



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: January 20, 2015

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only two ordinances as follows: An ordinance amending Title 9, “Land Use Code” B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city or in the alternative, an ordinance with identical terms to be adopted by emergency.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Charles Ferro, Development Review Manager

The proposed ordinances (Attachments A and B) would limit to specific areas and situations the eligibility to have buildings that could exceed the by-right height limits through the existing site review process. Attachment A provides for introduction on first reading. Attachment B is identical but would allow for introduction and approval as an emergency measure. The intent is to allow consideration of height modifications through site review only in those areas with a clearly defined, approved vision for future development and in other specific circumstances. This would limit the height of new development to the by-right height (based on current zoning) in the remainder of the city.

Areas and situations proposed to be eligible for height modifications include:

1. Boulder Junction, Downtown, University Hill commercial district, portions of North Boulder along Broadway, and the Gunbarrel Town Center (see proposed map in Attachment A).
2. Industrial zoning districts if the building has two or fewer stories (where height may be necessary to accommodate the specific nature of the industrial use).

3. Relief from steep topographic conditions on a site.
4. Projects where at least 50% of the floor area of the building is comprised of permanently affordable housing meeting the requirements of the city's Inclusionary Housing Ordinance.

Importantly, the above-listed situations do not represent an automatic approval for a proposed height exemption. All developments proposed in these areas or circumstances would remain subject to appropriate review processes and in light of all current city regulatory criteria.

The key provisions of each alternative proposed ordinance include:

- It would not apply to applications for building permit submitted on or prior to January 21, 2015 or to site review approvals for height modifications as of the same date. Pending and complete site review applications (i.e., site review applications already submitted to the city or schedule for planning board consideration) that are requesting additional height in areas that would not permit such height under the proposed ordinance may continue through the site review process under current height review regulations.
- Additional areas may be added to the map and additional situations added through amendment of the ordinance at a future date.
- The ordinance would expire on April 19, 2017.

The proposed ordinances are intended to address the community concern that height modifications may be considered on all properties in the city through site review. It would reinforce the community vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas which have been vetted and approved through a planning process such as an area plan or other public process. New development and site review applications could still be considered in all areas, and site review would still be required for many projects per the code.

Under the city's code, the thresholds for site review are based on property or building sizes. The requirements vary by zone district and while site review is required in many instances, it can also be requested if minimum thresholds are met. The benefit of undergoing a site review is that modifications from the development code can be requested. A complete list of thresholds for site review can be found in [Section 9-2-14b\)\(1\), B.R.C. 1981](#). While height would be restricted under these proposed measures in certain areas of the city, it would still be possible to request modifications to several other development standards including setbacks, parking, landscaping standards, fencing requirements, etc. A complete list of development standards that can be modified through the site review process can be found in [Section 9-2-14\(c\), B.R.C., 1981](#)

Staff recommends that council consider introduction of this proposal on first reading with final adoption through the normal legislative process. Staff is aware, however, that some council members believe that it is important for this provision to be effective immediately. Accordingly, staff has provided an alternative measure to allow for adoption by emergency.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion introduce on first reading and order published by title only an ordinance amending Title 9, "Land Use Code" B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city.

Or in the alternative

Motion introduce, order published by title only and adopt as an emergency measure an ordinance amending Title 9, "Land Use Code" B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city.

Staff is working to prepare additional analysis to inform council's decision on this item.

ATTACHMENTS

- A: Ordinance No. 8028 - Option 1
- B: Ordinance No. 8028 - Option 2 (by emergency)

ORDINANCE NO. 8028

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

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

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

a. The city values its built environment, as is reflected in the Boulder Valley Comprehensive Plan. 2010 BVCP, pages 18 to 32.

b. The voter approved a height limit for buildings no greater than 55 feet in 1971.

c. City Charter Section 84 provides the purposes of the height limitation, which applies to buildings at 55 feet and below.

d. The Boulder Revised Code allows buildings to be constructed up to 55 feet in all zoning districts, subject to a site review approval.

e. Increasingly, more buildings are being approved at heights up to 55 feet in multiple areas of the community.

f. The city council intends to limit the areas where buildings can be up to 55 feet to those areas where previous planning efforts have resulted in the adoption of a plan or clear policy intent that supports more intensive forms of development or in instances where important community values are implemented or site topography may result in height-compliance hardship.

g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.

h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

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

9-2-14 Site Review.

...

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

3 (1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that
4 section except for the floor area requirements and the maximum height or conditional
5 height for principal buildings or uses, except as permitted in paragraph (c)(2) below.

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

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

10 (B) Industrial General, Industrial Service, and Industrial Manufacturing districts
11 if the building has two or fewer stories.

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

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

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

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

25 Section 5. This ordinance shall apply to all building permits or land use approvals for
which an application is made on January 21, 2015 or thereafter, unless specifically exempted.
Building permit applications for a development that received a site review approval for height
that exceeds the permitted height on or prior to January 21, 2015 may apply for and receive
building permits that are necessary to construct the approved development.

