



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: October 4, 2016**

**AGENDA TITLE:** Second reading and consideration of a motion to adopt and order published by title only Ordinance 8119 regarding cooperative housing intended to expand the availability of cooperative housing units by amending Title 4, “Licenses and Permits by adding a new section 4-20-69, “Cooperative Housing License Fee,” amending Title 9, “Land Use Code,” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures,” by adding a new chapter 11 “Cooperative Housing,” establishing requirements for licensing housing cooperatives and setting forth related details.

**PRESENTERS**

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

David Gehr, Deputy City Attorney

David Driskell, Executive Director, Planning, Housing and Sustainability

Susan Richstone, Deputy Director, Planning, Housing and Sustainability

Charles Ferro, Development Land Use Review Manager, Planning, Housing and Sustainability

**EXECUTIVE SUMMARY**

This is the second reading of Ordinance 8119. The city council held a public hearing on May 17, 2016. Public testimony concluded at approximately 11:00 p.m. Council members began a brief discussion, which concluded at 11:41 p.m. Council asked staff questions and directed staff to draft a series of amendments for consideration at a continued first reading on June 21, 2016. At the June 21, 2016 meeting council members considered and adopted five amendments to the proposed ordinance. Council passed the proposed ordinance, as amended, on first reading.

Suggested Motion Language:

Second reading and consideration of a motion to adopt and order published by title only Ordinance 8119 intended to expand the availability of cooperative housing units by amending Title 4 “Licenses and Permits by adding a new section 4-20-69 “Cooperative Housing License Fee,” amending Title 9 “Land Use Code” by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title 10 “Structures” by adding a new chapter 11 “Cooperative Housing” establishing requirements for licensing housing cooperatives and setting forth related details.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Economic:** Cooperative housing may have a positive economic impact by providing access to affordable housing. There is also the possibility that by competing for access to single family homes the existence of legal cooperatives could affect the market for such homes.
- **Environmental:** Cooperative housing could have a positive environmental impact by limiting the number of in-commuters and by the philosophy of shared resources.
- **Social:** Communal living can have social benefits. Higher density could have negative impacts on neighborhoods.

## **OTHER IMPACTS**

- **Fiscal:** The fiscal impact will depend upon the final version adopted. With a limited number of units permitted, any fiscal impact should be limited.
- **Staff Time:** Implementation will be accomplished with existing staff. The principal staff work necessary will be implementing a licensing system. The more complex the requirements included, the more staff time that will be required.

## **BOARD AND COMMISSION FEEDBACK**

The Planning Board considered the proposed ordinance on April 21, 2016. The Planning Board gave careful consideration to the proposed ordinance. The board heard over three hours of public testimony and deliberated for an additional three hours. The board had a wide ranging discussion. Planning Board recommendations and minutes were included in the agenda memorandum for the May 17, 2016 council meeting.

## **Motions by Council**

### **1. Certification as a Legitimate Cooperative**

Council amended the proposed ordinance with language proposed as option “B,” in attachment E to the June 21, 2016 agenda memorandum, which would make the city manager responsible for certification. Council members directed staff to include language allowing the city manager to adopt additional certification criteria. The amended language is included in sections 10-1-1 and 10-11-4(b)(1)(E)

In addition, one council member suggested adopting the certification criteria attached to an email from Zane Selvans sent June 21, 2016. Staff expressed concern about the difficulty of verifying these proposed criteria. These additional criteria were not included as part of the amendment. They are as follows:

- (1) Whether the members of the household share the entire dwelling unit and live, cook and eat together as a single housekeeping unit;
- (2) Whether the members of the household have an adopted set of rules covering democratic governance, maintenance responsibilities, and other household issues;
- (3) Whether the members of the household use the dwelling unit as their legal address for purposes including but not limited to voter registration, driver's license or identification purposes, motor vehicle registration and the filing and receipt of tax documents;
- (4) Whether the group is transient or temporary in nature, as an intentional community shall be expected to remain in place for a period in excess of one (1) calendar year;
- (5) Whether the members of the household share expenses for food, rent or ownership costs, utilities and other household expenses.

## 2. Property Right for Equity Cooperatives

The council adopted an amendment provided as attachment E to the June 21, 2016 agenda memorandum creating a property right for equity cooperatives, provided that the last clause in subsection (b) be clarified. The new language appears in section 10-11-12a. One council member suggested that if equity cooperatives were to have a property right, then fines for violations should be higher. The proposed ordinance includes two tiers of fines. They are as follows:

	First Violation	Second Violation	Third Violation
Martin Acres, East Aurora, Goss Grove and University Hill	\$500	\$750	\$1000
All other areas	\$150	\$300	\$1000

To increase the fines for equity cooperatives, the ordinance could be amended to provide that all equity cooperatives would be subject to the enhanced fine schedule in all locations, while rental cooperatives would only be subject to the higher fines in the neighborhoods specified.

