

ORDINANCE NO. 8030

AN EMERGENCY MEASURE ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO LIMIT RESIDENTIAL USES WITHIN THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT WITHIN THE BMS ZONING DISTRICT AND CORRECT BMS ZONE STANDARDS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Table 2-1 of Section 9-2-1, "Types of Review," B.R.C. 1981, shall be amended as follows:

9-2-1 Types of Reviews.

(a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in Table 2-1 of this section.

(b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

<i>I. ADMINISTRATIVE REVIEWS</i>	<i>II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES</i>	<i>III. DEVELOPMENT REVIEW AND BOARD ACTION</i>
<ul style="list-style-type: none"> • Building permits • Change of address • Change of street name • Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9- 	<ul style="list-style-type: none"> • Accessory Units (Dwelling, Owners, Limited) • Antennas for Wireless Telecommunications Services • Attached Dwelling 	<ul style="list-style-type: none"> • Annexation/initial zoning • BOZA variances • Concept plans • Demolition, moving, and removal of buildings with potential historic or

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<p>11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981</p>	<p><u>Units and Efficiency Living Units in the University Hill General Improvement District</u></p>	<p>architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981</p>
<ul style="list-style-type: none"> • Easement vacation 	<ul style="list-style-type: none"> • Bed and Breakfasts 	
<ul style="list-style-type: none"> • Extension of development approval/staff level 	<ul style="list-style-type: none"> • Cooperative Housing Units 	
<ul style="list-style-type: none"> • Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981) 	<ul style="list-style-type: none"> • Daycare Centers Detached Dwelling Units with Two Kitchens 	<ul style="list-style-type: none"> • Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981
<ul style="list-style-type: none"> • Landscape standards variance 	<ul style="list-style-type: none"> • Drive-Thru Uses • Group Home Facilities 	
<ul style="list-style-type: none"> • Minor modification 	<ul style="list-style-type: none"> • Home Occupations 	<ul style="list-style-type: none"> • Lot line adjustments
<ul style="list-style-type: none"> • Nonconforming use (extension, change of use (inc. parking)) 	<ul style="list-style-type: none"> • Manufacturing Uses with Off-Site Impacts 	<ul style="list-style-type: none"> • Lot line elimination
<ul style="list-style-type: none"> • Parking deferral per Subsection 9-9-6(e), B.R.C. 1981 	<ul style="list-style-type: none"> • Neighborhood Service Centers 	<ul style="list-style-type: none"> • Minor Subdivisions
<ul style="list-style-type: none"> • Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981 	<ul style="list-style-type: none"> • Offices, Computer Design and Development, Data Processing, Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts 	<ul style="list-style-type: none"> • Out of city utility permit
<ul style="list-style-type: none"> • Parking stall variances 	<ul style="list-style-type: none"> • Recycling Facilities 	<ul style="list-style-type: none"> • Rezoning
<ul style="list-style-type: none"> • Public utility 	<ul style="list-style-type: none"> • Religious Assemblies 	<ul style="list-style-type: none"> • Site review
<ul style="list-style-type: none"> • Rescission of development approval 	<ul style="list-style-type: none"> • Residential Care, Custodial Care, and Congregate Care Facilities 	<ul style="list-style-type: none"> • Subdivisions
<ul style="list-style-type: none"> • Revocable permit 	<ul style="list-style-type: none"> • Residential Development in Industrial Zoning Districts 	<ul style="list-style-type: none"> • Use review
<ul style="list-style-type: none"> • Right of way lease 	<ul style="list-style-type: none"> • Restaurants, 	<ul style="list-style-type: none"> • Vacations of street, alley, or access easement
<ul style="list-style-type: none"> • Setback variance 		
<ul style="list-style-type: none"> • Site access variance 		
<ul style="list-style-type: none"> • Solar exception 		
<ul style="list-style-type: none"> • Zoning verification 		

	Brewpubs, and Taverns	
	<ul style="list-style-type: none"> · Sales or Rental of Vehicles on Lots Located 500 Feet or Less from a Residential Zoning District · Service Stations · Shelters (Day, Emergency, Overnight, temporary) · Temporary Sales · Transitional Housing 	

Section 2. Section 9-2-14, B.R.C. 1981, is amended to read:

9-2-14 Site Review.

...

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

- (1) 9-7-1, "Schedule of Form and Bulk Standards," and standards referred to in that section except for the floor area requirements that the standards referred to as "FAR Requirements" may not be modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981.

