



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 17, 2015

AGENDA TITLE: Third reading and consideration of a motion to adopt Ordinance No. 8028 amending the building height regulations and requirements of Title 9, “Land Use Code” B.R.C. 1981 for certain areas of the city.

PRESENTER/S

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

David Driskell, Executive Director of Community Planning and Sustainability

Susan Richstone, Deputy Director of Community Planning and Sustainability

David Gehr, Deputy City Attorney

Charles Ferro, Development Review Manager

EXECUTIVE SUMMARY

On Jan. 20, 2015, City Council considered on first reading an ordinance that would limit height modifications in the city to specific areas. The proposed ordinance is intended to address the community concern that a height modification may be considered on any property in the city through Site Review. It would reinforce the community’s vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas, which have been vetted and approved through a planning process such as an area plan or other public process. The proposed ordinance also includes specific circumstances in which height modifications could still be considered to avoid potential unintended consequences. Importantly, inclusion of a specific area or circumstance in the proposed exemptions list does not infer that a building height of 55 feet is appropriate or desired in the area overall or on any specific property (55 feet being the maximum potential height on any property subject to zoning control, as established by voters in the City Charter). It does, however, acknowledge that a height greater than 35 feet (or 38 feet downtown) may be appropriately considered in these areas and circumstances, and that policies and other guidance are in place to inform that consideration. Approval of any such modification would still require public review and input, and action by the planning board subject to council call-up. New development and Site Review applications could still be considered

in all areas, and Site Review would still be required for many projects per the code; however, height modifications outside of the identified areas and circumstances could not be considered.

On Feb. 19, 2015, Planning Board considered the proposed ordinance and recommended approval of the ordinance on a vote of 4 to 2 (Putnam absent), but did not recommend approval of allowing height modification requests in the identified areas. Rather, only the following exemptions were recommended:

- 1) A Site Review application that has been submitted by January 21, 2015
- 2) A Site Review application that is for an upgrade of emergency operations antennae.
- 3) A Concept Plan and Site Review application for Frasier Meadows

A complete summary of the Planning Board action is included in the new 'Board and Commission Feedback' section below.

On Feb. 26, 2014, City Council Considered second reading of the proposed ordinance, based on the version approved on first reading rather than the Planning Board recommendation, and passed the ordinance by a vote of 8-1 (Morzel opposed) with the following map amendments:

- 1) Add the portions of the Reve property at 2170 30th and 2120 32nd Streets that are located outside out of the Transit Village Area Plan boundary.
- 2) Remove the Downtown 4 & 5 zone districts
- 3) Remove all proposed properties in the North Boulder subarea except that portion of the Armory parcel located at 4750 Broadway.
- 4) Include the area from 28th to 30th Arapahoe to Walnut (29th Street Mall).
- 5) Add the Frasier Meadows Manor properties located at 4950 Thunderbird and 350 Ponca Pl.
- 6) Add the publicly zoned portions of the Arapahoe Ave. campus of the Boulder Community Hospital located at 4747 Arapahoe

The remainder of the Transit Village (Boulder Junction), University Hill and Gunbarrel areas as well as all areas of the city impacted by topography would continue to be included as originally proposed at first reading ordinance.

Provisions were also made to allow for increased height in Industrial zones if it is necessary for a manufacturing, testing or other industrial process or equipment. Provisions were also made for emergency operation antennae as well as projects in all zoning districts if at least forty percent of the floor area of the building is used for units that meet the requirements for permanently affordable units.

The proposed ordinance, including the map as modified at second reading, is found in **Attachment A** and would limit to specific areas and situations, the eligibility to consider

the approval of buildings that could exceed the by-right height limits through the Site Review process.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 8028 amending the building height regulations and requirements of Title 9, "Land Use Code" B.R.C. 1981 for certain areas of the city.

ATTACHMENTS

A: Ordinance No. 8028

ORDINANCE NO. 8028

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE" B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY; AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council finds and recites the following facts leading to the adoption of interim development regulations related to the height of buildings.

