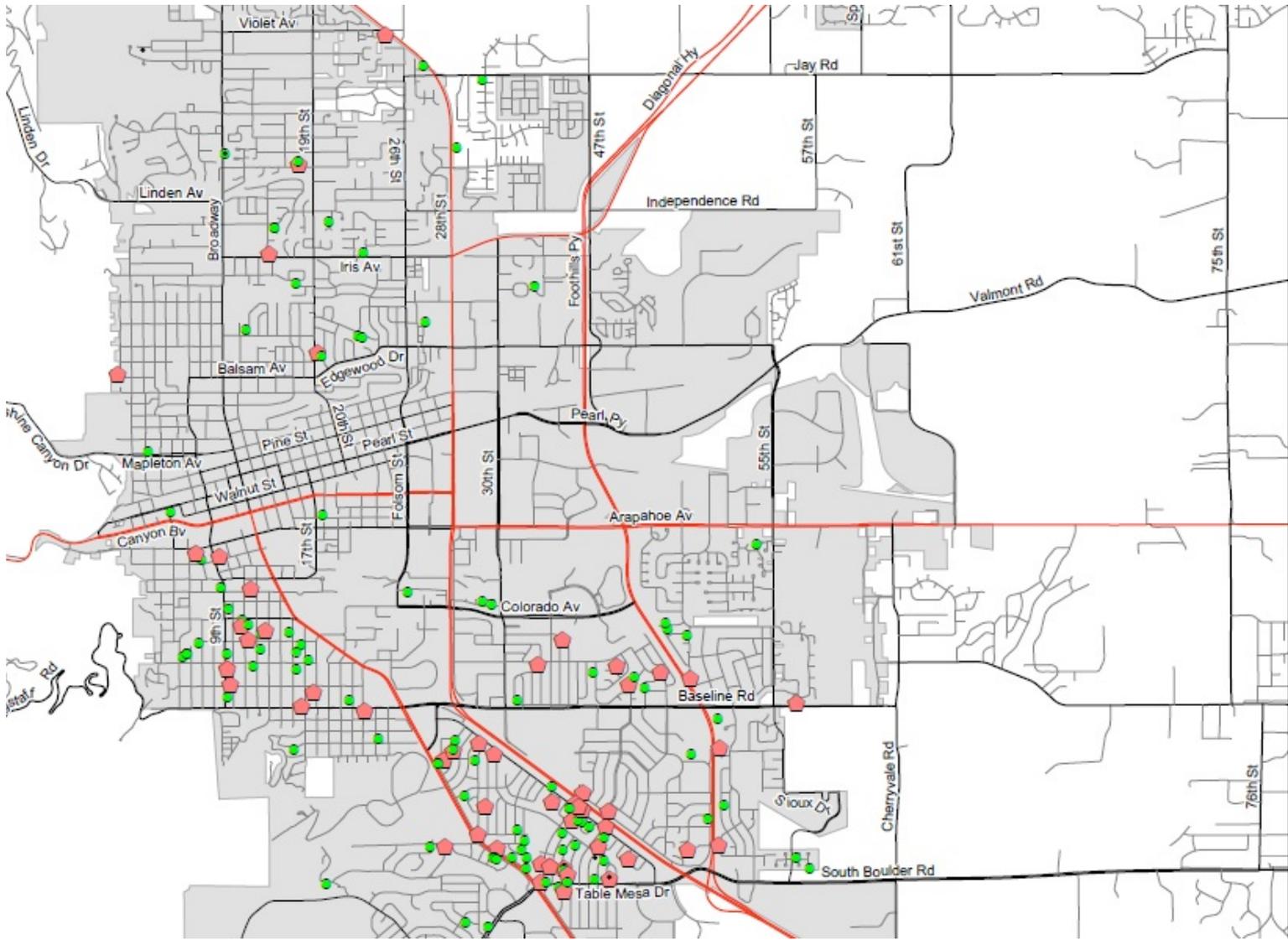


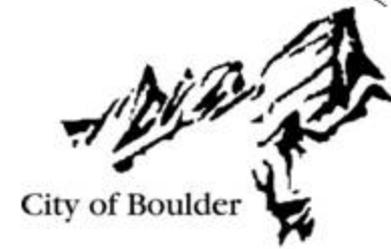
# Occupancy

October 20, 2015

# Enforcement Cases

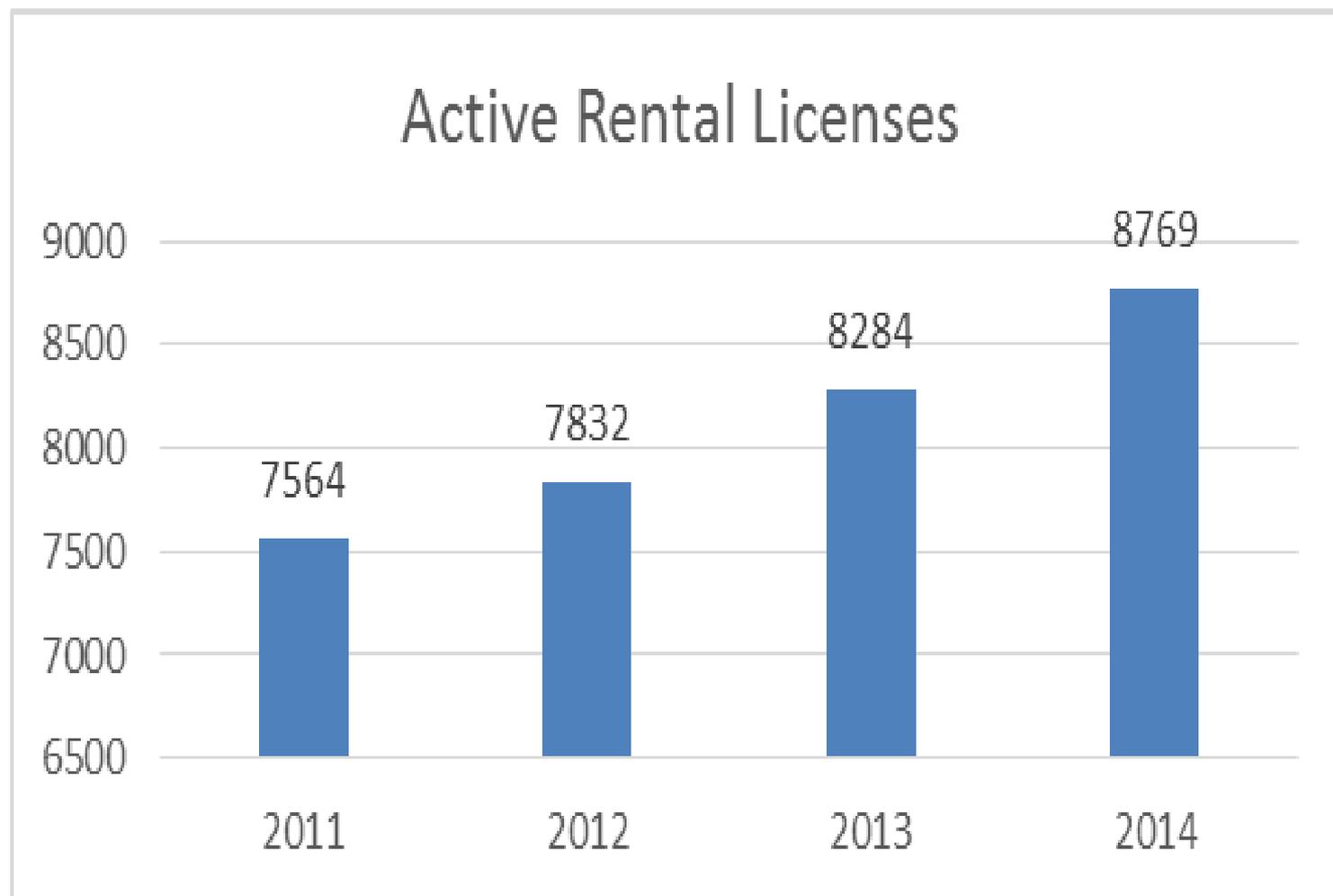


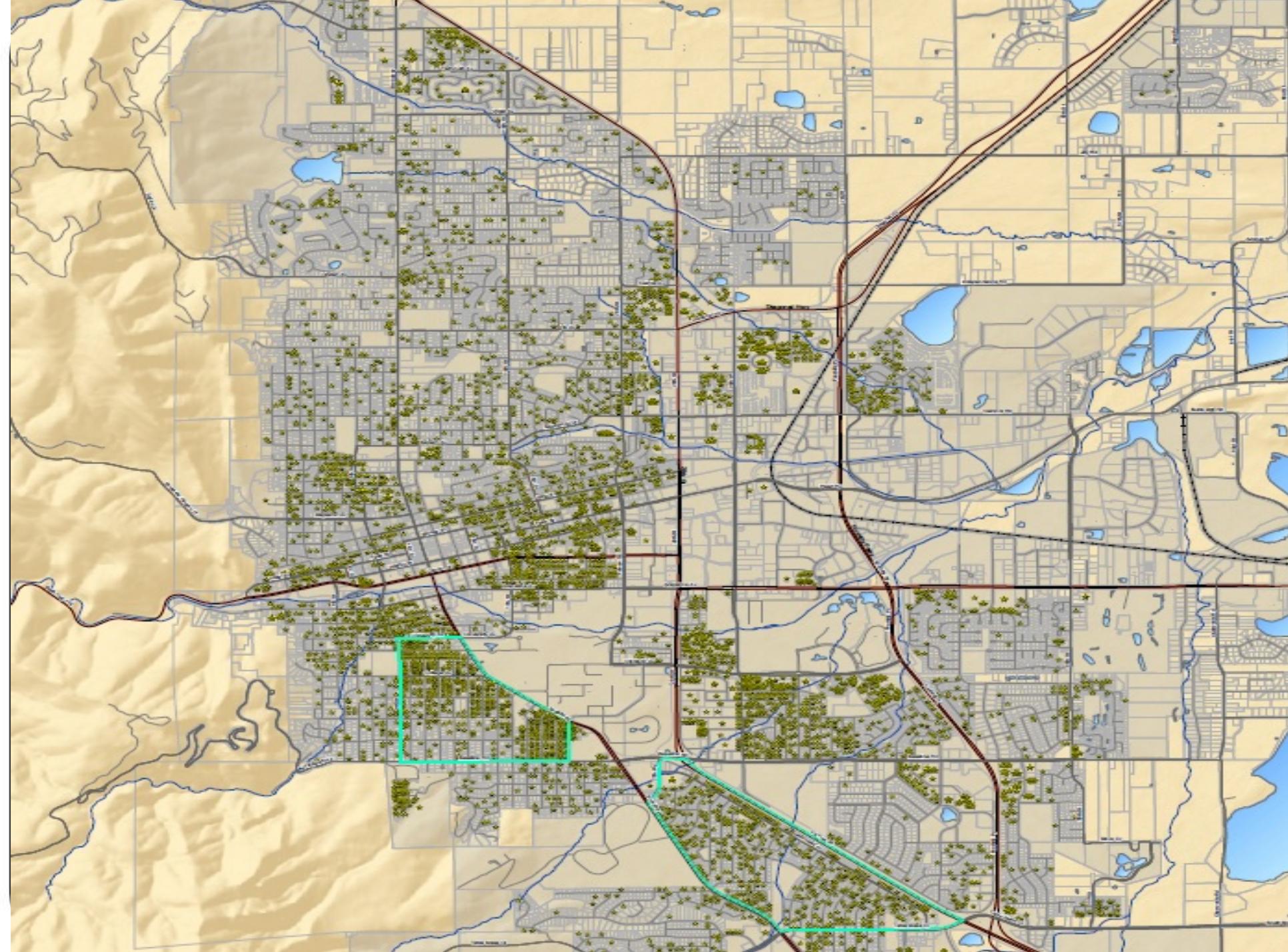
# Enforcement Cases



	Citywide Total	Martin Acres Total	University Hill Total	Percent of Citywide Total
<b>Cases Investigated</b>				
Cases Opened	178	75 (42%)	22 (12%)	87 (64%)
Cases Closed	183	73 (40%)	22 (12%)	95 (52%)
Non Violation (NVC)	113	43 (38%)	14 (12%)	57 (50%)
Closed	70	30 (43%)	8 (11%)	38 (51%)
<b>Cases Pending</b>				
Cases Pending - Under Investigation	2	2 (100%)		2 (100%)