### **3. Occupancy**

The council adopted an amendment provided as attachment F to the June 21, 2016 agenda memorandum. This included occupancy limits by zone district. Council amended the proposed language to specify that the space must be interior space and not include a garage. The amended language is in a new subsection 9-8-5(d).

Council also expressed an interest in including a potential amendment at second reading to include a minimum allowable occupancy limit and a maximum limit. Council left it to staff to include the proposed minimum and maximum numbers. Staff recommends that the minimum be occupancy by six persons. This is the current limit included in section 9-6-3(b), which was represented as the minimum necessary for a sustainable cooperative. Twelve represents a 100 percent increase over the current limit. The proposed amendment would be as follows:

- (4) Provided however, that in any dwelling unit subject to this subsection.
- (d) shall the occupancy limit be less than six persons or more than twelve persons.

### **4. Licensing Cooperatives Rather than Property Owners**

Council approved an amendment to change the licensee from the property owner to the cooperative. The new language is in section 10-11-4. The amended language includes a provision requiring a rental license. Council may wish to consider limiting this requirement to situations in which the property owner is different from the licensee.

### **5. Parking**

Council members had a productive discussion of possible approaches to parking issues associated with cooperatives. Council members were not supportive of staff's proposal. The following potential amendment is an attempt to capture council's discussion.

Section 4-23-2(c) is amended to read as follows:

No more than two resident permits shall be in effect at any time for any person. No person shall be deemed a resident of more than one zone, and no more than one permit may be issued for any one vehicle even if persons residing in different zones share ownership or use. Provided however, that the total number of permits issued to any dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not exceed one permit for every three residents legally allowed to reside in the dwelling unit pursuant to section 9-8-5 "Occupancy of Dwelling Units," B.R.C. 1981.

Section 10-11-11 is amended to read as follows:

**10-11-11. – Parking Management Plan Required.**

Each applicant for a cooperative housing license shall prepare a parking management plan. Approval of any such plan shall be a condition of issuance of any cooperative housing license. The plan shall limit the number of automobiles associated with the property to no than one vehicle for every three residents permitted under section 9-8-5 “Occupancy of Dwelling Units,” B.R.C. 1981~~four vehicles per license~~. The applicant shall include a contractual agreement with each resident binding each resident to abide by such limitation. An agreement by the licensee to require that all residents have a local bus pass with the Regional Transit District may be included in such a plan, but is not required unless the cooperative housing unit is located in a Neighborhood Eco-Pass district.

Council members asked staff to address Neighborhood Parking Permit areas. Under the current ordinance, each resident is entitled to two parking permits. The proposed amendment would limit the number of permits available for a licensed cooperative to one permit for every three legal residents. The second part of the proposed amendment would require each cooperative to have a plan to limit the property to one vehicle for every three residents. The plan would include a contractual promise by each resident to abide by the limitation. Eco-passes could be part of the plan, but would only be required if the cooperative is to be located in a Neighborhood Eco-Pass district.

**6. Neighborhood Notification**

Council members voted to amend the first reading ordinance with the language contained in the attachment. This language can be found in section 10-11-4(b)(1)(E) of the proposed ordinance.<sup>1</sup> Council members also requested that staff propose alternatives that would provide for notification after the cooperative is occupied and require that the notice identify a person available to respond to concerns. The following is intended to provide these options.

Strike subsection 10-11-4(b)(1)(E) and add a new section as follows:

Section 10-11-4a Neighborhood Notification

(a) Within seven days of initial occupancy, the licensee shall provide written notification to each residential dwelling unit with a mailing address on the block face of the dwelling unit occupied by the licensee. The notice shall include the following information:

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<sup>1</sup> The proposed amendment attached to the June 21, 2016 agenda memorandum proposed inserting the language in section 10-11-5(b)(5). This was a mistake. Section 10-11-5 is the renewal requirements. Council and staff intended that this provision be included as part of the application requirements.

- (1) A statement that the licensee is a cooperative organization;
- (2) The address of the property occupied;
- (3) The name, address, telephone number and e-mail address of a person to contact for additional information or with complaints;
- (b) The licensee shall provide supplemental written notification to each residential dwelling unit with a mailing address on the block face of the dwelling unit occupied by the licensee within seven days of any change to the information in the original notification.

