EXECUTIVE SUMMARY OF PROPOSED CODE CHANGES THAT IMPACT HOSPITALITY ESTABLISHMENTS

Introduction

At a public hearing on Feb. 19, 2013, City Council directed city staff to move forward with the proposed action plan to reduce community impacts from the overconsumption of alcohol (details at www.bouldercolorado.gov/city-manager/alcohol). Two elements of the action plan include drafting new land use code definitions for hospitality establishments to differentiate between lower and higher intensity uses, and drafting changes to amend the city's 500-foot rule, which governs liquor sales near the University of Colorado. At the June 11, 2013 Study Session on the city work plan, there was City Council consensus to address the definitions, bring options pertaining to the 500-foot rule forward for consideration through an ordinance process, and schedule council business meetings, including public hearings, for the proposed changes.

Below is a summary of the proposed code changes that will impact hospitality establishments. These code changes are considered draft and will continue to be refined up until the public hearings for the Planning Board and City Council meetings. The community is encouraged to participate directly in the consideration of these changes through the public hearings at the following meetings:

- ***Aug. 15, 2013 – Planning Board*** *public hearing on land use code definition changes.*
- ***Oct. 1, 2013 – City Council*** *first reading on land use code definition changes and the 500-foot rule (no public hearing).*
- ***Oct. 15, 2013 – City Council*** *second reading and public hearing.*

Land Use Code Changes

The city is proposing land use code changes to better distinguish between lower intensity and higher intensity[1] hospitality establishments which would enable more effective control over potential impacts of these establishments upon neighboring properties. Currently, the land use code does not differentiate between restaurants, bars or taverns and regulates them uniformly. This is problematic as over time, some establishments have functioned more like taverns than restaurants, especially in the evening hours. Proposed changes will create new use categories and update use standards and definitions to help protect residential neighborhoods through appropriate review processes.[2] For specific definitions and information related to where such uses are proposed to be permitted, please refer to **Attachment A** and **B**.

To avoid situations where restaurants function as taverns in later hours, the proposed changes include updating the definition for restaurants and creating a new 'Late Night Restaurants' definition.

- **Restaurants** – Required closing by 11 p.m.
- **Late Night Restaurants** – Permitted through the Conditional Use Review process to stay open past 11 p.m. in more intense business districts, such as areas of downtown including Pearl

[1] Typically, higher intensity establishments create higher impacts to the community and are those that serve a greater amount of alcohol than food, including hard alcohol, generally operate late hours (after 11 pm) and/or have outdoor seating in close proximity to residential zones.

[2] Establishments go through one of the following approval or review processes in order to operate: (1) By-Right – can begin operation without any discretionary approvals and only with a building permit, if necessary; (2) Conditional Use Review – staff level review to demonstrate meeting specific code criteria with no public call-up requirement; or (3) Use Review – generally a staff level review to demonstrate meeting specific code criteria with potential for Planning Board or public call-up.

Street mall, Twenty Ninth Street, and the 28th Street Corridor. New late night restaurants would not be permitted on University Hill or in the East or West Pearl Street neighborhoods.

To allow for congenial places for people to socialize that add vitality to existing and planned centers in the community, a definition for 'Neighborhood Pub or Bistro' was created.

- **Neighborhood Pub or Bistro** – Permits pubs in residential interface areas and allows operation until 12 a.m. Also, the use definition is tied to establishments with a Beer and Wine liquor license. The rationale is that hard alcohol allows for quicker intoxication and potentially more impacts on a surrounding area.

Currently, taverns or brewpubs are permitted on a limited basis in some residential zones with special approval (i.e., Use Review). The proposed changes would prohibit tavern or brewpub land uses in residential zones.

- **Taverns** and **Brewpubs** – Includes bars and night clubs. May require Use Review approval depending on location and zoning district. The use definition of "Tavern" includes establishments that have a Tavern liquor license, which has no limitation on types of alcohol sold. The use definition of "Brewpub" is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law.

The proposed code changes include a new definition for 'Retail Liquor Store.' Currently, liquor stores fall under regular 'Retail sales.'

- **Retail Liquor Store** –Require Use Review for retail liquor stores in mixed use and residential interface zones. Operate as an allowable use by right in other business zones.

