



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: September 21, 2010

AGENDA TITLE

Introduction, first reading and consideration of a motion to publish by title only an ordinance amending sections 1-2-1 and 3-1-1 regarding definitions; sections of chapter 3-2 “Sales and Use Taxes” regarding construction use taxes, taxation of construction equipment, and deadline for submitting rebate requests; section 4-4-2, regarding the definition of “contractor;” section 4-20-4 regarding building contractor license and building permit fees; section 10-5-2(h) regarding work exempt from building permits, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas Carr, City Attorney
Paul Fetherston, Deputy City Manager
Bob Eiche, Finance Director / Acting Executive Director of Administrative Services
Maureen Rait, Executive Director of Public Works
Kathy Haddock, Senior Assistant City Attorney
Lynne Reynolds, Court Administrator / Project Manager

EXECUTIVE SUMMARY

The purpose of this item is to present recommended changes to the Boulder Revised Code as identified through the Construction Use Tax process improvement project. The scope of the Construction Use Tax process improvement project included examining the processes, procedures, structures, and systems applied to the collection of Construction Use Tax and achieving action items for improvements. Identifying potential changes to the Boulder Revised Code were included within the project tasks.

The following guiding objectives were used to analyze, review, and improve the Construction Use Tax practices:

- Develop predictable and fair procedures
- Achieve accurate collection of taxes (sales and use tax)
- Achieve accurate collection of fees

- Achieve consistency with other municipalities
- Implement proven methods
- Implement methods that are easy to use

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only an ordinance as proposed in Attachment A relating to construction use taxes, taxation of construction equipment, building contractor license and building permit fees, and work exempt from building permits.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Social - The community will benefit from changes that clarify or streamline the city's code language.

PUBLIC FEEDBACK

These code changes were reviewed with the Construction Use Tax stakeholders. The stakeholders support the proposed code changes going forward for City Council consideration.

BACKGROUND

In early January, the city manager convened a group of stakeholders to advise city staff on issues related to the Construction Use Tax process improvements. The scope of work included examining the processes, procedures, structures, and systems applied to the collection of Construction Use Tax and achieving action items for improvements. Additionally, identifying potential changes to the Tax Regulations and the Boulder Revised Code were included within the project tasks. The Construction Use Tax Report with stakeholder feedback and recommendations that resulted in the development of these proposed code changes are provided in the July 6, 2010 City Council agenda item:

http://www.bouldercolorado.gov/files/Clerk/Agendas/2010/July_6/6B.pdf

ANALYSIS

The bulk of these proposed code changes are to improve the process used to accomplish taxation of construction equipment, clarify the construction use tax permit reconciliation requirements, and add language in the code that describes building project processes.

MATRIX OF OPTIONS

The options are to approve, amend or not to approve the proposed ordinance.

FORMAT NOTES

Deleted code language is reflected through use of the strikethrough feature. New language is reflected in underline format. A “Reason for Change” is listed following each code section.

ATTACHMENTS

A: Proposed amendments with reasons for changes

B: Proposed ordinance

THE AMENDMENTS:

Section 1. Section 1-2-1(b) "Definitions," B.R.C. 1981 is amended to add the following definition:

"Contractor" means any person who undertakes with or for another person within the city to build, construct, install, demolish, alter, repair, or move any (a) building or structure, or any portion thereof, or (b) poles, lines, cables, or other transmission or distribution facilities in any right-of-way or utility easement.

Reason for Change:

Moved the definition of contractor from 4-4-2 to Title 1, General Administration. This change allows the definition of a contractor to apply to the entire code.

Section 2. Section 3-1-1 "Definitions," B.R.C. 1981 is amended to clarify the application of the section and the definition of "construction equipment" and add definitions as follows:

3-1-1 Definitions

The definitions set forth in chapter 1-2, "Definitions," B.R.C. 1981, apply to ~~this~~ Title 3 "Revenue and Taxation," chapter, including, without limitation, the definitions of *Compostables, Hauler, Recyclables, Trash* and *Trash collection*. The following definitions also apply to this title:

...

"Construction equipment" means equipment with a purchase price of \$2,500 or more actually used by a contractor licensed under Chapter 4-4 "Building Contractor License," B.R.C. 1981, in the erection, installation, ~~demolition~~, alteration, repair, ~~or remodeling~~, or landscaping of a building or structure upon real estate.

...

"Project completion date" means the (a) date of issuance of a certificate of occupancy or the (b) city-determined project completion status date that occurs after the final inspection requested by the responsible person.

...

"Responsible person" means (a) the contractor responsible for the construction of a permitted project, or (b) the contractor responsible for construction for a federal, state, or local government that is not required to get a permit from the city, or (c) if no contractor is used for a permitted project, the homeowner receiving a permit from the city to build or make improvements to the homeowner's personal residence.

...

“Retailer” means any person selling, leasing, or renting tangible personal property or services at retail. Retailer shall include, without limitation, any:

- (a) Auctioneer;
- (b) Salesperson, representative, peddler, or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor, or employer; or
- (c) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

Reason for Change:

Added details to the definition of construction equipment to provide clarification that this applies to equipment with a purchase price greater than \$2,500 and includes equipment used for demolition or landscaping. Removed the code language referencing licensed contractors because the obligation to pay use tax is on the owner of the equipment whether or not the owner is a licensed contractor.

Added a definition for project completion date. When an estimated use tax is paid at the time the building permit is issued, reconciliation of the total use tax due is required within 90 days from the project completion date. To provide notice to all parties, the “completion date” needs to be a specific time known to the taxpayer and to the city. The definition provides clarity of this term used in proposed code language contained in 3-2-18 (b) Taxpayer Duty to Keep Records, Provide Information and File Returns.

Added a definition for the responsible person to provide clarity about who is responsible for filing the return as detailed in proposed code language contained in 3-2-18(b) Taxpayer Duty to Keep Records, Provide Information and File Returns.

Added an “or” to the definition of Retailer, subsection (b).

Section 3. Paragraphs 3-2-2(a)(5), and (9) through (14), B.R.C. 1981 are amended to read as follows:

3-2-2 Imposition of Tax.

- (a) ~~On and after 11:59 p.m., December 31, 1967, t~~There is hereby levied and there shall be collected and paid a sales or use tax on the full purchase price paid or charged for tangible personal property and taxable services purchased or sold at retail by every person exercising a taxable privilege in the city by the sale or use of such property and services. The sales tax is levied on all sales of tangible personal property or taxable services, except those specifically exempted and is collected by the vendor and remitted to the city. The use tax is levied upon the privilege of using in the city, personally or as part of rendering a service, tangible personal property or taxable services upon which a

municipal sales or use tax has not been paid and is paid by either the vendor doing business in the city or the consumer. The following paragraphs prescribe rules for various taxable transactions:

...