## 7. Separation

The first reading ordinance carried over the concept of limiting cooperatives as a percentage of the dwelling units in a particular area. Council's discussion seemed to coalesce around creating a separation requirement. That is, each cooperative would be surrounded by a rectangle in which no other cooperative would be licensed. Council directed staff to draft language to facilitate further discussion on this issue. The following amendment would implement such a change:

Amend Section 10-11-3 as follows:

~~(d) Cooperative housing licenses shall be limited to the following concentrations:~~

~~(1) — Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts, no more than ten percent of the single family lots or parcels in a neighborhood area contain a cooperative housing unit. For the purpose of this subparagraph:~~

~~—— (i) — The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which any cooperative housing unit will be located.~~

~~—— (ii) — The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area circumscribed by a line six hundred feet from the perimeter of the lot line within which any cooperative housing unit will be located.~~

~~—— (iii) — If an application for a cooperative housing unit exceeds the ten percent requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional cooperative housing unit within a neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide notice of intent to file an application within thirty days and file an application within sixty days of such notice.~~

(d) The city manager shall not issue any license for any cooperative housing unit that is within 100 feet of any licensed cooperative housing unit.

Staff recommends a one hundred foot separation. Based on the analysis done for first reading the separation requirements originally proposed would have allowed between two and four cooperative housing units in a three hundred foot area. The mean would be three in a three hundred foot area or one in a one hundred foot area.

## **8. Definitions**

Several council members expressed an interest in adopting definitions proposed by the Boulder Community Housing Association. Council members expressed concern that the definitions in the existing proposed ordinance did not take allow for significant others, children and persons with disabilities to live in equity cooperatives. The BoCHA definitions are as follows:

*Private Equity Cooperative* means a housing cooperative in which a majority of the adult residents own an interest in the property, a majority of the individuals who own an interest in the property are also residents of the property, and the owner-residents hold a controlling ownership interest in the property. A 501(c)3 non-profit with a housing focused mission may own a minority interest in the property.

*Group Equity Cooperative* means a housing cooperative in which a majority ownership interest is held by either a 501(c)3 non-profit organization with an affordable housing focused mission, or a public housing authority

*Rental Housing Cooperative* means any housing cooperative which does not satisfy the requirements for either a private or group equity housing cooperative.

## **ATTACHMENT**

Attachment A - Proposed Ordinance

ORDINANCE NO. 8119

AN ORDINANCE AMENDING TITLE 4 “LICENSES AND PERMITS BY ADDING A NEW SECTION 4-20-69 “COOPERATIVE HOUSING LICENSE FEE,” AMENDING TITLE 9 “LAND USE CODE” BY AMENDING TABLE 9-6-1 TO MAKE COOPERATIVE HOUSING AN ALLOWED USE IN CERTAIN ZONE DISTRICTS, BY AMENDING SECTION 9-6-3, ELIMINATING THE REQUIREMENT OF A SPECIAL USE PERMIT FOR COOPERATIVE HOUSING, AMENDING TITLE 10 “STRUCTURES” BY ADDING A NEW CHAPTER 11 “COOPERATIVE HOUSING” ESTABLISHING REQUIREMENTS FOR LICENSING HOUSING COOPERATIVES AND SETTING FORTH RELATED DETAILS.

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

**Section 1.** A new section 4-20-69 is added as follows:

**4-20-18. – Cooperative Housing License Fee.**

The following fees shall be paid before the city manager may issue a rental license or renew a rental license:

(a) \$105 per license or renewal.

(b) To cover the cost of investigative inspections, the city manager will assess to licensees a \$250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of chapter 10-11 “Cooperative Housing,” B.R.C. 1981.

**Section 2.** Table 9-6-1 is amended as set forth in an attachment A.

**Section 3.** Section 9-6-3(b) is repealed and subsequent sections are renumbered.

**Section 4.** Section 9-8-5 is amended as follows:

**9-8-5. - Occupancy of Dwelling Units.**

1 (a) General Occupancy Restrictions: Subject to the provisions of Chapter 10-2,  
2 "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall  
3 occupy a dwelling unit:

4 (1) Members of a family plus one or two roomers. The quarters that the roomers use  
5 shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate  
6 dwelling unit;

7 (2) Up to three persons in P, A, RR, RE, and RL zones;

8 (3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM,  
9 and IMS zones; or

10 (4) Two persons and any of their children by blood, marriage, guardianship, including  
11 foster children, or adoption.

12 (b) Accessory Dwelling Unit, Owner's Accessory Unit, or Limited Accessory  
13 Dwelling Unit: The occupancy of an accessory dwelling unit, owner's accessory unit, or limited  
14 accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

15 (c) Nonconformity: A dwelling unit that has a legally established occupancy higher  
16 than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy  
17 of the dwelling unit as a nonconforming use, subject to the following:

18 (1) The higher occupancy level was established because of a rezoning of the property,  
19 an ordinance change affecting the property, or other city approval;

20 (2) The rules for continuation, restoration, and change of a nonconforming use set  
21 forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use  
22 Review," B.R.C. 1981;

1 (3) Units with an occupancy greater than four unrelated persons shall not exceed a  
2 total occupancy of the dwelling unit of one person per bedroom;

3 (4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

4 (5) If a property owner intends to sell a dwelling unit with a non-conforming  
5 occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such  
6 contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that  
7 indicates the allowable occupancy of the dwelling unit.