Another part of the proposed changes is related to management plans. The effectiveness and accessibility of management plans has been an issue raised by the community. For hospitality establishments that are considered residential interface areas, applicants are required to conduct a meeting with neighborhood members to solicit comment and address potential impacts, which is accomplished through a management plan. This process will continue but the plans will be more accessible, apply to all establishments near residential areas and require more descriptive information.

- **Management Plans** – Require that management plans be accessible on premises of an establishment and easily accessible at the city offices (on-line). Broaden the requirement for management plans to all establishments located close to residential zones (before it was voluntary and encouraged for some). Revise the management plan requirement to include more descriptive elements to better understand how a business intends to operate and how they intend to mitigate impacts.

New standards to complement the land use definitions are also proposed and include without limitation, trash and recycling pick up times, bar area limitations and food sale requirements.

500-Foot Rule Changes

In 1987, state liquor laws changed the minimum drinking age from 18 to 21 for 3.2 percent beer (up until that time persons between 18 to 21 years old could lawfully drink 3.2 percent beer) and prohibited the sale of alcohol within 500-feet (ft) of a school or principal campus of a university unless a local ordinance allowed for elimination or reduction of the 500-ft rule.

In response to concerns from the businesses on the University Hill (Hill), City Council approved Ordinance 5069 on September 1, 1987, which waived the state requirement, thereby allowing establishments located within 500-ft of the principal campus of the University of Colorado to obtain "Hotel-Restaurant" liquor license only. Hotel-Restaurant liquor licenses permit the sale of beer, wine, and hard liquor.

At the direction of City Council, the city is now considering changes to the 500-ft liquor license rule around the University of Colorado (CU). Proposed changes to the 500-ft rule are intended to address concerns about the overconcentration of liquor establishments on the Hill and the service of hard alcohol which has the potential to exacerbate the problem of overconsumption as it enables quick intoxication as compared to beer and wine.

The method for measuring the 500-ft distance restriction is set out in the state regulations. In 1991, the principal campus was further defined to exclude other CU properties. The "principal campus" of CU is now defined as the area generally bordered by Broadway Street on the west; Baseline Road on the south; 28th Street, Colorado Avenue and Folsom Street on the east; and Boulder Creek, 17th Street and University Avenue on the north (see map in **Attachment C**). The 500-ft area includes most of the Hill along with a majority of the Basemar Shopping Center at the corner of Broadway and Baseline, a variety of commercial properties on the south frontage of Baseline Road and a limited number of commercial businesses on the 28th Street frontage road.

The two options for changing the existing 500-ft rule along with potential impacts are listed below. Any changes to the 500-ft rule would only apply to new businesses. Existing businesses would be grandfathered in and their liquor licenses would not change.

(1) **Revoke the 500-foot liquor license waiver around CU**: Removing the 500-ft liquor license waiver would result in no additional liquor licenses being issued within 500-ft of CU. Existing establishments would be grandfathered and could transfer their liquor licenses to future owners or tenants. If this option were undertaken, existing establishments (i.e., license owners) would likely see an increase in value by virtue of the diminished likelihood of new competition. Similarly, there could be an economic impact to the Hill as it would turn away some businesses that could support revitalization efforts (e.g., new restaurants, such as Café Aion, could not obtain a liquor license and would likely locate elsewhere).
   - ***Impacts to new businesses within 500-feet of CU*** – Would not be permitted to sell any liquor including wine, beer or hard alcohol.
   - ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments would not be permitted to serve alcohol.
   - ***Impacts based on new land use code definitions*** – Neighborhood Pubs or Bistros would not be permitted within 500-ft of CU. Restaurants would be permitted under the zoning code but could not serve alcohol and they would be required to close by 11 p.m. New taverns would be prohibited, as Tavern liquor licenses (no limitation on types of alcohol sold) would not be permitted in the 500-ft area.

(2) **Modify the 500-foot liquor license waiver to allow beer and wine licenses only**: The 500-ft waiver could be changed to permit alternative license types, such as Beer and Wine Licenses only. Existing establishments that have Hotel-Restaurant licenses would be grandfathered and could transfer their liquor licenses to future owners or tenants. This approach would permit

additional establishments that wish to serve alcohol, but would prohibit the sale of hard alcohol. This approach would likely be less impactful to the economic vitality of the Hill.

