the past twenty-four months for violation of these rules of decorum, or the council determines that the attendee's conduct was so severe as to necessitate a longer period of prohibition.
7. A person prohibited from attendance at council meetings may request a hearing to dispute prohibition under the provisions of Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, if the appeal is filed with the manager within ten days of the date of prohibition. The hearing will be before a hearing officer that is appointed by the city manager. The scope of the hearing will be limited to the following: (1) whether there was a prior removal in the past twenty-four months, and (2) the nature and extent of the behavior resulting in the suspension. The hearing officer will forward a recommendation to the council

to affirm the sanction, modify the sanction, or to remove the sanction to the city council for its consideration at a subsequent meeting of the council.

8. In addition to any other authority of the mayor or presiding officer, the presiding officer may call a recess during which time the members of the council shall leave the meeting room.

9. If necessary for the safety of the council and public, the mayor or presiding officer may order the council chambers or meeting room cleared of all attendees. In such event, the meeting may continue only so long as the proceedings are televised or otherwise recorded so that the proceedings of the meeting are available to the public.

10. Any staff member may request that a police officer assess any person at a council meeting for intoxication. A police officer may also make such an assessment based on personal observation. If, in the officer's professional opinion, the officer has a reasonable suspicion that a person in attendance at a council meeting is intoxicated through the use of alcohol, the officer may exclude that person from further attendance at that meeting. A person excluded shall be readmitted if the person excluded submits to an alcohol breath test and produces a result below .05 blood alcohol level.

d. Rules of Decorum for Council. Members of the council shall attempt to balance the right of the public to know positions of the elected and appointed officials and rationale for decisions with the need for balanced discussion and timely adjournment of the meeting. In order to realize this balance, members shall endeavor to:

1. Articulate questions, opinions, comments and reasons for votes succinctly;
2. Exercise self-discipline by avoiding repeating statements of others, being verbose in expressing opinions or straying off the topic;
3. Allow the presiding officer to manage the meeting and call on members before speaking;
4. Support the presiding officer in enforcement of these rules;
5. Permit other members an opportunity to speak once on an issue before speaking a second time on the same issue;

6. Focus on the issue being discussed rather than disagreement of ideas by using "I" statements and avoiding personal attacks or assuming motives of another;
  7. Consider the adopted council goals, staff work plans and limited resources when making requests for delay or additional information;
  8. Acknowledge that new topics raised during a meeting by a member of the public or of the council may not have the benefit of all of the necessary background information, may not be presented from a balanced perspective, and decisions in such situations are more often emotionally driven. New topics raised during a meeting are most often best resolved by deferring the decision to the city manager or to a future agenda with direction to staff to provide background materials before the matter is considered at a future meeting. If council desires to take up a matter raised during a meeting, the request should be made and additional information requested under "Matters from the Mayor and Members of Council" portion of the agenda;
  9. During a council meeting, refrain from electronic communication regarding subjects considered at that meeting. Except that council members may receive electronic copies of materials from staff displayed on monitors or otherwise made available at the meeting.
- e. Interpretation of Rules. These rules are intended to support the intent of the council set forth above. These rules are not to be used to limit public participation or council debate, but to enable the effective functioning of the council. Either the council or the presiding officer may temporarily suspend these rules or grant exceptions in order to effectuate their intent.

## **Call-Up and Appeal Guidelines**

---

A call-up is a discretionary action by the Council (or in some cases by a Board) to review a decision made by the manager or, in the case of Council, by a Board or Commission. When called up, a matter is given new and independent consideration. Some decisions made by the city manager may be appealed by an applicant or a citizen.

The following is a list of specific call-up and appeal deadlines. This list is not all inclusive.

### **Use Review, Site Review**

The City Manager or Planning Board make final decisions on Use Review and Site Review decisions.

**City Manager/Staff decision:** Planning Board may call-up a Use Review or Site Review decision within 14 days of the city manager's decision. Any citizen may appeal to the Planning Board within 14 days of a City Manager's decision. A public hearing must then be held within 60 days of the call-up or appeal, followed by a final decision within 30 days of the public hearing, unless the applicant agrees to a different schedule.

**Planning Board decision:** City Council may call-up a Use Review or Site Review decision within 30 days of the Planning Board decision. A public hearing must be held within 60 days of the call-up. A final decision must be made within 30 days of the public hearing, unless the applicant agrees to a different schedule.

### **Concept Plan**

A concept plan is a non-binding early review of development plans for a site. It allows an applicant to identify potential issues, challenges and opportunities. The applicant submits the concept plan to the city manager who seek input from the community. The city manager forwards the plan along with all input received to the planning board. The planning board must hold a public hearing and provide comments. The city council can call-up the concept plan within thirty days of the planning board hearing.

### **Subdivision**

All subdivision call-ups start as a City Manager decision. The Planning Board may call-up the item within 14 days of the city manager's decision. Any person aggrieved by a decision of the City Manager to approve or deny an application for

a subdivision may appeal such decision to the Planning Board within 14 days of the decision. The Planning Board holds a public hearing and makes a final decision within 30 days of the call-up or appeal. There is no further appeal or call-up to City Council.

### **Interpretations of Chapters 9-6, “Use Standards,” 9-7, “Form and Bulk Standards,”**

A code interpretation by the city manager of Chapters 9-6, “Use Standards,” 9-7, “Form and Bulk Standards,” and 9-8, “Intensity Standards,” B.R.C. 1981, may be appealed by an applicant or another person having an interest in the interpretation to the Board of Zoning Adjustment (BOZA). A member of the BOZA may call-up a city manager decision regarding an interpretation within 14 days of that decision. BOZA hears an interpretation review at a public hearing. A member of the Planning Board may call-up any code interpretation by BOZA within 14 days of the BOZA decision regarding the interpretation. The Planning Board must hold a public hearing and make a final decision within 30 days of the call-up, unless the citizen applicant agrees to a different schedule. City Council then has 30 days to call-up the Planning Board decision. Council must hold a public hearing and make a final decision within 60 days of the call-up, unless the applicant agrees to a different schedule.

