



**City of Boulder
Housing and Human Services**

Health Equity Advisory Committee Policy and Procedures Manual

Updated July 2019

TABLE OF CONTENTS

SECTION 1: INTRODUCTION	4
1.1 Handbook Purpose	4
1.2 Adoption of Policies and Procedures.....	4
1.3 Update to Policies and Procedures.....	4
SECTION 2: SSBPDT HISTORY.....	5
2.1 Voter Approval and Citation	5
2.2 Tax Collection.....	5
2.3 Tax Revenue Use.....	5
2.4 Report of SSBPDT Revenue and Expenditures.....	5
SECTION 3: HEAC PURPOSE AND ROLE.....	6
3.1 Advisory Role	6
3.2 Advocacy	6
3.3 Administrative Functions	6
SECTION 4: HEAC APPOINTMENT AND COMMITMENT.....	7
4.1 HEAC Membership Requirements	7
4.2 Appointment Process.....	7
4.3 Term Duration and Limits	7
4.4 Time Commitment	8
4.5 Selecting a Committee Chair.....	8
4.5.1 Nominations and Elections	8
4.5.2 Duties of the Chairperson.....	8
4.5.3 Duties of the Deputy Chairperson	8
4.6 Representing the Committee.....	8
4.7 Duties and Expectations.....	8
4.8 Removal	9
4.9 Resignations.....	9
4.10 Compensation and other Benefits.....	9
SECTION 5: CONFLICTS OF INTEREST.....	10
5.1 Disclosure of a Conflict of Interest	10
SECTION 6: HEAC MEETINGS	11
6.1 Announcements.....	11
6.2 Decision-making	11
6.3 Quorum.....	11

SECTION 7: ROLE OF STAFF..... 12

SECTION 8: SSBPDT FUND ROUNDS 13

- 8.1 Overview 13
- 8.2 Fund Distribution 13
- 8.3 Available Funding..... 13
- 8.4 Proposal Evaluation 13
- 8.5 Appeals Process 14
- 8.6 E-Clmact Grant Management System 14

SECTION 9: OFF-CYCLE AND CAPITAL FUNDING..... 15

- 9.1 Overview 15
- 9.2 Off-Cycle Funding 15
- 9.3 Capital Project Funding 15

APPENDICES

- A. Ordinance 8181
- B. City Requirements for Advisory Committees
 - 1. Boulder Revised Code, Title 2, Chapter 3: Boards and Commissions
 - 2. Boulder Revised Code, Title 2, Chapter 7: Code of Conduct

SECTION 1: INTRODUCTION

This handbook provides information related to the function and operation of the Health Equity Advisory Committee (HEAC) and related policies and procedures. The handbook describes HEAC responsibilities and expectations for individual committee members; and includes procedures for HEAC meetings, decision-making processes, and policies for Sugar-sweetened Beverage Product Distribution Tax (SSBPDT) competitive fund rounds and other funding opportunities.

The handbook also includes background information about the SSBPDT.

1.1 – Handbook Purpose

The policies and procedures handbook provides guidance for the administration and operation of the HEAC. The policies and procedures are not laws, but rather statements to guide process and decision making, clarify roles and relationships, and insure inclusion and transparency. The intent of the policies and procedures is to ensure that the HEAC's work is well-planned and directed, actions and decisions of the HEAC are consistent with its authority and purpose, and that funding applicants receive fair and equitable consideration.

1.2 – Adoption of Policies and Procedures

These policies and procedures took effect on June 28, 2017 and were updated on July 1, 2019.

1.3 – Updates to Policies and Procedures

From time to time, new policies, procedures or guidance will need to be incorporated into this handbook as the needs of the city and advisory committee change or new situations arise. Amendments or changes to the policies and procedures will be incorporated as needed.

SECTION 2: THE SUGAR-SWEETENED BEVERAGE PRODUCT DISTRIBUTION TAX HISTORY

2.1 – Voter Approval and Citation

On November 8, 2016, City of Boulder voters approved Ballot Issue 2H authorizing a Sugar Sweetened Beverage Product Distribution Tax (SSBPDT). The measure is codified by City Ordinance 8181 in the Boulder Revised Code §§ 3-16-1 et. seq. See **Appendix A: Ordinance**.

2.2 – Tax Collection

The SSBPDT authorizes the city, effective July 1, 2017, to impose and collect revenues from an excise tax of up to two cents per fluid ounce on sugar-sweetened beverage products that are distributed in the city. The tax is imposed on the first distributor in any chain of distribution of drinks with added sugar, and sweeteners used to produce such drinks. The SSBPDT exempts from taxation sweeteners sold separately to the consumer at a grocery store, milk products, baby formula, alcohol and drinks taken for medical reasons.

2.3 – Tax Revenue Use

The SSBPDT ordinance defines specific uses for revenues generated by the measure. These include:

- The administrative cost of the tax;
- Health promotion;
- General wellness programs and chronic disease prevention in the city of Boulder that improve health equity, such as access to safe and clean drinking water, healthy foods, nutrition and food education, physical activity; and
- Other health programs especially for residents with low income and those most affected by chronic disease linked to sugary drink consumption.

SECTION 3: HEALTH EQUITY ADVISORY COMMITTEE: PURPOSE AND ROLE

The City of Boulder’s Health Equity Advisory Committee (HEAC) is a nine-member committee appointed by the city manager to review SSBPDT funding proposals and make funding allocation recommendations to staff and the city manager.

3.1 – Advisory Role

The role of the HEAC is technical and advisory, not political. Committee members shall use their technical and professional expertise and personal experience to make recommendations to the city manager for the allocation of funding that most effectively addresses health equity, chronic disease prevention and wellness associated with sugary drink consumption. Specifically, the committee’s purpose is to:

- Help define desired outcomes and key indicators that should be tracked to measure success;
- Provide recommendations about existing city and community programs that could be expanded with additional funding;
- Provide recommendations about new city and community programs that could be funded in future years consistent with the purpose of the use of the funds; and
- Provide input about effective strategies and programs to engage residents most affected by health equity and access to health services.

3.2 – Advocacy

The HEAC is not political in nature. In their role with the HEAC, Members shall not serve as an advocate for external agencies and issues.

3.3 - Administrative Functions

City of Boulder Housing and Human Services Department (HHS) staff coordinate the administrative, communication and other functions of the HEAC. Staff also coordinate communications with other city departments and the City Manager’s office. If committee members have concerns regarding management or administrative functions of the committee, the concerns should be communicated to the Community Programs Manager and HHS Department Director.

SECTION 4: HEAC APPOINTMENT AND COMMITMENT

4.1 – HEAC Membership Requirements

HEAC members are not required to be residents of the City of Boulder. However, to the best extent possible, at least 50 percent of committee members will be City of Boulder residents.

Applicants for appointments to the HEAC are evaluated based on experience and skills in the following areas:

- Community-based food and nutrition programs, local food systems, or school-based food and nutrition programs;
- Physical fitness programs;
- Early childhood education;
- Public health research or evaluation of programs related to health disparity or chronic disease prevention (e.g. diabetes, obesity, heart disease and sugary drink consumption);
- Public health policy;
- Representing an organization that works with Boulder’s underserved populations or whose mission includes health equity;
- A licensed medical provider or dietician (e.g., RN, MD, NP, PA);
- Parenting;
- Oral health expert or dental health provider;
- Individuals impacted personally by a disease associated with high sugar consumption; and
- Individuals that are representative members of a population that has been impacted by health equity and/or targeted for sugary drink marketing. At least two HEAC positions are reserved for representatives of underserved populations.

Through its selections, the city attempts to identify an advisory committee that includes members with diverse backgrounds and experiences.

City of Boulder employees, relatives of or those in relationships with employees of the overseeing department(s) and individuals currently serving on other City of Boulder funding committees are prohibited from serving on the HEAC.

4.2 – Appointment Process

Appointments to the HEAC are made by the City Manager. When seats on the HEAC become vacant, the city shall publicly post information about the vacancy and application procedures on its website and through other communication methods as appropriate. After the application period closes, city staff shall review each application to ensure that materials are complete and shall also determine whether any applicant is subject to disqualification according to the criteria in Section 4.1 of this document or because of a conflict of interest. From a pool of qualified applicants, staff shall assess all HEAC vacancy applications based on criteria in Section 4.1 and make recommendations to the City Manager.

4.3 – Term Duration and Limits

Each committee member shall serve a two-year term. Ongoing terms shall be for two years.

Terms shall generally start on July 1 and end on June 30. No HEAC member shall serve longer than three consecutive terms on the committee. To ensure continuity on the committee, the City Manager or staff designee may extend some members' terms for one or two years to stagger ongoing turnover.

4.4 – Time Commitment

HEAC membership requires a time commitment for four to five committee meetings annually, plus additional time for review of applications outside of meetings. If additional meetings are required, staff will notify committee members in advance.

4.5 - Selecting a Committee Chair

The HEAC shall select two officers from its membership: Chairperson and Deputy Chairperson.

4.5.1 – Nominations and Elections

The HEAC shall consider nominations for Chairperson and Deputy Chairperson annually. The Chair shall be elected prior to the nominations for Deputy Chair. Nominations shall be made verbally by HEAC members. No second motion is required, but the consent of the nominee should be obtained in advance of the vote. Any member so nominated may withdraw his or her name from nomination. A simple majority vote will be taken. The nominee receiving the most votes of committee members present shall be elected to the position. In the event of a vacancy in either of the two elected offices, an election to fill the vacancy may be held at the next meeting.

4.5.2 – Duties of the Chairperson

The Chairperson is responsible for reviewing and providing input to staff about meeting agendas and representing the committee in meetings and events on behalf of the whole committee, as needed.

4.5.3 - Duties of the Deputy Chairperson

The Deputy Chairperson fills the function of the Chairperson in their absence.

4.6 - Representing the Committee

Individual committee members do not represent the HEAC and may not speak on behalf of the committee unless authorized by the Director of HHS. Members who write a letter to the editor, develop an opinion piece for a newspaper, or make other public presentations - verbal or written - should not identify themselves as members of the HEAC. Similarly, neither individual members nor the HEAC itself may speak for or on behalf of the City of Boulder, unless specifically authorized to do so by the Director of the Department of HHS.