- ***Impacts to new businesses within 500-feet of CU*** – Permitted to sell beer and wine but would not be permitted to sell hard alcohol.
- ***Impacts based on existing land use code definitions*** – Use Reviews for late operating establishments could continue to be requested; however, these and any new hospitality establishments could only serve alcohol under a Beer and Wine license if within 500-ft of CU's principal campus.
- ***Impacts based on new land use code definitions –*** New Neighborhood Pubs or Bistros would be permitted within 500-ft of CU (and could be open to new customers until 12 a.m.) and could sell beer and wine. New restaurants would close by 11 p.m. and late night restaurants would be prohibited in a majority of the 500-ft buffer area. (A very small area within the 500-ft buffer is zoned to support late night restaurants). New taverns would not be permitted, as Tavern liquor licenses (no limitation on types of alcohol sold) would be prohibited in the 500-ft area.

If the current 500-ft waiver for hotel-restaurant liquor licenses remains in effect, then existing and new businesses located within 500-ft of CU's principal campus could continue to apply for licenses to sell and serve any liquor, including wine, beer or hard alcohol. If the new land use code definitions were approved then:

- Neighborhood Pubs or Bistros would be prohibited on the Hill because per the new definition, they can only operate with a Beer and Wine license. The current 500-ft waiver only provides for a full service hotel-restaurant liquor license.
- Restaurants could operate with the hotel-restaurant liquor license but would be required to close by 11 p.m.
- Late night restaurants would not be permitted in the zoning district that affects the University Hill business district (BMS).

Attachments

- **Attachment A** – Summary Table of Proposed Land Use Code Definitions
- **Attachment B** – Map of City of Boulder Zoning Districts
- **Attachment C** – Map of 500-ft Buffer

Summary of Proposed Land Use Code Definitions

Attachment A

New Land Use Definitions	Review Process & Allowed Zoning District	Liquor License Types
Restaurants < 1500 sf "Restaurant" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that must close no later than 11 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.	USE REVIEW*: RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, BT-1, BT-2 CONDITIONAL USE**: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Restaurants > 1500 sf "Restaurant" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that must close no later than 11 p.m. and includes without limitation full-service, fast-food, or drive-through restaurants, cafes, coffee shops, lunchrooms, cafeterias, and delicatessens.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Restaurants, Late Night "Restaurant, late night" means an establishment with no liquor license or with a beer and wine license or a hotel and restaurant license issued under § 12-47-401, et seq., C.R.S., provided with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests that may operate after 11 p.m .	CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Beer and Wine License or Hotel Restaurant License (full service)
Neighborhood Pub or Bistro < 1500 sf "Neighborhood pub or bistro" means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that must close no later than 12 a.m.	USE REVIEW: RH-1, RH-2, RH-3, RH-7, RH-6, BT-1, BT-2 CONDITIONAL USE: MU-1, MU-2, MU-3, MU-4, BMS, BC-1, BC-2, BCS, BR-1, BR-2, DT-1, DT-2, DT-3, DT-4, DT-5	Beer and Wine Licenses Only
Neighborhood Pub or Bistro > 1500 sf "Neighborhood pub or bistro" means an establishment with a beer and wine license issued under § 12-47-401, et seq., C.R.S., with a food preparation area, dining room equipment, and persons to prepare and serve, in consideration of payment, food or drinks to guests where a full food menu is offered and available for consumption on the premises during all business hours. that must close no later than 12 a.m.	USE REVIEW: RH-1, RH-2, RH-4, RH-5, RH-3, RH-7, RH-6, MU-1, MU-2. MU-3, MU-4BT-1, BT-2, BMS, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, DT-4, DT-5	Beer and Wine Licenses Only
Tavern "Tavern" means an establishment with a tavern license issued under § 12-47-401, et seq., C.R.S., serving fermented malt beverages and/or malt, vinous, and/or spirituous liquors in which the principal business is the sale of such beverages at retail for consumption on the premises and where snacks are available for consumption on the premises, including, but not limited to bars, cabarets, cocktail lounges, dance halls, discotheques, and night clubs.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-2, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Tavern License
Brewpub "Brewpub" means an establishment with a brew pub license issued under § 12-47-401, et seq., C.R.S., that is primarily a restaurant where malt liquor is manufactured on the premises as an accessory use. A brewpub may include some off-site distribution of its malt liquor consistent with state law.	USE REVIEW: MU-1, MU-2, MU-3, MU-4, BT-1, BT-2, BMS, DT-1, DT-2, DT-3 CONDITIONAL USE: BC-1, BC-2, BCS, BR-1, BR-2	Brew Pub License
Retail Liquor Store "Retail liquor store" means an establishment with a retail liquor store license issued under § 12-47-401, et seq., C.R.S., engaged primarily in the sale of malt, vinous, and spirituous liquors and soft drinks and mixers, all in sealed containers for consumption of the premises and otherwise consistent with the definition of retail liquor store under § 12-47-103, C.R.S.	USE REVIEW: MU-4, BMS, DT-1, DT-2 APPROVED USE BY-RIGHT: BC-1, BC-2, BCS, BR-1, BR-2, DT-4, DT-5	Retail Liquor License