...

Section 3. Section 9-6-1, B.R.C. 1981, is amended to read:

9-6-1 Schedule of Permitted Land Uses.

The schedule shows the uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

(a) Explanation of Table Abbreviations: The abbreviations used in Table 6-1 of this section have the following meanings:

- 1 (1) Allowed Uses: An "A" in a cell indicates that the use type is permitted by right in the
2 respective zoning district. Permitted uses are subject to all other applicable regulations
of this title.
- 3 (2) Conditional Uses: A "C" in a cell indicates that the use type will be reviewed in
4 accordance with the procedures established in Section 9-2-2, "Administrative Review
5 Procedures," B.R.C. 1981. Conditional use applications shall also meet the additional
standards set forth in Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use
Standards," or other sections of this title.
- 6 (3) Use Review Uses: A "U" in a cell indicates that the use type will be reviewed in
7 accordance with the procedures established in Section 9-2-15, "Use Review," B.R.C.
1981. Use review applications shall also meet the additional standards set forth in
8 Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards."
- 9 (4) Ground Floor Restricted Uses: A "G" in a cell indicates that the use type is permitted by
10 right in the respective zoning district, so long as it is not located on the ground floor
11 facing a street, with the exception of minimum necessary ground level access, it is
12 located above or below the ground floor, otherwise by use review only.
- 13 (5) Residential Restricted Uses - M: An "M" in a cell indicates the use is permitted,
14 provided at least fifty percent of the floor area is for residential use and the
nonresidential use is less than seven thousand square feet per building, otherwise by use
review only.
- 15 (6) Residential Restricted Uses - N: An "N" in a cell indicates the use is permitted,
16 provided at least fifty percent of the floor area is for nonresidential use, otherwise by
17 use review only.
- 18 (7) Prohibited Uses: An asterisk symbol ("*") in a cell indicates that the use type is
19 prohibited in the zoning district.
- 20 (8) Additional Regulations: There may be additional regulations that are applicable to a
21 specific use type. The existence of these specific use regulations is noted through a
22 reference in the last column of the use table entitled "Specific Use." References refer to
23 subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards,"
or other sections of this title. Such standards apply to all districts unless otherwise
specified.
- 24 (9) n/a: Not applicable; more specific use applications apply.
- 25 (b) Interpretation: The city manager may decide questions of interpretation as to which category
uses not specifically listed are properly assigned to, based on precedents, similar situations,
and relative impacts. Upon written application, the BOZA may determine whether a specific
use not listed in Table 6-1 of this section is included in a specific use category. Any use not
specifically listed in Table 6-1 of this section is not allowed unless it is determined to be
included in a use category as provided by this section.
- (c) Multiple Uses of Land Permitted: Permitted uses, conditional uses, and uses permitted by
use review may be located in the same building or upon the same lot.
- (d) Use Table:

TABLE 6-1: USE TABLE

Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A		
Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard	
Residential Uses																													
Detached dwelling units	A	A	A	A	C	A	A	*	*	A	U	U	A	A	<u>A*</u>	A	*	A	A	A	A	*	U	U	*	U	U		9-8-4
Detached dwelling unit with two kitchens	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(c)
Duplexes	*	A	A	A	C	A	A	*	*	A	A	A	A	A	<u>A*</u>	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Attached dwellings	*	A	A	A	C	A	A	C	*	A	A	A	A	A	<u>An/a</u>	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Mobile home parks	*	U	U	*	U	U	*	*	A	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		
Townhouses	*	A	A	A	C	A	A	A	*	A	A	A	A	A	<u>A*</u>	A	*	A	A	A	A	G	U	U	N	U	*	9-8-4	
Live-work	*	*	*	*	*	*	*	*	*	*	*	*	A	*	*	*	*	*	*	*	*	U	U	U	A	*	*		

1	Cooperative housing units	C	C	C	C	C	C	C	*	*	C	C	C	*	*	*	*	*	*	*	*	*	U	U	*	*	*	9-6-3(b)	
2																													
3	Attached dwelling units outside of the University Hill general improvement district	n/a																											
4																													
5																													
6	Attached dwelling units and efficiency living units in the University Hill general improvement district	n/a	9-6-3(j)																										
7																													
8																													
9																													
10	Efficiency living units outside of the University Hill general improvement district :																												
11	A. If <20% of total units	*	*	*	*	U	A	A	*	*	M	A	A	A	A	G	A	*	A	A	A	A	G	U	U	N	U	*	
12	B. If ≥20% of total units	*	*	*	*	*	U	A	*	*	U	A	A	U	U	U	U	*	U	U	U	U	U	U	U	U	U	*	
13																													
14	Accessory units:																												
15	A. Accessory dwelling unit	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	9-6-3(a)
16	B. Owner's accessory unit	C	*	*	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)
17																													
18	C. Limited	C	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	9-6-3(a)