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

1 Section 6. Complete site review applications that have been submitted to the city prior to
2 January 21, 2015 that request additional height in areas that would not permit such height under
3 this ordinance will be permitted to continue through the process under the height regulations in
4 place at the time such application is made. Such applicants shall be required to pursue such
5 development approvals and meet all requirements deadlines set by the city manager and the
6 Boulder Revised Code. Pending developments may apply for and receive building permits that
7 are necessary to construct the approved development.

8 Section 7. For the limited purposes of this ordinance, the city council suspends the
9 provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C.
10 1981 for the limited purpose of adopting this ordinance.

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

14 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
15 the residents of the city, and covers matters of local concern.

16 Section 10. The city council deems it appropriate that this ordinance be published by title
17 only and orders that copies of this ordinance be made available in the office of the city clerk for
18 public inspection and acquisition.
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1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY

2 TITLE ONLY this 20th day of January, 2015.

4 _____
Mayor

5 Attest:

6 _____
7 City Clerk

10 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

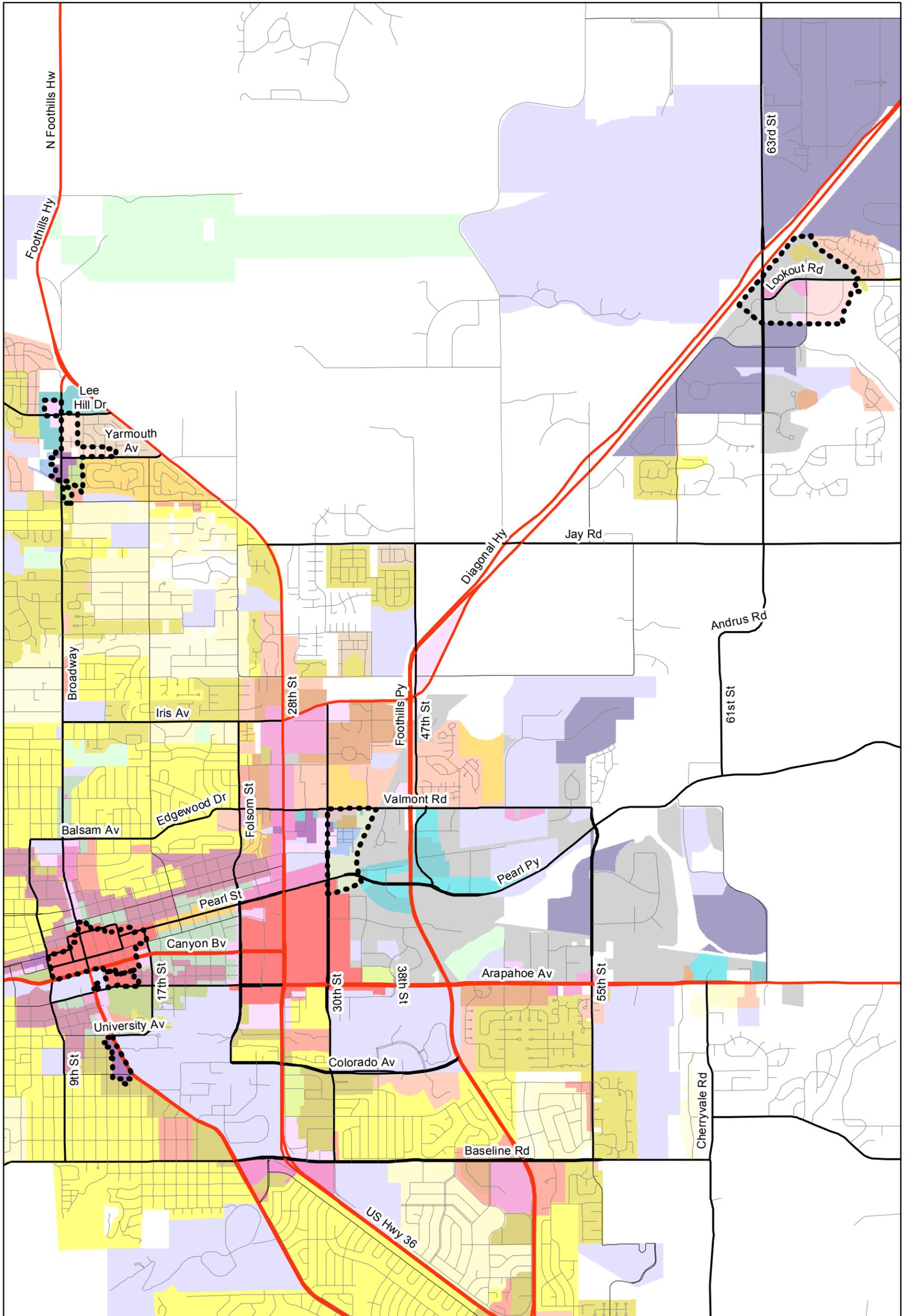
11 PUBLISHED BY TITLE ONLY this 3rd day of February, 2015.