**Use Review applications are discretionary and may be called-up by neighbors or the Planning Board. Use Review applications can also be referred to the Planning Board for decision by staff.*

***Conditional Use applications are reviewed administratively by staff and are not subject to call-up by neighbors or the Planning Board.*

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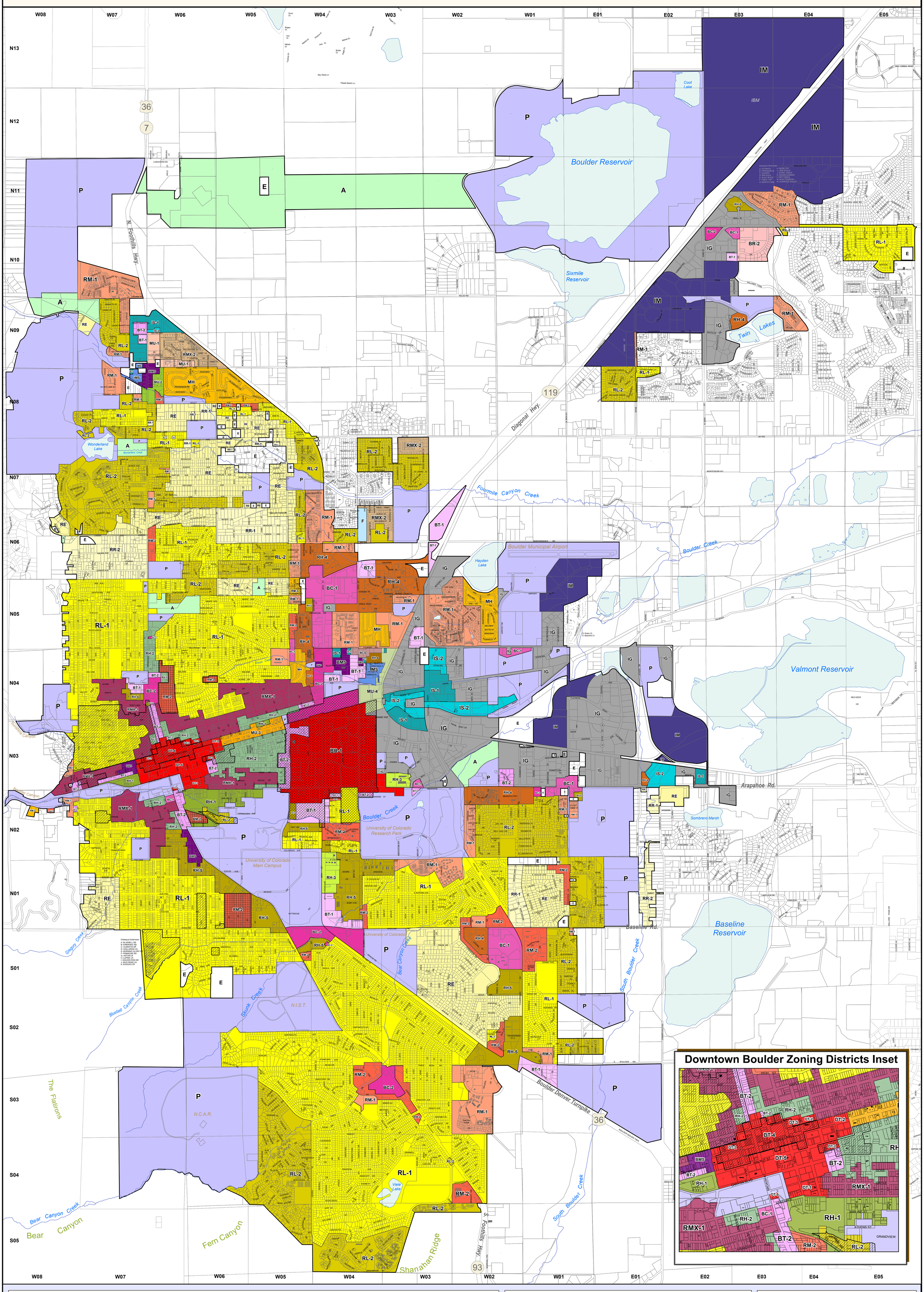
Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*