1 **Section 4.** Section 9-6-3, B.R.C. 1981, is amended to add a new subsection (j):

2 **9-6-3 Specific Use Standards - Residential Uses.**

3 ...

4 (d) Group Home Facilities: The following criteria apply to any group home facility:

5 (1) For purposes of density limits in section 9-8-1, "Schedule of Intensity Standards," B.R.C.
6 1981, and occupancy limits, eight occupants, not including staff, in any group home
7 facility constitute one dwelling unit, but the city manager may increase the occupancy of
8 a group home facility to ten occupants, not including staff, if:

8 (A) The floor area ratio for the facility complies with standards of the Colorado State
9 Departments of Public Health and Environment and Social Services and chapter 10-2,
10 "Property Maintenance Code," B.R.C. 1981; and

10 (B) Off-street parking is appropriate to the use and needs of the facility and the number of
11 vehicles used by its occupants, regardless of whether it complies with other off-street
12 parking requirements of this chapter.

12 (2) In order to prevent the potential creation of an institutional setting by concentration of
13 group homes in a neighborhood, no group home facility may locate within three hundred
14 feet of another group home facility, but the city manager may permit two such facilities
15 to be located closer than three hundred feet apart if they are separated by a physical
16 barrier, including, without limitation, an arterial collector, a commercial district, or a
17 topographic feature that avoids the need for dispersal. The planning department will
18 maintain a map showing the locations of all group home facilities in the City.

17 (3) No person shall make a group home facility available to an individual whose tenancy
18 would constitute a direct threat to the health or safety of other individuals or whose
19 tenancy would result in substantial physical damage to the property of others. A
20 determination that a person poses a direct threat to the health or safety of others or a risk
21 of substantial physical damage to property must be based on a history of overt acts or
22 current conduct of that individual and must not be based on general assumptions or fears
23 about a class of disabled persons.

22 [\(4\) Group home uses allowed in the BMS district shall not be located on the ground floor](#)
23 [facing a street, with the exception of minimum necessary ground level access, otherwise](#)
24 [by use review only.](#)

24 ...

1 (f) Residential Care, Custodial Care, and Congregate Care Facilities: The following criteria
2 apply to any residential care facility, custodial care facility, or congregate care facility:

3 (1) For purposes of density limits in section 9-7-1, "Schedule of Form and Bulk Standards,"
4 B.R.C. 1981, and occupancy limits, six occupants, including staff, in any custodial,
5 residential or congregate care facility constitute one dwelling unit, but the city manager
6 may increase the occupancy of a residential care facility to eight occupants, including
7 staff, if:

8 (A) The floor area ratio for the facility complies with standards of the Colorado State
9 Departments of Health and Social Services and chapter 10-2, "Property Maintenance
10 Code," B.R.C. 1981; and

11 (B) Off-street parking is appropriate to the use and needs of the facility and the number of
12 vehicles used by its occupants, regardless of whether it complies with other off-street
13 parking requirements of this chapter.

14 (2) In order to prevent the potential creation of an institutional setting by concentration of
15 custodial, residential or congregate care facilities in a neighborhood, no custodial,
16 residential or congregate care facility may locate within seven hundred fifty feet of
17 another custodial, residential or congregate care facility, but the approving agency may
18 permit two such facilities to be located closer than seven hundred fifty feet apart if they
19 are separated by a physical barrier, including, without limitation, an arterial collector, a
20 commercial district, or a topographic feature that avoids the need for dispersal. The
21 planning department will maintain a map showing the locations of all custodial,
22 residential or congregate care facilities in the City.

23 (3) Uses allowed in the BMS district shall not be located on the ground floor facing a street,
24 with the exception of minimum necessary ground level access~~must be located above or~~
25 below the ground floor; otherwise by use review only.

