



MEMORANDUM

To: Members of Parks and Recreation Advisory Board
Members of Transportation Advisory Board
Members of Open Space Board of Trustees
Members of Downtown Management Commission
Members of University Hill Commercial Area Management Commission
Members of Downtown Boulder, Inc. Board
Members of Human Relations Commission

From: Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
David Driskell, Executive Director of Community Planning and Sustainability/Interim Housing Director
Tracy Winfree, Director of Public Works – Transportation
Karen Rahn, Director of Human Services
Mike Patton, Director of Open Space and Mountain Parks
Molly Winter, Director of Downtown and University Hill Management Division and
Jeff Dillon, Interim Director of Parks and Recreation
Sandra Llanes, Senior Assistant City Attorney
Marni Ratzel, Senior Transportation Planner
Whitney Oftedahl, Parks and Recreation Marketing and Communications Specialist
Lane Landrith, Downtown and University Hill Business Coordinator
Andy Pelster, OSMP Land and Facilities Operations Supervisor
Curtis Johnson, Police Commander
Jennifer Bray, Communication Specialist III, Library and Arts and Parks and Recreation Departments
Lisa Martin, Urban Parks Manager
Eric M. Ameigh, Senior Project Manager

Date: May 29, 2014

Subject: Information Item: Proposal for Smoking Ban on Selected City Properties

EXECUTIVE SUMMARY

Boulder is a community with a long history of commitment to both health and quality of life. In early 2014, City Council reaffirmed these commitments by directing city staff to develop a

proposal that would eliminate the possibility of outdoor second hand smoke in nearly all of the city's heavily used gathering spaces and recreational facilities. Staff has responded with a proposed ordinance that would ban smoking in city parks, recreation facilities, on city open space and mountain parks, along all multi-use paths, and in much of downtown Boulder. Feedback is being sought from boards and commissions in the areas affected by the proposed ordinance and a public hearing will be held at city council in the 4th quarter of 2014 with additional direction to be determined at that time.

FISCAL IMPACT

Although an ordinance is enforceable without signage, staff believes at least some signage is desirable in order to educate visitors to the areas where smoking will be prohibited. Costs are being analyzed and may change as revisions are made to the proposed ordinance but, at this time, staff estimates the full cost of installed signage could surpass \$30,000.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: None identified.
- Environmental: The proposed smoking ban will reduce litter from cigarettes, resulting in a cleaner environment. It will also improve air quality for visitors and users of these properties and facilities.
- Social: Smoking prevention and cessation are public health and community goals and actions taken by the city in this area will improve health and quality of life in the community. Smokers who are currently accustomed to smoking on city properties or facilities will be inconvenienced and will have to seek out other places in which they can legally smoke.

BACKGROUND

At a study session on Jan. 28, 2014, council provided staff with general direction to develop a proposal to ban smoking in parks, on open space, and in other public places that would further council's goal of making Boulder as healthy and as smoke free as possible. In addition, council directed staff to do its best to insure the proposed smoking ban would be enforceable. Staff was directed to take the eventual proposal to relevant boards and commissions before returning to council in the 4th quarter of 2014 for a public hearing and potential council action.

Exposure to secondhand smoke, indoors or outdoors, poses risk to an individual's health. The 2010 Surgeon General's Report on *How Tobacco Smoke Causes Disease* concluded that there is no safe or risk-free level of exposure to tobacco smoke. Secondhand smoke contains thousands of harmful compounds with nearly 70 toxic chemicals known to be cancer causing agents. These chemicals cause death and disease in both adults and children. In recent literature, studies have found outdoor secondhand smoke concentrations to be comparable to indoor concentrations in some conditions and levels can be higher outdoors depending on the number of smokers present, how close to smokers an individual is, and certain weather conditions including wind direction and speed. Boulder County Public Health's Tobacco Education and Prevention Partnership staff are concerned with certain at-risk populations being exposed to tobacco smoke including pregnant women, youth, and immunocompromised individuals. Smoking bans in public places

help ensure that secondhand smoke exposure is reduced for all residents and visitors enjoying the City of Boulder's public spaces.

Additionally, smoking and the effects of secondhand smoke lead to economic and personal impacts on individuals, and the public and private sectors, including increased health care costs, decrease quality of life, maintenance and clean up of property, degradation of waterways and fire hazards, among others. Smoking prevention and cessation are public health and community goals. Actions the city takes to improve the quality of life and health in our community should be pursued, understanding the impacts on some of our residents, and concurrently support should be provided for public outreach and education and information on community resources to support cessation and identify locations where smoking is allowed.