Zoning Districts

(Previous Zoning District Name in Parentheses)

Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
- RL-1 Residential - Low 1 *(LR-E)*
- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
- BT-1 Business - Transitional 1 *(TB-D)*
- BT-2 Business - Transitional 2 *(TB-E)*
- DT-1 Downtown 1 *(RB3-X/E)*
- DT-2 Downtown 2 *(RB2-X)*
- DT-3 Downtown 3 *(RB2-E)*
- DT-4 Downtown 4 *(RB1-E)*
- DT-5 Downtown 5 *(RB1-X)*

Agricultural and Public

- A Agricultural *(A-E)*
- P Public *(P-E)*

Mixed Use

- MU-1 Mixed Use 1 *(MU-D)*
- MU-2 Mixed Use 2 *(RMS-X)*
- MU-3 Mixed Use 3 *(MU-X)*
- MU-4 Mixed Use 4

Industrial

- IG Industrial - General *(IG-E/D)*
- IM Industrial - Manufacturing *(IM-E/D)*
- IMS Industrial - Mixed Services *(IMS-X)*
- IS-1 Industrial - Service 1 *(IS-E)*
- IS-2 Industrial - Service 2 *(IS-D)*

Other

- E Enclave *(E)*
- Flex (F)
- Medium Density District Overlay Zone
- Designated Local Historic Districts
- Boulder Valley Regional Center

*Zoning Map Amendments:

Ordinance #	Date	Ordinance #	Date	Ordinance #	Date
7363	4/20/2004	7665	6/4/2009	7835	3/7/2012
7369	7/20/2004	7689	10/6/2009	7849	8/7/2012
7374	8/17/2004	7705	12/15/2009	7882	1/22/2013
7407	12/21/2004	7739	8/17/2010	7894	5/7/2013
7425	7/5/2005	7740	8/17/2010		
7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
7455	3/20/2006	7746	8/6/2010		
7476	7/12/2006	7749	9/24/2010		
7490	11/17/2006	7774	1/18/2011		
7533	8/21/2007	7775	1/18/2011		
7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
7637	1/20/2009	7811	10/18/2011		
7655	5/5/2009	7812	10/18/2011		

N

W E

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1" = 1000'