4.7 - Duties and Expectations

To be successful in meeting the goals and objectives of the committee and to effectively serve the City of Boulder, active participation of all committee members is encouraged. Ongoing duties of committee members include:

- Reading and analyzing meeting packet information;
- Assisting with the development of funding recommendations;
- Participating in proposal review and deliberation process;
- Initiating discussion with staff regarding issues of concern;

- Defining desired outcomes and key indicators that should be tracked to measure success; and
- Providing input on effective strategies and programs to engage residents most affected by health equity and lack of access to health services.

4.8 - Removal

The city manager may remove any committee member who fails to carry out duties as identified or meet expectations of the committee.

4.9 - Resignations

If a HEAC member must resign prior to the expiration of his or her term, the member is asked to notify the staff liaison in writing. The liaison will send a copy of this notification to the HHS Director and to other HEAC members.

4.10 - Compensation and other Benefits

Service on the HEAC is voluntary. The city shall provide no compensation or benefits to committee members.

SECTION 5: CONFLICTS OF INTEREST

Conflicts of interest are covered by Title 2, Chapter 7 of the Boulder Revised Code which states that individuals shall not participate in any decision which could affect them or a member of their immediate family financially. The Code also states that committee members must refrain from participating in any decision in which they have a “substantial interest,” defined as: “A situation, including without limitation a pecuniary stake in the outcome of a decision, in which, considering all of the circumstances, a reasonably prudent person observing the situation would expect a marked tendency to make a decision other than an objective decision.”

A conflict of interest may also include non-financial conflicts, such as close proximity to an area under consideration, close relationship with one of the parties to a decision, long-term association with organizations or person involved, or any other situation which would lead to a clear “appearance of impropriety.”

5.1 – Disclosure of a Conflict of Interest

In cases where a committee member has a conflict of interest or the appearance of a conflict, that member should announce the conflict to staff and to other members (either in writing before the meeting or verbally at the meeting before the issue in question is discussed). The member may announce only that s/he has a conflict, or s/he may explain the conflict. After the conflict has been announced, the member must: 1) not vote on the issue nor attempt to influence the vote of other members; 2) physically absent herself or himself from the room in which the issue is being considered; and 3) not discuss the issue with any other member outside of official meetings of the HEAC.

SECTION 6: HEAC MEETINGS

6.1 - Announcements

Staff shall post notice of each HEAC meeting on the city's Health Equity Fund website. As appropriate the notice will include the meeting agenda and other materials for the meeting.

6.2 - Decision-making

a. Competitive fund round deliberations will be conducted at in-person business meetings with a quorum.

b. For procedures in which committee members provide recommendations to staff about off-cycle funding allocations, deliberations may take place by email, telephone conference call or in-person meetings. Staff shall keep as detailed records as feasible of all such discussions. Routine business including scheduling meetings, conducting follow up on questions about applications or agencies, and final approval of prior discussed decisions, informal communication may occur via phone or email. Consensus is a tool for decision-making, but final decisions, when necessary, will be made by a majority vote of the members present. In the case of a tie or the inability of the HEAC to reach a decision, the committee may appeal to staff for guidance and/or final determination.

6.3 - Quorum

Funding deliberation meetings or voting on committee business requires a quorum of five HEAC members. Committee orientation or other HEF update meetings may take place without a quorum.

SECTION 7: ROLE OF STAFF

City staff shall provide the HEAC with analysis and relevant historical information to consider in evaluating proposals, and collaborate with the HEAC to develop funding recommendations. Staff also coordinate and facilitate HEAC meetings, provide meeting materials and summary minutes of meetings, provide additional information as requested by the HEAC and generally foster full and meaningful participation of HEAC members in their role.

SECTION 8: SUGAR-SWEETENED BEVERAGE PRODUCT DISTRIBUTION TAX FUND ROUNDS

8.1 - Overview

The city primarily distributes funds collected through the SSBPDT through a competitive fund round process. Funds are available to community agencies – public or private entities, for-profit or non-profit organizations, and governmental agencies – that meet eligibility and program priority criteria, for the delivery of services that meet the intent of the ballot measure. Agencies are eligible to compete for funding through a request for proposal (RFP) process. Funding is provided for programs, not agencies; that is, agencies do not receive funding for general operating support. The city requires contracts for each funded program, describing the goals, activities, outputs and outcomes they expect to achieve through their programs. Agencies are required to submit a progress report twice per year, according to the reporting schedule described in the contract. School-based programs may report based on the school year; all other programs shall report on a calendar year basis.

8.2 – Available Funding

Funds available through the SSBPDT depend on city revenue and therefore varies from year to year. Funding availability is also dependent on annual city council budget approval.

8.3 – Fund Round Process

The competitive fund round process involves: 1) application review by staff to determine minimum eligibility, and for alignment with program criteria; 2) application review and scoring by the HEAC; 3) application questions and interviews by staff and the HEAC with selected agencies; and 4) HEAC deliberations to provide funding recommendations to the city.

During the staff review, staff screen proposals for completion and compliance with basic eligibility criteria. Staff eliminate proposals lacking clear alignment with funding requirements, that do not demonstrate serving primarily City of Boulder residents, and/or those with services that do not align with the SSBPDT legislative intent. Staff shall notify HEAC members about any city priorities or special initiatives that may impact funding considerations.

Staff may provide the HEAC with a summary of applicants' financial and structural stability or other analyses that highlights strengths or concerns to consider. For those agencies with prior city funding, staff may also provide historical information and evaluation of past performance pertinent to the decision-making process. Committee members may review mid-year and end-of-year progress reports upon request of staff.

Staff and the HEAC review applications and may submit questions to agencies in writing. Staff and HEAC may also request agency interviews.

Staff facilitate HEAC deliberation meetings, in which HEAC members determine their preliminary funding recommendations. Staff present the HEAC preliminary funding recommendations to the City Manager.

8.4 - Appeals Process

The staff liaison notifies applicants about preliminary funding recommendations. Upon notification of a funding recommendation, the applicant may appeal the recommendation. The applicant shall follow the following procedures for an appeal.

1. Within five business days of the date of the award notification, staff must receive an appeal in writing providing an explanation and rationale for the appeal based on new information or significant circumstances not available or known at the time of the application.
2. Staff shall review the request to determine if the appeal meets the minimum appeal requirements and to make a staff determination of the merits of the appeal.
3. Staff shall notify the applicant in writing as to the status of the appeal and next steps, if any, within five business days of the receipt of the request.
4. If the appeal requires HEAC review, staff shall notify the HEAC. The HEAC shall make a recommendation regarding the appeal based on the information provided and any additional information deemed to be relevant.
5. The HEAC shall consider all qualified appeals within 10 business days of the receipt of the appeal request and forward a determination to staff.
6. Staff shall evaluate the merits of the appeal based on the established criteria, the applicant's written appeal and any recommendations by the HEAC. The HHS Department Director shall provide a written and final recommendation to the applicant within 15 business days of receipt of the appeal request.

8.5 – Grant Management System

The SSBPDT fund rounds utilize a secured, web-based tool for application reviews. The tool currently used by the city, called e-CImpact Grant Management System (GMS), can be accessed via a computer with an internet connection and any web browser (i.e., Internet Explorer, Firefox, Chrome, and Safari). HHS staff will provide GMS training to HEAC members. Staff may require award recipients to use the GMS for reporting, or another non-GMS method enabling the city to track performance, measure impact, and preserve historical information.

HEAC member access to the GMS is preferred, but the city will provide hard copies of all materials needed to HEAC members not able to access the system. The city will also provide interpretation or translation services upon request.

The GMS Manual, in **Appendix C**, contains complete instructions for using the GMS.

SECTION 9: SUGAR-SWEETENED BEVERAGE PRODUCT DISTRIBUTION TAX OFF-CYCLE AND CAPITAL PROJECT FUNDING

9.1 – Overview.

In addition to annual competitive fund rounds, the city may consider off-cycle and capital project proposals for funding in order to strategically address community needs aligned with HEF priorities and legislative intent. The off-cycle funding process is staff initiated. The city will not accept unsolicited off-cycle funding requests.

Staff shall notify HEAC members about any city priorities or special initiatives that may impact off-cycle or capital project funding considerations.

9.2 – Off-Cycle Funding.

SSBPDT funds may also be allocated through off-cycle funding requests. The off-cycle funding process is staff-initiated. The city will not accept unsolicited funding requests. Staff review all off-cycle funding request applications and may solicit input about off-cycle requests from the HEAC prior to making funding allocation recommendations to the city manager.

To make funding recommendations, city staff may request from agencies a program description and budget. However, by receiving project information the city is not obligated to recommend funding. City staff may also seek the input from the HEAC on potential off-cycle fund allocations, before presenting to the city manager for consideration.

In addition to HEF core eligibility, program priorities and criteria, off-cycle fund criteria include the agency's ability to:

- Meet an urgent or timely need that was unforeseen during the competitive HEF fund round schedule;
- Provide unique services to city residents;
- Expend funds within the calendar year in which funds are requested and received; and
- Demonstrate meaningful short- and intermediate-term health impacts and outcomes within or immediately following the calendar year in which funds are received.

9.3 – Capital Project Funding.

The city may occasionally allocate SSBPDT funds for capital projects that are essential to providing equitable health access or services to city residents experiencing health disparities.

Capital projects may be considered for equipment, renovation or new construction for properties that are located in the city, and that are owned or managed by the requesting agency, and used for or by city residents who are low-income or otherwise experiencing health disparities.

The capital project funding process is staff-initiated. The city will not accept unsolicited funding requests. To make funding recommendations, city staff may request from agencies a project description and budget. However, by receiving project information the city is not obligated to recommend funding. City staff may also seek the input from the HEAC on potential capital project fund allocations, before presenting to the city manager for consideration.

In addition to HEF core eligibility, program priorities and criteria, eligible capital projects will:

- Require one-time funding support only;
- Demonstrate the agency's unique ability to successfully direct and implement the project, including through contract agencies or companies with professional qualifications to carry out the project;
- Demonstrate the agency's financial stability, including the ability to meet additional project funding needs or gaps, from sources other than the City of Boulder;
- Demonstrate the agency's capacity to meet any ongoing maintenance or operations associated with the project;
- Commence spending funding within one year of the contract execution date, and expend funds within two years from the contract execution date;
- Leverage other non-capital project efforts addressing social determinants of health, or serve as a key component of another capital or non-capital project addressing health inequities; and
- Advance city strategic priorities and help achieve long-term outcomes that align with HEF program priorities.