### **Growth Management System**

If the City Manager rejects an application because it does not meet the application requirements, the applicant has five days from the date of rejection notice to appeal to the Planning Board. Upon appeal, the Planning Board shall then hold a public hearing. There is no further appeal or call-up to City Council.

### **Vacation of Public Easements**

Most vacations of public easements start as a City Manager decision. Within 30 days of the decision, City Council may rescind the manager’s decision and call-up the vacation for a public hearing. Vacation of public access ways or right-of-way are required to be vacated by ordinance as required by State Statute.

### **Wetland Permits**

All wetland permits start as a City Manager decision. Within 14 days of the decision, the wetland permit may be appealed to or called-up by the Planning Board for a public hearing. The City Council may call-up a decision using the same procedures for site review or use review within 30 days of the Planning Board decision.

### **Landmark Alteration Certificates**

The City Council may call-up any decision of the Landmarks Board on an alteration certificate within 14 days of the Landmarks Board approval or 30 days on a Landmarks Board denial. City Council shall hold a public hearing within 45 days of the Landmarks Board decision. Within 30 days after the public hearing, City Council shall issue their decision, unless the applicant agrees to a different schedule.

### **Landmark Designation Denial or Revocation**

The City Council may call-up a Landmarks Board denial of either an individual landmark, district designation, or revocation of an individual landmark designation within 45 days of the Landmarks Board denial. The City Council shall hold a public hearing within 75 days of the Landmarks Board denial. Within 45 days after the hearing, City Council shall make a final decision, unless the property owner(s) agree to a different schedule.

If the Landmarks Board denies or revokes designation of an individual landmark, the property owners may appeal to the City Council within 21 days of the Landmarks Board denial. If the Landmarks Board denies designation of a district, all the owners of at least 25 percent of the separate parcels of property in the proposed district can appeal to City Council within 21 days of the Landmarks Board denial.

### **Floodplain Development Permits, Boundary Determinations and Variances**

Floodplain Development Variances for projects in a conveyance or high hazard zones are subject to a 21-day call-up period with the Planning Board as the call-up board. Floodplain development permits and boundary determinations can be appealed by an aggrieved party to a hearing officer, such a decision is not final until 21 days after the decision has been made by the manager. There are also requirements related to publication of the decision and reporting the decision to city council.

### **Accessory Dwelling Units**

All accessory dwelling unit call-up items start as a City Manager decision. If an application is denied, the applicant may appeal to the Planning Board within 14 days of the decision. The Planning Board must then hold a public hearing within 60 days of the appeal. If the Planning Board approves an accessory dwelling unit, City Council may call-up the approval within 30 days of the approval before holding a public hearing within 60 days of the call-up. Council's final decision

would be made within 30 days of the public hearing, unless the applicant agrees to a different schedule.

**Owner’s Accessory Units**

Owner’s Accessory Unit call-up items are determined using the same procedures as above, except the Boulder Revised Code (B.R.C. 1981) does not specify that the call-up be made by City Council.

**Community and Environmental Assessment Process (CEAP)**

A Community and Environmental Assessment Process (CEAP) is reviewed and considered for approval by the appropriate advisory board. The document is then forwarded to City Council as a call-up item in the Information Packet. Typically, CEAP call-ups are forwarded within 30 days of a board decision, and the call-up date listed will allow for at least one regular City Council meeting for call-up consideration.

## **Quasi-Judicial Decisions**

---

### **Typically Associated with Call-up Items**

The City Council often makes two common types of decisions: “legislative” and “quasi-judicial.” A legislative action makes new rules or laws and is prospective in nature. Quasi-judicial actions apply existing rules to a case involving particular individuals and facts.

Legislative decisions are often made in a political environment where lobbying and personal investigation by decision-makers are proper. However, when a local body has to make a quasi-judicial decision, it is expected that members of the body will act in the manner of impartial judges in a court case. In a quasi-judicial process, decision makers are expected to apply the rules fairly whether or not they agree with them. Decisions must be based on criteria adopted and applied to the facts in the record. The applicant is entitled to the law applied as it was when the application was filed. In legislative processes the legislative body is making the rules and the political and social views of the decision makers are validly discussed and considered.

Procedural due process is critical in quasi-judicial hearings. This includes the right of all directly impacted parties to participate in a pre-decision hearing, their right to present evidence, to see all the evidence that will be considered by the decision-making body, and their right to confront adverse evidence. Often there is some provision for an appeal (to court) from an adverse quasi-judicial determination.

When Council Members sit as judges in a quasi-judicial hearing, it is essential that they not have made up their minds before hearing the evidence. They must decide the case based upon the evidence presented at the hearing and not based upon outside sources. They must disclose any outside information they have about the case and excuse themselves from the case if they will be personally affected by its outcome or if they cannot be impartial.

### **Procedure Summary for Quasi-Judicial Public Hearings:**

1. Council Members note any *ex parte* contacts.
2. Staff gives a presentation and Council may ask questions.
3. Applicant may make a presentation and Council may ask questions.

4. A public hearing is opened for citizen comments and Council may ask questions.
5. The applicant may provide a rebuttal to remarks made by the public.
6. The public hearing is closed and Council can discuss the decision.
7. A motion requires an affirmative vote of at least 5 members to pass. Motions must state findings, conclusions, and a recommendation.
8. A record of the hearing is kept by staff.

# **City Council Hotline Guidelines**

---

## **Hotline Background**

The Boulder Council Hotline system is an email based system for use by members of city council and monitored by the general public. Council members can use Hotline to request specific information from staff regarding city policies or services. The intent is to make prompt replies available to council in response to their questions, or often those received as citizen inquiries. Hotline is also useful to share questions that council members intend to raise about upcoming agenda items or to put other council members on notice of motions or suggestions that might be made at an upcoming meeting in order to avoid surprising colleagues.