0 1,000 2,000 4,000 Feet

Map produced by the City of Boulder, Planning and Development Services GIS

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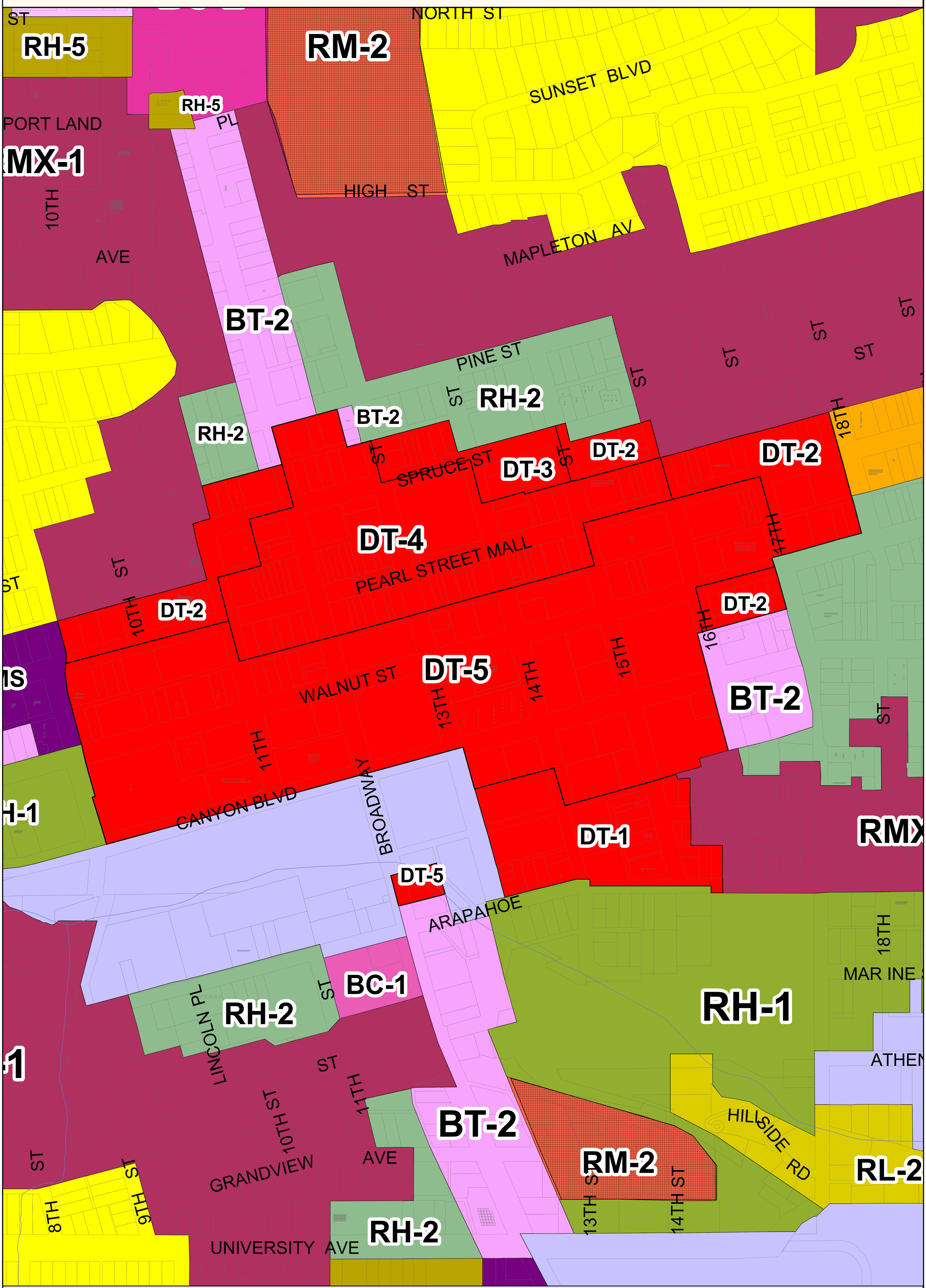
Downtown Zoning District Map of the City of Boulder, Colorado

Adopted 7/12/2006 (Ordinance 7476)*



Zoning Districts

(Previous Zoning District Name in Parentheses)

Residential

- MH Mobile Home *(MH-E)*
- RE Residential - Estate *(ER-E)*
- RH-1 Residential - High 1 *(HR-X)*
- RH-2 Residential - High 2 *(HZ-E)*
- RH-3 Residential - High 3 *(HR1-X)*
- RH-4 Residential - High 4 *(HR-D)*
- RH-5 Residential - High 5 *(HR-E)*
- RH-6 Residential - High 6
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- RL-2 Residential - Low 2 *(LR-D)*
- RM-1 Residential - Medium 1 *(MR-D)*
- RM-2 Residential - Medium 2 *(MR-E)*
- RM-3 Residential - Medium 3 *(MR-X)*
- RMX-1 Residential - Mixed 1 *(MXR-E)*
- RMX-2 Residential - Mixed 2 *(MXR-D)*
- RR-1 Residential - Rural 1 *(RR-E)*
- RR-2 Residential - Rural 2 *(RR1-E)*