Chapter 3 - Boards and Commissions^[18]

Footnotes:

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Adopted by Ordinance Nos. 4629, 4651. Amended by Ordinance No. 4722. Derived from Ordinance Nos. 2548, 3280, 3521, 3712, 3750, 3814, 3940, 3950, 3967, 4000, 4168, 4169, 4170, 4171, 4276, 4437, 4504.

2-3-1. - General Provisions.

(a) The city council:

- (1) At a regular meeting before April shall appoint members to city boards and commissions, who are city residents representing both sexes;
- (2) May remove any member by majority vote for conflict of interest violation, ^[19] any other violation of applicable law, regulation, or policy, nonattendance to duty, failure to attend three consecutive regularly scheduled meetings without a leave of absence approved by a majority of the board or commission, or any other cause; and
- (3) Shall fill any vacancy for the remainder of its term.

(b) Each city board or commission shall:

- (1) Hold regular monthly meetings;
- (2) Keep minutes of its meetings and records of its transactions, which are publicly available;
- (3) Appoint a chair, vice-chair, and secretary (who may be a city employee);
- (4) Conduct its meetings under the then current Robert's Rules of Order, Newly Revised, unless the board or commission adopts other rules of meeting procedure;
- (5) Hold all meetings open to the public, after full and timely notice of date, time, place, and subject matter of the meeting, and provide an opportunity for public comment at the meeting; and
- (6) Unless otherwise provided by law, conduct all quasi-judicial hearings under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981.

(c) Unless otherwise provided by law, three members of each board constitute a quorum, and each board or commission shall act only on an affirmative vote of at least three members.

(d) Unless otherwise provided by law, each city board or commission is authorized to:

- (1) Hold special meetings at any time upon the call of a quorum and after at least twenty-four hours' notice to members and as much public notice as is practicable under the circumstances;
- (2) Administer oaths;
- (3) Adopt rules interpreting its legislative duties under this code and establishing procedures in aid of its functions; and
- (4) Issue subpoenas to require the presence of persons and the production of writings, papers, books, documents, records, or tangible things necessary to its proceedings.
 - (A) The secretary of the board or commission shall issue subpoenas upon written request therefor.

- (B) Subpoenas shall be served in accordance with the provisions of Colorado Rules of Civil Procedure 45(c), except that no witness fees or mileage shall be paid.
- (C) No person shall fail to obey a subpoena issued by the board or commission.
- (e) Except as otherwise provided by law, all members of city boards and commissions shall serve without pay, shall serve until their successors take office, and shall not hold any other office in the city, but the secretary of any board or commission may be a city employee.
- (f) If a member of a city board or commission is present at a meeting and refuses to vote, the member's vote shall be recorded in the affirmative. No member is excused from voting except on approving minutes of a meeting that the member did not attend or on a matter creating a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981, or on consideration of such member's conduct in the business of the board or commission.
- (g) If a city board or commission listed in this chapter, or the city council, the Boulder Municipal Property Authority, or an advisory body to a general improvement district, gives posted notice of a public meeting other than a notice required to be posted on affected property, in addition to any other place where such notice is posted, the notice shall be posted on the bulletin board in the first floor lobby of the municipal building located on the southwest corner of Broadway and Canyon. It shall not be necessary for any of these bodies to designate this place for posting annually. Except in cases of emergency meetings, such notice, if posted, shall be posted at least twenty-four hours in advance of the meeting. Notice posted pursuant to this subsection shall be full and timely notice, but no meeting shall be deemed not to have been preceded by full and timely notice merely because notice was not posted as allowed in this subsection so long as full and timely notice was given by some other means.

Ordinance Nos. 5621 (1994); 7202 (2002); 8013 (2014); [8047 \(2015\)](#)

Footnotes:

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For prohibited conflicts of interest, see Chapter 2-7, "Code of Conduct," B.R.C. 1981.

2-3-2. - Arts Commission.

- (a) The City of Boulder Arts Commission consists of five members appointed by the city council for five-year staggered terms, all of whom are city residents.
- (b) The commission's functions include, without limitation:
 - (1) To promote and encourage the development and public awareness of and interest in the fine and performing arts in the city;
 - (2) To advise the city council in connection with all matters relating to the artistic and cultural development of the city;
 - (3) To perform such other functions associated with the arts as the council may from time to time direct;
 - (4) To make recommendations to the council with respect to annual budget appropriations for the arts;
 - (5) To assist in the preparation of applications for grants or other sources of funding for arts programs for the city;
 - (6) To administer the city arts grant program and other city arts programs pursuant to any authority provided therefor by ordinance of the council; and

- (7) To advise and consult with local arts groups as requested by such groups or by the council.
- (c) The commission is not authorized to issue subpoenas.

Ordinance No. 5541 (1993); [8047 \(2015\)](#)

2-3-3. - Beverage Licensing Authority.

- (a) The City of Boulder Beverage Licensing Authority consists of five members serving five-year staggered terms, all of whom are city residents. The council shall appoint members at a regular meeting in March of every year. The council shall adjust terms as needed to stagger the terms. Vacancies shall be filled for the remainder of the term.
- (b) The city manager shall serve as secretary to the authority. The secretary may be known as the licensing clerk, and shall serve as the authority's agent for all functions.
- (c) The authority's functions are:
 - (1) To grant or refuse applications for licenses to sell malt, vinous, or spirituous liquor, and fermented malt beverages;
 - (2) To conduct investigations;
 - (3) To suspend or revoke such licenses for cause;
 - (4) To perform all other acts or duties required to carry out the purposes of the state and city liquor and fermented malt beverage licensing laws; and
 - (5) To perform all other responsibilities that the council may delegate to it.
- (d) The city manager shall issue all licenses granted by the authority upon receipt of the license fees prescribed by Sections 4-20-2, "Alcohol and Fermented Malt Beverage License and Application Fees," and 4-20-12, "Local Improvement District Fees," B.R.C. 1981.
- (e) Sections 1-3-3, "Notice of Agency Action," 1-3-4, "Exception for Emergencies," and Subsections 1-3-5(a) and (c), B.R.C. 1981, do not apply to hearings conducted by the authority.
- (f) The city council shall establish and adopt by resolution rules of procedure for the authority.
- (g) The authority may adopt supplemental rules of procedure provided that the authority's supplemental rules shall not be in conflict with those adopted by the city council.

Ordinance Nos. 5347 (1990); 5440 (1992); 7457 (2006); [8047 \(2015\)](#)

2-3-4. - Board of Building Appeals.

- (a) The City of Boulder Board of Building Appeals consists of the five members of the board of zoning adjustment, who shall sit as the board of building appeals.
- (b) The chief city building official and the city fire chief shall be advisory members of the board without vote. The city manager shall be secretary of the board.
- (c) In addition to any other duties the council may prescribe, the responsibility of the board is to hear appeals by any person as provided in Section 9-9-21, "Signs," Chapters 10-2, "Property Maintenance Code," 10-5, "Building Code," 10-6, "Electrical Code," 10-7, "Energy Conservation Code," 10-8, "Fire Code," 10-8.5, "Wildland Code," 10-9, "Mechanical Code," 10-10, "Plumbing Code," and 10-12, "Mobile Homes," B.R.C. 1981.

Ordinance Nos. 5382 (1991); 7109 (2001); 7724 (2010); 7925 (2013)

2-3-5. - Downtown Management Commission.

- (a) The City of Boulder Downtown Management Commission consists of five members appointed by the city council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the Central Area General Improvement District or representatives of owners of such property. Two members shall be citizens of the city at large.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager in all matters relating to employees performing services for the commission. The manager shall be the appointing authority and shall determine the qualifications, duties, performance evaluation, and compensation of all employees performing services for the commission, after receiving the advice of the commission. The manager shall appoint an executive director of the commission to coordinate its functions. The commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of Charter Section 85, "City attorney," concerning appointment of special counsel by the city council.
- (d) The functions of the commission are to:
 - (1) Exercise, subject to call up by the city council acting as the Board of Directors of the Central Area General Improvement District as provided in Subsection (e) of this section, and subject to the limitations of Subsection (f) of this section, the following powers of said Board of Directors in furthering the purposes specified in Ordinance No. 3644 (1970), as amended, to provide parking and related improvements for CAGID:
 - (A) Acquisition, construction, installation, maintenance, operation, improvement, and repair of the improvements of CAGID and of all property, rights, and interests incidental or appurtenant thereto;
 - (B) Management, control, and supervision of all of the business affairs of CAGID and the installation, construction, operation, replacement, maintenance, repair, and improvement of the property and improvements of CAGID;
 - (C) Determination, imposition, redetermination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by CAGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) Hearing appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
 - (E) Acceptance of responsibility to maintain and repair public property located in but not owned by CAGID that is beneficial to the purposes of CAGID;
 - (F) Contracting with the city to administer CAGID's program and operations;
 - (G) Copyrighting designs used for or by CAGID;
 - (H) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax free bonds of CAGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax free status;

- (2) Perform the duties of an advisory committee to the city council acting as the CAGID Board of Directors as specified in Subsection 8-4-10(c), B.R.C. 1981;
 - (3) Exercise all powers given it by Chapter 4-11, "Mall Permits and Leases," B.R.C. 1981;
 - (4) Function as an advisory body to the city council in the consideration or implementation of any downtown development authority or urban renewal authority having jurisdiction over any part of the Central Area General Improvement District.
 - (5) In addition, the commission shall be permitted, to the extent budgeted, to expend funds appropriated to the commission for maintenance of data concerning and for promotion of events in CAGID. This power shall include, without limitation, coordination of efforts of merchants and property owners and promotion of common plans of action and facilitation of transportation, parking, urban design, communications and quality of life improvements in CAGID. However, the commission shall not engage in any anticompetitive practice or discourage any person from locating any legal business in any particular place.
- (e) Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission. At the next council meeting held at least five days after delivery of the action to all council members, the council may call up the action for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be at the next meeting of the council unless the council by motion determines otherwise, the council shall make a final decision concerning what action shall be taken.
 - (f) The commission shall recommend to the city manager and the city council, and the council shall approve, a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the city for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
 - (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.

Ordinance Nos. 4806 (1984); 5085 (1987); 5453 (1992)

2-3-6. - Human Relations Commission.