8 (d) A dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-  
9 11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits  
10 set forth in this section. All such dwelling units shall be limited as follows:

11 (1) in the Rural Residential and Residential Low Density zone districts to no more than  
12 one occupant per 400 square feet of interior space, exclusive of any uninhabitable space or  
13 garage.

14 (2) in the Residential Medium Density zone districts to no more than one occupant per  
15 300 square feet of interior space, exclusive of any uninhabitable space or garage; or

16 (3) in all other zone districts to no more than one occupant per 200 square feet of interior  
17 space, exclusive of any uninhabitable space or garage.

18 (e) Prohibition: No person shall occupy a dwelling unit in violation of this section or  
19 intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation  
20 of this section.

21 **Section 5.** Section 9-16-1 is amended by amending the definition of "Cooperative  
22 Housing Unit" as follows:  
23

1 Cooperative housing unit has the same meaning as set forth in Section 10-1-1,  
2 “Definitions,” B.R.C. 1981 means an individual building for cooperative living that meets the  
3 criteria for such units set forth in Subsection 9-6-3(b), B.R.C. 1981.

4 **Section 6.** The following new definitions are added to Section 10-1-1:

5 *Cooperative* means a housing arrangement in which residents share expenses, ownership  
6 or labor.

7 *Cooperative housing unit* means a dwelling unit in a Private Equity, Limited Equity or  
8 Rental Cooperative.

9 ~~Cooperative Housing Organization means an organization recognized by the city~~  
10 ~~manager as having experience and expertise in the formation, operation and organization of~~  
11 ~~cooperative housing units.~~

12 ~~Legitimate Cooperative Housing Organization means an organization formed under~~  
13 ~~Colorado law that, in addition to any other criteria adopted by the City Manager, has the~~  
14 ~~following:~~

15 ~~(1) a documented governance structure;~~

16 ~~(2) a list of members; and~~

17 ~~(3) bylaws that provide for the following:~~

18 ~~(a) provisions prohibiting discrimination or harassment;~~

19 ~~(b) a provision requiring regular meetings of all members;~~

20 ~~(c) a democratic decision-making structure;~~

21 ~~(d) provisions for discipline or discharge of members; and~~

22 ~~(d) provisions for sharing of resources.~~

1           *Limited equity cooperative* means a cooperative operating on a property owned in part by  
2 its occupants. A not-for-profit corporation may own an interest in the property.

3           *Not-for-Profit Rental Cooperative* means a rental cooperative owned by a corporation  
4 registered with the United States government pursuant 26 U.S.C. § 501(c)(3).

5           *Private equity cooperative* means a cooperative operating on a property owned jointly by  
6 the residents of the cooperative.

7           *Rental cooperative* means a cooperative in which the some or all of the residents do not  
8 have an ownership interest in the property in which the cooperative operates.

9           **Section 7.** A new Chapter 10-11 is added as follows:

10 **Chapter 11 Cooperative Housing**

11 **10-11-1. Legislative Intent**

12           The City Council intends to facilitate cooperative living arrangements. The Council finds  
13 that cooperative living arrangements can provide an affordable alternative for living in Boulder.  
14 In addition, cooperative arrangements can provide supportive and fulfilling community for their  
15 residents. The City Council seeks to balance the benefits of cooperative living against the  
16 impacts from the increased density that comes along with cooperative living. The City Council  
17 also is concerned about cooperatives competing in a tight housing market with families seeking  
18 single family homes.  
19

20 **10-11-2. - Cooperative License Required Before Occupancy.**

21           No person shall occupy, allow, or offer to allow through advertisement or otherwise, any  
22 person to occupy any cooperative housing unit unless the cooperative housing unit has been  
23 issued a valid cooperative housing license by the city manager.

24 **10-11-3. – Cooperative Housing Licenses.**

1 (a) License terms shall be as follows:

2 (1) Licenses shall expire four years from issuance or when ownership of the licensed  
3 property is transferred.

4 (A) In addition to any other applicable requirements, new licenses and renewals shall  
5 require that the licensee submit to the city manager a completed current baseline (for a new  
6 license) or renewal inspection report, on forms provided by the City. The report shall satisfy the  
7 following requirements:

8 (i) The section of the report concerning fuel burning appliances must be executed by  
9 a qualified heating maintenance person certifying compliance with those portions of Chapter 10-  
10 2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and  
11 certification.

12 (ii) The section of the report concerning smoke and carbon monoxide alarms must be  
13 executed by the operator certifying that the operator inspected the smoke and carbon monoxide  
14 alarms in the licensed property and that they complied with the requirements of Chapter 10-2,  
15 "Property Maintenance Code," B.R.C. 1981.