Social and economic factors influence decisions and behaviors that promote or threaten health. Among the many factors contributing to tobacco use, socioeconomic status is the single greatest predictor. Tobacco and poverty create a vicious cycle: low-income people smoke more, spend more, and die more from tobacco use.

As previously mentioned, at the 2014 City Council retreat, council asked staff to investigate and propose a plan for a ban on smoking in public places that would expand upon—and incorporate the lessons from—the smoking ban instituted in 2013 for the Pearl Street Mall and the Jan. 6, 2014 City Manager Rule banning smoking on the municipal campus (see Attachment A). Extensive background on anti-smoking efforts in Boulder and the Pearl Street Mall smoking ban can be found [here](#) and [here](#).

ANALYSIS

General Considerations

Staff considered the different mechanisms by which smoking could be banned. After internal discussions, it was clear that an ordinance was preferred over a City Manager rule because it is more easily enforceable by law enforcement personnel.

There was also a consideration of the various types of smoking devices, tobacco, and nicotine products that should or should not be included in the ban. Based on the complexity and uncertainty of regulating newer nicotine products such as e-cigarettes, the relative unobtrusiveness of other tobacco products such as chewing tobacco, and the practical realities of enforcement, it was determined that the proposed ban should apply only to smoking that requires ignition for use (e.g. cigarettes, cigars, pipes, etc.).

Open Space and Mountain Parks (OSMP)

The staff recommendation is to ban smoking on all OSMP properties, including trails, without exception. A lack of second hand smoke will enhance the visitor experience and an absolute prohibition on smoking will help mitigate a potential fire hazard on OSMP properties. Designated public access points to OSMP currently provide the regulatory infrastructure necessary to notify users of the smoking ban.

Parks and Recreation

The recommendation is to ban smoking on all city owned, maintained, and leased park land, park property, and recreation facilities with the exception of Flatirons Golf Course.

The management at Flatirons Golf Course felt certain that a smoking ban would lead to a decrease in revenue. Golf course smoking bans are almost unheard of in the state. According to staff research, there is only one golf course in Colorado that bans smoking and that is due to fire danger.

The city is working on a holistic approach to addressing a smoking ban with the Colorado Chautauqua Association (CCA) per the Stewardship Framework. The CCA “supports the parks being smoke free and desire that all of Chautauqua be smoke-free.” However, due to the challenges associated with the use of the leased area with private cottages, guests/rentals, and special events and concerts, the CCA cannot commit to a full smoking ban at this point. If the city were to enact a ban on smoking in the park only, it would be difficult for park and CCA users to understand where smoking is allowed or not due to the lack of physical property boundaries since the lease area is not defined by streets or structures.

Downtown

The recommendation is to repeal the current ordinance banning smoking on the Mall and include it in the new ordinance in order to assist enforcement by keeping all the smoking regulations together. Anecdotally, it seems the Pearl Street Mall smoking ban has been seen as a successful initiative. The Police Department reported a spike in ticketing initially during the spring of 2013 and a steady decrease thereafter as awareness of the smoking ban increased. As such, an expansion of the smoking ban to other parts of downtown appears feasible, with the Business Improvement District boundaries as a logical and practical boundary. The business community, however, has made it clear that many of its employees are smokers and that accommodations should be made for them. Staff has determined that alleys, for which the Boulder Revised Code has a clear definition, can and should be exempted from the ban.

Multi-use Paths

The recommendation is to ban smoking on all [multi-use paths](#) and within 15 feet on each side of a multi-use path. This is the most comprehensive way to enhance the user experience although there are a few factors to consider:

1. Some multi-use paths are also sidewalks, such as the east side of 28th St. between Arapahoe Rd. and Pearl St. and the north side of Arapahoe Rd. between Folsom St. and 55th St. The City publicizes sidewalks designated as multi-use paths on the [Map of Bike & Pedestrian Routes](#), [Map of Sidewalks for Biking & Skateboarding](#) and [Map of Boulder's Multi-Use Path Network](#). Additionally, these sidewalks are distinguished from regular sidewalks by signage.
2. Some stretches of multi-use paths are on University of Colorado “CU” property for which the city has an easement. The city will want to coordinate with CU to ensure enforceability. CU-Boulder is currently a smoke free campus with only a few areas that allow smoking. Therefore, it is expected that CU will support the smoking ban on all multi-use paths. The city and CU have an intergovernmental agreement in which city police can enforce local ordinances on CU (state owned) property.