Replies to Hotline inquiries are often posted on Hotline.

Hotline messages are a matter of public record. They are automatically forwarded to media representatives and to members of the general public who have subscribed to the service. Hotline messages are also posted on the city's website. They can be viewed on the city council webpage and by clicking the "Hotline" tab on the right side of the screen.

## **Hotline Protocol**

1. Messages are placed on Hotline by selecting the "Hotline" group from the address book in Microsoft Outlook.
2. Staff responses (when posted on Hotline) are posted in the same manner.
3. All Hotline messages and responses posted on Hotline are public.
4. All members of city council will see Hotline questions. Many may be interested in replies to Hotline inquiries. Council members will want to keep this in mind when deciding upon the best mode of communication for a particular matter.
5. Hotline requests for information from staff are subject to the council rules of "three and five." Those rules say that at least five council members must support a request for staff work that will require three or more hours of staff time. The following is from the city attorney memo discussing these rules:

Council members should use the Hotline for staff questions that can be answered quickly, with minimal (if any) research.

Longer responses and new policy initiatives should be discussed at a meeting, pursuant to Section X.a. of the council procedures, which states:

**Information/Research Requests/Rule of Three.** Requests for information should be directed to “Hotline,” or, if a public request is not appropriate, directly to the city manager or the city attorney. Requests for a briefing should be directed to the city manager or city attorney.

A single council member may require the city manager or city attorney to provide available information at any time or to answer any question concerning an agenda item.

The concurrence of three council members is required to assign a matter for research by staff. For staff to spend more time than the city manager or city attorney considers reasonable in light of other staff time commitments, the concurrence of five council members is required. In such case, the manager or attorney shall report the results of the preliminary research and an estimate of the time required to complete the task as the manager or attorney proposes. In any case, a vote shall be taken at a council meeting, but work may proceed in an emergency pending such vote. The council shall be informed of any such emergency work.

1. If a Hotline request is submitted that requires more than one hour to compose a response, that matter will be noted either at the time of the request (if that is a viable solution) or when the response is given. But the work will not be delayed.
2. If a Hotline response is expected to take over three hours, staff will inform the person requesting the response and the Council Agenda Committee as soon as possible, so that the matter can be placed on the City Council agenda for a vote of five.
3. Because many questions require at least some amount of research, responses are not always immediately available. Staff’s goal is to have a response to all Hotline inquiries within five working days.
4. Staff’s goal is to post Hotline messages promptly.

## Important Hotline Tips

1. When replying to a Hotline message use the reply button in email and the subject line of the email is not changed from that used by the initiator.
2. If there are several related questions for staff, please send one Hotline message. In other words, if a council member has four transportation questions, they should all be posted in one Hotline message.
3. Users of Hotline should try to avoid the use of jargon or acronyms that aren't well known by members of the general public. Remember, Hotline is a communication to the general public as well.
4. Hotline is not intended as a forum for citizen email correspondence. It is only available for postings by staff and council members.
5. Hotline is not the only mode of electronic communication available to council members. For example, direct email communications to the city manager and city attorney are commonly used. Hotline is, however, one way to let other council members (and the general public) know that an issue will be raised at an upcoming meeting or to solicit staff feedback to a question that may be of general interest.
6. In some circumstances, Hotline "discussions" between council members can be legally problematic. Under state law, this occurs when such discussions turn into an electronic meeting. The problem is that all meetings – electronic or otherwise – need to be preceded by public notice. Hotline communications to and from staff (even when monitored by all council members) usually avoid issues relating to improperly noticed public meetings. A problem arises if council members conduct business or take action through Hotline discussions. The Hotline is not intended as a forum for council members to discuss or decide matters of city business. A series of council members commenting to one another could be viewed as a violation of state law. It is Boulder's policy to follow both the letter and the spirit of the open meetings law. Thus, council members should confine their discussions of city business to properly noticed public meetings.

# **Board and Commission Guiding Principles**

---

*Adopted by City Council, April 8, 2004*

Council appreciates the time, specialized knowledge and commitment of members of Boulder boards and commissions. Occasionally awkward situations have developed from the lack of clarity about roles and the lack of communication about how to work seamlessly together. Council realized that articulating some basic principles to guide the interactions between boards/commissions, staff and Council might help prevent some of these difficulties. The following guiding principles are offered from the City Council in the spirit of partnership and desire to create a good working situation:

1. City policies are established by the City Council. With the exception of limited (often charter-based) circumstances, the role of Boards and Commissions is advisory to the City Council.
2. All policy expressions on national, international and statewide issues should come from Council and not from individual Boards and Commissions. Boards and Commissions may suggest that Council take policy positions by resolution, but should not independently issue such resolutions.
3. When several Boards and Commissions review elements of a given proposal or issue, staff reports to Council should reflect the perspectives of all reviewing Boards and Commissions.
4. When members of a Board or Commission disagree about a given proposal or policy, Council expects to be appraised [sic] of the disagreements and of the reasoning underlying the various points of view.
5. City staff ultimately is responsible for supporting City Council. Council expects staff to provide the best professional judgment regarding issues and policies, whether or not Boards and Commissions agree with those professional judgments. Staff should inform Council when a Board or Commission disagrees with the staff's position and, when possible, explain the basis of that disagreement.
6. It is Council's desire to use Boards and Commissions as the first step for gathering community feedback on controversial issues as a means of creating viable options.