16 (iii) The section of the report concerning trash removal must be executed by the  
17 operator certifying that the operator has a current valid contract with a commercial trash hauler  
18 for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-  
19 3(b), B.R.C. 1981.

20 (b) Whenever an existing license is renewed, the renewal license shall be effective  
21 from the date of expiration of the last license if the applicant submits a complete renewal  
22 application by or within ninety days from the expiration date. Licenses not renewed within  
23 ninety days will be considered expired, requiring a new baseline inspection report.  
24  
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## Attachment A - Proposed Ordinance

1 (c) The city manager shall issue no more than fifteen new cooperative housing  
2 licenses in any calendar year. Such licenses shall be allocated as follows:

3 (1) No more than five licenses for limited equity cooperatives;

4 (2) No more than five licenses for private equity cooperatives;

5 **(3) No more than five licenses for not-for-profit rental cooperatives;**

6 ~~(4)~~ No more than five licenses for rental cooperatives; and

7 ~~(5)~~ If an application for a cooperative housing unit exceeds the limits set forth in this  
8 subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the  
9 waiting list shall be given priority for consideration of applications in the next calendar year.

10 (d) Cooperative housing licenses shall be limited to the following concentrations:

11 (1) Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts,  
12 no more than ten percent of the single-family lots or parcels in a neighborhood area contain a  
13 cooperative housing unit. For the purpose of this subparagraph:

14 (i) The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area  
15 circumscribed by a line three hundred feet from the perimeter of the lot line within which any  
16 cooperative housing unit will be located.

17 (ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area  
18 circumscribed by a line six hundred feet from the perimeter of the lot line within which any  
19 cooperative housing unit will be located.

20 (iii) If an application for a cooperative housing unit exceeds the ten percent  
21 requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on  
22 a waiting list for the neighborhood area. At such time as there is room for an additional  
23 cooperative housing unit within a neighborhood area, the city manager will notify the first  
24 cooperative housing unit within a neighborhood area, the city manager will notify the first  
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1 eligible person on the waiting list. Such person on the waiting list shall be required to provide  
2 notice of intent to file an application within thirty days and file an application within sixty days  
3 of such notice.

4 **10-11-4. - License Application Procedure for Cooperative Housing Licenses.**

5 (a) Only a Legitimate Cooperative Organization ~~the fee simple owners of the~~  
6 ~~property on which the cooperative is to be located~~ may be an applicant for a cooperative housing  
7 license. ~~If there are multiple fee simple owners, all owners must apply. A prospective tenant~~  
8 ~~may, with the written authorization of all fee simple owners, apply for conversion of a valid~~  
9 ~~rental license to a cooperative housing license. A licensed Legitimate Cooperative Organization~~  
10 ~~may operate a cooperative only with the written consent of the property owner and only in a~~  
11 ~~premises licensed pursuant to Chapter 10-3, "Rental Licenses," B.R.C. 1981.~~

12 (b) Every applicant for cooperative housing license shall submit the following:

13 (1) A written application for a license to the City, on official city forms provided for  
14 that purpose, at least thirty days before occupancy of the property including:  
15

16 (A) A housing inspector's certification of baseline inspection dated within twelve  
17 months before the application. The applicant shall make a copy of the inspection form available  
18 to city staff and tenants of inspected units within fourteen days of a request; and

19 (B) A report on the condition and location of all smoke and carbon monoxide alarms  
20 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the  
21 applicant; and

22 (C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.  
23 1981, made and verified by the applicant.  
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1 (D) A parking management plan meeting the requirements of subsection 10-11-11,  
2 B.R.C. 1981, made and verified by the applicant.

3 (E) Evidence that A certificate from a Cooperative Housing Organization certifying  
4 ~~that the applicant is a valid housing cooperative. Such certificate shall be issued if the applicant~~  
5 ~~is a Legitimate Cooperative Housing Organization meets specified pre-established criteria. The~~  
6 ~~Cooperative Housing Organization shall make available publically the criteria before considering~~  
7 ~~any applications.~~

8 (F) A certification that the applicant has provided to a resident of each dwelling on  
9 the street face contact information for the applicant and the organization responsible for  
10 certifying the applicant.

11  
12  
13 (c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"  
14 B.R.C. 1981, at the time of submitting the license application.

15 (d) Take all reasonable steps to notify any occupants of the property in advance of the  
16 date and time of the inspection. The applicant shall be present and accompany the inspector  
17 throughout the inspection, unlocking and opening doors as required.

18 **10-11-5. - License Renewal Procedure for Cooperative Housing Units**

19 Every licensee of a cooperative housing unit shall follow the procedures in this section  
20 when renewing an unexpired license:

21 (a) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee,"  
22 B.R.C. 1981, before the expiration of the existing license.