- (a) The City of Boulder Human Relations Commission consists of five members appointed by the city council for five-year terms, or as long a lesser term as possible in staggering the terms, and includes as much as practicable members reflecting the various social, economic, ethnic, racial and religious segments of the city.
- (b) Repealed.
- (c) The functions of the commission are to foster mutual respect and understanding and to create an atmosphere conducive to the promotion of amicable relations among all members of the city's community, to serve as a vehicle through which citizens can convey their suggestions on city policies with respect to social problems, to be sensitive to the social needs of citizens and to advise and assist the city government in relating human and social services to the needs of the city residents. In addition to other tasks that the city council may assign to it, the commission shall:
 - (1) Study, prepare and recommend to the council a plan of long and short range priorities and specific legislation or programs to alleviate problems of human relations including programs administered by the city to promote better human relations;

- (2) Upon request of the council or the city manager or upon its own initiative, advise the council or manager on the social and human relations impact of proposals to be acted upon by the council or upon areas to which the council's attention should be directed;
- (3) Develop and conduct programs and activities, alone or in cooperation with government agencies or community groups, designed to increase good will among citizens of the city, eliminate discrimination and open new opportunities for all citizens in all phases of community life;
- (4) Hold hearings and issue orders as provided in Chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981;
- (5) Advise, coordinate and consult with the city manager on programs and activities concerning the city's department of housing and human services and the human rights ordinance, Chapter 12-1, "Prohibition of Discrimination in Housing, Employment and Public Accommodations," B.R.C. 1981, and complement and assist those programs and activities;
- (6) Conduct public hearings and inquire into incidents of division and conflict on issues of human relations and attempt to correct them by issuing public reports and recommending to appropriate agencies, public and private, implementation of actions necessary or helpful to eliminate such division and conflict; and
- (7) Consider, investigate, study and make recommendations regarding any contemplated or proposed action by any federal, state or municipal government, or any agency or instrumentality thereof, that may have an effect on human relations in the community.

Ordinance Nos. 4879 (1985); 4805 (1984); 5099 (1988)

2-3-7. - Landmarks Board.

- (a) The City of Boulder landmarks board consists of five members appointed by the city council for five-year terms, two of whom are architectural or urban planning professionals and three of whom may be chosen without limitation. The planning board shall appoint one of its members to attend the landmarks board meeting without a vote and advise the landmarks board.
- (b) The board's responsibilities are:
 - (1) To initiate designations of landmarks and historic districts;
 - (2) To hold public hearings on proposed designation of landmarks and historic districts and approve, modify or disapprove such proposals;
 - (3) To hold public hearings on applications for landmark alteration certificates and approve, modify or disapprove the applications; and
 - (4) To approve structures of historical, architectural or aesthetic merit and to encourage the protection, enhancement, perpetuation and use of any such structures.
- (c) The board is not authorized to issue subpoenas.
- (d) The mayor, with the consent of the city council, may appoint former board members as alternates to hear matters under Chapter 9-11, "Historic Preservation," B.R.C. 1981, when the mayor finds that there is a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981. An alternate board member may be appointed pursuant to the following standards and procedures:
 - (1) The board member with the conflict of interest shall inform the board at a meeting prior to the meeting when the item where such conflict exists is to be considered;
 - (2) If the board finds it necessary to appoint an alternate board member as set forth above, the board shall request that the mayor appoint an alternate member from among the former members of the board; and

- (3) The alternate board members shall only be authorized to act upon the matters that have been requested by the full board.

Ordinance No. 5712 (1995); 7522 (2007)

2-3-8. - Library Commission.

- (a) The library commission of the City of Boulder consists of five members appointed by the city council for five-year terms. The commission shall have the primary responsibility as an advisory commission with regard to the provision of library services to the Boulder community. The members of the commission shall not hold any other office in the city, and shall serve without pay.
- (b) The library commission shall not perform any administrative function unless expressly provided in the charter. The commission shall provide recommendations to the city council in matters concerning the library.
- (c) The commission shall have the following duties:
 - (1) Adopt bylaws, rules, or policies for the guidance and governance of the commission and the library;
 - (2) Provide advice to assist in preparation and revision of a master plan for the development and maintenance of a modern library system within the city;
 - (3) Review annually the library budget prepared by the library director prior to its submittal to the city manager and make recommendations regarding approval or modification of the same;
 - (4) Review periodically the library director's operational service plans and make comments and recommendations;
 - (5) Make recommendations to the library director and the city council on library facilities, including capital improvements, maintenance of existing facilities, and need for new facilities;
 - (6) Review the library director's annual report and make comments and recommendations;
 - (7) Represent the library to the community and the community to the library with the goal of building awareness, understanding and support;
 - (8) Make recommendations concerning the expenditures of revenues for the benefit of the library from the following sources:
 - (1) Gifts, bequests, and donations to the Library Fund established by Charter Section 134; and
 - (2) Proceeds of the sale of any library property, or the pro rata portion of such property, purchased with funds from the property tax appropriated pursuant to Charter Section 134 or the predecessor Section 135 or gifts, bequests, and donations; and
 - (9) Take steps as the library commission may deem feasible to encourage grants or gifts in support of the library.
- (d) Members of the commission may serve on the board of directors of non-profit organizations that support the library.
- (e) The commission is not authorized to issue subpoenas.

Ordinance No. [8110 \(2016\)](#)

2-3-9. - Open Space Board of Trustees.

- (a) Creation of the Open Space Board of Trustees: There shall be an open space board of trustees consisting of five members appointed by the city council for five-year terms. The members of the board shall be residents of the city, shall not hold any other office in the city and shall serve without pay.
- (b) Functions of the Board: The open space board shall not perform any administrative function unless expressly provided in this code. The board:
 - (1) Shall make recommendations to the city council concerning any proposed disposal of open space lands pursuant to Subsection (e) of this section;
 - (2) Shall make recommendations to the city council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, November 7, 1989 and November 4, 1997 or proceeds of property acquired with the assets of the fund;
 - (3) Shall make recommendations to the city council concerning any land that is to be placed under the direction, supervision or control of the department of open space and mountain parks, including, without limitation, recommendations concerning use policies on, planned uses of and restrictions on uses of, open space land;
 - (4) Shall make recommendations to the city council concerning the open space program;
 - (5) Shall review the open space elements of the Boulder Valley Comprehensive Plan and make recommendations concerning any open space related changes to the plan;
 - (6) Shall pursue vigorously the implementation of the open space elements of the Boulder Valley Comprehensive Plan and the acquisition of additional property required to fulfill the goals of the open space program;
 - (7) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the city council;
 - (8) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;
 - (9) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to Charter Section 97; and
 - (10) May prepare and submit to the city council, the city manager or the open space and mountain parks department recommendations on any other matter relating to the open space program, and may request and obtain from the open space and mountain parks department and the city manager information relating thereto.
- (c) Board Recommendations: The city council, the city manager and the open space and mountain parks department shall not act on any of the matters set forth in paragraphs (b)(1) through (b)(9) of this section without securing a recommendation from the board as above provided; however, the council, the manager and the department may act on the matters set forth in paragraphs (b)(2) through (b)(9) of this section without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.
- (d) Open Space Purposes - Open Space Land: Open space land shall be acquired, maintained, preserved, retained and used only for the following purposes:
 - (1) Preservation or restoration of natural areas characterized by or including terrain, geologic formation, flora or fauna that are unusual, spectacular, historically important, scientifically valuable or unique or that represent outstanding or rare examples of native species;
 - (2) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats or fragile ecosystems;
 - (3) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding or fishing;
 - (4) Preservation of agricultural uses and land suitable for agricultural production;

- (5) Utilization of land for shaping the development of the city, limiting urban sprawl and disciplining growth;
- (6) Utilization of nonurban land for spatial definition of urban areas;
- (7) Utilization of land to prevent encroachment on floodplains; and
- (8) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural or wildlife habitat use of the land.

(e) Disposal of Open Space Land:

- (1) No open space land owned by the City may be sold, leased, traded or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the City, giving the location of the land in question and the intended disposal thereof. No open space land owned by the City shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting the requirements of Charter Section 45 and signed by registered electors of the City to the number of at least five percent of the registered electors of the City as of the day the petition is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in Charter Sections 46 and 47 have been followed.
- (2) This section shall not apply to agricultural leases for crop or grazing purposes for a term of five years or less.
- (3) This section is to be construed liberally in favor of providing opportunities for the citizens of the City to refer measures proposing the disposal of any open space land.
- (4) In making recommendations to the city council regarding acquisition or disposition of open space land, the board shall consider the purposes set forth in Subsection (d) of this section and the following:
 - (A) The land use goals of the City;
 - (B) The quality of life of the residents of the City;
 - (C) Land as a finite resource with limited carrying capacity; and
 - (D) The potential cost to the City of the land after its acquisition or disposition.

Ordinance No. 7291 (2003)

2-3-10. - Parks and Recreation Advisory Board.

- (a) The City of Boulder Parks and Recreation Advisory Board consists of seven members, appointed by the city council for five-year terms.
- (b) The city manager shall serve as secretary to the board.
- (c) Four members of the board constitute a quorum. The board may only act on an affirmative vote of at least a majority of all members present at a meeting. Three members of the board may call a special meeting.
- (d) The board's functions are:

- (1) To approve or disapprove proposals concerning the disposal of park lands and forward such recommendations to the city council;
 - (2) To approve or disapprove expenditures or appropriations from the permanent park and recreation fund and forward such recommendations to the city council;
 - (3) To make recommendations to the council concerning the grant or denial of any license or permit in or on park lands;
 - (4) To make recommendations to the council concerning protection and maintenance of park lands;
 - (5) To review the city manager's proposed annual budget relating to parks and recreation matters and submit its recommendations concerning that budget to the council;
 - (6) At the request of the council, the city manager or the department of parks and recreation, to prepare and submit to the council, manager or department, recommendations on any additional park and recreation matters; and
 - (7) To request information and recommendations from the department of parks and recreation pursuant to the provisions of Charter Section 155.
- (e) The board is not authorized to issue subpoenas.

Ordinance No. 5039 (1987)

2-3-11. - Planning Board.