- (5) Except for construction equipment as provided in paragraphs (9)-(12), a use tax is due upon tangible personal property that is utilized in the city if such use occurs within three years of the most recent sale of the property-, by the owner of the tangible personal property. No use tax shall be due on the use of tangible personal property within the city that occurs more than three years after the most recent sale of the property if, within three years following the date of such sale, the property has been significantly used within the state for the principal purpose for which it was purchased.

...

- (9) Use Tax on Construction Equipment: Construction equipment that is located within the city for a period of more than thirty consecutive calendar days shall be subjected to the full applicable city's use tax of the city based on the value of the equipment due and payable by the owner of the construction equipment. For purposes of paragraphs (a) (9)-(12) "value of the equipment" shall mean:

- (A) If owner purchased equipment within five years before the date it is located within the city, the purchase price;
- (B) If owner purchased the equipment more than five years but less than ten years before the date it is located within the city, the book value or fair market value, whichever is greater;
- (C) If owner purchased the equipment more than ten years before the date it is located within the city, no use tax is due under these paragraphs.

- (10) Construction Equipment in City for 30 Days or Less. Construction equipment that is located within the city for a period of thirty consecutive days or less shall be subjected to the city's use tax in an amount calculated as follows: the value purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator of which is twelve, and the result shall be multiplied by the tax rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981. In order to use this provision rather than paragraphs (a) (9) and (12) to determine the amount of tax on, and filing requirements for, construction equipment, the construction equipment declaration must be filed and the use tax paid by the owner within 20 days of removal of the construction equipment from the city.

- (11) Credit for Sales and Use Tax Paid To Other Governments. The Where the provisions of paragraph (a)(10) of this section are utilized, the credit provisions of subsection 3-2-9(b), "Tax Limited When Other Taxes Paid," B.R.C. 1981, shall

apply to taxation of construction equipment, at such time as the aggregate sales and use taxes legally imposed by and paid to other municipalities organized and existing under the authority of the Constitution or laws of the State of Colorado on any such equipment is equal to the tax that would otherwise be paid to the city on the full purchase price of the equipment by applying the tax rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981.

- (12) Reporting and Payment of Tax on Construction Equipment. Except for owners of construction equipment paying tax pursuant to paragraph (a) (10), in order to invoke the provisions of paragraph (a)(10) of this section, the taxpayer shall comply with the following procedure:

(A) Prior to or on the date on which the construction equipment is located within the boundaries of the city, the taxpayer the owner of the construction equipment shall file with the city manager a construction equipment declaration on a form provided by the city and pay any tax due within 90 days of the date the equipment is brought into the city for the project for which the equipment is moved into the city, and every 90 days thereafter. The last declaration and payment of tax shall be filed within 20 days of removal of the equipment from the city. For purposes of determining penalties and interest for failure to timely file a construction equipment declaration and pay the tax, the construction equipment declaration shall be considered a return. Such declaration shall state:

- (A) The dates on which the equipment was taxpayer anticipates the construction equipment will be located within and removed from the boundaries of the city,
- (B) shall include a description of each such piece of equipment,
- (C) shall state The value actual or anticipated purchase price of each such piece of equipment,
- (D) shall state The actual amount of sales or use taxes paid to other municipalities or states, and
- (E) shall include sSuch other information as reasonably deemed necessary by the city.
- ~~(B) The taxpayer shall file with the city an amended construction equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety days after the equipment is brought into the city or, for equipment that is brought into the city for a project of less than ninety days' duration, no later than ten days after substantial completion of the project.~~
- ~~(C) The taxpayer need not report on any equipment declaration any construction equipment for which the purchase price was under \$2,500.00.~~

- (13) ~~If the equipment declaration is given as provided in paragraph (a)(12) of this section, then as to any item of construction equipment for which the purchase price was under \$2,500.00 that was brought into the boundaries of the city for thirty days or less for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as the rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981, and that such local sales or use tax was previously paid. In such case the burden of proof shall be on the city to prove such local sales or use tax was not paid.~~
- (14) ~~If the taxpayer fails to comply substantially with the provisions of paragraph (a)(12) of this section, the taxpayer may not invoke the provisions of paragraph (a)(10) of this section and all construction equipment shall be subject to the provisions of paragraph (a)(9) of this section.~~

Reason for Change: These changes clarify the city's taxation position on construction equipment brought into the city for temporary use. Moreover, these changes provide a definition of the value of the equipment, eliminate the taxation of construction equipment purchased more than 10 years prior to bringing into the city, and remove a requirement for the owner to file an equipment declaration in advance of moving construction equipment into the city.

Section 4. Section 3-2-6, B.R.C. 1981 is amended by the addition of a new subsection (y) to read:

3-2-6 Exempt Property and Services.

Purchase, sale, or use of the following property and services is exempt from taxation under this chapter:

...

(y) Construction materials purchased by the responsible person to be used for installation, use, or consumption on job sites or building construction addresses if:

- (1) The value of the construction materials was included in determining the valuation of the construction; and
- (2) The vendor records on the invoice of sale the job site address and when applicable, the building permit number; and
- (3) The contractor has prepaid the tax directly to the city under section 3-2-14(a), "Methods of Paying Sales and Use Tax", B.R.C., 1981.

Reason for Change: The current placement of this information in the code is confusing because this is about exempting construction materials (a thing) and not about exempting the contractor (a person). Moving this code language into section 3-2-6 "Exempt Property and Services" clarifies that the exemption is for the construction materials not the contractor.

Section 5. Section 3-2-7(c), B.R.C. 1981 is repealed and the remaining section renumbered as follows:

3-2-7 Exempt Persons.

The following persons are exempt from payment of the tax imposed by this chapter on all purchases unless otherwise specified but not the duty to collect and remit the tax levied hereby on sales:

...

~~(e) Building contractors purchasing construction materials to be used for installation, use, or consumption on job sites or building construction addresses on which a city building permit has been issued, if:~~

- ~~(1) The value of the construction materials was included in determining the valuation of the construction for purposes of obtaining the building permit;~~
- ~~(2) The vendor records on the invoice of sale the job site address and building permit number; and~~
- ~~(3) The contractor has prepaid the tax directly to the city on the estimated or actual basis, calculated as a percentage of the construction valuation at the time the building permit is issued.~~

~~(d)~~(c) Nonresidents of the city who bring tangible personal property into the city for personal use, storage, or consumption while they are temporarily within the city.

Reason for Change: Administrative change to remove exemption of construction materials out of 3-2-7 "Exempt Persons" and more appropriately place this information into section 3-2-6 "Exempt Property and Services."

Section 6. Section 3-2-9, B.R.C. 1981 is amended to read:

3-2-9 Tax Limited When Other Taxes Paid.