Transit Facilities

The city is coordinating with the Regional Transit District (RTD) on Boulder’s proposed smoking policy. Transit stop locations are designated by signage and such signage is generally under the control of RTD. RTD is generally supportive of a smoking ban around its transit stops

but would not support an ordinance that required RTD to create signage or engage in enforcement. RTD has a very limited security force whose primary focus is to deal with safety and security on mass transportation vehicles.

With respect to existing RTD mass transportation vehicles, RTD public buildings, and within 15 feet of entryways, RTD has posted no smoking signage in conformance with the Colorado Clean Indoor Air Act (state law C.R.S. 25-14-201, et seq.). RTD has no other smoking restrictions. Additionally, RTD signs the Transit Center at 14th St. and Walnut St. as a no smoking zone and RTD informational signage within bus shelters also includes the international No Smoking symbol.

The recommendation is to ban smoking within fifteen feet of all transit stop passenger waiting areas, including bus stop benches and shelters. Transit-related amenities on public streets such as benches and shelters are not always under RTD control, but maintained by the local jurisdiction. RTD recommends that additional signage be installed on these assets to assist with public information and enforcement of the no smoking policy. RTD is amenable to allowing signage at its stops of a mutually agreeable size and in a mutually agreed upon location. The signage would be furnished, installed and maintained by the city. RTD also would want to review the size and placement of any no-smoking signage produced by Boulder to ensure the message, along with RTD's signage regarding routes and services, are all clearly visible. Staff is exploring a decal displaying the international No Smoking symbol supplemented by "within 15 feet" to install on benches and shelters.

Leased Facilities

The Dairy Center for the Arts, Boulder History Museum and BMoCA are already prohibited from smoking inside their buildings but they also support expanding the smoking ban to the surrounding property outside. The city is working on a holistic approach to addressing a smoking ban with the Colorado Chautauqua Association (CCA) per the Stewardship Framework. As explained above, the Chautauqua Park and lease area is not included in the smoking ban ordinance at this time.

Municipal Area Smoking Ban Rule

The recommendation is to repeal the Rule and include it in the new ordinance in order to assist enforcement by keeping all the smoking regulations together.

Smoking Ban Enforcement

The Police Department will begin enforcement with an education and warning period to inform individuals of the new areas covered by the ban. After a sufficient amount of time has passed and it can reasonably be assumed that the community understands where smoking is prohibited, officers will have the discretion to issue summons to people violating the ordinance. Officers will have individual discretion on whether they choose to issue a summons or give a warning at any time after the education period has ended. The Police Department will respond to complaints about smoking as call priorities allow and will proactively conduct enforcement when possible. This approach is fully consistent with the one taken in the enforcement of the Pearl Street Mall smoking ordinance and the City Manager's rule regarding smoking on the municipal campus.

NEXT STEPS

4th Quarter: Public hearing at City Council. (Packet will be provided to relevant boards and commissions at that time.)

ATTACHMENTS

- A: City Manager Rule Prohibiting Smoking on Municipal Campus
- B: Draft Proposed Ordinance
- C: Chautauqua Lease Area Map
- D: BID Map

STANDARD (NON-EMERGENCY) RULE/REGULATION # 6-4-2 A. 14

SUMMARY OF REGULATION:

No person shall smoke, as defined in section 6-4-2, B.R.C. 1981, on the city municipal campus, which shall be defined as the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this rule shall not apply to moving vehicles on Broadway or 13th Street or to individuals smoking on real property that is privately owned.

This rule/regulation is established to:

Pursuant to the authority found in Charter Article V "Administrative Service", Section 6-4-10 "City Manager May Issue Rules" and Section 8-3-3, "City Manager May Issue Rules," B.R.C. 1981; this rule is intended for the preservation of public safety, public health, property, vegetation, wildlife, signs, markers, buildings or other structures, and any object of scientific or historic value or interest; prohibition of conduct that may reasonably be expected to interfere substantially with the use and enjoyment of parks, parkways, recreation areas, and open space by the general public or that constitutes a nuisance; and maintenance of reasonable and necessary sanitation, health, and safety.

