

Mayor
Aaron Brackett

Council Members
Taishya Adams
Matt Benjamin
Lauren Folkerts
Tina Marquis
Ryan Schuchard
Nicole Speer
Mark Wallach
Tara Winer



Council Chambers
1777 Broadway
Boulder, CO 80302
August 8, 2024
6:00 PM

City Manager
Nuria Rivera-Vandermyde

City Attorney
Teresa Taylor Tate

City Clerk
Elesha Johnson

AGENDA FOR THE SPECIAL MEETING OF THE BOULDER CITY COUNCIL

1. **Call to Order and Roll Call**
2. **Consent Agenda**
 - A. **Consideration of a motion to accept the June 6, 2024 Regular City Council Meeting Minutes**
 - B. **Consideration of a motion to accept the June 20, 2024 Regular City Council Meeting Minutes**
 - C. **Consideration of a motion to authorize the city attorney to initiate and pursue litigation against the United States of America, the Federal Aviation Administration (“FAA”), and Michael G. Whitaker in his official capacity as Administrator of the FAA, to obtain a judicial determination of the duration of the city’s obligation to continue operating the Boulder Municipal Airport.**
3. **Public Hearings**
 - A. **Second reading and consideration of a motion to adopt Ordinance 8637 repealing and reenacting Chapter 10-2.5, “Abatement of Public Nuisances,” B.R.C. 1981, expanding the city’s local nuisance laws to redefine public nuisance and create a chronic nuisance designation and amending Chapter 10-3, “Rental Licenses,” B.R.C. 1981, to align with the changes made to Chapter 10-2.5; and setting forth related details** **90 min**
- 30 min
staff
presenta
/ 60 min
Council
discussi
4. **Matters from the City Manager**
 - A. **Project Update on Access Management and Parking Strategy (AMPS): Code and Policy Enhancements** **90 min**
- 30

5. **Discussion Items**
6. **Debrief**
7. **Adjournment**

3:00 hrs

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This meeting can be viewed at www.bouldercolorado.gov/city-council. Meetings are aired live on Municipal Channel 8 and the city's website and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

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Send electronic presentations to email address: CityClerkStaff@bouldercolorado.gov no later than 2 p.m. the day of the meeting.



COVER SHEET

MEETING DATE

August 8, 2024

AGENDA ITEM

Consideration of a motion to accept the June 6, 2024 Regular City Council Meeting Minutes

PRIMARY STAFF CONTACT

Elesha Johnson, City Clerk

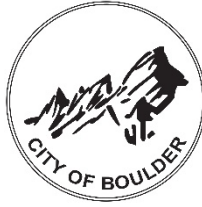
REQUESTED ACTION OR MOTION LANGUAGE

Motion to accept the June 6, 2024 Regular City Council Meeting Minutes

ATTACHMENTS:

Description

- ▣ **Item 2A - DRAFT June 6, 2024 Regular Meeting Minutes**



CITY COUNCIL MEETING

Council Chambers

Thursday, June 6, 2024

MINUTES

1. **Call to Order and Roll Call:**

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present: Adams, Benjamin, Brockett, Folkerts, Marquis, Schuchard, Wallach

Virtually Present: Speer, Winer (joined the meeting at 7:06 p.m.)

Motion	Made By/Seconded	Vote
<p>Motion to AMEND the agenda to REMOVE:</p> <ul style="list-style-type: none"> Item 3C - Consideration of a motion to amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec. XVI. Rules of Decorum – MOVED to the June 13th Study Session for further discussion and June 20th for council action. 	Benjamin / Folkerts	Carried 8:0

A. **Juneteenth Declaration** presented by Council Member Adams

B. **National Gun Violence Awareness Day Declaration** presented by Council Member Benjamin

2. **Open Comment:**

(Public comments are a summary of actual testimony. Full testimony is available on the

council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:06 p.m.

➤ **In-Person (Council Chambers):**

1. ~~Rafael Hernandez Guerrero~~ – *did not show*
2. Harry Ross spoke on emergency medical transport
3. Robert Boutelle spoke on dangers of lead emission from leaded avgas
4. Leslie Glustrom spoke on Boulder Energy Future
5. Michele Rodriguez spoke on general
6. Laura Kaplan spoke on airport neighborhood campaign
7. Lynn Segal spoke on overdevelopment costs
8. Laura Gonzalez spoke on local and national affairs

Due to disruptions in Chambers, the Mayor called a recess at 6:37 p.m. and reconvened the meeting at 6:47 p.m.