The tax imposed under this chapter shall be reduced by the amounts of taxes paid to the city, other cities, or other states as follows:

- (a) When a sales tax has been paid to the city under this chapter, no use tax is due upon the use, storage, or consumption of tangible personal property, but a sales or use tax is due upon the rental or leasing of such property.
- (b) ~~The city's use tax shall not apply to tangible personal property that was previously subjected to a sales or use tax of another municipality, organized and existing under the authority of the Constitution or laws of the State of Colorado, lawfully imposed on the purchaser or user, equal to or in excess of the rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981. A credit shall be granted against the city's use tax equal to the tax paid by reason of the imposition of a sales or use tax of the other municipality on the~~

~~purchase or use of the property. The amount of the credit shall not exceed the rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981. The use tax credit set forth in this subsection shall not apply to a sales tax paid on construction materials.~~

A credit shall be granted against the city's use tax as follows:

- (1) If the sales or use tax was paid to another municipality in Colorado, and the amount of the sales or use tax paid is less than the amount of tax determined by the rate in section 3-2-5, "Rate of Tax," B.R.C. 1981, the city use tax shall be the difference between the tax paid and the city's rate applied to the property or service.
 - (2) If the retail sales tax was paid in another state, and the amount of the combined state and local government sales tax in the other state is less than the amount of tax determined by the total combined tax rate of the state of Colorado, its local governments, and the city, the city use tax shall be the difference between the combined tax paid and the amount of the total combined tax rate of the state and local governments of Colorado that would have been applicable to the property or service in Colorado;
 - (3) In no instance shall the credit exceed the rate in section 3-2-5, "Rate of Tax," B.R.C. 1981;
 - (4) The credit will not be granted unless the tax paid to such other municipality or state was legally due under the laws of the state, and the laws of the other state or municipality are compatible with or reciprocal to those of the city as applied to the property or service being taxed;
 - (5) The credit applies only to the tax paid on initial purchases by the taxpayer, and does not apply to, without limitation, rentals, leases, and uses of tangible personal property;
 - (6) The credit shall not apply to a sales or use tax paid on construction materials.
- (c) The city's sales tax shall not apply to the sale of construction materials, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit evidencing that a local use tax has been paid or is required to be paid.
- (d) The city's use tax shall not apply to construction materials that are stored inside the city but are not used for any other purpose within the city.

Reason for Change: This section of code did not include credit for sales or use tax paid on taxable services and did not describe the city's taxation practice on taxes paid to other states. The proposed code language clarifies that the city's taxation practices give credit on

sales or use tax paid on both tangible personal property and taxable services. Additionally, the proposed code language details the city's taxation practices for taxes paid to another state.

Section 7. Section 3-2-14(a), B.R.C. 1981 is amended to read:

3-2-14 Methods of Paying Sales and Use Tax.

(a) Every contractor who builds, reconstructs, installs, demolishes, alters, repairs, or moves~~improves~~ any building or other structure, including work performed for federal, state, or city governments or exempt institutions in the city, and every person engaged in the installation of poles, lines, cables, or other transmission or distribution facilities of public utilities, and who purchases tangible personal property or taxable services for use therein and every owner or lessee of realty or improvements to realty in the city who attaches tangible personal property to or causes to be performed taxable services upon said realty or improvements thereto shall pay the tax imposed by this chapter upon such tangible personal property ~~or~~and taxable services in one of the following ways:

- (1) ~~Payment to a vendor licensed by the city of tangible personal property or taxable services at the time and place of purchase thereof;~~
- (2) ~~Prepayment of the tax by either the owner, lessee, or general contractor or separately by a subcontractor electing to do so at the time a building or right of way permit is issued, on the estimated percentage basis, based on a percentage of the total valuation of the construction contract determined in section 4-20-4(d), "Building Contractor License, Building Permit Fees, and Payment of Estimated Use Tax;" or~~
- (~~2~~3) Prepayment of the tax directly to the city by a contractor on a project for a federal, state, or local government that is not required to obtain a permit from the city; or
- (3) ~~Filing a use tax return on a monthly or other basis approved by the city manager under subsection 3-2-15(d), B.R.C. 1981, and payment of the tax by the twentieth day of each reporting period for the previous reporting period after obtaining a sales and use tax license; or~~
- (~~4~~3) Payment of the tax directly to a retailer that has a sales and use tax license from the city. This option cannot be used when tax is prepaid in accordance with paragraphs (a) (1) or (a)(2).

Reason for Change: Administrative change to reorder the code language to list the most commonly used methods of tax payment first and least commonly used methods last. Additionally, code language was added to address entities that do not have to obtain a permit.

Section 8. Section 3-2-17(h) is amended to read:

3-2-17 Duties and Powers of City Manager

- (h) The city manager shall rebate to the taxpayer the portion of sales and use taxes paid under this chapter for Photovoltaic and Solar Thermal Systems specified in this subsection. A portion of the sales and use taxes paid under this chapter for Photovoltaic and Solar Thermal Systems may be set aside by city council budget actions to create a reserve account dedicated to providing access to Photovoltaic and Solar Thermal Systems on housing for low or moderate income persons and on the facilities of site-based nonprofit entities operating in Boulder. The taxpayer rebate shall be the amount remaining after the reserve account set aside is deducted. Taxpayers must file an application for the sales and use tax rebate within 12 months of the city's final inspection. This program shall be reviewed periodically for effectiveness, and shall not be deemed a change in taxing policy.

Reason for Change: Establishing a deadline to request a solar rebate will reduce the city's financial liability going forward because requests for rebates will be resolved within the prescribed timeframe. This change also increases the amount of funds available for solar grants for non-profits and affordable housing residents. This is because the solar funds are allocated to grants and rebates and any amount unused for rebates is available for grants. Note: This proposed code language is not part of the construction use tax process improvement project.

Section 9. The title of section 3-2-18, B.R.C. 1981 and subsections (b) and (c) are amended to read:

3-2-18 Taxpayer Duty to Keep Records, Provide Information and File Returns and ~~Make Reports.~~

...

- (b) ~~Contractors who have prepaid an estimate of taxes on construction projects under paragraph 3-2-14(a)(2), B.R.C. 1981, shall, upon completion of each such project, report the actual costs of tangible personal property and taxable services used therein. For all projects with a final contract price or final project cost of \$20,000 or more, the responsible person who has prepaid use tax under paragraph 3-2-14, "Methods of Paying Sales and Use Tax," B.R.C. 1981, shall:~~

(1) Within 90 days of the project completion date complete a construction use tax reconciliation return on a form provided by the city reconciling the use tax due with the amount paid;

(2) Report the actual costs of tangible personal property, taxable services, and construction materials used for the project;

(3) Determine if the use tax due the city is more or less than any prepaid tax; and

(4) Pay the additional tax due with the filing of the return. If the use tax due is less than the prepaid tax estimate, the city shall refund the difference in accordance with Section 3-2-23, "Refunds," B.R.C.