Authority: Charter Article V "Administrative Service", Section 6-4-10 "City Manager May Issue Rules", and Section 8-3-3 "City Manager May Issue Rules", B.R.C. 1981.

Rules approved as to form and legality by the City Attorney's office on 1/6/2014 (Date), by [Signature], City Attorney.

Proposed rules approved prior to publication by the City Manager or his/her delegate on Jan. 6, 2014 (Date) by N/A (Manager/Delegate), Director of N/A Department, as the City Manager's delegate.

Three copies of the approved rules filed with the city clerk and ~~will become effective immediately~~ on 1/6/2014 (Date).

Date of publication of notice of fifteen day (15) comment period in the Daily Camera 1/9/2014 (Date).

Approved by the City Manager or his/her delegate with/without change after considering public comment on 01-28-2014 (Date).

[Signature]
City Manager/Delegate

Approved rules re-filed with the City Clerk and continued in effect on 1/28/2014 (Date).

Approved: [Signature]
City Atty

[Signature]
Alisa D. Lewis

*****NOTICE TO THE PUBLIC*****

The City Manager of the City of Boulder proposes to adopt a rule/regulation to

No person shall smoke, as defined in section 6-4-2, B.R.C. 1981, on the city municipal campus, which shall be defined as the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this rule shall not apply to moving vehicles on Broadway or 13th Street.

Copies are available for public review at Central Records at the Municipal Building, 1777 Broadway 2nd floor.

Written comment should be directed to Ann Large, City Manager's Office, 303-441-3090, City of Boulder, P.O. Box 791, Boulder, CO 80306.

For more information visit www.bouldercolorado.gov.

Adoption will be considered after the 15-day comment period.

STANDARD (NON-EMERGENCY) RULE/REGULATION

SUMMARY OF REGULATION:

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Approved by the City Manager or his/her delegate with/without change after considering public comment on _____ (Date).

City Manager/Delegate
Approved rules re-filed with the City Clerk and continued in effect on _____ (Date).

NOTICE TO THE PUBLIC

The City Manager of the City of Boulder proposes to adopt a rule/regulation to

No person shall smoke, as defined in section 6-4-2, B.R.C. 1981, on the city municipal campus, which shall be defined as the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this rule shall not apply to moving vehicles on Broadway and 13th Street.

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For more information visit www.bouldercolorado.gov.

Adoption will be considered after the 15-day comment period.

AFFIDAVIT OF PUBLICATION

CAMERA

State of Colorado
County of Boulder

I, the undersigned agent, do solemnly swear that the CAMERA is a daily newspaper printed, in whole or in part, and published in the City of Boulder, County of Boulder, State of Colorado, and which has general circulation therein and in parts of Boulder and Broomfield counties; that said newspaper has been continuously and uninterruptedly published for a period of more than six months next prior to the first publication of the annexed legal notice of advertisement, that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any, amendments thereof, and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado; that a copy of each number of said newspaper, in which said notice of advertisement was published, was transmitted by mail or carrier to each of the subscribers of said newspaper, according to the accustomed mode of business in this office.

The annexed legal notice or advertisement was published in the regular and entire edition of said daily newspaper once; and that one publication of said notice was in the issue of said newspaper dated **January 9, 2014**.


Agent

Subscribed and sworn to before me this **9th** day of **January**, **2014** in the County of Boulder, State of Colorado.


Notary Public
My commission expires 12/11/2014

ACCOUNT #:101172
AD #5608934
FEE: \$36.30



*****NOTICE TO THE PUBLIC*****
Rule No. 6-4-2A.14

The City Manager of the City of Boulder proposes to adopt a rule/regulation to

No person shall smoke, as defined in section 6-4-2, B.R.C. 1981, on the city municipal campus, which shall be defined as the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this rule shall not apply to moving vehicles on Broadway or 13th Street.

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For more information visit www.bouldercolorado.gov.

Adoption will be considered after the 15-day comment period.

Published in the Camera on January 9, 2014 - 5608934

OFFICE OF THE
CITY CLERK
JAN - 6 2014

STANDARD Contract Routing Cover Sheet

Please print and attach to your document

You can view the status of your contract using the [Contract Tracking Status Page](#).