9. James Duncan spoke on Terrorism & Peace and Justice: Locally
10. Adilene Marquez spoke on ceasefire in Gaza
11. Philip Ogren spoke on petitioning in Boulder
12. Evan Ravitz spoke on various
13. Padi Fuster Aguilera spoke on los seis de Boulder

➤ **Virtual**

13. Travis LaBerge spoke on arts funding
14. Elise Edson spoke on ballot measure regarding airport closure
15. Aram Bingham spoke on ceasefire

Council member Winer joined the meeting at 7:06 p.m.

16. ~~Incamacion Krodriquez~~ – *did not show*
17. ~~Padi Fuster Aguilera spoke on los seis de Boulder~~ – *moved to in-person*
18. Kevalyn Maw spoke on Global conflict and its local effects
19. Steve Whitaker spoke on climate action
20. Elizabeth McGuire spoke on arts funding

Open Comment **closed** at 7:15 p.m.

Due to disruptions in Chambers, Mayor Brockett called a recess at 7:16 p.m. and Council reconvened at 7:25 p.m.

3. **Consent Agenda**

- A. Consideration of a motion to **accept the May 9, 2024 Study Session Summary regarding the Financial Update & Budget Outlook**
- B. Consideration of a motion to **accept the May 9, 2024 Study Session Summary regarding the 2024 Potential Ballot Items**
- C. **REMOVED BY CAC**
- D. **Introduction**, first reading and consideration of a motion to order published by title only **Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark** under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details. Reviewed under Case Number HIS2023-00262
- E. **Second reading** and motion to **adopt as an emergency measure Ordinance 8633** amending Section 2-1-2, "Council Meetings," B.R.C. 1981 **allowing for regular meetings once a month during the summer months;** and setting forth related details
- F. **Third reading** and consideration of a motion to **adopt Ordinance 8629, repealing the “2020 City of Boulder Energy Conservation Code,”** adopting by reference the **“2024 City of Boulder Energy Conservation Code,”** and amending Title 10, **“Structures,”** B.R.C. 1981, and other sections of the Boulder Revised Code in relation thereto, and setting forth related details

Motion	Made By/Seconded	Vote
Motion to ACCEPT consent agenda items A-B and D-F	Wallach / Marquis	Carried 8:0

4. **Call-Up Check-In**

- A. **Site Review and a Use Review at 3300 Penrose Place for a 100% permanently affordable housing redevelopment with 113 residential units**, an on-site leasing office, and a daycare center (Headstart classroom) with play area. The proposal includes pursuit of landmarking and repurposing of the original portion of the Geological Society of America (GSA) building and developing four additional residential buildings on the site. The proposed daycare requires a Use Review. Reviewed under case no. LUR2023-00044

NO ACTION

5. **Public Hearings**

- A. **Second reading** and consideration of a motion to **adopt Ordinance 8632 approving annual supplemental appropriations to the 2024 Budget**; and setting forth related details

Kara Skinner, Chief Financial Officer and Charlotte Huske, Budget Officer, provided a presentation and answered questions from Council.

The public hearing **opened** at 7:48 p.m. and the following spoke:

- **Virtual:**
 1. ~~Lynn Segal~~ – *did not show*

The public hearing **closed** at 7:48 p.m.

Motion	Made By/Seconded	Vote
Motion to ADOPT Ordinance 8632 approving annual supplemental appropriations to the 2024 Budget ; and setting forth related details	Wallach / Benjamin	Adopted 9:0

- B. **Second reading** and consideration of a motion to **adopt Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain development review processes**, and setting forth related details

Karl Guiler, Senior Policy Advisor, and Lisa Houde, Senior City Planner, provided a presentation and answered questions from Council.

The public hearing **opened** at 8:50 p.m. and the following spoke:

- **In- Person (Council Chambers):**
 1. Jonathan Singer
- **Virtual:**
 2. Lynn Segal
 3. Elisabeth Patterson

The public hearing **closed** at 8:58 p.m.