- (c) Every taxpayer or other person liable to the city for sales or use tax under this title shall keep and preserve for a period of three years from the date the tax is due, such books, accounts, and records, including without limitation, original sales and purchase records, as may be necessary to determine the amount of tax that the taxpayer is liable to pay or collect.

...

Reason for Change: Changed code language to provide transparency through codifying the details of the reconciliation practices put in place on permits issued on or after July 1, 2010. This new language clarifies the duties of the responsible person to file the reconciliation and exempts the reconciliation requirements for projects with a final contract price or final project cost of less than \$20,000.

Section 10. Section 3-2-28(b), B.R.C. 1981 is amended to read:

3-2-28 Liens on Construction Improvements.

...

- (b) In the event a person has not paid or arranged with the city manager to pay all taxes due under this chapter for a construction project, the city manager may refuse to make a final inspection or issue a project completion status date. Performance of a final inspection or issuance of a project completion status date by the city shall not relieve any person from the obligation to pay any tax due the city.

~~The city building inspector shall not make a final inspection on or issue a certificate of occupancy for any construction project unless a person has paid or arranged with the city manager to pay all taxes due under this chapter on all lumber, fixtures, and any other building materials and supplies used in or connected with the construction, reconstruction, alteration, expansion, modification, or improvement of any building, dwelling, or other structure or improvement to real property within the city.~~

Reason for Change: In the past, the final inspection had caused some people to believe they had satisfied all tax obligations with the city. This administrative change provides code language to clarify that a final inspection does not relieve any person from the obligation to pay any tax due to the city.

Section 11. Section 4-4-2(a), B.R.C. 1981, is amended to read:

4-4-2 Definition of Contractor.

(a) For purposes of this chapter, a “contractor” has the same meaning as "contractor" in section 1-2-1(b), "Definitions," B.R.C. 1981, and includes without limitation ~~means~~ any person who undertakes with or for another person to within the city to build, construct, alter, repair, add to, move, inspect pursuant to chapter 10-3, "Rental Licenses," B.R.C. 1981, or wreck any building or structure, or any portion thereof.

Reason for Change: Added language was needed here to reflect the addition of “contractor” as a definition in section 1-2-1 (b), “Definitions,” B.R.C. 1981.

Section 12. Sections 4-20-4 (c), (d), and (e), B. R. C. 1981 are amended to read:

4-20-4. Building Contractor License, and Building Permit Fees, and Payment of Estimated Use Tax.

...

(c) An applicant for a building permit shall ~~pay the following fees:~~ a building permit fee based on the value of the work covered by the permit according to the following schedule:

[no change to chart of fees]

(d) The value of the work covered by the permit ~~Valuation for buildings~~ shall be determined by either the City of Boulder Valuation Table or and the estimated permit value of the work covered by the permit provided by the applicant at time of application. The higher of the two valuations shall be used to calculate the building permit fees and the estimated pre-payment of construction use tax if the applicant chooses to pay use taxes pursuant to subsection 3-2-14(a), "Methods of Paying Sales and Use Tax," B.R.C. 1981.

(1)(e) *City of Boulder Valuation Table* means a table of square foot construction values based on type of construction and use. The city ~~shall use~~ has adopted the July-August 2009 version of the cost data as published by the International Code Council.

(2) The cost per square foot values from the City of Boulder Valuation Table shall be applied to the area identified in the permit application for the project. Such area of a project shall include new, added, and reconfigured construction areas for which the permit is sought. When the reconfiguration involves linear elements such as partition walls or new openings in existing walls, the work area shall be calculated by multiplying the length of the element by a width of four feet to determine the square footage to apply the valuation table.

(3) Building permit fees shall be based on the construction valuation in the City of Boulder Valuation Table, which includes without limitation: foundations,

structural and nonstructural building components, electrical, plumbing, mechanical, and interior finish materials that are within work requiring a permit.

(e) When there is significant variation in the valuation determined by the City of Boulder Valuation Table and the estimated valuation provided by the applicant, the applicant may request that the city manager consider a valuation modification. The city manager may reduce the amount of the estimated valuation to be used to calculate the building permit fees and the percentage tax estimate if the manager finds, from a written request submitted by the responsible person including a narrative describing the support for a finding of each criteria, and a list of all costs associated with the construction project:

- (1) The scope of the project documented in the permit application does not meet the characteristics of a defined occupancy or align with the strict application of the City of Boulder Valuation Table;
- (2) The project complies with the intent and purposes of other applicable building code requirements and does not negatively impact the public health, accessibility, life and fire safety or structural requirements of the project; and
- (3) The time required by the city to review and inspect all components of the project described in the permit application based on the proposed modified valuation are less than the fees in section 4-20-4.

Reason for Change: In section 4-20-4 (c), code language was added to clarify that building permit fees are based on the value of the work covered by the permit.

In section 4-20-4 (d), code language was added to clarify that both building permit fees and the amount of the pre-payment of estimated construction use tax are based upon the value of the work covered by the permit.

In section 4-20-4 (d) (1), clarified the code language to indicate that the Valuation Table is adopted.

In section 4-20-4 (d)(2), added code language to address that while most areas of projects are easily defined by the square footage being constructed, added, or reconfigured, there are exceptions. This section addresses situations where reconfiguration work is minimal in scope and includes only the addition of walls in a previously finished area of the building. This creates a reasonable valuation assessment for these types of reconfigurations.

In section 4-20-4 (d)(3), added code language to further define what is included in the square foot construction values as published by the International Code Council.

In section 4-20-4 (e), added code language to address occasional situations when a construction project may be proposed that due to its unique nature may not include the complete scope of functions assumed to be provided in the designated construction types or occupancies in the City of Boulder valuation table. This section creates flexibility in the permitting process by allowing the city manager to make an exception when a valid case is

made by the applicant to adjust the valuation to reflect the lower cost of construction, plan review and inspection work that would be inherent in this type of construction project.

Section 10. Section 10-5-2(h), B.R.C. 1981, is amended as follows:

10-5-2 Adoption of International Building Code with Modifications.

...