23 (b) Submit to the city manager, on forms provided by the manager:  
24  
25

1 (1) A housing inspector's certification of renewal inspection within twelve months  
2 before application. The applicant shall make a copy of the inspection form available to city staff  
3 and residents of inspected units within fourteen days of a request;

4 (2) A report on the condition and location of all smoke and carbon monoxide alarms  
5 required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the  
6 operator; and

7 (3) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C.  
8 1981, made and verified by the operator.

9 (4) A parking management plan meeting the requirements of subsection 10-11-11,  
10 B.R.C. 1981, made and verified by the applicant.

11 (c) Take all reasonable steps to notify in advance all residents of the property of the  
12 date and time of the inspection. The operator shall be present and accompany the inspector  
13 throughout the inspection, unlocking and opening doors as required.

14  
15 **10-11-6. - Temporary License.**

16 If the inspection shows that there are violations of chapter 10-2, "Property Maintenance  
17 Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the  
18 housing is to be occupied (in the case of a new cooperative housing unit) or the existing license  
19 expires (in the case of a renewal), the applicant may apply, on forms specified by the city  
20 manager, for a temporary license. If the manager finds, based on the number and severity of  
21 violations, that such a temporary license would not create or continue an imminent health or  
22 safety hazard to the public or the occupants, the manager may issue a temporary license. The  
23 manager shall specify the duration of the temporary license, for a period reasonably necessary to  
24 make the needed repairs and changes. Upon receipt of an additional certificate of inspection  
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1 showing correction of the deficiencies, and an additional housing license fee, the manager shall  
2 issue the cooperative housing license.

3 **10-11-7. - License Appeals.**

4 Any applicant denied a temporary license, or aggrieved by the period of time allowed for  
5 correction, may appeal the denial or the time for correction, or both, as provided in section 10-2-  
6 2, section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required  
7 to correct a violation, the board shall either affirm the city manager's originally prescribed time  
8 or grant a longer time to correct the alleged violation.

9 **10-11-8. - Time of License Expiration.**

10 Every rental license expires upon the earliest of the following dates:

11 (a) The expiration date on the license unless temporary authority is allowed under  
12 section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;

13 (b) The effective date of any order or notice to vacate the property issued under any  
14 provision of law;

15 (c) The expiration of the temporary certificate of occupancy for the property if a  
16 permanent certificate of occupancy has not been issued; or

17 (d) The revocation of the certificate of occupancy for the property.

18 **10-11-9. - License Fees.**

19 Applicants for any cooperative housing license, and applicants renewing an existing  
20 cooperative housing license, shall pay the license fees prescribed by section 4-20-69,  
21 "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.  
22

23 **10-11-10. - Availability of License.**

1 No person who holds a cooperative housing license shall fail to make the rental license  
2 available to anyone within seventy-two hours of receiving a request. Posting of a cooperative  
3 housing license at the property is not required.

4 **10-11-11. – Parking Management Plan Required.**

5 Each applicant for a cooperative housing license shall prepare a parking management  
6 plan. Approval of any such plan shall be a condition of issuance of any cooperative housing  
7 license. The plan shall ~~be designed to~~ limit the number of automobiles associated with the  
8 property parked in the public right of way to no than ~~four~~three vehicles per license. An  
9 agreement by the licensee to require that all residents have a local bus pass with the Regional  
10 Transit District may be included in such a plan, but is not required.

11 **10-11-12. – Compatibility with Neighborhoods.**

12 Each cooperative shall at all times maintain compatibility with the neighborhood in  
13 which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive  
14 parking on the public right of way and noise, trash and weeds on the property. A cooperative  
15 may be considered incompatible with the neighborhood if the city manager receives multiple  
16 complaints relating to parking on the public right of way, noise, trash or weeds in any twelve  
17 month period. Complaints from a single person shall not be sufficient to cause a property to be  
18 incompatible with the neighborhood. Prior to making any determination that a cooperative is not  
19 compatible with the neighborhood, the city manager shall provide written notice to the licensee  
20 and encourage the licensee to address the complaints with the residents of the neighborhood.

21 10-11-12a. -- Property Rights for Equity Cooperatives

22 Cooperatives that are licensed pursuant to this chapter will have the following status  
23 under Title 9, “Land Use Code,” B.R.C. 1981:  
24  
25

1           (a) Equity Cooperatives. Any licensed limited equity cooperative or private equity  
2 cooperative is considered a use of land for the purposes of Chapter 9-6, "Uses of Land," B.R.C.  
3 1981. If the city changes its land use regulations, such cooperatives shall have the privilege to  
4 continue as non-conforming uses under the requirements in Section 9-10-3, "Changes to  
5 Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, provided  
6 that all of the requirement of the Boulder Revised code continue to be met.