- (a) The City of Boulder Planning Board consists of seven members appointed by the city council for five-year terms.
- (b) The secretary of the board may be a member of the board or may be the city manager.
- (c) Four members of the board constitute a quorum. An affirmative vote of at least four members is necessary to authorize any action of the board.
- (d) The chair and at least two members may call special meetings.
- (e) The board's functions are those established in the charter, this code and other ordinances of the City, including, without limitation:
 - (1) To review and approve or disapprove changes to the Boulder Valley Comprehensive Plan;
 - (2) To review and recommend to the city council regarding proposed historic districts as prescribed by Section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981;
 - (3) To review and recommend to the city council regarding the City's capital improvements plan; and
 - (4) To perform all the functions prescribed by title 9, "Land Use Code," B.R.C. 1981.
- (f) The mayor, with the consent of the city council, may appoint former board members as alternates to hear matters under title 9, "Land Use Code," B.R.C. 1981, when the mayor finds that there will be an absence due to an appearance of impropriety or a conflict of interest under Chapter 2-7, "Code of Conduct," B.R.C. 1981, or due to an anticipated absence of a board member. An alternate board member may be appointed pursuant to the following standards and procedures:
 - (1) The board member with the conflict of interest, a recusal because of an appearance of impropriety or anticipated absence shall inform the board at a meeting prior to the meeting when the item where such conflict or recusal exists is to be considered or the time of an anticipated absence;
 - (2) If the board or chair finds it necessary to appoint an alternate board member as set forth above, the board or chair shall request that the mayor appoint an alternate member from among the former members of the board; and

- (3) The alternate board member shall only be authorized to act upon the matters that have been requested by the full board or chair and authorized by the mayor.

Ordinance Nos. 4803 (1984); 7827 (2012); 7845 (2012)

2-3-12. - Board of Zoning Adjustment and Building Appeals.

- (a) The City of Boulder Board of Zoning Adjustment and Building Appeals consists of five members appointed by the city council for five-year terms.
- (b) The board's functions are to:
 - (1) Review and decide at the request of any interested person, any question of interpretation by the city manager of Section 9-6-1, "Schedule of Permitted Land Uses," or 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981;
 - (2) Hear and decide to grant or deny applications for variances from the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the size and parking setback requirements for accessory dwelling units of subparagraph 9-6-3(a)(2)(B), B.R.C. 1981;
 - (3) Hear and decide referrals from the planning department or appeals from applicants or interested parties regarding changes or expansion in nonconforming buildings or lots, as provided in Section 9-2-14, "Site Review," B.R.C. 1981;
 - (4) Hear and decide applications for exceptions under the solar access ordinance, Section 9-9-17, "Solar Access," B.R.C. 1981;
 - (5) Hear and decide appeals of orders from the city manager under the sign code, Section 9-9-21, "Signs," B.R.C. 1981;
 - (6) Hear and decide appeals of alterations and modifications related to mandatory green building practices and green points awards under Section 10-7.5-5, "Alteration or Modification," B.R.C. 1981;
 - (7) Sit as the Board of Building Appeals pursuant to Section 2-3-4, "Board of Building Appeals," B.R.C. 1981; and
 - (8) Hear and decide such other matters as the city council may by ordinance provide.

Ordinance Nos. 4803 (1984); 5034 (1987); 7109 (2001); 7565 (2007)

2-3-13. - Firefighters' Pension Fund Board of Trustees.

- (a) The City of Boulder Firefighters' Pension Fund Board of Trustees consists of the mayor, the chief financial officer, an appointee by the city council for a three-year term, and three members of the fire department hired before April 8, 1978, elected for a term of three years by the members of the fire department hired before April 8, 1978. The board shall elect from its members a president and a secretary.
- (b) The board's functions are:
 - (1) To supervise the City's and firefighters' contributions to the fund and the investment of all monies in the fund;
 - (2) To hear and decide all applications for relief or pensions from the fund.
- (c) The decision of the board on such contributions and applications for relief or pensions is final and conclusive, unless the board grants a rehearing in a particular case.
- (d) The board need not hold monthly meetings.

- (e) Four members of the board constitute a quorum, and the board shall only act on an affirmative vote of at least four members.
- (f) The chief financial officer is ex officio treasurer of the board.
- (g) The board shall make all necessary rules and regulations for managing and discharging its duties and for its own government and procedure and for the preservation and protection of the fund.
- (h) A record of all matters coming properly before the board shall be kept and preserved.

Ordinance Nos. 4995 (1986); 7799 (2012); 7838 (2012)

2-3-14. - Transportation Advisory Board.

- (a) The City of Boulder Transportation Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are:
 - (1) To advise the city manager, the planning board and the city council concerning any transportation matter, except as set forth in Subsection (c) of this section.
 - (2) To review all city transportation environmental assessments and capital improvements.
 - (3) To review, monitor and propose changes to the Transportation Master Plan for the Boulder Valley, including, without limitation, policies for automobiles, pedestrians, bicycles, transit, parking and greenways.
 - (4) To work with individual citizens, neighborhood groups and transportation staff to develop and recommend criteria by which to guide neighborhood traffic mitigation projects.
 - (5) To advise the city council and the planning board concerning alternative transportation programs and to track the modal shift goal of the transportation master plan.
 - (6) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, traffic engineering, parking and alternative transportation.
- (c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (d) Prior to making any recommendation, the board shall hold a public hearing.
- (e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5216 (1989); 5506 (1992)

2-3-15. - Water Resources Advisory Board.

- (a) The City of Boulder Water Resources Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are to advise the city manager, the planning board and the city council concerning the following water resources matters managed by the utilities division:
 - (1) To review all environmental assessments and capital improvements conducted or proposed by the utilities division.
 - (2) To review, monitor and propose changes to the City's raw water, treated water, wastewater and flood control master plans.

- (3) To review and provide recommendations to the city manager concerning policy issues on operating programs, including, without limitation, water conservation, water treatment plant residuals, wastewater treatment plant biosolids disposal and water quality.
- (c) The board shall not involve itself in any review under the land use regulation, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (d) Prior to making any recommendation, the board shall hold a public hearing.
- (e) The board is not authorized to issue subpoenas.

Ordinance Nos. 5516 (1992); 5789 (1996)

2-3-16. - Environmental Advisory Board.

- (a) The City of Boulder Environmental Advisory Board consists of five members appointed by the city council for five-year terms.
- (b) The responsibilities of the board are:
 - (1) To advise the city council and the city manager concerning waste management and recycling, energy efficiency, environmental risks and pollution control, except as already assigned to other boards and commissions.
 - (2) To advise the city council concerning an appropriate advocacy role for the City in state, regional and federal environmental matters.
 - (3) To advise the affected board and the city council concerning the effects on the environment of any proposed city master plan or revision.
- (c) The board shall not become involved in an environmental issue not specified by Subsection (b) of this section except as authorized by the city council.
- (d) The board shall not involve itself in any review under the land use regulations, title 9, "Land Use Code," B.R.C. 1981, unless its opinion is requested by the city council.
- (e) The board shall not become involved in city environmental assessments unless requested to do so by the city council.
- (f) Prior to making any recommendation, the board shall hold a public hearing.
- (g) The board is not authorized to issue subpoenas.

Ordinance No. 5505 (1992)

2-3-17. - City of Boulder Public Access and Educational Channel Advisory Commission.

Repealed.

Ordinance Nos. 5705 (1995); 5859 (1997)

2-3-18. - Design Advisory Board.

- (a) The City of Boulder Design Advisory Board consists of five members appointed by the city council for five-year terms, at least two of whom are design professionals and three of whom may be chosen without limitation. The purpose of the board is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.

- (b) The board's functions are to:
 - (1) Review projects for compliance with the most recent Downtown Urban Design Plan, and provide comments to persons responsible for designing and developing downtown projects having a valuation of \$25,000.00 or more involving the construction of a new building or exterior work on an existing building;
 - (2) Review projects for compliance with the most recent Downtown Urban Design Plan and provide comments to persons responsible for designing, developing and approving downtown projects that require a discretionary development review, pursuant to Chapter 9-2, "Review Processes," B.R.C. 1981; and
 - (3) Advise and make recommendations for approval or disapproval of amendments to the most recent Downtown Urban Design Plan to the planning board, the city manager and the city council.
- (c) The board shall use the guidelines set forth in the most recent Downtown Urban Design Plan to review projects in those areas described on the "Downtown Area Map" as the historic commercial area, the non-historic downtown area and the interface area.
- (d) Projects that require a review by the landmarks board are exempt from a review by the Design Advisory Board.
- (e) The board shall not involve itself in any review under title 8, "Parks, Open Space, Streets and Public Ways," 9, "Land Use Code," or 10, "Structures," B.R.C. 1981, unless its opinion is requested by the city manager, planning board or city council. The purpose of such review is to encourage thoughtful, well-designed development projects that are sensitive to the existing character of an area or the character established by adopted design guidelines or plans for the area.
- (f) Prior to making any recommendation, the board shall hold a public hearing.
- (g) The board is not authorized to issue subpoenas.

Ordinance Nos. 5963 (1998); 7788 (2011)

2-3-19. - Resident Commissioner for the Housing Authority.

Pursuant to § 29-4-205, C.R.S., the city council is permitted to provide for the appointment of commissioners of the Housing Authority of the City of Boulder, also known as Boulder Housing Partners. One of such commissioners is required by federal regulation [\[20\]](#) to represent the residents of Housing Authority facilities, and it is preferable that the Resident Commissioner be elected by the residents of Housing Authority facilities. Accordingly, the city council hereby designates the President of the Resident Representative Council of the Housing Authority, certified from time to time by the Board of Commissioners of the Housing Authority, as the Resident Representative Commissioner member of the Board of Commissioners. The city council further determines that Resident Commissioner should serve for whatever term such person serves as President of the Resident Representative Council, notwithstanding the five-year staggered terms served by other Housing Authority Commissioners. The city council hereby limits the participation of the Resident Commissioner in matters before the Board of Commissioners to public housing and Section 8 matters, not involving the management of the housing development in which such person resides. The President of the Resident Representative Council may designate any officer of the council to act as an alternate Resident Commissioner when the President is unable to attend Housing Authority meetings.

Ordinance No. 7218 (2002)

Footnotes:

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2-3-20. - University Hill Commercial Area Management Commission.