(h) Section 105.2, "Work Exempt from Permit," is repealed and reenacted to read:

105.2 Work Exempt from permit. Exemptions from the building permit requirements of this code do not grant authorization for any work to be done in violation of the requirements of this code or any other laws or ordinances of the city. Building permits shall not be required for the following:

General:

1. One story detached non-conditioned buildings accessory to a residential structure and not more than 80 square feet in area or ten feet in height and not being served by any electrical, mechanical, or plumbing fixtures or systems.
2. Fences not over three feet high.
3. Retaining walls which are not over 3 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.
4. Sidewalks and driveways not more than thirty inches above grade and not over any basement or story below and which are not part of an accessible route.
5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
6. Temporary motion picture, television, and theater stage sets and scenery.
7. Prefabricated swimming pools accessory to a Group R-3 occupancy which are less than 24 inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.
8. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
9. Swings and other playground equipment accessory to detached one- and two-family dwellings.
10. Window awnings in Group R and Group U occupancies supported entirely by an exterior wall and which do not project more than 54 inches from the exterior wall.
11. Moveable cases, counters and partitions not over 5 feet 9 inches in height.
12. Replacement of windows in low-rise residential buildings that are three-stories or less in height.

13. Replacement of exterior siding on low-rise residential buildings that are three-stories or less in height.

14. Building energy efficiency components that (a) are required as part of a city energy efficiency program; (b) do not include any heating, ventilation and air conditioning equipment, solar photo voltaic and solar hot water heating systems, and (c) are inspected by a HERS rater (a Home Energy Rating System rater certified through Residential Energy Services Network) or a city licensed energy inspector as defined in chapter 4-4, "Building Contractor License," B.R.C. 1981.

Reason for Change: Residential window replacement; residential siding replacement and residential energy efficiency components that are inspected by third party licensed energy efficiency inspectors are proposed to be exempted from the requirement of obtaining permits because no review and inspection is required related to this type of work.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 1-2-1 AND 3-1-1, B.R.C. 1981, REGARDING DEFINITIONS; SECTIONS OF CHAPTER 3-2, B.R.C. 1981 "SALES AND USE TAXES" REGARDING CONSTRUCTION USE TAXES, TAXATION OF CONSTRUCTION EQUIPMENT AND DEADLINES FOR SUBMITTING REBATE REQUESTS; SECTION 4-4-2, B.R.C. 1981, REGARDING THE DEFINITION OF "CONTRACTOR"; SECTION 4-20-4, B.R.C. 1981, REGARDING BUILDING CONTRACTOR LICENSE AND BUILDING PERMIT FEES; SECTION 10-5-2(h) REGARDING WORK EXEMPT FROM BUILDING PERMITS; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 1-2-1(b) "Definitions," B.R.C. 1981 is amended to add the following definition:

"Contractor" means any person who undertakes with or for another person within the city to build, construct, install, demolish, alter, repair, or move any (a) building or structure, or any portion thereof, or (b) poles, lines, cables, or other transmission or distribution facilities in any right-of-way or utility easement.

Section 2. Section 3-1-1 "Definitions," B.R.C. 1981 is amended to clarify the application of the section and the definition of "construction equipment" and add definitions as follows:

3-1-1 Definitions

The definitions set forth in chapter 1-2, "Definitions," B.R.C. 1981, apply to ~~this Title 3 "Revenue and Taxation," chapter,~~ including, without limitation, the definitions of *Compostables, Hauler, Recyclables, Trash and Trash collection.* The following definitions also apply to this title:

...

"Construction equipment" means equipment with a purchase price of \$2,500 or more actually used by a contractor licensed under Chapter 4-4 "Building Contractor License," B.R.C. 1981, in

1 the erection, installation, demolition, alteration, repair, ~~or remodeling~~, or landscaping of a
2 building or structure upon real estate.

3 ...

4 “Project completion date” means the (a) date of issuance of a certificate of occupancy or the (b)
5 city-determined project completion status date that occurs after the final inspection requested by
6 the responsible person.

6 ...

7 “Responsible person” means (a) the contractor responsible for the construction of a permitted
8 project, or (b) the contractor responsible for construction for a federal, state, or local government
9 that is not required to get a permit from the city, or (c) if no contractor is used for a permitted
10 project, the homeowner receiving a permit from the city to build or make improvements to the
11 homeowner's personal residence.

10 ...

11 “Retailer” means any person selling, leasing, or renting tangible personal property or services at
12 retail. Retailer shall include, without limitation, any:

- 13 (a) Auctioneer;
- 14 (b) Salesperson, representative, peddler, or canvasser, who makes sales as a direct or
15 indirect agent of or obtains such property or services sold from a dealer,
16 distributor, supervisor, or employer; or
- 17 (c) Charitable organization or governmental entity which makes sales of tangible
18 personal property to the public, notwithstanding the fact that the merchandise sold
19 may have been acquired by gift or donation or that the proceeds are to be used for
20 charitable or governmental purposes.

20 Section 3. Paragraphs 3-2-2(a)(5), and (9) through (14), B.R.C. 1981 are amended to
21 read as follows:

22 **3-2-2 Imposition of Tax.**

- 23 (a) ~~On and after 11:59 p.m., December 31, 1967, t~~There is hereby levied and there shall be
24 collected and paid a sales or use tax on the full purchase price paid or charged for
25 tangible personal property and taxable services purchased or sold at retail by every
26 person exercising a taxable privilege in the city by the sale or use of such property and
27 services. The sales tax is levied on all sales of tangible personal property or taxable
28 services, except those specifically exempted and is collected by the vendor and remitted
to the city. The use tax is levied upon the privilege of using in the city, personally or as
part of rendering a service, tangible personal property or taxable services upon which a
municipal sales or use tax has not been paid and is paid by either the vendor doing

1 business in the city or the consumer. The following paragraphs prescribe rules for various
2 taxable transactions:

3 ...

4 (5) Except for construction equipment as provided in paragraphs (9)-(12), a use tax
5 is due upon tangible personal property that is utilized in the city if such use
6 occurs within three years of the most recent sale of the property, by the owner
7 of the tangible personal property. No use tax shall be due on the use of tangible
8 personal property within the city that occurs more than three years after the most
9 recent sale of the property if, within three years following the date of such sale,
10 the property has been significantly used within the state for the principal purpose
11 for which it was purchased.

12 ...

13 (9) Use Tax on Construction Equipment. Construction equipment that is located
14 within the city for a period of more than thirty consecutive calendar days shall be
15 subjected to the full applicable city's use tax of the city based on the value of the
16 equipment due and payable by the owner of the construction equipment. For
17 purposes of paragraphs (a) (9)-(12) "value of the equipment" shall mean:

18 (A) If owner purchased equipment within five years before the date it is
19 located within the city, the purchase price;

20 (B) If owner purchased the equipment more than five years but less than ten
21 years before the date it is located within the city, the book value or fair
22 market value, whichever is greater;

23 (C) If owner purchased the equipment more than ten years before the date it is
24 located within the city, no use tax is due under these paragraphs.