Routing Number	20140102-9136		
Originating Dept	City Attorney		
Contact Person	Christy Hardin	Phone Number	303-441-3020
Project Manager / Contract Administrator	Sandra Llanes	E-mail	llaness@bouldercolorado.gov
Counter Parties	City of Boulder		
Contract Title / Type	No Smoking Rule		
Number			
Description	Smoking ban between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this rule shall not apply to moving vehicles on Broadway and 13th Street		
Special Instructions	Please send pdf of fully executed rule to Christy Hardin in CAO.		
Amount	0.00	Expense Type	OUTGOING

Dept. Head Signature 

NOTE; Originating Department: Identify with a check mark all areas document needs to be routed.

- Purchasing _____
- Budget _____
- Sales Tax _____
- CAO  _____
- City Manager _____
- Central Records _____

2014 JAN 29 PM 4:37
 CITY OF BOULDER
 CITY CLERK'S OFFICE
 CENTRAL RECORDS

Rule
 #6-4-2A.14
 Deadline for Comments
 1-24-2014

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981,
ADDING A NEW SECTION 6-4-3.5 "SMOKING PROHIBITED
IN PUBLIC PLACES," AND SETTING FORTH RELATED
DETAILS.

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

Section 1. Chapter 6-4, "Regulation of Smoking," B.R.C. 1981, is amended as follows:

6-4-1. Legislative Intent.

The purpose of this chapter is to protect the public health, safety, and welfare by prohibiting smoking in certain public places and prohibiting smoking in buildings open to the public or serving as places of work, except in certain buildings or parts of buildings where the council has determined that smoking should not be prohibited, and fixing the requirements of property owners in this regard. In addition, this chapter regulates access of minors to tobacco products.

6-4-2. Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Bar" means any indoor area that is operated and licensed as a tavern liquor license under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages.

"Building" means any structure enclosed for protection from the weather, whether or not windows or doors are open. If a person leases or possesses only a portion of a building, the term "building" applies to the leasehold or possessory interest as well.

"City Municipal Campus" as used in this Chapter shall mean the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this definition shall not apply to moving vehicles on Broadway or 13th Street or, unless otherwise prohibited by this Chapter, to individuals smoking on real property that is privately owned.

"Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from both the onsite sale of tobacco products and the rental of onsite humidors. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales both from the onsite sale of tobacco products and the rental of onsite humidors, shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition, regardless of sales figures.

"Dwelling," as used in this chapter, means any place used primarily for sleeping overnight and conducting activities of daily living, not including a hotel or motel room or suite or bed and breakfast.

"Downtown Boulder Business Improvement District" is as depicted in Appendix 8-B of Chapter 8-6.

"Enclosed area," as used in this chapter, means an area which contains a structure made up of a roof and two or more walls regardless of the composition of the walls or roof. This includes, but is not limited to, the following: park shelters, event tents, bus shelters, patio awnings and canopies.

"Entryway" means the outside of any doorway leading into and exiting from a building or enclosed area. "Entryway" also includes the area of public or private property within fifteen feet of the doorway.

"Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by Ordinance No. 4543 and any successor ordinance.

"Public conveyance" means any motor vehicle or other means of conveyance licensed by the Public Utilities Commission of the state for the transportation of passengers for hire, and includes, without limitation, busses, taxicabs, limousine services, and airport passenger services.

"Smoke" or "smoking" means the lighting of any cigarette, cigar, or pipe or the possession of any lighted cigarette, cigar, or pipe, regardless of its composition.

"Tobacco product" means cigarettes, cigars, cheroots, stogies, periques, and other products containing any measurable amount of tobacco, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco.

"Tobacco store" means a retail business open to the public where alcohol is not sold, if more than eighty-five percent of its gross revenue from that location is from the retail sale of cigarettes and tobacco products or products related to the use of cigarettes and tobacco products.

"Transit Stop" as used in this chapter, means a public conveyance passenger waiting area designated by signage attached to a post and the public right of way around the stop, including but not limited to the bus shelter, and bench.

6-4-3. Smoking Prohibited Within Buildings and Enclosed Areas.