Commercial & Business

- BC-1 Business - Community 1 *(CB-D)*
- BC-2 Business - Community 2 *(CB-E)*
- BCS Business - Commercial *(CS-E)*
- BMS Business - Main Street *(BMS-X)*
- BR-1 Business - Regional 1 *(RB-E)*
- BR-2 Business - Regional 2 *(RB-D)*
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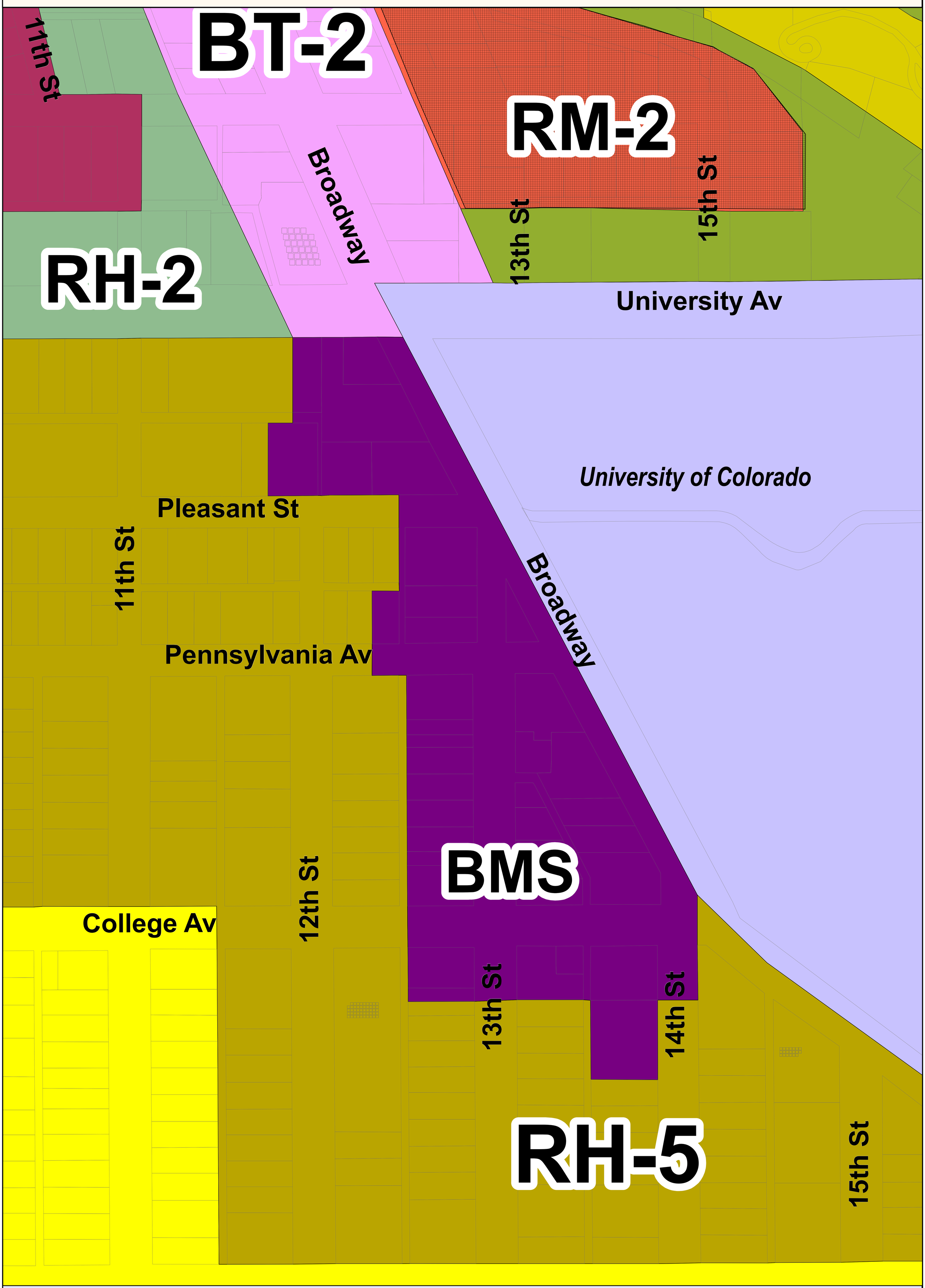
Adopted 7/12/2006 (Ordinance 7476)*



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7363	4/20/2004	7665	6/4/2009	7835	3/7/2012
7369	7/20/2004	7689	10/6/2009	7849	8/7/2012
7374	8/17/2004	7705	12/15/2009	7882	1/22/2013
7407	12/21/2004	7739	8/17/2010	7894	5/7/2013
7425	7/5/2005	7740	8/17/2010		
7429	9/20/2005	7741	8/17/2010		
7431	10/18/2005	7742	8/17/2010		
7446	1/17/2006	7745	8/6/2010		
7455	3/20/2006	7746	8/6/2010		
7476	7/12/2006	7749	9/24/2010		
7490	11/17/2006	7774	1/18/2011		
7533	8/21/2007	7775	1/18/2011		
7586	5/20/2008	7776	1/18/2011		
7587	5/23/2008	7806	10/18/2011		
7609	9/2/2008	7810	10/18/2011		
7637	1/20/2009	7811	10/18/2011		
7655	5/5/2009	7812	10/18/2011		