7. The City Manager is responsible for the budget recommendation to City Council. When a Board or Commission disagrees with the City Manager's budget, the manager should be notified as a matter of courtesy prior to the Board or Commission members addressing Council.
8. Board and Commission members who wish to explain or advocate positions to Council should identify themselves as board members and clarify whether they are speaking for a personal position or on behalf of the majority or minority position that the Board or Commission has taken.
9. Council Members should refrain from discussing with members of Boards or Commissions any quasi-judicial issues coming before either party. For matters that are not quasi-judicial, Council Members may discuss a point of view with Board or Commission members, but should clarify that this perspective may not represent the position of the Council as a whole.
10. Staff takes direction from the City Manager, except as authorized by the Charter. Boards and Commissions may request research or other work of staff, but if the work requires more than what staff determines is reasonable, the Board or Commission, supported by a majority of members at a meeting, must make a direct request of the City Council.
11. In addition, the city maintains a Board and Commission website as an additional resource to its Boards and Commissions. The site is located at: <https://bouldercolorado.gov/boards-commissions/boards-commissions>

## **Public Meeting Notification Requirements**

---

The City of Boulder strives to promote transparency and open government by making every effort to inform residents and other interested parties about upcoming meetings in which they might be interested. There are minimum legal requirements for public notice. The city's policy is to exceed these requirements to provide as much notice as possible. As a matter of law, a posting on the City's website no less than 24 hours before a meeting is sufficient. In addition to the required notice, the city places a weekly advertisement in the Boulder Daily Camera listing all public meetings, provides information on the city's website, mails a quarterly newsletter, and provides a listserv for interested individuals. In addition, the Department of Planning, Housing and Sustainability provides an electronic newsletter to interested persons and an electronic newsletter listing city council meetings and public hearings is published. The city also uses social media to provide information to the community.

All meetings – in person, via telephone or email – that are conducted **to discuss public business** must follow these requirements. Social gatherings and social emails are exempt from notification requirements unless the discussion of public business is the central purpose. Council Hotline emails are considered public information. City policy is that all meetings must be conducted in person and be open to the public. There is a limited exception for executive sessions of the city council as permitted by Section 9 of the Boulder Home Rule Charter.<sup>1</sup>

### **What is a “local public body?”**

The Colorado Open Meetings Law defines a “local public body” as any board, committee, commission or other policy-making, rulemaking, advisory, or formally constituted body of a political subdivision of the state, such as municipalities. However, “persons on the administrative staff” of a local public body are specifically excluded. Additionally, any public or private entity that has been delegated any “governmental decision-making function” is a “local public body” and must conduct its meetings consistent with the Open Meetings Law.

---

<sup>1</sup> This authority expires on December 31, 2017, unless extended by the voters on November 7, 2017.

## What constitutes a “meeting?”<sup>2</sup>

The statutes broadly define a “meeting” as “any kind of gathering convened to discuss public business, in person, by telephone, electronically, or by other means of communication.” The Colorado Supreme Court has verified that for a gathering to be subject to Open Meetings Law requirements “there must be a demonstrated link between the meeting and the policy-making powers of the government entity holding or attending the meeting.” The Court has further clarified that such a link exists when the meeting is “convened to discuss or undertake...a rule, regulation, ordinance or formal action. Merely discussing matters of public importance does not trigger requirements of the Open Meetings Law.” A field trip taken for educational purposes is not a “meeting” under the Open Meetings Law. In addition, attendance by council members at a meeting, as members of the public, does not come under the Open Meetings Law.

## Full and timely notice

Under the Colorado Open Meetings Law, all meetings at which any public business is discussed or at which any formal action may be taken are open to the public. In addition, “full and timely notice” of the meeting is required **when three or more members (or a quorum if less than three) of a “local public body” gather for the purpose of discussing action on city business of any kind, or if the meeting is rationally connected to the policy-making responsibilities of the public body.** Local public bodies in Boulder include the city council, its committees, and all boards and commissions and their committees. “Full and timely notice” must be provided a minimum of 24 hours before the meeting. It is the City of Boulder’s practice to provide more notice than is required by law whenever possible. **The city’s practice is to post all notices the week prior to the scheduled meeting. Exceptions must be approved by the City Manager’s Office.**

All notices are posted outside the front door of **Municipal Building** at least 24 hours before the meeting and include a specific agenda if possible.

---

<sup>2</sup> “Open Meetings; Open Records – Colorado’s Sunshine Laws and Municipal Government,” Colorado Municipal League – September, 2005

## **Public meeting notification options/requirements – Including city council and board/commission meetings**

### Required by Colorado Open Meetings Law and City of Boulder ordinance:

- Municipal Building – posted AT LEAST 24 hours prior to the scheduled meeting.
- City website – posted AT LEAST 24 hours prior to the scheduled meeting.

### Required by City of Boulder ordinance:

- News from City Hall (NFCH) Ad – printed in the Daily Camera in the Sunday edition prior to the meeting.
- Web Calendar – posted AT LEAST 10 days prior to the scheduled meeting.  
**NOTE:** Please also use the web calendar to post **meeting cancellations**.

### Department discretion:

- News Release or News Brief – sent within the week prior to the meeting
- Emails
- Telephone Calls
- Hotline
- Twitter

**NOTE** on council Hotline email listserv: The intent of the city’s Hotline listserv is to provide the open government discussion opportunity for city council members to state their opinions and ask questions of city staff. This outlet enables council members to have conversations publicly and to receive information from city staff and other council members. Only city staff and council members can post email to this group. However, the public is invited to subscribe to the listserv to monitor conversations on Hotline. Hotline will not be used for the purpose of public meeting notification except to provide a weekly reminder to all subscribers that city meetings are posted on the city’s calendar at [www.bouldercolorado.gov](http://www.bouldercolorado.gov) which can be accessed using the “calendar of events” link in the upper right of the page. <https://bouldercolorado.gov/calendar>

## **Legal notices<sup>3</sup>**

Legal notices are those required by the City of Boulder Charter, the Boulder Revised Code (B.R.C.), certain legal requirements contained in the Colorado State

---

<sup>3</sup> Section 24-6-402, C.R.S.; 2-3-1(b)(5) and (g), B.R.C.; City Charter, Section 9; Council Procedures Section II. Note that code sections governing quasi-judicial proceedings may specify additional notice requirements.

Statutes, and requirements from the Colorado Open Meetings Law (COMA). They are not necessarily synonymous with meeting notifications of local public bodies. There are numerous legal notification requirements for different types of actions taken by the city of Boulder. For example, various boards and commissions have Rules of Procedure which vary according to the type of action being considered.