14 _____
Mayor

15 Attest:

16 _____
17 City Clerk

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



 Areas Where Height Modifications May be Considered



ORDINANCE NO. 8028

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g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.

h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

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15 of the site.

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

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

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

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4 place at the time such application is made. Such applicants shall be required to pursue such
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6 Boulder Revised Code. Pending developments may apply for and receive building permits that
7 are necessary to construct the approved development.

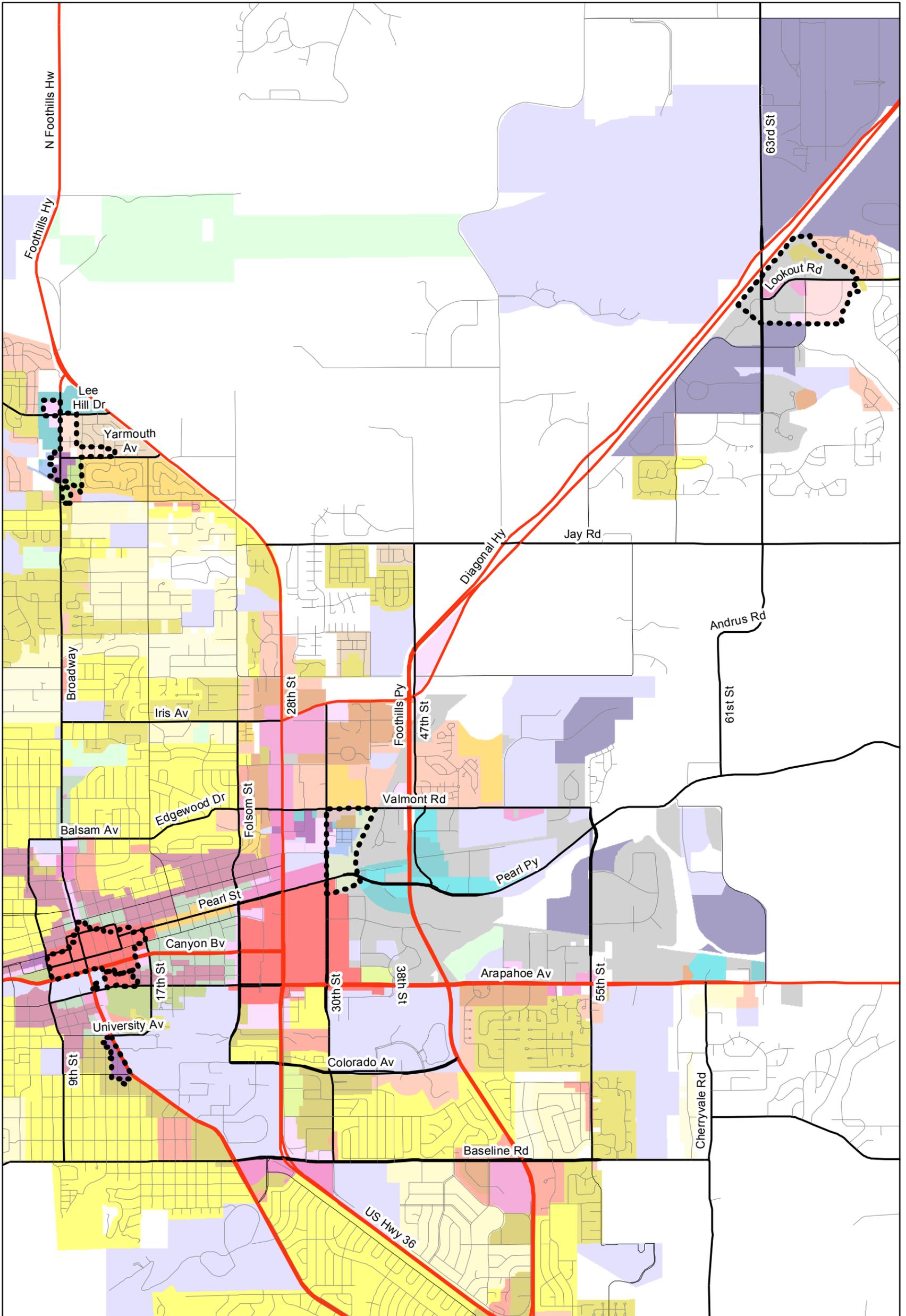
8 Section 7. For the limited purposes of this ordinance, the city council suspends the
9 provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C.
10 1981 for the limited purpose of adopting this ordinance.

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

14 Section 9. The immediate passage of this ordinance is necessary for the preservation of
15 the public peace health or property. The council declares this to be an emergency measure due to
16 the need to prevent inappropriate development, to pause to consider next steps, and to consider
17 development of zoning regulations that implement the Boulder Valley Comprehensive Plan and
18 other polices of the city. Therefore this ordinance is hereby declared to be an emergency measure
19 and as such shall be in full force and effect upon its passage.

20 Section 10. This ordinance is necessary to protect the public health, safety, and welfare
21 of the residents of the city, and covers matters of local concern.
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Appendix J to Title 9 – Areas Where Height Modifications May be Considered



 Areas Where Height Modifications May be Considered