25 (10) Construction Equipment in City for 30 Days or Less. Construction equipment
26 that is located within the city for a period of thirty consecutive days or less shall
27 be subjected to the city's use tax in an amount calculated as follows: the value
28 purchase price of the equipment shall be multiplied by a fraction, the numerator of
which is one and the denominator of which is twelve, and the result shall be
multiplied by the tax rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981.
In order to use this provision rather than paragraphs (a) (9) and (12) to determine
the amount of tax on, and filing requirements for, construction equipment, the
construction equipment declaration must be filed and the use tax paid by the
owner within 20 days of removal of the construction equipment from the city.

(11) Credit for Sales and Use Tax Paid To Other Governments. ~~The Where the~~
~~provisions of paragraph (a)(10) of this section are utilized, the~~ credit provisions of
subsection 3-2-9(b), "Tax Limited When Other Taxes Paid," B.R.C. 1981, shall
apply to taxation of construction equipment, at such time as the aggregate sales

1 and use taxes legally imposed by and paid to other municipalities organized and
2 existing under the authority of the Constitution or laws of the State of Colorado on
3 any such equipment is equal to the tax that would otherwise be paid to the city on
4 the full purchase price of the equipment by applying the tax rate set forth in section
3-2-5, "Rate of Tax," B.R.C. 1981.

5 (12) Reporting and Payment of Tax on Construction Equipment. Except for owners of
6 construction equipment paying tax pursuant to paragraph (a) (10), In order to
7 invoke the provisions of paragraph (a)(10) of this section, the taxpayer shall
8 comply with the following procedure:

9 (A) ~~Prior to or on the date on which the construction equipment is~~
10 ~~located within the boundaries of the city, the taxpayer~~ the owner of the
11 construction equipment shall file with the city manager a construction
12 equipment declaration on a form provided by the city and pay any tax due
13 within 90 days of the date the equipment is brought into the city for the
14 project for which the equipment is moved into the city, and every 90 days
15 thereafter. The last declaration and payment of tax shall be filed within 20
16 days of removal of the equipment from the city. For purposes of
17 determining penalties and interest for failure to timely file a construction
18 equipment declaration and pay the tax, the construction equipment
19 declaration shall be considered a return. Such declaration shall state:

- 20 (A) ~~†~~ The dates on which the equipment was taxpayer anticipates the
21 construction equipment will be located within and removed from the
22 boundaries of the city,
- 23 (B) ~~shall include a~~ A description of each such piece of equipment,
- 24 (C) ~~shall state †~~ The value actual or anticipated purchase price of each such
25 piece of equipment,
- 26 (D) ~~shall state †~~ The actual amount of sales or use taxes paid to other
27 municipalities or states, and
- 28 (E) ~~shall include s~~ Such other information as reasonably deemed necessary by
the city.
- (B) ~~The taxpayer shall file with the city an amended construction equipment~~
~~declaration reflecting any changes in the information contained in any~~
~~previous equipment declaration no less than once every ninety days after~~
~~the equipment is brought into the city or, for equipment that is brought~~
~~into the city for a project of less than ninety days' duration, no later than~~
~~ten days after substantial completion of the project.~~
- (C) ~~The taxpayer need not report on any equipment declaration any~~
~~construction equipment for which the purchase price was under \$2,500.00.~~

1 ~~(13) If the equipment declaration is given as provided in paragraph (a)(12) of this~~
2 ~~section, then as to any item of construction equipment for which the purchase~~
3 ~~price was under \$2,500.00 that was brought into the boundaries of the city for~~
4 ~~thirty days or less for use on a construction project, it shall be presumed that the~~
5 ~~item was purchased in a jurisdiction having a local sales or use tax as high as the~~
6 ~~rate set forth in section 3-2-5, "Rate of Tax," B.R.C. 1981, and that such local~~
7 ~~sales or use tax was previously paid. In such case the burden of proof shall be on~~
8 ~~the city to prove such local sales or use tax was not paid.~~

9 ~~(14) If the taxpayer fails to comply substantially with the provisions of paragraph~~
10 ~~(a)(12) of this section, the taxpayer may not invoke the provisions of paragraph~~
11 ~~(a)(10) of this section and all construction equipment shall be subject to the~~
12 ~~provisions of paragraph (a)(9) of this section.~~

13 Section 4. Section 3-2-6, B.R.C. 1981 is amended by the addition of a new subsection

14 (y) to read:

15 **3-2-6 Exempt Property and Services.**

16 Purchase, sale, or use of the following property and services is exempt from taxation under this
17 chapter:

18 ...

19 (y) Construction materials purchased by the responsible person to be used for installation, use,
20 or consumption on job sites or building construction addresses if:

21 (1) The value of the construction materials was included in determining the valuation
22 of the construction; and

23 (2) The vendor records on the invoice of sale the job site address and when
24 applicable, the building permit number; and

25 (3) The contractor has prepaid the tax directly to the city under section 3-2-14(a),
26 "Methods of Paying Sales and Use Tax", B.R.C., 1981.

27 Section 5. Section 3-2-7(c), B.R.C. 1981 is repealed and the remaining section

28 renumbered as follows:

3-2-7 Exempt Persons.

The following persons are exempt from payment of the tax imposed by this chapter on all
purchases unless otherwise specified but not the duty to collect and remit the tax levied hereby
on sales:

...

1 ~~(e) Building contractors purchasing construction materials to be used for installation, use, or~~
2 ~~consumption on job sites or building construction addresses on which a city building permit has~~
3 ~~been issued, if:~~

- 4 (1) ~~The value of the construction materials was included in determining the valuation~~
5 ~~of the construction for purposes of obtaining the building permit;~~
6 (2) ~~The vendor records on the invoice of sale the job site address and building permit~~
7 ~~number; and~~
8 (3) ~~The contractor has prepaid the tax directly to the city on the estimated or actual~~
9 ~~basis, calculated as a percentage of the construction valuation at the time the~~
10 ~~building permit is issued.~~

11 ~~(d)(c)~~ Nonresidents of the city who bring tangible personal property into the city for personal
12 use, storage, or consumption while they are temporarily within the city.

13 Section 6. Section 3-2-9, B.R.C. 1981 is amended to read:

14 **3-2-9 Tax Limited When Other Taxes Paid.**

15 The tax imposed under this chapter shall be reduced by the amounts of taxes paid to the city,
16 other cities, or other states as follows:

- 17 (a) When a sales tax has been paid to the city under this chapter, no use tax is due upon the
18 use, storage, or consumption of tangible personal property, but a sales or use tax is due
19 upon the rental or leasing of such property.
20 (b) ~~The city's use tax shall not apply to tangible personal property that was previously~~
21 ~~subjected to a sales or use tax of another municipality, organized and existing under the~~
22 ~~authority of the Constitution or laws of the State of Colorado, lawfully imposed on the~~
23 ~~purchaser or user, equal to or in excess of the rate set forth in section 3-2-5, "Rate of~~
24 ~~Tax," B.R.C. 1981. A credit shall be granted against the city's use tax equal to the tax~~
25 ~~paid by reason of the imposition of a sales or use tax of the other municipality on the~~
26 ~~purchase or use of the property. The amount of the credit shall not exceed the rate set~~
27 ~~forth in section 3-2-5, "Rate of Tax," B.R.C. 1981. The use tax credit set forth in this~~
28 ~~subsection shall not apply to a sales tax paid on construction materials.~~

A credit shall be granted against the city's use tax as follows:

- (1) If the sales or use tax was paid to another municipality in Colorado, and the
amount of the sales or use tax paid is less than the amount of tax determined by
the rate in section 3-2-5, "Rate of Tax," B.R.C. 1981, the city use tax shall be the
difference between the tax paid and the city's rate applied to the property or
service.