### **Meeting minutes**

Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection.

**NOTE:** Board and commission minutes are available in the city's records archive at <https://bouldercolorado.gov/central-records/document-archive>.

For assistance with any notification request please do not hesitate to contact the City Clerk's Office. When in doubt, contact the City Attorney's Office.

# **Code of Conduct**

---

*Title 2, Government Organization, Chapter 7, B.R.C. 1981*

## **2-7-1 Purpose, Legislative Intent and Findings**

(a) Purpose: The purpose of this chapter is to protect the integrity of city government by:

(1) Defining and forbidding certain activities including bribery and profiteering from public office.

(2) Establishing high standards of conduct for elected officials, appointed board and commission members and city employees by setting forth certain expectations of behavior that all such individuals shall maintain while elected, appointed or employed by the City of Boulder.

(3) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.

(b) Legislative Intent: It is the intent of the city council to:

(1) Establish rules of conduct that meet or exceed the rules established by the Colorado State Constitution and the Colorado Revised Statutes.

(2) Establish expectations to encourage public officials and public employees to maintain the highest standard of conduct to justify the public trust that they enjoy.

(3) Exercise the City of Boulder's right to develop laws related to ethics in local government and appropriate standards of local conduct as matters of local concern as established by the Colorado State Constitution in Article XX recognized by Article XXIX, § 3(6).

(c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety, and welfare of the residents of Boulder and is a matter of local concern.

## **2-7-2 Prohibited Acts**

(a) Personal Benefit Prohibited: No public official or public employee shall solicit, receive or accept anything of value in exchange for performing or refraining

from performing any act associated with the official or employee's position with the city.

- (b) Use of Position for Gain Prohibited: No public official or public employee shall use his or her public office or position for financial gain.
- (c) Use of Confidential Information for Financial Gain Prohibited: No public official or public employee shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

#### **2-7-3 Duty to Maintain the Confidentiality of Privileged Information**

- (a) Duty of a Public Official: No public official shall disclose privileged or confidential information without a public majority vote granting the permission of the council or similar body that holds the privilege. The sanction for a member of the city council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.
- (b) Duty of a Public Employee: No public employee shall disclose privileged or confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the city manager acting upon the advice of the city attorney.

#### **2-7-4 Gifts to Public Officials and Public Employees**

- (a) Gifts Prohibited: No public official or public employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor, a discount or a promise of future employment if:
  - (1) The official or employee is in a position to take official action with regard to the donor; or
  - (2) The city has or is known to be likely to have a transactional, business, or regulatory relationship with the donor.

(b) Exceptions and Items not Considered Gifts: The following shall not be considered gifts for purposes of this section, and it shall not be a violation of this chapter for a person to accept the same:

(1) Campaign contributions as permitted by law;

(2) An unsolicited, occasional non-pecuniary gift of a maximum amount of \$53 or less in value. The maximum amount will be equal to the amount established by the state of Colorado pursuant to Colorado Constitution Article XXIX, Section 6;

(3) A gift from a relative;

(4) An award, publicly presented, in recognition of public service;

(5) Reasonable expenses for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:

(A) The travel is for a legitimate city purpose;

(B) The travel arrangements are appropriate to that purpose;

(C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;

(D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor;

(E) Prior to travelling, the public official informs the city council or the employee informs the city manager of the name of the party paying for the travel expenses and the reason for the travel; and

(F) After completing the travel, the public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.

(6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and

(7) A single unsolicited ticket given to a city council member and valued at not in excess of \$150 to attend events on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:

(A) The ticket is offered only to the council member and has no resale value; and

(B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city.

(8) A single unsolicited ticket given to a council member and valued at not in excess of \$150 in each calendar year to attend a sporting event, concert or other event provided by a governmental entity or nonprofit organization, if the event is sponsored by the governmental entity or nonprofit organization, and the purpose of attending the event is to promote the relationship between the city and the other governmental entity or nonprofit organization.

#### **2-7-5 Prior Employment, Outside Employment, and Subsequent Employment**

(a) **Prior Employment:** No person shall be disqualified from service with the city as a public official or public employee solely because of his or her prior employment. Public officials and public employees shall not take any action with respect to their former employers for a period of six months from the date of termination of the prior employment if such action involves an exercise of discretion by the public official or public employee and provides direct benefit to the prior employer, including but not limited to a contract, lease, employment or regulatory approval.

(b) **Disclosure of Employment and Other Business Activities:** All public employees, shall report existing or proposed outside employment or other outside business interests that may affect their responsibilities to the city in writing to their appointing authorities prior to being appointed or hired. After being appointed or hired, all such people shall report any changes of employment or changes to outside business interests that may affect the person's responsibilities to the city, within thirty days after accepting the same. An employee that has received permission from the city manager may engage in outside employment or outside business interests.

- (c) Disclosure by Public Officials: Public Officials shall report any change in their employment status that could give rise to a conflict of interest under this chapter.
- (d) Activities That Occur After Termination of Employment or Office: No former public official or public employee shall seek or obtain employment concerning matters upon which he or she took any action during his or her service with the city for six months following termination of office or employment if such action, occurred less than four years prior to seeking or obtaining employment, involved an exercise of discretion by the public official or public employee and provided direct benefit to the employer, including but not limited to a contract, lease, employment or regulatory approval. This provision may be waived by the city council or the city manager.
- (e) Participation of Former Officials or Employees: No former public official or public employee shall appear before, or participate in, a city board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the city for twelve months following termination of office or employment. This prohibition may be waived by the city council by appointment or vote. This prohibition shall not apply to persons who appear before the city in their capacity as an elected official following termination of their office or employment with the city.
- (f) Participation in Litigation After Termination: No former public official shall engage in any action or litigation in which the city is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the city for twelve months following termination of service with the city.