- (a) No person shall smoke within any building or enclosed area except in one of the following locations:
 - (1) In any dwelling. This exception does not extend to a lobby, common elevator, common hallway or any other common area of a building containing attached dwelling units;

- (2) In a hotel/motel room or bed and breakfast guest room rented to one or more guests if the total percentage of such smoking rooms in such hotel/motel or bed and breakfast does not exceed twenty-five percent. This exception does not extend to a lobby, common elevator, common hallway or any other common area of a hotel/motel or bed and breakfast;
 - (3) In a tobacco store;
 - (4) In a cigar-tobacco bar which existed as of December 31, 2005, provided that it does not expand its size or change its location from the size and location in which it existed as of December 31, 2005;
 - (5) In a building or on property which is occupied by the state of Colorado, the United States government, Boulder County or the Boulder Valley School District which was not designated as a smoke free area by the manager of such area. The city council urges such governmental entities to designate smoke free areas in order to promote full access by the public and protect the health of employees;
 - (6) In private homes, private residences and private automobiles; not to include any such home, residence or vehicle being used for child care or day care or a private vehicle being used for the public transportation of children or as part of health care or day care transportation; or
 - (7) In a limousine under private hire.
- (b) Unless excepted under subsection (a) of this section, the prohibitions of this chapter apply to all buildings or enclosed areas which serve as places of work, but this subsection (b) neither enlarges nor diminishes the meaning of subsection (a) of this section.
 - (c) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control of any place, including, without limitation, any motor vehicle, outdoor area or dwelling, from prohibiting smoking completely in such place, and no person shall fail to abide by such a private prohibition.

6-4-3.5. Smoking Prohibited in Public Areas.

No person shall smoke:

- (a) in the Downtown Boulder Business Improvement District including the Mall but excluding alleys;
- (b) on any city owned or maintained park, parkland, or facility other than Flatirons Golf Course or Chautauqua unless otherwise prohibited by a sign;
- (c) on any city property leased to others, or city owned or maintained property that is maintained by the Parks and Recreation Department, other than Chautauqua;
- (d) on any open space and mountain parks property;

(e) on any trail, path or multi-use path and within fifteen feet of curtilage to any trail, path or multi-use path;

(f) within twenty-five feet of a library facility;

(g) within fifteen feet of a transit stop; and

(h) within the City Municipal Campus.

6-4-4. Smoking Prohibited in Public Conveyances.

No person shall smoke in any public conveyance.

6-4-5. Smoking Areas in Cigar-Tobacco Bars.

(a) The owner, lessee, principal manager or person in control of a cigar-tobacco bar may designate one smoking area of no more than fifty percent of the square footage of the floor area of the establishment which is open to the public so long as it meets all of the following criteria:

- (1) It is independently ventilated from the non-smoking areas;
- (2) It is physically separated from the non-smoking areas;
- (3) A designated smoking area under this section may not include any waiting area, lobby, hallway, elevator, restroom, or area adjacent to a self-service food line or cash register, and such areas shall also be excluded from the calculation of the square footage of floor area under this subsection;
- (4) Any service or amenity which the establishment chooses to provide to patrons, other than smoking, shall at all times be at least as available in the non-smoking majority portion of the establishment as in the designated smoking area. This requirement includes, without limitation, live entertainment and games; and
- (5) The city manager may make reasonable rules interpreting the terms independently ventilated and physically separated and specifying ventilating and construction measures which will accomplish these goals.

(b) No owner, lessee, principal manager or person in control of a cigar-tobacco bar which designates a smoking area shall fail to maintain it in accordance with the requirements of this chapter.

(c) Independently ventilated shall mean that the ventilation system for the area in which smoking is permitted and the ventilation system for any nonsmoking area do not have a connection which allows the mixing of air into the smoking and nonsmoking areas.

(d) Physically separated means that there are physical barriers such as walls and doors extending from floor to ceiling that prohibit smoke from entering a nonsmoking area.

~~6-4-5.5 Smoking Prohibited on the Mall.~~

~~No person shall smoke on the Mall.~~

6-4-6. Signs Required to Be Posted.

To advise persons of the existence of "No Smoking" or "Smoking Permitted" areas, no owner, lessee, principal manager or person in control of a building, enclosed area or an establishment within a building shall fail to post signs with letters no less than one inch high or symbols no less than three inches high as follows:

- (1) Where smoking is prohibited in the entire establishment, a sign using the words "No Smoking" or the international no-smoking symbol shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building, enclosed area or establishment.
- (2) Where certain areas are designated as smoking areas pursuant to this chapter, a sign using the words "No Smoking Except in Designated Areas" shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment.
- (3) In tobacco stores, a sign shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment using the words "Smoking Permitted: children under eighteen years of age must be accompanied by a parent or guardian."
- (4) A sign using the words "No Smoking within fifteen feet of the entryway" shall be posted conspicuously on all entryways of buildings, enclosed areas or establishments.
- (5) The requirements of this section do not apply to an exempt dwelling or any public areas listed in section 6-4-3.5.