- a. The city values its built environment, as is reflected in the Boulder Valley Comprehensive Plan. 2010 BVCP, pages 18 to 32.
- b. The voter approved a height limit for buildings no greater than 55 feet in 1971.
- c. City Charter Section 84 provides the purposes of the height limitation, which applies to buildings at 55 feet and below.
- d. The Boulder Revised Code allows buildings to be constructed up to 55 feet in all zoning districts, subject to a site review approval.
- e. Increasingly, more buildings are being approved at heights up to 55 feet in multiple areas of the community.
- f. The city council intends to limit the areas where buildings can be up to 55 feet to those areas where previous planning efforts have resulted in the adoption of a plan or clear policy intent that supports more intensive forms of development or in instances where important community values are implemented or site topography may result in height-compliance hardship.
- g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.
- h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

Section 2. Paragraphs 9-2-14 (c)(1) is amended and a new paragraph (2) is added and subsequent paragraphs renumbered, to read:

9-2-14 Site Review.

...

1 (c) Modifications to Development Standards: The following development standards of
2 B.R.C. 1981 may be modified under the site review process set forth in this section:

3 (1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that
4 section except that the standards referred to as "FAR Requirements" may not be
5 modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981 and the
maximum height or conditional height for principal buildings or uses, except as
permitted in paragraph (c)(2) below.

6 (2) The maximum height or conditional height for principal buildings or uses may be
7 modified in any of the following circumstances:

8 (A) For building or uses designated in Appendix J "Areas Where Height
9 Modifications May Be Considered."

10 (B) Industrial General, Industrial Service, and Industrial Manufacturing districts
11 if the building has two or fewer stories or if the height is necessary for a
12 manufacturing, testing or other industrial process or equipment.

13 (C) In all zoning districts, if the height modification is to allow the greater of two
14 stories or the maximum number of stories permitted in Section 9-7-1 in a
15 building and the height modification is necessary because of the topography
16 of the site.

17 (D) In all zoning districts if at least forty percent of the floor area of the building
18 is used for units that meet the requirements for permanently affordable units
19 in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.¹

20 (E) For emergency operations antenna.

21 Section 3. The council adopts Attachment A, titled, "Appendix J to Title 9 - Areas Where
22 Height Modifications May Be Considered," as an amendment to Title 9, "Land Use Code,"
23 B.R.C. 1981.

24 Section 4. The provisions of this ordinance will expire on April 19, 2017. The council
25 intends that this ordinance will expire, be amended, or replaced with subsequent legislation after
further study of appropriate building heights in the city.

Section 5. This ordinance shall apply to all building permits or land use approvals for
which an application is made on January 21, 2015 or thereafter, unless specifically exempted.
Building permit applications for a development that received a site review approval for height

¹ The provisions adopted pursuant to Ordinance No. 8028 expire on April 19, 2017.

1 that exceeds the permitted height on or prior to January 21, 2015 may apply for and receive
2 building permits that are necessary to construct the approved development.

3 Section 6. Complete site review applications that have been submitted to the city prior to
4 January 21, 2015 that request additional height in areas that would not permit such height under
5 this ordinance will be permitted to continue through the process under the height regulations in
6 place at the time such application is made. Complete site review applications that have been
7 submitted to the city after January 21, 2015 and before February 20, 2015 that request additional
8 height in areas that would not permit such height under this ordinance will be permitted to
9 continue through the process under the height regulations in place at the time such application
10 was made, including the standards and requirements for the version this Ordinance No 8028
11 introduced and read on first reading at the January 20, 2015 city council meeting. Such
12 applicants shall be required to pursue such development approvals and meet all requirements
13 deadlines set by the city manager and the Boulder Revised Code. Pending developments may
14 apply for and receive building permits that are necessary to construct the approved development.
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16 Section 7. For the limited purposes of this ordinance, the city council suspends the
17 provisions of Subsection 9-1-5(a), "Amendments and Effect of Pending Amendments," B.R.C.
18 1981 for the limited purpose of adopting this ordinance.

19 Section 8. If any section paragraph clause or provision of this ordinance shall for any
20 reason be held to be invalid or unenforceable such decision shall not affect any of the remaining
21 provisions of this ordinance.