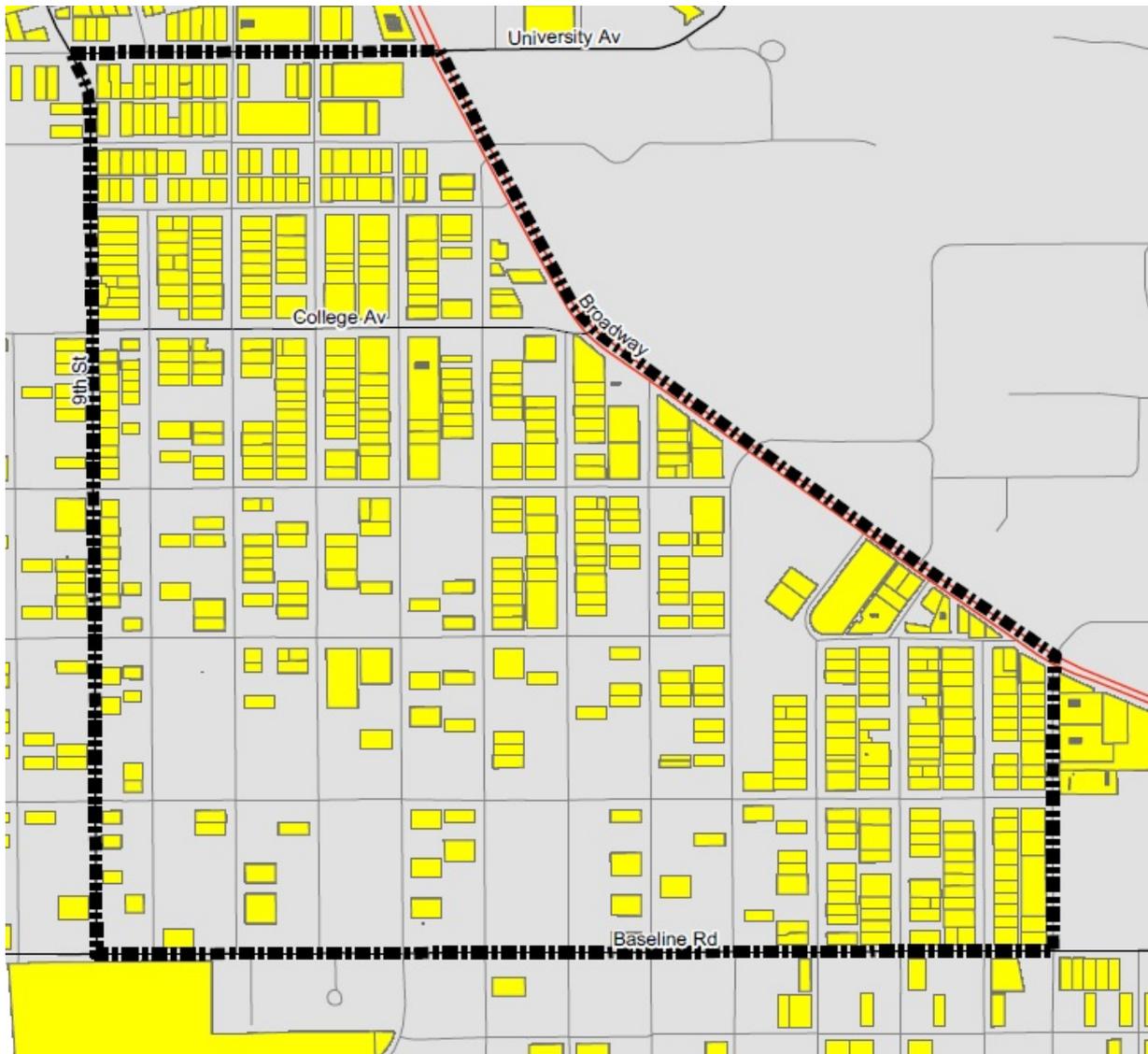
## Active Rental Licenses





# Rental Licenses - University Hill

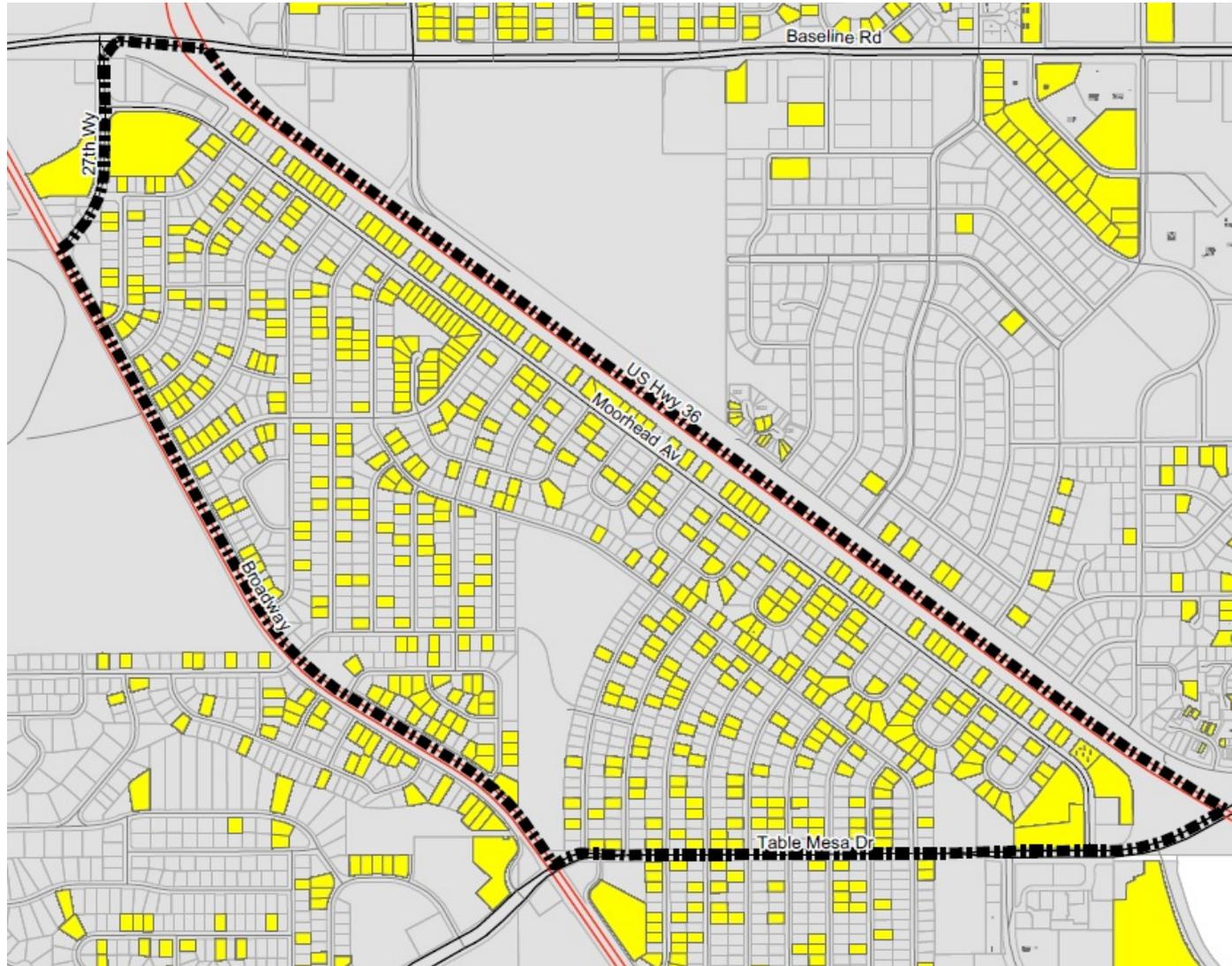
City of Boulder





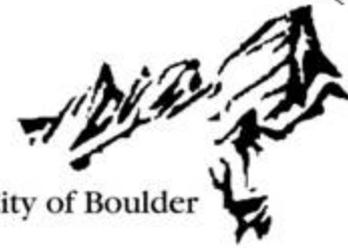
# Rental Licenses – Martin Acres

City of Boulder



# Proposed Ordinance

City of Boulder



- Eliminate “Active and Diligent Management Affirmative Defense”
- Require notation of legal occupancy on all rental licenses, on the premises and in all advertisements
- Increase the Minimum Civil Penalty for first and second violations
- Prohibit Advertising of Illegal Occupancy

# Active and Diligent Management Defense

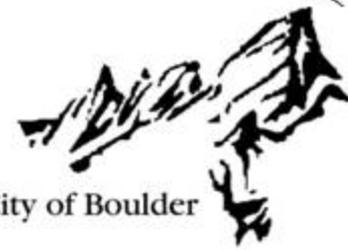
City of Boulder



- Effectively Precludes Prosecution
- Would retain the affirmative defense that the owner did not know and could not have reasonably discovered the over-occupancy