1 (2) If the retail sales tax was paid in another state, and the amount of the combined
2 state and local government sales tax in the other state is less than the amount of
3 tax determined by the total combined tax rate of the state of Colorado, its local
4 governments, and the city, the city use tax shall be the difference between the
5 combined tax paid and the amount of the total combined tax rate of the state and
6 local governments of Colorado that would have been applicable to the property or
7 service in Colorado;

8 (3) In no instance shall the credit exceed the rate in section 3-2-5, "Rate of Tax,"
9 B.R.C. 1981;

10 (4) The credit will not be granted unless the tax paid to such other municipality or
11 state was legally due under the laws of the state, and the laws of the other state or
12 municipality are compatible with or reciprocal to those of the city as applied to
13 the property or service being taxed;

14 (5) The credit applies only to the tax paid on initial purchases by the taxpayer, and
15 does not apply to, without limitation, rentals, leases, and uses of tangible personal
16 property;

17 (6) The credit shall not apply to a sales or use tax paid on construction materials.

18 (c) The city's sales tax shall not apply to the sale of construction materials, if such materials
19 are picked up by the purchaser and if the purchaser of such materials presents to the
20 retailer a building permit evidencing that a local use tax has been paid or is required to be
21 paid.

22 (d) The city's use tax shall not apply to construction materials that are stored inside the city
23 but are not used for any other purpose within the city.

24 Section 7. Section 3-2-14(a), B.R.C. 1981 is amended to read:

25 **3-2-14 Methods of Paying Sales and Use Tax.**

26 (a) Every contractor who builds, reconstructs, installs, demolishes, alters, repairs, or
27 moves~~improves~~ any building or other structure, including work performed for federal, state, or
28 city governments or exempt institutions in the city, and every person engaged in the installation
of poles, lines, cables, or other transmission or distribution facilities of public utilities, and who
purchases tangible personal property or taxable services for use therein and every owner or
lessee of realty or improvements to realty in the city who attaches tangible personal property to
or causes to be performed taxable services upon said realty or improvements thereto shall pay the
tax imposed by this chapter upon such tangible personal property ~~or~~ and taxable services in one
of the following ways:

- 1
- 2 (1) ~~Payment to a vendor licensed by the city of tangible personal property or taxable~~
~~services at the time and place of purchase thereof;~~
- 3
- 4 (2) ~~Prepayment of the tax by either the owner, lessee, or general contractor or~~
~~separately by a subcontractor electing to do so at the time a building or right of~~
~~way permit is issued, on the estimated percentage basis, based on a percentage of~~
~~the total valuation of the construction contract determined in section 4-20-4(d),~~
~~“Building Contractor License, Building Permit Fees, and Payment of Estimated~~
~~Use Tax;” or~~
- 7
- 8 (23) Prepayment of the tax directly to the city by a contractor on a project for a federal,
state, or local government that is not required to obtain a permit from the city; or
- 9
- 10 (3) Filing a use tax return on a monthly or other basis approved by the city manager
under subsection 3-2-15(d), B.R.C. 1981, and payment of the tax by the twentieth
day of each reporting period for the previous reporting period after obtaining a
sales and use tax license; or
- 11
- 12 (43) Payment of the tax directly to a retailer that has a sales and use tax license from
the city. This option cannot be used when tax is prepaid in accordance with
paragraphs (a) (1) or (a)(2).
- 13
- 14

15 Section 8. Section 3-2-17(h) is amended to read:

16 **3-2-17 Duties and Powers of City Manager.**

- 17 (h) The city manager shall rebate to the taxpayer the portion of sales and use taxes paid under
 18 this chapter for Photovoltaic and Solar Thermal Systems specified in this subsection. A
 19 portion of the sales and use taxes paid under this chapter for Photovoltaic and Solar
 20 Thermal Systems may be set aside by city council budget actions to create a reserve
 21 account dedicated to providing access to Photovoltaic and Solar Thermal Systems on
 22 housing for low or moderate income persons and on the facilities of site-based nonprofit
 23 entities operating in Boulder. The taxpayer rebate shall be the amount remaining after
 24 the reserve account set aside is deducted. Taxpayers must file an application for the sales
and use tax rebate within 12 months of the city's final inspection. This program shall be
 25 reviewed periodically for effectiveness, and shall not be deemed a change in taxing
 26 policy.

27 Section 9. The title of section 3-2-18, B.R.C. 1981 and subsections (b) and (c) are
 28 amended to read:

3-2-18 Taxpayer Duty to Keep Records, Provide Information and File Returns and Make Reports.

...

1
2 (b) ~~Contractors who have prepaid an estimate of taxes on construction projects under~~
3 ~~paragraph 3-2-14(a)(2), B.R.C. 1981, shall, upon completion of each such project, report~~
4 ~~the actual costs of tangible personal property and taxable services used therein. For all~~
5 ~~projects with a final contract price or final project cost of \$20,000 or more, the~~
6 ~~responsible person who has prepaid use tax under paragraph 3-2-14, "Methods of Paying~~
7 ~~Sales and Use Tax," B.R.C. 1981, shall:~~

8 (1) Within 90 days of the project completion date complete a construction use tax
9 reconciliation return on a form provided by the city reconciling the use tax due with the
10 amount paid;

11 (2) Report the actual costs of tangible personal property, taxable services, and
12 construction materials used for the project;

13 (3) Determine if the use tax due the city is more or less than any prepaid tax; and

14 (4) Pay the additional tax due with the filing of the return. If the use tax due is less than
15 the prepaid tax estimate, the city shall refund the difference in accordance with Section 3-
16 2-23, "Refunds," B.R.C.

17 (c) Every taxpayer or other person liable to the city for sales or use tax under this title shall
18 keep and preserve for a period of three years from the date the tax is due, such books,
19 accounts, and records, including without limitation, original sales and purchase records,
20 as may be necessary to determine the amount of tax that the taxpayer is liable to pay or
21 collect.

22 ...