N
W E
S

1" = 1000'

0 45 90 180 Feet

Map produced by the City of Boulder, Planning and Development Services GIS

For information call (303)441-1880 or visit us on the web at www.boulderplandevelop.net

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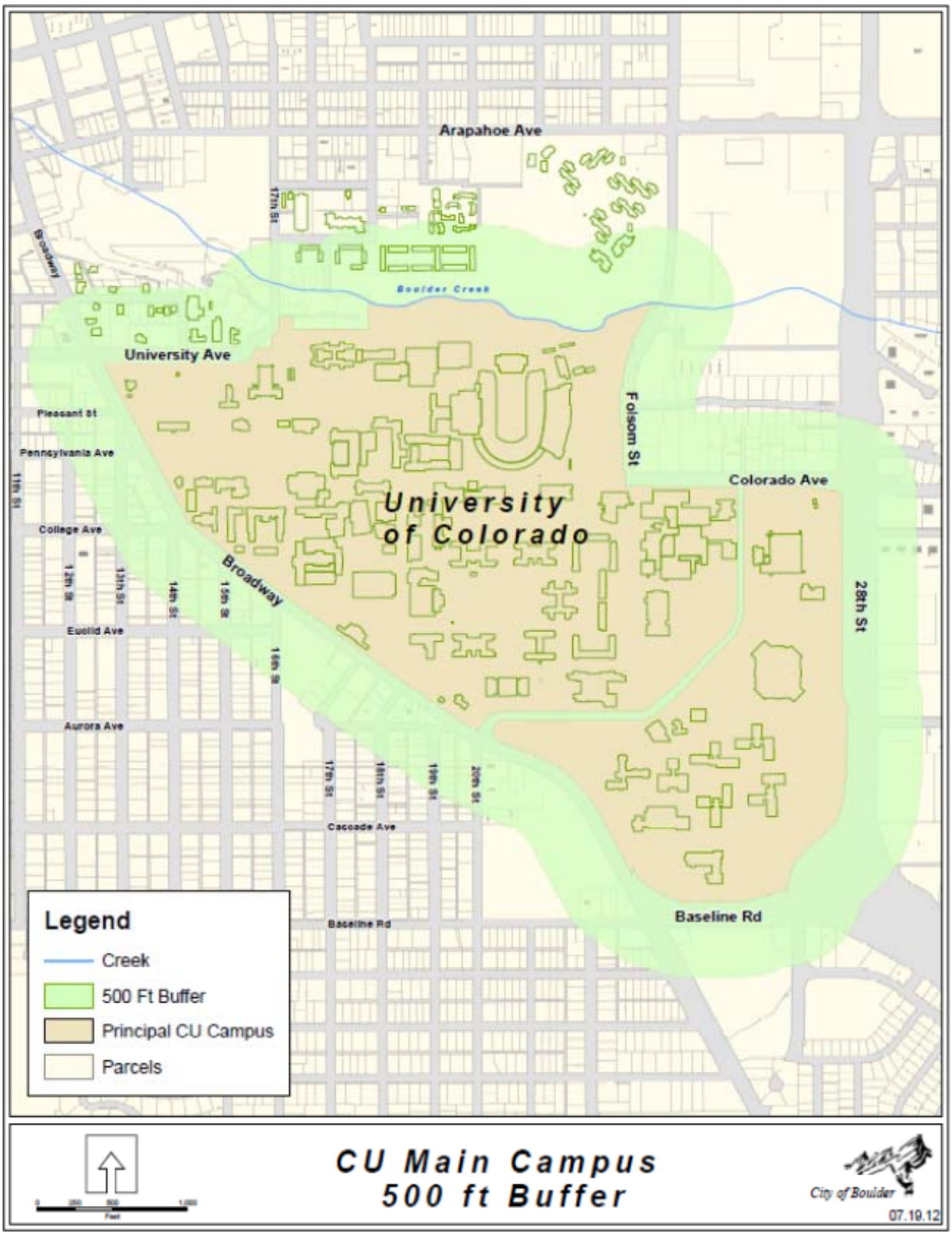
Attachment C – 500-ft Buffer