7           (b) Rental Cooperatives. Any licensed rental cooperative is considered a dwelling unit  
8 purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981 and not a use of land. Upon the  
9 abandonment, expiration, or revocation of such license, the property will continue to be  
10 considered a dwelling unit.

11 **10-11-13. – Limitation on rent.**

12           As a condition of issuance of any cooperative housing license for a rental cooperative, the  
13 applicant shall agree to limit each cumulative rent for the entire property to no more than one  
14 hundred and ten percent of the average rent for a similar property in the city of Boulder. ~~that~~  
15 ~~which is affordable to households earning no more than the average median income for families~~  
16 ~~in the city of Boulder.~~ The city manager shall, by rule, establish such maximum rents based on  
17 the number of bedrooms using the Colorado Division of Housing's Metro Denver Area  
18 Residential Rent and Vacancy Survey. ~~and Finance Authority Income and Rent Tables or~~  
19 ~~another substantially similar resource.~~

20  
21 **10-11-14. - City Manager May Order Premises Vacated.**

22           (a) Whenever the city manager determines that any cooperative housing unit is in  
23 violation of this chapter or of chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has  
24 caused a summons and complaint requiring the licensee to appear in municipal court to answer  
25

1 the charge of violation to issue, and the summons cannot be served upon the licensee despite  
2 reasonable efforts to do so, or, having been served, the licensee has failed to appear in the  
3 municipal court to answer the charges or at any other stage in the proceedings, or, having been  
4 convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment  
5 of the court or any condition of a deferred judgment, then the city manager may, after thirty days'  
6 notice and an opportunity for a hearing to the residents and the licensee, require that the premises  
7 be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code  
8 and the cooperative housing code have been satisfied and a cooperative housing license is in  
9 effect. No person shall occupy any cooperative housing unit after receiving actual or constructive  
10 notice that the premises have been vacated under this section.

11  
12 (b) Any notice required by this section to be given to a licensee is sufficient if sent by  
13 first class or certified mail to the address of the last known owner of the property as shown on  
14 the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident  
15 required by this section is sufficient if sent by first class or certified mail to or delivered to any  
16 occupant at the address of the premises and directed to "All Residents."

17 (c) The remedy provided in this section is cumulative and is in addition to any other  
18 action the city manager is authorized to take.

19 **10-11-15. - Administrative Remedy.**

20 (a) If the city manager finds that a violation of any provision of this chapter or  
21 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to  
22 the operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3,  
23 "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to  
24 remedy the violation:  
25

## Attachment A - Proposed Ordinance

1 (1) Impose a civil penalty according to the following schedule:

2 (A) For any violation in the following areas: the area south of Arapahoe Avenue,  
3 north of Baseline Road, east of 6th Street and west of Broadway; the area south of Baseline  
4 Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area  
5 south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th  
6 Street:

7 (i) For the first violation of the provision, \$500.00;

8 (ii) For the second violation of the same provision, \$750.00; and

9 (iii) For the third violation of the same provision, \$1,000.00;

10 (B) For a violation in any other area:

11 (i) For the first violation of the provision, \$150.00

12 (ii) For the second violation of the same provision, \$300.00; and

13 (iii) For the third violation of the same provision, \$1,000.00;

14 (2) Revoke the cooperative housing license; and

15 (3) Issue any order reasonably calculated to ensure compliance with this chapter and  
16 Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

17 (b) If notice is given to the city manager by the licensee at least forty-eight hours  
18 before the time and date set forth in the notice of hearing on any violation, other than a violation  
19 of section 10-11-12 "Compatibility with Neighborhoods," B.R.C. 1981, that the violation has  
20 been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds  
21 that the violation has been corrected, the manager may cancel the hearing.  
22

23 (c) If notice is given to the city manager by the licensee at least forty-eight hours  
24 before the time and date set forth in the notice of hearing on any violation of section 10-11-12  
25

1 “Compatibility with Neighborhoods,” B.R.C. 1981, that the licensee has scheduled a community  
2 mediation with concerned neighbors, the manager may continue the hearing until the manager  
3 receives a report regarding the conclusion of the mediation. If after reviewing a community  
4 mediation report, if the city manager is satisfied that the cooperative housing unit meets the  
5 requirements of section 10-11-12 “Compatibility with Neighborhoods,” B.R.C. 1981, the city  
6 manager may dismiss any pending complaint.

7 (d) The city manager's authority under this section is in addition to any other  
8 authority the manager has to enforce this chapter, and election of one remedy by the manager  
9 shall not preclude resorting to any other remedy as well-, provided however, the city manager  
10 shall not seek criminal penalties for any violation of this chapter.

11 (e) The city manager may, in addition to taking other collection remedies, certify due  
12 and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-  
13 12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for  
14 Collection," B.R.C. 1981.