23 Section 10. Section 3-2-28(b), B.R.C. 1981 is amended to read:

24 **3-2-28 Liens on Construction Improvements.**

25 (b) In the event a person has not paid or arranged with the city manager to pay all taxes due
26 under this chapter for a construction project, the city manager may refuse to make a final
27 inspection or issue a project completion status date. Performance of a final inspection or
28 issuance of a project completion status date by the city shall not relieve any person from
29 the obligation to pay any tax due the city.

~~The city building inspector shall not make a final inspection on or issue a certificate of~~
~~occupancy for any construction project unless a person has paid or arranged with the city~~
~~manager to pay all taxes due under this chapter on all lumber, fixtures, and any other~~
~~building materials and supplies used in or connected with the construction,~~
~~reconstruction, alteration, expansion, modification, or improvement of any building,~~
~~dwelling, or other structure or improvement to real property within the city.~~

1 Section 11. Section 4-4-2(a), B.R.C. 1981, is amended to read:

2 **4-4-2 Definition of Contractor.**

3 (a) For purposes of this chapter, a “contractor” has the same meaning as “contractor” in section
4 1-2-1(b), “Definitions,” B.R.C. 1981, and includes without limitation ~~means~~ any person who
5 undertakes with or for another person to within the city to build, construct, alter, repair, add to,
6 ~~move,~~ inspect pursuant to chapter 10-3, “Rental Licenses,” B.R.C. 1981, ~~or wreck~~ any building
or structure, or any portion thereof.

7 Section 12. The title of section 4-20-4, B. R. C. 1981 and subsections (c), (d), and (e)
8 are amended to read:

9 **4-20-4. Building Contractor License, and Building Permit Fees, and Payment of Estimated**
10 **Use Tax.**

11 ...

12 (c) An applicant for a building permit shall pay ~~the following fees:~~ a building permit fee
13 based on the value of the work covered by the permit according to the following
14 schedule:

15 *[no change to chart of fees]*

16 (d) ~~The value of the work covered by the permit. Valuation for buildings shall be determined~~
17 by either the City of Boulder Valuation Table or and the estimated permit value of the
18 work covered by the permit provided by the applicant at time of application. The higher
of the two valuations shall be used to calculate the building permit fees and the estimated
pre-payment of construction use tax if the applicant chooses to pay use taxes pursuant to
subsection 3-2-14(a), “Methods of Paying Sales and Use Tax,” B.R.C. 1981.

19 (1)(e) *City of Boulder Valuation Table* means a table of square foot construction values
20 based on type of construction and use. The city ~~shall use~~ has adopted the July-
21 August 2009 version of the cost data as published by the International Code
22 Council.

23 (2) The cost per square foot values from the City of Boulder Valuation Table shall be
24 applied to the area identified in the permit application for the project. Such area
25 of a project shall include new, added, and reconfigured construction areas for
26 which the permit is sought. When the reconfiguration involves linear elements
27 such as partition walls or new openings in existing walls, the work area shall be
28 calculated by multiplying the length of the element by a width of four feet to
determine the square footage to apply the valuation table.

 (3) Building permit fees shall be based on the construction valuation in the City of
Boulder Valuation Table, which includes without limitation: foundations,
structural and nonstructural building components, electrical, plumbing,
mechanical, and interior finish materials that are within work requiring a permit.

1 (e) When there is significant variation in the valuation determined by the City of Boulder
2 Valuation Table and the estimated valuation provided by the applicant, the applicant may
3 request that the city manager consider a valuation modification. The city manager may
4 reduce the amount of the estimated valuation to be used to calculate the building permit
5 fees and the percentage tax estimate if the manager finds, from a written request
6 submitted by the responsible person including a narrative describing the support for a
7 finding of each criteria, and a list of all costs associated with the construction project:

- 8 (1) The scope of the project documented in the permit application does not
9 meet the characteristics of a defined occupancy or align with the strict
10 application of the City of Boulder Valuation Table;
- 11 (2) The project complies with the intent and purposes of other applicable
12 building code requirements and does not negatively impact the public
13 health, accessibility, life and fire safety or structural requirements of the
14 project; and
- 15 (3) The time required by the city to review and inspect all components of the
16 project described in the permit application based on the proposed modified
17 valuation are less than the fees in section 4-20-4.

18 Section 13. Section 10-5-2(h), B.R.C. 1981, is amended as follows:

19 **10-5-2 Adoption of International Building Code With Modifications.**

20 (h) Section 105.2, "Work Exempt From Permit," is repealed and reenacted to read:

21 105.2 Work Exempt from permit. Exemptions from the building permit requirements of
22 this code do not grant authorization for any work to be done in violation of the
23 requirements of this code or any other laws or ordinances of the city. Building permits
24 shall not be required for the following:

25 General:

- 26 1. One story detached non-conditioned buildings accessory to a residential structure and
27 not more than 80 square feet in area or ten feet in height and not being served by any
28 electrical, mechanical or plumbing fixtures or systems.
- 29 2. Fences not over three feet high.
- 30 3. Retaining walls which are not over 3 feet in height measured from the bottom of the
31 footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or
32 III-A liquids.
- 33 4. Sidewalks and driveways not more than thirty inches above grade and not over any
34 basement or story below and which are not part of an accessible route.
- 35 5. Painting, papering, tiling, carpeting, cabinets, countertops, and similar finish work.
- 36 6. Temporary motion picture, television, and theater stage sets and scenery.

1 7. Prefabricated swimming pools accessory to a Group R-3 occupancy which are less
2 than 24 inches deep, do not exceed 5,000 gallons, and are installed entirely above ground.

3 8. Shade cloth structures constructed for nursery or agricultural purposes and not
4 including service systems.

5 9. Swings and other playground equipment accessory to detached one- and two-family
6 dwellings.

7 10. Window awnings in Group R and Group U occupancies supported entirely by an
8 exterior wall and which do not project more than 54 inches from the exterior wall.

9 11. Moveable cases, counters and partitions not over 5 feet 9 inches in height.

10 12. Replacement of windows in low-rise residential buildings that are three-stories or less
11 in height.

12 13. Replacement of exterior siding on low-rise residential buildings that are three-stories
13 or less in height.

14 14. Building energy efficiency components that (a) are required as part of a city energy
15 efficiency program; (b) do not include any heating, ventilation and air conditioning
16 equipment, solar photo voltaic and solar hot water heating systems, and (c) are inspected
17 by a HERS rater (a Home Energy Rating System rater certified through Residential
18 Energy Services Network) or a city licensed energy inspector as defined in chapter 4-4,
19 "Building Contractor License," B.R.C. 1981.

20 Section 14. This ordinance is necessary to protect the public health, safety, and welfare
21 of the residents of the city, and covers matters of local concern.

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

25 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
26 TITLE ONLY this 21st day of September 2010.

27 _____
28 Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this ___ day of _____, 2010.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record