22 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
23 the residents of the city, and covers matters of local concern.
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READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED

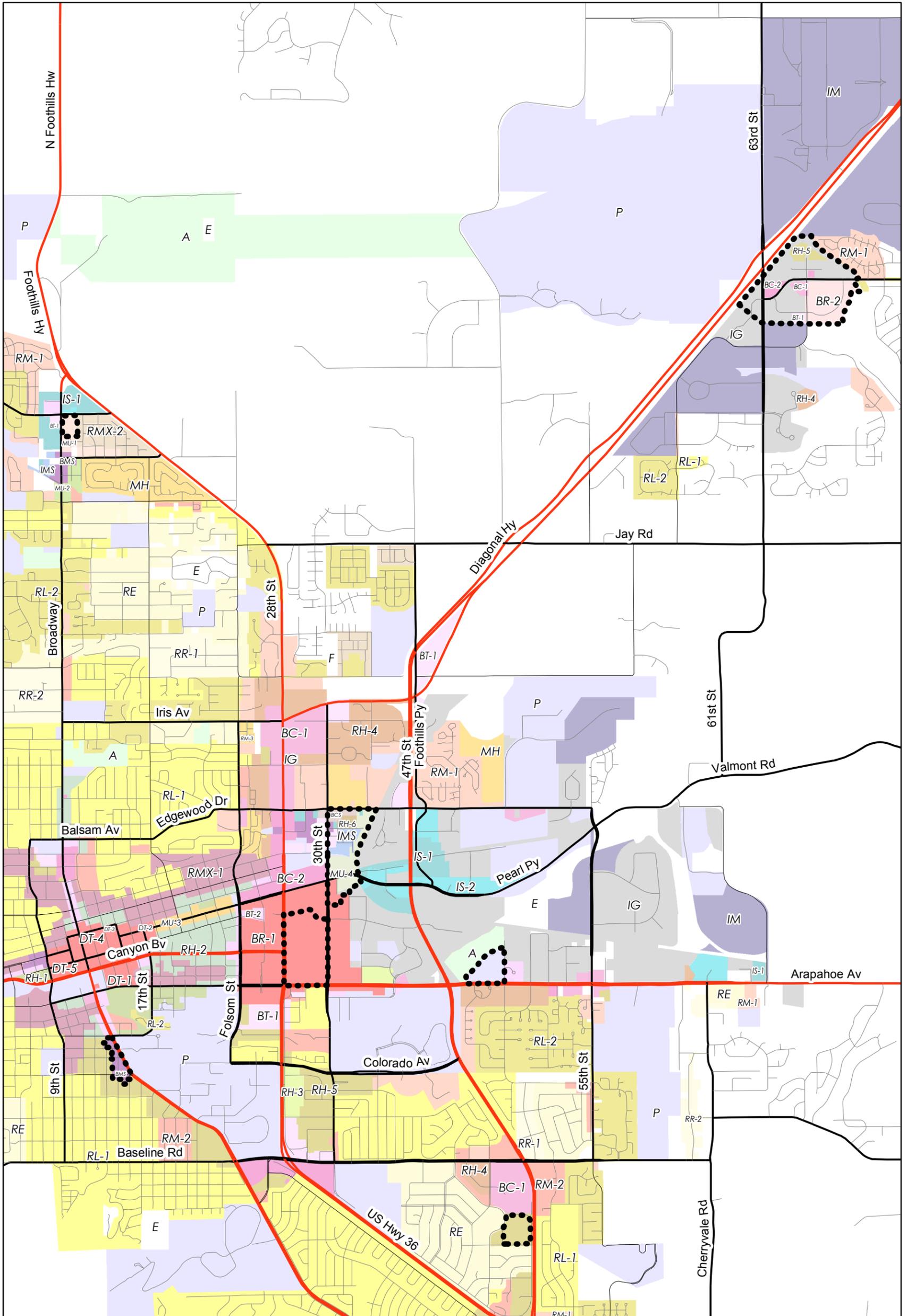
BY TITLE ONLY this __ day of _____, 2015.

Mayor

Attest:

City Clerk

Appendix J to Title 9 – Areas Where Height Modifications May be Considered



 Areas Where Height Modifications May be Considered

