

ORDINANCE NO. 4996

AN ORDINANCE SUBMITTING TO THE VOTERS OF THE CITY OF BOULDER AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 1986, AN AMENDMENT TO THE CHARTER OF THE CITY OF BOULDER, COLORADO, ADDING A NEW ARTICLE XII, "OPEN SPACE," TO ESTABLISH PERMANENT PROTECTIONS FOR OPEN SPACE LAND.

WHEREAS, Section 97 of the Boulder City Charter, "Limitation of city indebtedness," allows the City of Boulder to incur indebtedness secured by the open space fund established by vote of the electorate on November 7, 1967; and

WHEREAS, Paragraph 3-2-39(a)(3), B.R.C. 1981, "Earmarked Revenues," requires that: "moneys accruing to the open space... fund shall be expended only for the acquisition of open space real property or interests in real property, or for the payment of indebtedness incurred for such acquisition, and for such expenditures as may be necessary to protect open space properties or interests in real properties so acquired from any and all threatened or actual damages, loss, destruction, or impairment from any cause or occurrence;" and

WHEREAS, Subsection 2-2-13(a), B.R.C. 1981, "Open Space Program," sets forth the objective of the Open Space Program: "to preserve and protect the quality of the natural environment of the city;" and

WHEREAS, Subsection 2-2-13(a), B.R.C. 1981, "Open Space Program," forbids the development of land or interests in land acquired with open space funds: "for intensive recreational uses or improved by planting or structures unless such improvements are necessary to protect and maintain open space land;" and

WHEREAS, Section 2-3-9, B.R.C. 1981, "Open Space Board of Trustees," contains the current code provisions dealing with the creation and functions of, and judgmental criteria applicable to, the Open Space Board of Trustees, and the city council has determined that Section 2-3-9, B.R.C. 1981, should be enacted, as amended, as a provision of the Boulder City Charter; and

WHEREAS, the city council, in amending the provisions of the Boulder Revised Code concerning the Open Space Board of Trustees, intends to follow the model of



Article XI of the Boulder City Charter, "Parks and Recreation," as modified by this ordinance, in order to establish permanent protections for open space land;

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

Section 1. At the general election to be held in the various precincts and the polling places of the City of Boulder on Tuesday, the fourth day of November, 1986, between the hours of 7:00 a.m. and 7:00 p.m., under the provisions of the Charter and ordinances of the city, there shall be submitted to the voters of the city an amendment to the Charter of the City of Boulder, Colorado, adding a new Article XII, establishing permanent protections for the open space land. The full text of the Charter amendment to be so submitted is as follows:

ARTICLE XII OPEN SPACE

Sec. 170. Creation of a department of open space.

There shall be a department of open space, which shall be responsible for all open space land and other property associated therewith.

As used in this charter, "open space land" shall mean any interest in real property purchased or leased with the sales and use tax pledged to the open space fund pursuant to the vote of the electorate on November 7, 1967, or proceeds thereof, any interest in real property dedicated to the city for open space purposes, and any interest in real property that is ever placed under the direction, supervision, or control of the open space department, unless disposed of as expressly provided in section 177 below.

Sec. 171. Functions of the department.

Under the direction, supervision, and control of the city manager, there shall be a director of the department of open space, who may also serve as the city's director of real estate. Subject to the limitations set forth in section 175 below, the department of open space:

- (a) Shall supervise, administer, preserve, and maintain all open space land and other property associated therewith and may grant nonexclusive licenses and permits and agricultural leases for crop or grazing purposes for a term of five years or less;



(b) Shall supervise, administer, and execute all open space programs, plans, functions, and activities of the city;

(c) Shall prepare and submit to the open space board of trustees written recommendations on those matters on which this article requires a recommendation from said board prior to council or department action;

(d) May, at the request of the open space board of trustees, prepare and submit to the board information and recommendations on such open space matters as are not provided for by (c) above; and

(e) May request advice on any open space matter from the open space board of trustees.

Sec. 172. Creation of the open space board of trustees.

There shall be an open space board of trustees consisting of five members appointed by the city council. The members of the board shall be residents of the city, shall not hold any other office in the city, and shall serve without pay.

Sec. 173. Term of office of board members—removal—vacancies.

The term of each member shall be five years; provided, however, that in appointing the original members of the board, the city council shall continue the terms of the current members and shall stagger the initial terms so that one board member's term expires in each year.

Five members of the council may remove any board member for cause.

The council shall fill all vacancies.

Sec. 174. Organization and procedure of the board.

The board shall choose a chair and a secretary. The director of the department of open space may be designated as secretary by the board.

The board shall have regular meetings once a month. Special meetings may be called at any time by three members of the board upon the giving of at least 24 hours' notice of said special meeting to the board members.

Three members of the board shall constitute a quorum. An affirmative vote of a majority of the members present shall be necessary to authorize any action by the board, except as otherwise expressly provided herein.

The board shall keep minutes and records of its meetings and transactions.

Except as otherwise expressly provided herein, the board shall have power to make rules for the conduct of its business.

Sec. 175. Functions of the board.