# Proposed Language

City of Boulder



## **9-15-9. - Multiple Dwelling Units and Occupancy - Specific Defenses.**

- (c) Specific Defenses to Alleged Violations Related to Occupancy of a Unit Which Is a Rental Property: The following shall constitute specific defenses to any alleged violation of subsection 9-8-5(a), B.R.C. 1981, relating to the occupancy of units:
- (1) It shall be a specific defense to an alleged violation of subsection 9-8-5(a), B.R.C. 1981, that a defendant is a nonresident landlord or nonresident property manager and:
    - (A) ~~Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by engaging in active and diligent property management practices that were reasonable under the circumstances; or~~
    - (B) The defendant had no actual knowledge of the over-occupancy of the relevant rental housing property prior to the initiation of the prosecution process. However, this specific defense shall not apply when a defendant reasonably should have been aware of the occupancy violation ~~through the use of active and diligent property management practices.~~

# Alternate Language

City of Boulder



- (1) It shall be a specific defense to an alleged violation of subsection 9-8-5(a), B.R.C. 1981, that a defendant is a nonresident landlord or nonresident property manager and:
  - (A) Prior to the initiation of the prosecution process, the defendant undertook and pursued means to avoid over-occupancy violations by:
    - I. complying with adverting requirements of Chapter 10-3-2, B.R.C. 1981 and the posting requirements of Chapter 10-3-20, B.R.C. 1981;
    - II. receiving rent payments from only those persons on a lease that includes no more than the number of tenants associated with the occupancy limitation of the unit; and
    - III. requiring each tenant to acknowledge, through a lease provision or otherwise, the established occupancy limitation for the unit

# Notation of Occupancy

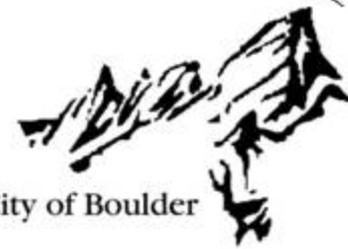
City of Boulder



- Intent is for renters to be informed
  - Posting at entrance
  - On rental license
  - In each advertisement

# Proposed Amendment

City of Boulder



## Amendment 2

### 10-3-20. - Occupancy.

- (a) Every operator shall post conspicuously either on all public entrances or in a position clearly visible on entry into each dwelling unit a sign stating the maximum occupancy by unrelated individuals permissible pursuant to Section 9-8-5, B.R.C. 1981, "Occupancy of Dwelling Units." ~~legal occupancy for the dwelling unit.~~
- (b) Each license shall include a notation of the legal occupancy, including the number of unrelated individuals permitted, for each dwelling unit covered by the license. Acceptance of the license shall constitute a waiver of any claim for a non-conforming occupancy in excess of the occupancy stated on the license. The Notation on the license shall also not provide the basis for an assertion of non-conforming occupancy.
- (c) Each advertisement for rental shall include a statement of the maximum occupancy by unrelated individuals permissible pursuant to Section 9-8-5, B.R.C. 1981 "Occupancy of Dwelling Units" ~~legal occupancy~~ of the dwelling unit to be rented.

# Increase Penalty

City of Boulder



<b>Violation</b>	<b>Current</b>	<b>Proposed</b>
First	\$ 150	\$ 500
Second	\$ 300	\$ 750
Third	\$ 1000	\$ 1000

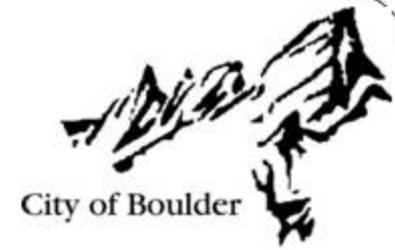
# Prohibit Advertising

City of Boulder



- Makes detection and prosecution simpler
- Do not have to prove that the dwelling unit was actually occupied

# Additional Potential Amendments



- Effective Date
- Waive Title 9 Requirement for Planning Board Review
- Limit enforcement to University Hill and Martin Acres
- Eliminate extension of owner-occupied exemption to family members
- Require occupancy in advertisements for sale of homes and prohibit false advertising