#### **2-7-6 Employment of Relatives**

- (a) No public official or public employee shall appoint, hire, or advocate the appointment or hiring by the city any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the city a person who is the employee's relative may cause an appearance of violating this section, the employee may request that the city manager make such decision on the employee's behalf. Council-appointed officers may request the city council to make such an appointment or hiring decision on their behalf.

(b) The city may enter into transactions with companies, corporations or other business organizations that employ a relative of a city public official or public employee provided that:

(1) The public official or public employee does not participate in the decision making that leads to hiring the company, corporation, or other business organization that employs his or her relative; or

(2) The business organization is a publicly-traded corporation that provides its services or products to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or

(3) The company, corporation, or business organization has been doing business with the city for at least one year prior to the date the city official's or employee's relative became employed by the company, corporation or other business organization, and the city official's or employee's relative is not directly employed upon matters involving the city and does not have his or her compensation tied in any manner to the success of the company, corporation, or other business organization, or its ability to obtain business or earn compensation from the city.

#### **2-7-7 Representing Others Before the City Prohibited**

(a) **City Council Members Barred From Representing Others:** No city council member shall appear on behalf of himself or herself, or another person, before the city council or any city board, commission, task force or similar body. A city council member may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before such a body if the council member discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981. This prohibition shall not apply when a city council member is appointed by a majority vote of the council to represent the council before a board or commission.

(b) **Board, Commission or Task Force Members Barred From Representing Others:** An appointee to a city board, commission, task force or similar body may appear or be affiliated with a firm appearing concerning any transaction with the city under the following circumstances:

(1) An appointee may appear on his or her own behalf before the body of which he or she is a member to represent his or her personal interests, if the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;

(2) An appointee may appear on behalf of another person before any city body except the body of which the appointee is a member, except with respect to a matter that has or may come before the board or commission on which he or she serves;

(3) A firm with which an appointee is affiliated may not appear on behalf of or be employed by another person concerning any transaction before the body of which the appointee is a member unless the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981.

- (c) **Public Employees Barred From Representing Others:** No public employee shall appear on behalf of or be employed by another person concerning any transaction with the city or before the city council or any city board, commission, task force or similar body. A public employee may appear before such a body on his or her own behalf or on behalf of such employee's spouse, parent, or child. Nothing in this chapter shall be deemed to prohibit the city manager from establishing additional policies and regulations to prevent conflicts of interest between public employees and the city.
- (d) **City Council Members and Municipal Court:** No city council member who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm appearing on behalf of or employed by another person concerning any matter before the municipal court.
- (e) **Public Employees and Municipal Court:** No public employee who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm that appears on behalf of or is employed by another person concerning any matter before the municipal court. A non-attorney employee may appear before the municipal court on his or her own behalf, and an employee other than a municipal court judge may appear on behalf of such employee's spouse, parent, or child to the extent otherwise allowed by law. This authority is intended to allow employees to assist family members in

matters before the municipal court to the extent permitted by law but not to promote the unauthorized practice of law.

- (f) Board, Commission, or Task Force Member and Municipal Court: An appointee to a city board, commission, task force or similar body may appear before the municipal court and may be affiliated with a firm appearing before the municipal court.
- (g) Consent to Sue: No public official shall by himself or herself or as an affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the public official first obtains the consent of the city council.

### **2-7-8 Expectations**

- (a) These expectations are intended to establish ethical standards to guide public officials and public employees in the execution of their offices in a manner that will reflect well on the city and promote the public's trust in local government.
- (b) Compliance with this section will not constitute a defense for violation of another subsection or section of this chapter. Violation of this section may be considered as the basis for censure of a public official, or in the most serious cases, removal of a board or commission member. Violation of this section may be the basis of disciplinary action, or in the most serious cases, termination of a public employee.
- (c) A public official who determines that his or her actions may be considered to be in violation of this section should consider disclosure and discussion of the potential violation in a public meeting before the council, board, commission, task force or similar body on which the person serves.
- (d) A public official whose participation in a matter would violate this section shall recuse herself or himself as prescribed by Section 2-7-9, "Disclosure and Recusal Procedure," B.R.C. 1981.
- (e) A public official or public employee shall:
  - (1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.

(2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.

(3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.

(4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.

(5) Act within the boundaries of his or her authority as defined by the city charter and code.

(6) Treat colleagues and members of the public professionally and with courtesy.

(7) Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the city, if the official or employee has any authority to exercise discretion over the business relationship.

(8) Disclose any benefit he or she will receive from any matter requiring the exercise of discretion by the officer or employee.

(9) Use city resources, facilities and equipment only for city purposes, except for reasonable incidental personal use that does not interfere with city business.

(10) Disclose waste, fraud, abuse and corruption to appropriate authorities.

(f) A public official or public employee shall not:

(1) Advocate or support any action or activity that violates a law or regulatory requirement.

(2) Use his or her position or decision-making authority for his or her benefit.

(3) Expend city funds for his or her personal use or benefit.

(4) Misrepresent known facts in any issue involving city business.

- (5) Exercise authority or discretion in any matter in which he or she will benefit as a result of that exercise of authority or discretion.
- (6) Use city resources, facilities or equipment for personal profit, for outside business interests or to access any inappropriate material, except if viewing such material is a necessary and proper part of their duties.
- (7) Participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position with the city.
- (8) Supervise a relative in the performance of the relative's official powers or duties.
- (9) Compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.
- (10) Act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any employee, or an applicant for a position, including appointment to a board or commission, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (11) Solicit or accept anything of value from anyone doing business with the city.
- (12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment.
- (13) Use his or her public position to obtain a benefit for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship.
- (14) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest.

(15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests impropriety, favoritism, or bias by the city or the official or employee.

(16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, except that public officials may identify themselves and their position as public officials supporting or opposing candidates or ballot measures.

(17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in for personal profit or advantage.

(18) Use city resources, facilities or equipment to support or oppose any political candidate or ballot measure.