The open space board shall not perform any administrative functions unless expressly provided in this charter. The board:

(a) Shall make recommendations to the council concerning any proposed disposal of open space lands pursuant to section 177 below;

(b) Shall make recommendations to the council concerning any expenditure or appropriation from the open space fund pledged pursuant to the vote of the electorate on November 7, 1967, or proceeds of property acquired with the assets of the fund;

(c) Shall make recommendations to the council concerning any land that is to be placed under the direction, supervision, or control of the department of open space, including, without limitation, recommendations concerning use policies on, planned uses of, and restrictions on uses of, open space land;

(d) Shall make recommendations to the council concerning the open space program;

(e) Shall review the open space elements of the boulder valley comprehensive plan and make recommendations concerning any open space-related changes to the plan;

(f) Shall pursue vigorously the implementation of the open space elements of the boulder valley comprehensive plan and the acquisition of additional property required to fulfill the goals of the open space program;

(g) Shall review the city manager's proposed budget as it relates to open space matters and submit its recommendations concerning said budget to the council;

(h) Shall make recommendations concerning the grant or denial of any nonexclusive license or permit in or on open space land;

(i) Shall make recommendations concerning the incurring of any indebtedness payable from the open space fund, pursuant to section 97 above; and

(j) May prepare and submit to the council, the city manager, or the open space department recommendations on any other matter relating to the open space program, and may request and obtain from the open space department and the city manager information relating thereto.

Final 3-5

The city council, the city manager, and the open space department shall not act on any of the matters set forth in paragraphs (a) through (i) above without securing a recommendation from the board as above provided; however, the council, the manager, and the department may act on the matters set forth in paragraphs (b) through (i) above without a board recommendation if the board fails to submit its recommendation within thirty days after request therefor is made by the council.

The board's recommendation shall not be binding upon the city council, except as expressly provided in section 177 below.

Sec. 176. Open space purposes—open space land.

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

(a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically valuable, or unique, or that represent outstanding or rare examples of native species;

(b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;

(c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;

(d) Preservation of agricultural uses and land suitable for agricultural production;

(e) Utilization of land for shaping the development of the city, limiting urban sprawl, and disciplining growth;

(f) Utilization of non-urban land for spatial definition of urban areas;

(g) Utilization of land to prevent encroachment on floodplains; and

(h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

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

Sec. 177. Disposal of open space land.

No open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit on such

Final 7-6

open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the city, giving the location of the land in question and the intended disposal thereof. No open space land owned by the city shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty day period, a petition meeting the requirements of section 45 above and signed by registered electors of the city to the number of at least five percent of the registered electors of the city as of the day the petition was filed is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in section 46 and section 47 above have been followed.

*Handwritten notes:*  
to be submitted to the city council  
for their approval

This section shall not apply to agricultural leases for crop or grazing proposes for a term of five years or less.

This section is to be construed liberally in favor of providing opportunities for the citizens of the city to refer measures proposing the disposal of any open space land.

Section 2. The official ballot punch card and official absentee ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

AMENDMENT TO THE BOULDER CITY CHARTER ADDING A NEW ARTICLE XII, "OPEN SPACE," TO ESTABLISH PERMANENT PROTECTIONS FOR OPEN SPACE LAND.

An amendment to the Charter of the City of Boulder adding a new Article XII entitled "Open Space," to provide in the Charter for the City's open space program as well as the Open Space Board of Trustees and the Open Space Department of the City, generally following the model for protection of city park land of Charter Article XI. The amendment provides that open space land may not be encumbered or sold or otherwise conveyed without a public hearing and approval by at least three members of the Open Space Board of Trustees, and by the City Council, with an opportunity for a 5% petition within sixty days of final City Council action for a vote by the electorate on any such encumbrance, sale, or other conveyance.

FOR the measure \_\_\_\_\_ AGAINST the measure \_\_\_\_\_

Section 3. The City Clerk is directed to publish the notices required by Section 31-2-210(4), C.R.S. and Section 13-1-2(b)(17), B.R.C. 1981. The first notice described herein shall qualify as one of the three weekly notices required by Section 13-1-2(b)(17),

B.R.C. 1981, so long as the said first notice contains all other information required by said section. All notices with respect to the Charter amendment shall contain the ballot title and the full text of the measure.

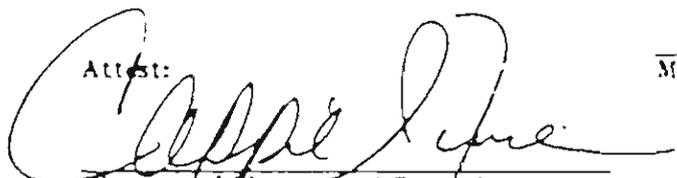
Section 4. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 5. This ordinance is deemed necessary for the protection of the public health, safety, and welfare.

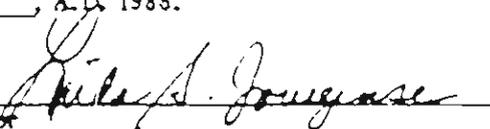
Section 6. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of the text thereof be available in the office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of August, A.D. 1986.

Attest:

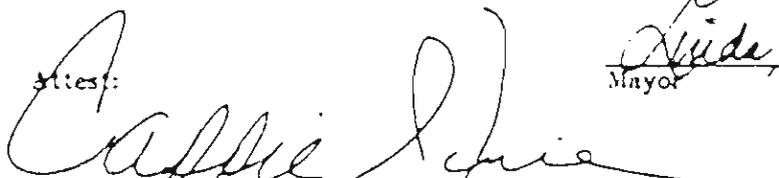
  
Director of Finance and Record  
Ex-Officio City Clerk

Mayor

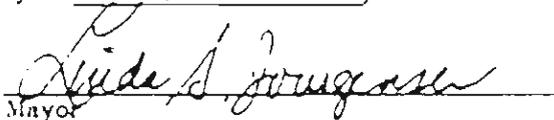


READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 19th day of August, A.D. 1986.

Attest:

  
Director of Finance and Record  
Ex-Officio City Clerk

Mayor



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