- (a) The City of Boulder University Hill Commercial Area Management Commission ("Commission,") consists of five members appointed by the city council for five-year terms. The commissioners who are first appointed shall be designated to serve for staggered terms, so that the term of one commissioner expires each year. A member must wait one year after terminating service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Three members shall be owners of taxable real or personal property located in the area contained in the University Hill General Improvement District ("UGHID") or representatives of owners of such property. Two members shall be citizens of the City at large.
- (b) The secretary of the Commission may be a member of the Commission or may be a city staff member. Three members of the Commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the Commission.
- (c) Annually, the Commission shall select a chair and a vice-chair from among its members. The Commission may appoint such subcommittees and task forces as it deems appropriate. The manager shall appoint an executive director of the Commission to coordinate its functions. The Commission shall utilize the services of the city attorney for such legal services as it may require, subject to the provisions of Charter Section 85, "City attorney," concerning appointment of special counsel by the city council.
- (d) The functions of the Commission are to provide recommendations to:
 - (1) City council acting as the Board of Directors of the UHGID in furthering the purposes specified in Section 8-4-11, "Powers of the District," B.R.C. 1981, Ordinance Numbers 3638, 4299 and 4958, as amended, to provide parking and related improvements for UHGID as follows:
 - (A) Acquisition, construction, installation, maintenance, operation, improvement and repair of the improvements of UHGID and of all property, rights and interests incidental or appurtenant thereto;
 - (B) Management, control and supervision of all of the business affairs of UHGID and the installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of UHGID;
 - (C) Determination, imposition, re-determination and revision of a schedule of user charges for the use of the parking facilities provided or furnished by UHGID, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981, in so doing, but nothing in this section shall authorize the Commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) Leasing district parking facilities, including, without limitation, retail space, but no such lease shall be valid if tax-free bonds of UHGID for the construction or acquisition of the facility are still outstanding and such lease would imperil tax-free status; and
 - (E) A general description of the improvements to be constructed and installed within UHGID or outside the district for the special benefit of UHGID as follows: a general parking program to provide parking, pedestrian, bicycles, mass transit, aesthetic and related improvements for the district area, which may include, but shall not be limited to:
 - (i) Parking and off-street parking facilities;
 - (ii) Acquisition or lease of necessary land or interests therein, and improvements thereto in connection with said facilities both within and outside the district;

- (iii) Other incidental and appurtenant facilities and improvements designed to improve parking and improve the convenience of the district area;
 - (iv) Pedestrian and bicyclist amenities, including benches, trees, landscaping, bike racks, signage, banners and trash receptacles;
 - (v) Improvements to increase the attractiveness and convenience of the district;
 - (vi) Incentive programs to encourage use of means of transportation to and from the district other than the under-occupied private automobiles; and
 - (vii) Maintenance of any of the above-described types of facilities and improvements located in the public right of way within the district.
- (2) Perform the duties of an advisory committee to the city council acting as the UHGID Board of Directors as specified in Section 8-4-10, "Advisory Committee," B.R.C. 1981.
 - (3) Function as an advisory body to the city council acting as the UHGID Board of Directors in the consideration or implementation of any "Downtown Development Authority," as that term is defined in § 31-25-801, et seq., C.R.S., or "Urban Renewal Authority," as that term is defined in § 31-25-101, et seq., C.R.S., or related entity having jurisdiction over any part of the UHGID.
 - (4) In addition, the Commission shall undertake an advisory role to the city council regarding the overall health and welfare of the University Hill Commercial Area and immediately adjacent areas, including the following:
 - (A) Make recommendations for the creation and maintenance of data, studies and information concerning the University Hill Commercial Area in order to support and enhance the sustainability of UHGID and the University Hill Commercial Area. This power shall include, without limitation, coordination of collaborative efforts with University Hill Commercial Area merchants, business and property owners as well as other University Hill stakeholders including residents, students and the University of Colorado in the promotion of common plans of action and related to: transportation, parking, urban design, economic vitality, promotional activities, communications and quality of life improvements in UHGID and the University Hill Commercial Area;
 - (B) The Commission shall not recommend any anti-competitive practice or discourage any person from locating any legal business in any particular place;
 - (C) Advise on the overall vitality of the University Hill Commercial Area, including, but not limited to, overall area marketing and economic vitality initiatives and events promoting the area;
 - (D) Include consideration of the long-term future and sustainability of the University Hill Commercial Area; and
 - (E) Make recommendations regarding vending carts as per Section 4-18-4, "University Hill Mobile Vending Cart Permit," B.R.C. 1981.
 - (e) The Commission shall recommend a budget to the city manager, the city council and the city council acting as the UHGID Board of Directors. City council may approve such budget. The Commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council.
 - (f) For the purposes of this section, *University Hill Commercial Area* means the area as defined in Ordinance Numbers 3638, 4299 and 4958, and generally bounded by the south side of University Avenue, the west side of Broadway, the west side of 14th Street from College to the southern end of the UHGID-owned parking lot, the south side of College Avenue, the alley between 12th Street and 13th Street, including the pedestrian underpass at College Avenue and as illustrated on the map entitled "University Hill Commercial Area" incorporated into Ordinance Number 7579 as Exhibit A.
 - (g) *University Hill General Improvement District* or *UHGID* means the City of Boulder University Hill General Improvement District established by Ordinance Number 3638, as subsequently amended.

Ordinance No. 7579 (2008)

2-3-21. - Boulder Junction TDM Commission.

- (a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - TDM ("District" or "BJAGID - TDM") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five-year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the City regarding such property.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.
- (d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:
 - (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;
 - (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
 - (3) To enter into contracts on behalf of the District;
 - (4) To contract with the City to administer the District's program and operations;
 - (5) To copyright, trademark or obtain other protections of designs used for or by District;
 - (6) To lease district facilities, including, without limitation, retail space; and
 - (7) To perform any such other duties and as may be required by the board of directors or by applicable law.
- (e) The functions of the commission are to make decisions or provide recommendations of said board of directors in furthering the purposes of the District, as specified herein and in the petition to provide alternative modes of transportation related services and improvements for the District, including, without limitation, the following:
 - (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;

- (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
- (D) To hear appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
- (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
- (F) To include or exclude property from the district boundaries pursuant to Section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII.C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property taxes: The maximum mil levy authorized by the votes of the District is 20 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:
 - (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
 - (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District and to develop reserve funds.
 - (C) The mil levy may be increased from 10 mils and up to 20 mils if an opportunity arises for the District to participate in alternate transit modes, which may include acquiring interests in property or financing agreements, including, without limitation, issuance of debt. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
- (3) Authorize debt: The maximum debt authorized by the voters of the District is \$2,500,000.00, at a maximum interest rate of twelve percent and a maximum repayment cost of \$5,000,000.00. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:
 - (A) A public hearing before the commission; and
 - (B) At least three commission members affirmatively vote in favor of incurring such debt.
- (4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;

- (5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.
- (f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the City for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
- (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.
- (h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7732 (2010)

2-3-22. - Boulder Junction Parking Commission.

- (a) The commissioners of the initial commission shall be the five persons designated in the petition forming the Boulder Junction Access General Improvement District - Parking ("District" or "BJAGID - Parking") to serve for the stated terms. After the expiration of the terms of the initial commission, commissioners shall be appointed for five-year terms by the city council acting as the board of directors. The Boulder Junction Parking Commission shall consist of five members. One ex officio nonvoting member may be appointed by the city manager as provided below. After a second term, a member must wait one year after service to be eligible for reappointment, except for the commissioners first appointed and members reappointed after a partial term of one year or less. Except for the initial commission, three members of the commission shall be owners of taxable real or personal property located in the area contained in the District or representatives of owners of such property and not required to be city electors. Two members shall be city electors, whether residing inside or outside of the district boundaries. So long as the City owns real property within the district boundary, other than property used by the District for the purposes of the District, and as a result is a real property owner similarly situated to other property owners in the District, there may be one ex officio nonvoting member appointed by the city manager to represent the interests of the City regarding such property.
- (b) The secretary of the commission may be a member of the commission or may be a city staff member. Three members of the commission constitute a quorum. An affirmative vote of at least three members is necessary to authorize any action of the commission.
- (c) Annually, the commission shall select a chair and a vice-chair from among its members. The commission may appoint such subcommittees and task forces as it deems appropriate. The commission shall consult regularly with the city manager ("manager") in all matters relating to employees performing services for the commission.
- (d) The city manager is the ex officio general manager of the District and is responsible for the executive, operational and administrative functions of the District, including, without limitation, the following:
 - (1) To manage, control and supervise all of the business affairs of the District, including, without limitation, installation, construction, operation, replacement, maintenance, repair and improvement of the property and improvements of the District and of all property, rights and interests incidental or appurtenant thereto;
 - (2) To maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District;
 - (3) To enter into contracts on behalf of the District;

- (4) To contract with the City to administer the District's program and operations;
 - (5) To copyright, trademark or obtain other protections of designs used for or by the District;
 - (6) To lease district facilities, including, without limitation, retail space; and
 - (7) To perform any such other duties and as may be required by the board of directors or by applicable law.
- (e) The functions of the commission are to make decisions or provide recommendations to the board of directors in furthering the purposes of the District as specified herein and in the petition to provide alternative modes of transportation and parking related services and improvements for the District, including, without limitation, the following:
- (1) Exercise, subject to call up by the city council acting as the board of directors of the District, the following functions:
 - (A) To authorize the general manager to acquire property and construct improvements of the District;
 - (B) To determine, impose, re-determine and revise a schedule of user charges for the use of the services and improvements provided or furnished by the District, as well as the determination of reasonable penalties, interest, collection costs and other charges for delinquencies in payment of such charges, following the procedures of Subsections 8-4-15(c), (e) and (f), B.R.C. 1981. Nothing in this section shall authorize the commission to set the times or rates for on-street metered parking, or the fines or penalties for parking infractions specified in Chapter 7-6, "Parking Infractions," B.R.C. 1981;
 - (D) To hear appeals pursuant to Subsection 8-4-16(b), B.R.C. 1981;
 - (E) To accept responsibility to maintain and repair public property located in but not owned by the District that is beneficial to the purposes of the District.
 - (F) To include or exclude property from the district boundaries pursuant to Section 8-4-24, "Inclusion and Exclusion of Additional Property in District," B.R.C. 1981, subject to Section VIII C(1) and (2) of the district petition, which section requires either a PILOT agreement or cooperation agreement upon inclusion and addresses how properties outside of the boundary are considered, and within the area defined in Phase One of the Transit Village Area Plan adopted on September 18, 2007.