15 (f) To cover the costs of investigative inspections, the city manager will assess  
16 operators a \$250.00 fee per inspection, where the city manager performs an investigative  
17 inspection to ascertain compliance with or violations of this chapter.  
18

19 **10-11-16. Criminal Penalty.**

20 (a) The penalty for violation of any provision of this chapter is a fine of at least  
21 \$500.00 and not more than \$2,000.00 per violation, or incarceration for not more than ninety  
22 days in jail, or both such fine and incarceration. In addition, upon conviction of any person for  
23 violation of this chapter, the court may issue a cease and desist order and any other orders  
24 reasonably calculated to remedy the violation. Violation of any order of the court issued under  
25

## Attachment A - Proposed Ordinance

1 this section is a violation of this section and is punishable by a fine of not more than \$4,0000.00  
2 per violation, or incarceration for not more than ninety days in jail, or both such fine and  
3 incarceration.

4 (b) — It shall be a condition of any deferred prosecution or deferred or suspended  
5 sentence under this chapter that the defendant commit no violations of this chapter for at least  
6 one year from the date of such deferred prosecution or deferred or suspended sentence.

7 (c) — Notwithstanding subsection (a) of this section, the following specific sentencing  
8 considerations shall apply to fines imposed for violations:

9 (1) — The court shall consider any evidence presented by the defendant that a potential  
10 fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally  
11 capitalized owner of the ability to continue operating a rental housing business of the sort  
12 involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

13 (2) — In imposing a fine in any single case or in any consolidated cases, the court may  
14 weigh all factors normally and properly considered in connection with the imposition of fines,  
15 including the seriousness of the violation, the past record of the defendant, the economic  
16 circumstances of the defendant and all mitigating or aggravating factors relevant to the violation  
17 or to the defendant. In addition, in determining the amount of any fine, the court may consider:

18 (A) — The imposition of a fine that would deprive the defendant of any illegal profit  
19 collected because of the occurrence of the violation or violations on the rental housing property;

20 (B) — The imposition of a reasonable penalty in addition to any level of fine that is  
21 attributable to illegally obtained profit; and  
22  
23  
24  
25

## Attachment A - Proposed Ordinance

1 (C) — The imposition of such additional fine as is determined by the court to constitute a  
2 reasonable amount to be suspended in order to ensure compliance with any terms of probation  
3 imposed by the court.

4 (d) — No fine imposed in a single case alleging multiple dates of violation, nor any fine  
5 in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that  
6 might be imposed for fifteen separate violations unless the court finds special aggravating  
7 circumstances. Where special aggravating factors are at issue, the following procedures shall  
8 apply:

9 (1) — The defendant shall be entitled to ten days' notice of any special aggravating  
10 factors upon which the prosecution intends to rely at the sentencing hearing or about which,  
11 based upon evidence previously presented, the court is concerned. If necessary in order to  
12 provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

13 (2) — A judicial finding of the existence of special aggravating factors shall not mandate  
14 that the court impose any particular level of fine but will, rather, provide the sentencing court  
15 with discretion to determine a fine based upon all the criteria set forth in this subsection.

16 (3) — Special aggravating factors, for the purpose of this subsection, shall require a  
17 judicial finding of one or more of the following:

18 (A) — The violations at issue were flagrant and intentional on the part of the defendant;

19 (B) — The defendant, after learning of the violation, failed to attempt corrective action  
20 over a sustained period of time; or

21 (C) — A fine equivalent to the maximum fine permitted for fifteen separate violations  
22 would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the  
23  
24  
25

1 violations or would be inadequate to ensure that the violation is neither profitable nor revenue  
2 neutral for the offender.

3 **10-11-167. - Authority to Issue Rules.**

4 The city manager may adopt reasonable rules to implement this chapter.

5 **Section 8.** This ordinance is necessary to protect the public health, safety, and welfare of  
6 the residents of the city, and covers matters of local concern.

7 **Section 9.** The City Council deems it appropriate that this ordinance be published by title  
8 only and orders that copies of this ordinance be made available in the office of the city clerk for  
9 public inspection and acquisition.

10 READ ON FIRST READING, PASSED AND ORDERED PUBLISHED BY TITLE  
11 ONLY this 21st day of June 2016.

14 \_\_\_\_\_  
15 Suzanne Jones  
16 Mayor

17 Attest:

18 \_\_\_\_\_  
19 Lynnette Beck  
20 City Clerk

1 READ ON SECOND READING, PASSED, ADOPTED AND ORDERED PUBLISHED

2 BY TITLE ONLY this 4th day of October 2016.

3  
4  
5 \_\_\_\_\_  
Suzanne Jones  
Mayor

6 Attest:

7  
8 \_\_\_\_\_  
Lynnette Beck  
City Clerk

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