#### **2-7-9 Disclosure and Recusal Procedure**

(a) Disclosure and Recusal: No person with an interest prohibited pursuant to Section 2-7-2, B.R.C. 1981, and no person described in Subsection 2-7-7(a) or (b), B.R.C. 1981, shall fail to give written notice of the interest described in such section or subsection to the city council or the city board, commission, task force or similar body of which the person is a member and the city manager as soon as reasonably possible after the interest has arisen. However, no written notice is required if such person discloses the conflict of interest on the record of a public meeting of the city council or the city board, commission, task force or similar body of which the person is a member. The interested council member, employee, or appointee shall thereafter:

(1) Refrain from voting upon or otherwise acting in an official capacity in such transaction;

(2) Physically absent himself or herself from the room in which a matter related to such transaction is being considered; and

(3) Not discuss any matter related to such transaction with any other member of the council, board, commission, task force or similar body of which the person is a member.

(b) Recusal by the Council, Board, Commission, Task Force or Similar Body: The city council and any city board, commission, task force or similar body may

order recusal of one of its members if that member has an obligation to do so under this chapter and has failed to do so. Such an order is valid if reached after majority vote of the members of the body, not including the member whose recusal is sought, based on competent evidence.

## **2-7-10 Enforcement**

(a) **Violations Prohibited:** No person shall violate the requirements of this chapter.

(b) **Complaints:** A complaint alleging a violation of this chapter may be initiated by any of the following:

(1) **Complaints Initiated by the City Manager or City Attorney:** The city manager or city attorney may initiate an investigation of any city employee, other than those directly reporting to the city council, if facts are alleged to the city manager in any form that, if true, would constitute a violation of the provisions of this chapter.

(2) **Complaints Initiated by a Resident or City Employee:** A resident of the City or any city employee may initiate an investigation of any city council member, employee or appointee to a city board, commission, task force or similar body by filing a sworn statement with the city clerk setting forth facts which, if true, would constitute a violation of a provision of this chapter.

(3) **Complaints Initiated by the City Council:** The city council may initiate an investigation of any of its employees, and of any city council member or appointee to a city board, commission, task force or similar body if facts are alleged to the council that, if true, would constitute a violation of the provisions of this chapter.

(c) **Investigation of a Complaint:** The city manager (for city employees) or the city council (for all others) shall request the city attorney to conduct an investigation regarding a violation of this chapter. The city attorney may request that the city council appoint special counsel to investigate and prosecute any case that may cause the city attorney to have a conflict of interest or may cause an appearance of impropriety under the provisions of this chapter, or may violate any rule regarding professional responsibility.

(d) **Response to All Complaints Required:** A public official, or body or appointee thereof, conducting an investigation pursuant to Subsection (b) of this section shall prepare written findings of fact and conclusions of law in response to all

complaints that shall be made available to the public upon completion of the investigation. The response may include a finding that the complaint has no merit, is frivolous, is groundless or is brought for purposes of harassment.

- (e) Limitations: No action may be taken on any complaint that is filed later than twelve months after discovery of the facts supporting an allegation that a violation of this chapter occurred.

### **2-7-11 Sanctions and Remedies for Violation**

- (a) Transactions Voidable: If a transaction including but not limited to a contract or sale is consummated contrary to the provisions of Subsection 2-7-2(a), B.R.C. 1981, the city council may void the transaction.

- (b) Removal by City Council: The city council may remove any of its employees and any member of a city board, commission, task force or similar body that it finds has willfully violated any provision of this Section. 2-7-10, "Enforcement," B.R.C. 1981.

- (c) Sanction Recommendations: If the party conducting an investigation pursuant to Section 2-7-10, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee to a city board, commission, task force or similar body, or employee has violated any provision of this chapter, the investigator shall provide its findings and recommendations to the city manager or city council, as appropriate, who or which in turn may take any of the following actions:

- (1) In the case of a city council member, a motion of censure;

- (2) In the case of a public employee, a motion for censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee;

- (3) In the case of a member of a board or commission removal as provided in subsection (b) of this section; or

- (4) As an alternative or in addition to the sanctions imposed herein, the city council may resolve that any person or entity causing, inducing, or soliciting a public official or public employee to violate this chapter may not be involved in any transaction with the City, including but not limited to the award of any city contract, grant, loan or any other thing of value for a period of twelve

months or that any such contract, grant, loan or thing of value be terminated, repaid or forfeited.

- (d) **Civil Remedies:** Any person incurring actual monetary damage as a direct and proximate result of a violation of Section 2-7-2, "Prohibited Acts," B.R.C. 1981 or Section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 may commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with Subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon. No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.
- (e) **Criminal Sanctions:** The city attorney, or special counsel authorized to act on behalf of the city attorney, acting on behalf of the people of the city, may prosecute any violation of Section 2-7-2, "Prohibited Acts," B.R.C. 1981 or Section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 in municipal court in the same manner that other municipal offenses are prosecuted.

#### **2-7-12 Role of the City Attorney**

- (a) Any city council member, employee, or appointee to a city board, commission, task force or similar body may request an advisory opinion of the city attorney whenever a question arises as to the applicability of this chapter to a particular situation.
- (b) **Appointment of Outside Counsel:** If the city attorney has a conflict of interest or a matter arise in which the city attorney believes that a reasonable person would question his or her objectivity, the city attorney shall appoint a neutral outside counsel to investigate the issue and make a recommendation.

#### **2-7-13 Exemptions From Chapter**

Nothing in this chapter shall be deemed to apply to a city employee or appointee to a city board, commission, task force or similar body who appears before any such body to urge action on a policy or issue of a general civic nature or to the relationship between the city council, the city and a general improvement district.

Participation in an improvement district shall not, in and of itself, constitute a conflict of interest for a city council or improvement district advisory committee decision concerning the district.

## **2-7-14 Definitions**

*Affiliated with* means an employee, partner, agent, stockholder, joint venturer or corporate director of any business organization or a person who shares office space with such organization.