6-4-7. Additional Responsibilities of Proprietors.

- (a) No owner, lessee, principal manager, or person in control of a building or establishment shall fail to:
 - (1) Ask smokers to refrain from smoking in any smoke free area;
 - (2) In a cigar-tobacco bar, affirmatively direct smokers to designated smoking areas; and
 - (3) Use any other means which may be appropriate to further the intent of this chapter.
- (b) No owner, principal manager, proprietor or any other person in control of a business shall fail to ensure compliance by subordinates, employees and agents with both the

restrictions on sale and display of tobacco products contained in section 6-4-8, "Restrictions on Sale and Display of Tobacco Products," B.R.C. 1981, and the restrictions on smoking within fifteen feet of any entryway contained in section 6-4-9, "Entryway," B.R.C. 1981.

6-4-8. Restrictions on Sale and Display of Tobacco Products.

- (a) No person shall furnish to any person who is under eighteen years of age, by gift, sale or any other means, any tobacco product. Before selling to any individual any cigarette or tobacco product, a person shall request from the individual and examine a government issued photographic identification that establishes that the individual is eighteen years of age or older; except that, in face to face transactions, this requirement shall be waived if the individual appears older than thirty years of age.
- (b) No person shall sell or offer to sell any tobacco product by use of a vending machine.
- (c) No person shall stock or display, or sell from a stock or display, tobacco products in a business which sells such products at retail in a manner which makes them accessible to customers without the assistance of an employee. This subsection requires a direct, face-to-face exchange of the tobacco product from an employee to the customer.
- (d) No person shall distribute any tobacco product with-out charge in any public place or at any event open to the public for the purpose of promotion or advertising. No person shall, in any public place or at any event open to the public, distribute any coupon or similar writing which purports to allow the bearer to exchange the same for any tobacco product, either free or at a discount.
- (e) No person shall sell tobacco products except cigars or pipe tobacco in any form or condition other than in the packaging provided by the manufacturer.
- (f) No person shall sell cigarettes except in packs of twenty or more cigarettes per pack.
- (g) It is an affirmative defense to a charge of violating subsection (a) of this section that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the person receiving the prohibited items as being eighteen years of age or older.
- (h) It is a specific defense to a charge of violating subsection (b) of this section that the vending machine was located in a place of work not open to the public where persons under eighteen years of age are not permitted access.
- (i) It is a specific defense to a charge of violating subsection (c) of this section that the store was a tobacco store and no person under the age of eighteen years was within the premises unless actually accompanied by a parent or legal guardian. A tobacco store may use self-service displays of tobacco products so long as it is within the terms of this specific defense.

- (j) It is a specific defense to a charge of violating subsection (c) of this section that the tobacco product was a cigar or pipe tobacco in a locked walk-in humidor, entry into which by the customer required the assistance of an employee and no person under eighteen years of age was in the humidor.
- (k) Monitoring by employee.
 - (1) It is a specific defense to a charge of violating subsection (c) of this section that the tobacco product was a cigar or pipe tobacco in a walk-in humidor which was visually monitored by an employee and no person under eighteen years of age was in the humidor.
 - (2) This defense shall not apply if there have been three convictions of violation of subsection (c) of this section involving the business within any thirty-six month period, based on the dates of the offenses, and the most recent conviction became final no more than five years before the pending violation.

6-4-9. Entryway.

- (a) No person shall smoke within any entryway of a building, enclosed area or common entrance to a multifamily dwelling, except a single family dwelling.
- (b) No owner, principal manager, proprietor or any other person in control of a business shall fail to ensure compliance of this section by subordinates, employees and agents.

6-4-10. City Manager May Issue Rules.

- (a) The city manager may adopt rules regarding the prohibition of smoking pursuant to Chapter 1-4, "Rulemaking," B.R.C. 1981.
- (b) The city manager may adopt rules and regulations that the manager determines are reasonably necessary to implement the requirements of this chapter.

Section 2. [****], B.R.C. 1981, is amended to read:

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made 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 ____ day of _____, 20__.