Upon taking action, the commission shall forward a copy of its action to the city council, including the nature of the action and the reasons for taking it and any conditions that the commission has imposed. Such action shall take effect as provided by the commission.

At the next council meeting or the next meeting thereafter held at least five days after delivery of the action to all council members, the council may call up any action set forth in this paragraph (e)(1) other than subparagraph (e)(1)(F) for de novo review, consideration or hearing, which constitutes a revocation of the action. At the review, consideration or hearing held on the action, which shall be scheduled by the council, the council shall make a final decision concerning what action shall be taken.

- (2) Property Taxes: The maximum mil levy authorized by the voters of the District is 30 mils. The mil levy authorized is higher than it is anticipated will be necessary for the services of the District unless it is determined that the District should construct improvements or issue debt. The mil levy shall be set annually by the board of directors as follows:
 - (A) The initial mil levy for property in the District commencing January 1, 2011, due and payable January 1, 2012, shall be 5 mils.
 - (B) After January 1, 2012, the mil levy may be increased to up to 10 mils and used for the operations of the District, to develop reserve funds and to acquire property interests for parking.

- (C) The mil levy may be increased from 10 mils and up to 20 mils for any purpose authorized by the District. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
- (D) The mil levy may be increased from 20 mils and up to 30 mils to support issuance of debt of the District to acquire or develop parking facilities. Prior to setting such tax in place, there shall be:
 - i. A public hearing before the commission; and
 - ii. At least three commission members affirmatively vote for such tax increase.
 - iii. For purposes of this section, *parking facilities* includes acquisition of property interests, including, without limitation, purchase or lease, for temporary or permanent use as parking spaces at grade level or in a parking structure, which spaces may be available upon acquisition of the property interests or sometime in the future.
- (3) Authorize debt: The maximum debt authorized by the voters of the District is \$13,000,000, at a maximum interest rate of twelve percent and a maximum repayment cost of \$32,000,000. This amount is higher than anticipated will be necessary for the improvements. Prior to issuance of any bonds by the board of directors within such authorization, there shall be:
 - (A) A public hearing before the commission; and
 - (B) At least three commission members affirmatively vote in favor of incurring such debt.
- (4) Perform the duties of an advisory body to the city council acting as the district board of directors as specified in this section;
- (5) Function as an advisory body to the city council in the consideration or implementation of any overlaying taxing district or other body corporate and politic having jurisdiction over any part of the District.
- (f) The general manager shall recommend to the commission and the board of directors a line item budget. Subject to city purchasing procedures, the commission may authorize expenditures within such line items, including, without limitation, contracts for services. The commission may not make any budgetary appropriation or encumbrance and shall not incur any debt or purchase or initiate construction of any parking, and all such matters are left in the full discretion of the city council. In the event that the commission desires at any time to cease utilizing the services of the city for any purposes for which it has contracted for such services, it will present such issue to the city council for final determination.
- (g) The commission is authorized to issue subpoenas only in quasi-judicial proceedings.
- (h) At any time during the life of the BJAGID - Parking and BJAGID - TDM, all or any of the commissioners may serve on both district commissions concurrently or sequentially.

Ordinance No. 7731 (2010)

2-3-23. - Electric Utility Board.

- (a) Electric Utility Board. The City of Boulder electric utility board consists of nine members not all of the same gender. The members of the board shall not hold any other office in the city and shall serve without pay.
- (b) Chair and Secretary. The board shall choose a chair and a secretary from among its members. The director of electric utilities may be designated as secretary by the board.

- (c) Regular and special meetings. The board shall have regular meetings once a month. Special meetings may be called at any time by the city manager, the chair, or four members of the board upon the giving of at least twenty-four hours' notice of said special meeting to the board members.
- (d) Quorum. Five members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.
- (e) Record of meetings. The board shall keep minutes and records of its meetings, recommendations, and decisions.
- (f) Rules of order. Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business.
- (g) Board member qualifications. Board members shall be qualified to serve on an advisory commission pursuant to Section 130 of the charter, customers of the electric utility, or the owners or employees of a business or governmental entity that is a customer of the electric utility; provided, however, that a majority of the board shall be qualified to serve on an advisory commission pursuant to Section 130. Board members shall be well known for their ability, probity, public spirit, and particular fitness to serve on the electric utility board. At least three board members shall be owners or employees of a business or governmental entity that is a customer of the electric utility.
- (h) Board member duties and functions. The duty of each member shall be to represent the entire utility customer base without discrimination between customer class or location and without regard to the location or class of customer or the member. The duties and functions of the electric utility board are those established in the charter, this code, and other ordinances of the city, including, without limitation:
 - (1) Advice. To advise the city council on policy matters pertaining to the municipal electric and utility systems, including, without limitation, such policies as the board determines are necessary or prudent to carry out its fiduciary duties and the requirement of the charter;
 - (2) Sounding Board. To act as a sounding board to the city council, city manager, and the electric utility director for the purpose of identifying the ratepayers' service delivery expectations;
 - (3) Rulemaking. To adopt rules and regulations with respect to any matter within its jurisdiction as it may be permitted by the council;
 - (4) Meeting Rules. To adopt bylaws governing its meeting and agenda procedures and other pertinent matters;
 - (5) Budget and Appropriations. To review and make recommendations to the city council on the city manager's proposed budget and appropriation as it relates to the utility;
 - (6) Revenue Bonds. To review and make recommendations to the city council concerning the issuance of revenue bonds or other obligations payable from revenues of the electric utilities enterprise;
 - (7) Other Recommendations. To review and make recommendations on any other matter relating to the electric utilities program, and may request and obtain from the electric utilities department and the city manager information relating thereto.
- (i) Public Hearings. Prior to making any recommendation to the council or the city manager, the board shall hold a public hearing.
- (j) No subpoenas. The board is not authorized to issue subpoenas.
- (k) Electric utility board member appointments. The council will appoint the electric utility board prior to or concurrent with the point in time that the utility has issued bonds and is receiving revenue that will qualify it as an enterprise under Article X, Section 20 of the Colorado Constitution. Until such time as the board is appointed, the city council shall be responsible for fulfilling the responsibilities of the electric utility board. Ordinance No. 7969 (2014)

Chapter 7 - Code of Conduct³⁷

Footnotes:

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[Ord. No. 7957, § 1, adopted December 16, 2014](#), amended Chapter 7 in its entirety to read as herein set out. Former Chapter 7, §§ 2-7-1—2-7-15, pertained to similar subject matter, and derived from Ordinance Nos. 3792, 4677, 5396, 7286, 7442.

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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.

Ordinance No. [7957 \(2014\)](#)

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ORDINANCE 8181

AN ORDINANCE AMENDING CHAPTER 3-16, "SUGAR SWEETENED BEVERAGE PRODUCT DISTRIBUTION TAX," B.R.C. 1981 RELATED TO THE IMPLEMENTATION OF THE SUGAR SWEETENED BEVERAGE TAX AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 3-16, B.R.C. 1981, is amended to read:

Chapter 16 Sugar Sweetened Beverage Product Distribution Tax

3-16-1. - Findings and Purpose.

- (a) An excise tax on the distribution of sugar-sweetened beverages is intended to protect the health, safety and well-being of all in the City of Boulder.
- (b) Whereas consuming one sugar-sweetened beverage a day increases the risk for childhood obesity by 55%.
- (c) Whereas consuming one sugar-sweetened beverage a day increases the risk of developing Type Two Diabetes by 25%.
- (d) Whereas consuming one sugar-sweetened beverage a day increases the likelihood of death from cardiovascular disease by 30%.

3-16-2. - Imposition and Rate of Tax.

- (a) Excise tax. There is levied and shall be paid and collected an excise tax of two cents (\$0.02) per fluid ounce of sugar-sweetened beverage products that are distributed in the city. The tax is imposed only when the supply, acquisition, delivery or transport is for the ultimate retail sale of the sugar-sweetened beverage product within the city.
- (b) For purposes of calculating the tax imposed under this chapter, the volume, in fluid ounces, of a sugar-sweetened beverage product shall be:

1 (1) For a bottled sugar-sweetened beverage the tax shall be calculated on the volume, in
2 fluid ounces, of sugar-sweetened beverages distributed to any person in the course
of business in the city.

3 (2) For a sugar-sweetened beverage made from syrups and powders the tax shall be
4 calculated on:

5 (A) The manufacturer's suggested serving size for the volume of fluid ounces of
6 sugar-sweetened beverages produced from syrup or powder upon the initial
distribution of syrup or powder; or

7 (B) If the labeling or packaging does not specify the recommended number of
8 servings per container, the tax shall be calculated using the largest volume
of fluid ounces of sugar-sweetened beverages that could be produced from
9 syrup or powder upon the initial distribution of syrup or powder.

10 **3-16-3. - Distributor Liable for Tax.**

11 (a) Each distributor of sugar-sweetened beverage products shall pay the tax imposed in this
12 chapter on each non-exempt distribution of a sugar-sweetened beverage product, except
13 that if there is a chain of distribution within the City of Boulder involving more than one
14 distributor, the tax shall be levied on the first distributor subject to the jurisdiction of the
city, unless the tax is not paid by the first distributor for any reason, it shall be levied on
subsequent distributors, provided that the distribution of sugar-sweetened beverage
products may not be taxed more than once in the chain of commerce within the city.

15 (b) Prior to distributing any sugar-sweetened beverage product in the city, the distributor shall
16 obtain the license required by Section 3-2-11, "Sales and Use Tax License," B.R.C 1981.

17 (c) In order to aid in the city's collection of taxes due under this chapter, any retailer of sugar-
18 sweetened beverage products that receives sugar-sweetened beverage products from a
19 distributor, in accordance with rules and regulations promulgated by the city manager
pursuant to Section 3-16-6, shall provide to the city evidence that the distributor from
whom the sugar-sweetened beverage products were received has registered as a distributor
with the city.

20 **3-16-4. – Definitions.**

21 For the purposes of this Chapter 3-16, unless the context otherwise requires:

22 "Beverage for Medical Use" means a beverage suitable for human consumption and
23 manufactured for use as a:

24 (1) Source of necessary nutrition due to a medical condition, or
25

- 1 (2) For use as an oral rehydration electrolyte solution for infants and children
2 formulated to prevent or treat dehydration due to illness.