*Appear on behalf of* means to act as a witness, advocate or expert or otherwise to support or oppose the position of another person.

*Benefit* shall mean anything of value accruing to an official or employee. A benefit shall not include any situation in which the official, employee or family member has only a remote interest. A benefit does not include things that affect the entire membership of a significant class or a significant segment of the community in a similar manner as the affected public official or employee. An official or employee is deemed to have received a benefit if any of the following receive a benefit:

(1) A Family Member;

(2) Any person or business entity with whom a contractual relationship exists with the official or employee;

(3) Any business entity in which the official or employee is an officer or director; or

(4) Any business entity in which the official or employee has a stock, legal ownership, or beneficial ownership of at least five percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the official or employee.

*Employment* means providing personal services as an employee or an independent contractor, with or without consideration.

*Family Member* shall mean a spouse, domestic partner, partner in a civil union, child, and whether related through adoption or marriage, a parent, brother or sister.

*Gift* means any payment, entertainment, subscription, forbearance, service or any other thing of value, rendering or deposit of money, which is transferred to a donee directly or in trust for his or her benefit. *Gift* shall not include campaign contributions as permitted by law.

*Official action* means any legislative, administrative or quasi-judicial act of any public official or employee including, without limitation, participation in, or influence of, the decision-making process leading up to a vote or final determination.

*Public employee* or *employee* means any person holding any paid position of employment with the City, but shall not include consultants or contractors who have independent control over their work product.

*Public Official* shall mean any elected or appointed city official, including city council members and members of boards and commissions.

*Relative* means any person related to a public official or an employee by blood, marriage or adoption, through the second degree of consanguinity, including, without limitation, the following: spouse, parents, parents-in-law, children, children-in-law, brothers and sisters, brothers and sisters-in-law, grandparents, grandchildren, aunts, uncles, cousins, nephews and nieces. A separation between spouses shall not be deemed to terminate relationships described above which exist only because of marriage.

*Remote Interest* shall mean any interest which is incidental to the contract or transaction and shall include:

- (1) A position as a non-salaried director, officer or employee of a non-profit corporation or organization;
- (2) Less than five percent of the total stock or total legal and beneficial ownership in a business entity;
- (3) A position of employment held by a family member which is not a director, officer, manager or supervisor in a business entity;
- (4) A position of employment held by a family member which does not directly exercise decision making authority affecting the contract or transaction; or

(5) A position in a representative capacity such as a receiver, trustee or administrator.

### **2-7-15 Examples of Violations**

The examples in this paragraph are intended to provide guidance for the implementation of these rules. These are examples only; behavior not listed here also can violate these rules.

The following acts would constitute a violation of this chapter:

- (a) A person lies to a constituent in violation of Paragraph 2-7-8(f)(4), B.R.C. 1981.
- (b) A person favors a personal friend when awarding a city contract in violation of Paragraph 2-7-8(f)(13), B.R.C. 1981.
- (c) A person fails to disclose a professional relationship with a firm seeking to do business with the city in violation of Paragraph 2-7-8(e)(7), B.R.C. 1981.
- (d) A person fails to disclose owning stock in a company involved in a matter that requires the exercise of discretion by the person in violation of Paragraph 2-7-8(e)(8), B.R.C. 1981.
- (e) A person uses a city computer to operate a personal business in violation of Paragraph 2-7-8(e)(9), B.R.C. 1981.
- (f) A person uses a city phone for a political campaign in violation of Paragraph 2-7-8(f)(18), B.R.C. 1981.
- (g) A person fails to disclose fraud by a public employee in violation of Paragraph 2-7-8(e)(10), B.R.C. 1981.
- (h) A person arranges a repaving project that benefits his or her neighborhood in violation of Paragraph 2-7-8(f)(2), B.R.C. 1981.
- (i) A council member participates in a decision that affects the value of his or her real property in violation of Paragraph 2-7-8(f)(2), B.R.C. 1981.
- (j) A person uses city photocopies machines to make 100 flyers to advertise a personal business Paragraph 2-7-8(f)(3), B.R.C. 1981.

- (k) A person makes verbal attacks against someone who contacted the city for information in violation of Paragraph 2-7-8(e)(2), B.R.C. 1981.
- (l) A person recommends that his or her department hire his or her niece in violation of Paragraph 2-7-8(f)(7), B.R.C. 1981.
- (m) A person supervises his or her spouse in violation of Paragraph 2-7-8(f)(8), B.R.C. 1981.
- (n) A council member seeks a campaign contribution from a public employee in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (o) A supervisor encourages employees to attend a campaign fundraiser for a council member in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (p) A supervisor implicitly requires an employee to make a campaign contribution as a condition of receiving a positive evaluation in violation of Paragraph 2-7-8(f)(9), B.R.C. 1981.
- (q) A person accepts a lunch from a person seeking to do business with the city in violation of Paragraph 2-7-8(f)(11), B.R.C. 1981.
- (r) A person seeks employment with a contractor whom the person previously hired to work for the city in violation of Paragraph 2-7-8(f)(12), B.R.C. 1981.
- (s) A person obtains an internship for his or her son with a company doing business with the city in violation of Paragraph 2-7-8(f)(13), B.R.C. 1981.
- (t) A board member who is an architect participates in a decision in which his or her firm represents the applicant in violation of Paragraph 2-7-8(f)(5), B.R.C. 1981.
- (u) A board member who is an attorney participates in a decision in which his or her firm represents a party to the transaction being considered in violation of Paragraph 2-7-8(f)(5), B.R.C. 1981.
- (v) A person endorses a business using his or her city title in violation of Paragraph 2-7-8(f)(15), B.R.C. 1981.

- (w) A person solicits work for his or her off-duty business, by advertising his or her work as a City of Boulder employee in violation of Paragraph 2-7-8(f)(17), B.R.C. 1981.
- (x) A council member solicits business by relying upon his or her position as a city council member in violation of Paragraph 2-7-8(f)(17), B.R.C. 1981.