Attest: Mayor

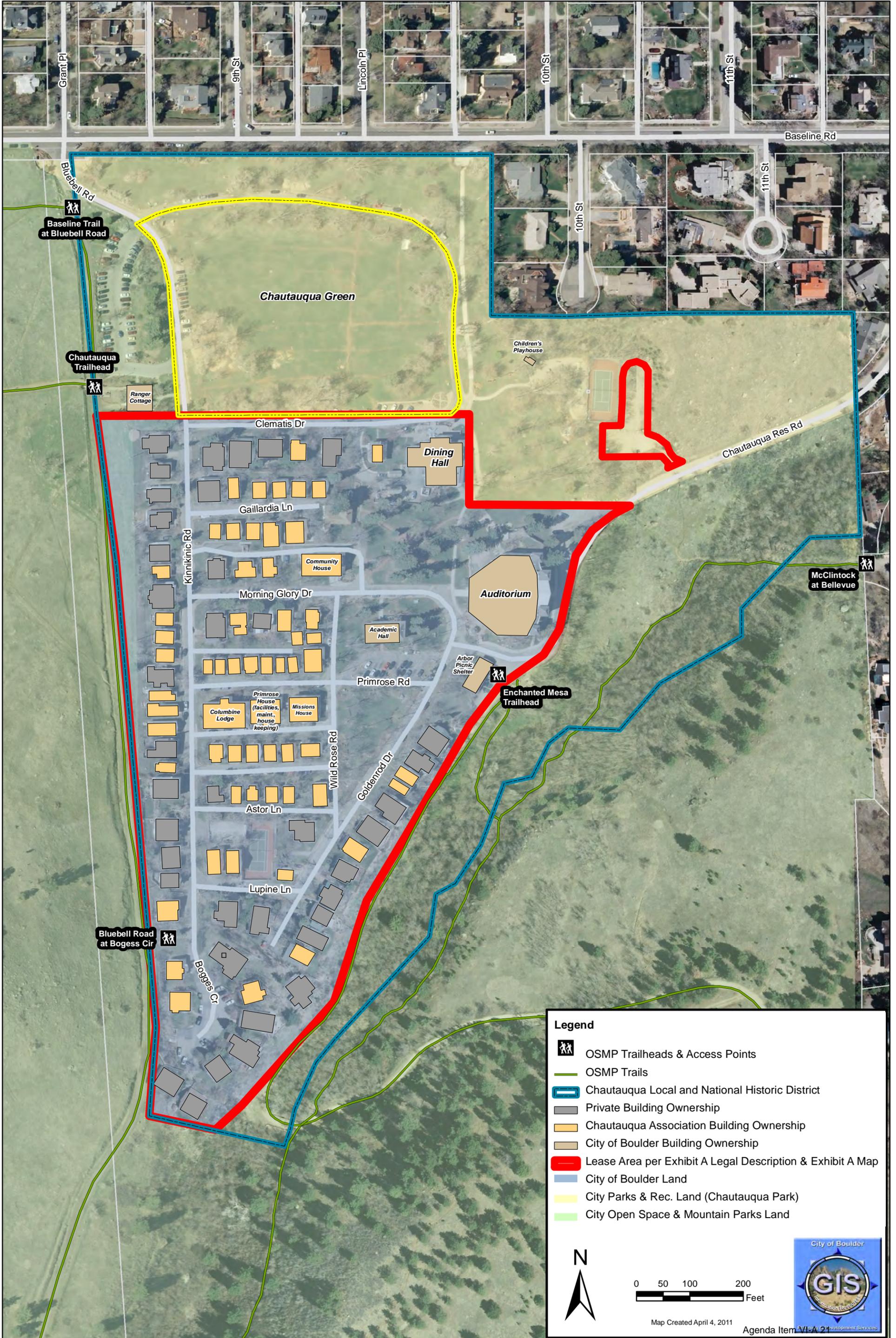
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this ____ day of _____, 20__.

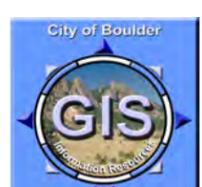
Attest: Mayor

City Clerk

Chautauqua Map



- Legend**
- OSMP Trailheads & Access Points
 - OSMP Trails
 - Chautauqua Local and National Historic District
 - Private Building Ownership
 - Chautauqua Association Building Ownership
 - City of Boulder Building Ownership
 - Lease Area per Exhibit A Legal Description & Exhibit A Map
 - City of Boulder Land
 - City Parks & Rec. Land (Chautauqua Park)
 - City Open Space & Mountain Parks Land



Map Created April 4, 2011