3 It shall not include drinks commonly referred to as "Sports Drinks" or any other common names
4 that are derivations thereof.

5 "Bottled Sugar-Sweetened Beverage" means any sugar-sweetened beverage in a container that is
6 ready for consumption without further processing, such as, and without limitation, dilution or
7 carbonation.

8 "Caloric Sweetener" means a substance or combination of substances suitable for human
9 consumption that adds calories to and is perceived as sweet to humans when consumed,
10 including, but not limited to sucrose, dextrose, fructose, glucose, other mono and disaccharides;
11 corn syrup or high-fructose corn syrup; or any other caloric sweetener designated by the city
12 manager.

13 "Consumer" means a natural person who purchases a sugar-sweetened beverage product in the
14 city for a purpose other than resale in the ordinary course of business.

15 "Distribution" or "distribute" means the transfer of title or possession:

- 16 (1) From one business entity to another for consideration, or
17 (2) Within a single business entity, such as by a wholesale or warehousing unit to a
18 retail outlet or between two or more employees or contractors.

19 "Distribution" or "Distribute" shall not mean the retail sale to a consumer.

20 "Distributor" means any person who distributes sugar-sweetened beverage products in the city.

21 "Milk Products" means natural fluid milk, regardless of animal source or butterfat content,
22 natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat
23 content, or dehydrated natural milk, whether or not reconstituted and regardless of animal source
24 or butterfat content, and plant-based milk substitutes, that are marketed as milk, such as soy
25 milk, coconut milk, rice milk and almond milk.

"Powder" means any solid mixture, containing one or more caloric sweetener as an ingredient,
intended to be used in making, mixing, or compounding a sugar-sweetened beverage by
combining the powder with one or more ingredients.

"Retailer of Sugar-Sweetened Beverage Products" means a person, other than a distributor,
manufacturer, or wholesaler who receives, stores, mixes, compounds, or manufactures a sugar-
sweetened beverage and sells or otherwise dispenses the sugar-sweetened beverage to the
ultimate consumer.

1 "Simple Syrup" means a mixture of water and one or more natural or common sweeteners
2 without any additional ingredients.

3 "Sugar-Sweetened Beverage" means any non-alcoholic beverage which contains at least 5 grams
4 of caloric sweetener per 12 fluid ounces.

5 (1) "Sugar-Sweetened Beverage" includes all drinks and beverages commonly referred
6 to as "soda," "pop," "cola," "soft drinks," "sports drinks," "energy drinks,"
7 "sweetened ice teas," "sweetened coffees," or any other common names that are
8 derivations thereof.

9 (2) "Sugar-Sweetened Beverage" does not include any of the following:

10 (A) Any beverage in which milk is the primary ingredient, i.e., the ingredient
11 constituting a greater volume of the product than any other;

12 (B) Any beverage for medical use;

13 (C) Any liquid sold for use for weight reduction as a meal replacement;

14 (D) Any product commonly referred to as "infant formula" or "baby formula";

15 (E) Any alcoholic beverage;

16 (F) Any beverage consisting of 100 percent natural fruit or vegetable juice
17 with no added caloric sweetener. Natural fruit juice and natural vegetable
18 juice is the original liquid with or without water added resulting from the
19 pressing of fruits or vegetables;

20 (G) Sweetened medication such as cough syrup, liquid pain relievers, fever
21 reducers and similar products;

22 (H) Any beverage that is distributed for use at the University of Colorado for
23 consumption as part of a meal plan that includes both food and drinks
24 from July 1, 2017 to June 30, 2018; or

25 (I) Any product commonly used exclusively to mix with alcohol that may
exceed 5 grams or more per serving of caloric sweetener per 12 ounces of
fluid that is not a sugar sweetened beverage, including without limitation
margarita mix, bloody mary mix, daiquiri mix or similar products.

"Sugar-Sweetened Beverage Product" means a bottled sugar-sweetened beverage or a sugar
sweetened beverage made from the dilution of syrup or powder.

1 "Syrup" means any liquid mixture, containing one or more caloric sweeteners as an ingredient,
2 intended to be used in making, mixing, or compounding a sugar-sweetened beverage by
combining the syrup with one or more other ingredients.

3 **3-16-5. - Exemptions.**

4 The tax imposed by this chapter shall not apply:

- 5 (a) To any distribution of syrups and powders sold directly to a consumer and intended for
6 personal use by a consumer that are not already pre-mixed into a sugar-sweetened
7 beverage product such as granulated sugar, honey, agave and similar products.
8 (b) To any milk product.
9 (c) To infant formula.
10 (d) To any alcoholic beverage.
11 (e) To any beverage for medical use.

12 **3-16-6. - Duties, Responsibilities and Authority of the City Manager.**

- 13 (a) The city manager is authorized to administer the provisions of this chapter and has all
14 other duties and powers prescribed by Section 3-2-17, "Duties and Power of City
15 Manager," B.R.C. 1981.
16 (b) The city manager shall annually verify that the taxes owed under this chapter have been
properly applied, exempted, collected, and remitted.

17 **3-16-7. - Liability for Tax; Records; Retailer Obligations.**

- 18 (a) No receiver of a sugar-sweetened beverage product from a distributor shall fail to pay and
no distributor shall fail to collect the tax levied by this chapter.
19 (b) The receiver of any sugar-sweetened beverage product from a distributor shall include
20 with its records of receipt of such product, the name of the distributor and amount of tax
paid to the distributor.
21 (c) The records required to be maintained by the receiver of the sugar-sweetened beverage
22 product and the distributor shall preserve all records and reports as provided in Section 3-
23 2-18, "Taxpayer Duty to Keep Records, Provide Information and File Returns," B.R.C.
1981.
24 (d) The burden of proving that any transaction is not subject to the tax imposed by this
25 chapter is upon the person whom the duty to collect the tax is imposed.

1 (e) In order to aid in the city's collection of taxes due under this chapter, any retailer of sugar-
2 sweetened beverage products that receives sugar-sweetened beverage products from a
distributor shall:

- 3 (1) Report to the city all such transactions, the volume in ounces of sugar-sweetened
4 beverage products received in each transaction, and the identity and contact
5 information of the distributor from whom the sugar-sweetened beverage product
was received and remit it to the city; or
- 6 (2) Collect the tax that would be payable as a result of the transaction by the
7 distributor from whom the sugar-sweetened beverage products were received and
remit it to the city; or
- 8 (3) Provide to the city evidence that the distributor from whom the sugar-sweetened
9 beverage products were received has registered as a distributor with the city.

10 **3-16-8. - Taxes Collected are Held in Trust.**

11 All sums of money collected by a distributor as required by this chapter are public monies that
12 are the property of the city. The distributor shall hold such monies in trust for the sole use and
benefit of the city until the distributor pays them to the city.

13 **3-16-9. - Enforcement of Tax Liability.**

- 14 (a) Tax Constitutes a First Lien. The tax imposed by this chapter is a first and prior lien on
15 tangible personal property in which the person responsible to remit the tax has an
ownership interest, subject only to valid mortgages or other liens of record at the time of
16 and prior to the recording of notice of tax lien as provided in Subsection 3-2-27(c), B.R.C.
1981.
- 17 (b) Enforcement. The provisions of Sections [3-2-22](#), "Penalties for Failure to File Tax Return
18 or Pay Tax (Applies to Entire Title)," 3-2-27, "Tax Constitutes Lien," 3-2-29, "Sale of
Business Subject to Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-31, "Jeopardy
19 Assessment," 3-2-32, "Enforcing the Collection of Taxes Due (Applies to Entire Title)," 3-
2-33, "Recovery of Unpaid Tax by Action at Law," 3-2-34, "City May Be a Party
20 Defendant," 3-2-35, "Injunctive Relief," 3-2-36, "Obligations of Fiduciaries and Others,"
[and 3-2-38](#), "Limitations," B.R.C. 1981, providing for enforcement of collection of taxes
21 due, govern the authority of the city manager to collect the tax imposed under this chapter.

22 **3-16-10. - Not a Sales and Use Tax.**

23 The tax imposed by this Chapter is a tax upon the privilege of conducting business, specifically,
24 distributing sugar- sweetened beverage products within the City of Boulder. It is not a sales, use
or other excise tax on the sale, consumption or use of sugar-sweetened beverage products. The
25 tax imposed herein shall be in addition to any license fee or tax imposed or levied under any

1 other law, statute or ordinance where imposed or levied by the city, state, or other governmental
2 entity or political subdivision.

3 **3-16-11. - Dedicated Revenues.**

- 4 (a) The revenues from this excise tax shall be designated for the administrative cost of the tax,
5 and once that obligation has been fulfilled, used for health promotion, general wellness
6 programs and chronic disease prevention in the City of Boulder that improve health
7 equity, such as access to safe and clean drinking water, healthy foods, nutrition and food
8 education, physical activity, and other health programs especially for residents with low
9 income and those most affected by chronic disease linked to sugary drink consumption.
- 10 (b) The city shall track and record all revenues collected from the excise tax imposed by this
11 chapter, all administrative costs and the distribution of the portion of the tax collected not
12 used for administrative costs. The city council shall annually publish a public report on
13 the city's website detailing the amount of revenue collected as a result of the tax and the
14 type and amount of expenditures made as a result of the tax levied in this chapter.

15 **3-16-12. - Municipal Affair.**

16 The people of the City of Boulder hereby declare that the taxation of the privilege of distributing
17 sugar-sweetened beverage products and that the public health impact of sugar-sweetened
18 beverage products separately and together constitute municipal affairs. The people of the City of
19 Boulder hereby further declare their desire for this measure to coexist with any similar tax
20 adopted at the county or state levels.

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

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

Section 4. Chapter 3-16, B.R.C. 1981, shall be effective as of July 1, 2017.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 2nd day of May, 2017.

3
4 _____
Suzanne Jones
Mayor

5 Attest:

6
7 _____
Lynnette Beck
8 City Clerk

9 READ ON SECOND READING, AMENDED AND PASSED this 16th day of May,
10 2017.

11
12 _____
Suzanne Jones

13 MayorAttest:

14
15 _____
Lynnette Beck
16 City Clerk

17 READ ON THIRD READING, PASSED AND ADOPTED this 6th day of June, 2017.

18
19 _____
Suzanne Jones
20 Mayor

21 Attest:

22
23 _____
Lynnette Beck
24 City Clerk