26 ...
27 (j) Residential Development within the University Hill General Improvement District in the
28 BMS Zoning District: The following standards and criteria apply to any attached dwelling
29 units and efficiency living units within the University Hill General Improvement District in
30 the BMS zoning district:

31 (1) The units meet the requirements for permanently affordable units set forth in Chapter
32 9-13, "Inclusionary Housing," B.R.C. 1981, and

33 (2) With the exception of minimum necessary ground level access, the use shall not be
34 located on the ground floor facing a street, otherwise by use review only.

1 (3) Requirement for Efficiency Living Units: Where efficiency living units comprise
2 twenty percent or more of the total number of units in the development, the use may
3 only be approved pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

4 **Section 5.** Section 9-16-1, B.R.C. 1981, is amended to read:

5
6 **9-16-1 General Definitions.**

7 (a) The definitions contained in Chapter 1-2, "Definitions," B.R.C. 1981, apply to this title
8 unless a term is defined differently in this chapter.

9 (b) Terms identified with the references shown below after the definition are limited to those
10 specific sections or chapters of this title:

- 11 (1) Airport influence zone (AIZ).
12 (2) Floodplain regulations (Floodplain).
13 (3) Historic preservation (Historic).
14 (4) Inclusionary housing (Inclusionary Housing).
15 (5) Residential growth management system (RGMS).
16 (6) Solar access (Solar).
17 (7) Wetlands Protection (Wetlands).
18 (8) Signs (Signs).

19 (c) The following terms as used in this title have the following meanings unless the context
20 clearly indicates otherwise:

21 . . .

22 *Permanently affordable unit* means a dwelling unit that is pledged to remain affordable forever
23 to households earning no more than the income limits specified in this Chapter 9-13,
24 "Inclusionary Housing," B.R.C. 1981, HUD low income limit for the Boulder Primary
25 Metropolitan Statistical Area, or, for a development with two or more permanently affordable
units, the average cost of such units to be at such low income limit, with no single unit exceeding
ten percentage points more than the HUD low income limit, and the unit:

- 26 (1) ~~The unit is~~ owner occupied;
27 (2) Is owned or managed by the Housing Authority of the City of Boulder or its agents; or
28 (3) Is a rental unit in which the city has an interest through the Housing Authority of the
29 City of Boulder or a similar agency that is consistent with § 38-12-301, C.R.S., or that
30 is otherwise legally bound by rent restrictions consistent with §38-12-301, C.R.S., or
31 successor statutes.

1 Permanently affordable units shall be attained and secured through contractual arrangements,
2 restrictive covenants, resale and rental restrictions, subject to reasonable exceptions, including,
3 without limitation, subordination of such arrangements, covenants and restrictions to a
4 mortgagee, for both owner-occupied and rental units. No unit shall be considered a permanently
affordable unit until the location, construction methods, floor plan, fixtures, finish and the
cabinetry of the dwelling unit have been approved by the city manager. (Inclusionary Housing)

5 . . .

6 **Section 6.** This ordinance replaces Ordinance No. 7990 which temporarily suspended
7 accepting building permit and site review applications that would result in adding residential
8 floor area to those areas zoned BMS that are located in the general area described as the
9 University Hill Business District until March 18, 2015 at 8:00 a.m.

10
11 **Section 7.** The immediate passage of this ordinance is necessary for the preservation of
12 the public peace, health, or property. The council declares this to be an emergency measure due
13 to the need to prevent inappropriate development and to adopt zoning regulations prior to the
14 expiration of Ordinance No. 7990 that ensure implementation of and development consistent
15 with the Boulder Valley Comprehensive Plan and other policies of the City. Therefore, this
16 ordinance is hereby declared to be an emergency measure, and as such shall be in full force and
17 effect upon its passage.

18
19 **Section 8.** This ordinance is necessary to protect the public health, safety, and welfare of
20 the residents of the city, and covers matters of local concern.

21 **Section 9.** The city council deems it appropriate that this ordinance be published by title
22 only and orders that copies of this ordinance be made available in the office of the city clerk for
23 public inspection and acquisition.
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25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 17th day of February, 2015.

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5 _____
Mayor

6 Attest:

7
8 _____
City Clerk

9
10 READ ON SECOND READING, PASSED, AND ADOPTED AS AN EMERGENCY
11 MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT, AND ORDERED
12 PUBLISHED BY TITLE ONLY this 3rd day of March, 2015.

13
14
15 _____
Mayor

16 Attest:

17
18 _____
City Clerk