Motion	Made By/Seconded	Vote
Motion to AMEND and PASS Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain	Folkerts / Brockett	Amended and passed 9:0 – to be scheduled

development review processes, and setting forth related details		for a 3rd reading
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6. **Matters from the City Manager**

7. **Matters from the City Attorney**

8. **Matters from the Mayor and Members of Council**

A. **National Civic League Better Public Meetings Recommendations Discussion**

Sarah Huntly, Director of Communication and Engagement answered questions from Council.

Council directed staff to move forward with the proposed pilot for a community-council forum in lieu of a Study Session.

B. **Extended Summer Recess Discussion**

Council elected to extend the summer recess out to July 14th.

Council also deferred to the Council Agenda Committee the discretion to cancel the July 18th meeting and extending the recess to July 21st.

9. **Discussion Items**

10. **Debrief**

11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 10:27 p.m.**

Approved this 8th day of August 2024.

APPROVED BY:

Aaron Brockett, Mayor

ATTEST:

Elesha Johnson, City Clerk

DRAFT



COVER SHEET

MEETING DATE

August 8, 2024

AGENDA ITEM

Consideration of a motion to accept the June 20, 2024 Regular City Council Meeting Minutes

PRIMARY STAFF CONTACT

Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE

Motion to accept the June 20, 2024 Regular City Council Meeting Minutes

ATTACHMENTS:

Description

- ▣ **Item 2B - DRAFT June 20, 2024 Regular Meeting Minutes**



CITY COUNCIL MEETING

Council Chambers

Thursday, June 20, 2024

MINUTES

1. **Call to Order and Roll Call:**

Mayor Pro Tem Speer called the meeting to order at 6:00 p.m.

Council Members present: Adams, Benjamin, Brockett, Folkerts, Marquis, Schuchard, Speer, Wallach, Winer

Absent: Brockett

A. **Immigrant Heritage Month Declaration** presented by Council member Marquis

B. **Pride Month Declaration** presented by Council member Folkerts

2. **Open Comment:**

(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: <https://bouldercolorado.gov/city-council> > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:12 p.m.

➤ **In-Person (Council Chambers):**

1. Adilene Marquez spoke on ceasefire in Palestine
2. Lucy Carlson-Krakoff spoke on Iris bike lane
3. Glen Marshman spoke on Boulder Airport
4. Tila Duhaime spoke on Iris Avenue
5. Michael Benjamin spoke on general funding for arts
6. Josh Joseph spoke on affordable housing

7. Margot Crowe spoke on increase funding for Arts and Culture
8. Gary Brenner spoke on Gregory Creek Flood Mitigation
9. Gil Gilmore spoke on Boulder Municipal Airport
10. Marcus Popetz spoke on Iris safety improvements
11. Rob Smoke spoke on foreign policy influence
12. Laura Kaplan spoke on Airport Neighborhood Campaign Update
13. Claudia Theim spoke on Open Comment
14. Michele Rodriguez spoke on general

➤ **Virtual**

15. Frances Collins spoke on Boulder tennis
16. Louis Amundson spoke on funding for tennis activities in Boulder
17. Adrian Fine spoke on Iris Ave safety improvements
18. ~~Lynn Segal~~ – *did not show*
19. Sarah Cunningham spoke on general concerns with neighborhood and decrepit properties
20. ~~Alex Abbott~~ – *did not show*

Open Comment **closed** at 6:48 p.m.

3. Consent Agenda

- A. Consideration of a motion to **accept the May 2, 2024 City Council Regular Meeting Minutes**
- B. Consideration of a motion to **accept the May 16, 2024 City Council Regular Meeting Minutes**
- C. Consideration of a motion to **accept the April 25, 2024 Study Session Summary regarding the Zoning for Affordable Housing Phase Two project**
- D. Consideration of a motion to **accept the May 23, 2024 Study Session Summary Regarding the Community Wildlife Protection Plan**
- E. Consideration of a motion to **amend the 2024 Council Meetings Calendar**
- F. Consideration of a motion to **amend Council Rules of Procedure Sec. II. Communications with Council, Sec. IV. Council Meeting Agenda and Sec XVI. Rules of Decorum**
- G. **Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8636, authorizing and directing the acquisition of various property interests, within city limits, by purchase or eminent domain proceedings, for the construction of the Gregory Canyon Creek Flood Mitigation project; and setting forth related details**

- H. Introduction, first reading and consideration of a motion **to order published by title only and adopt by emergency measure Ordinance 8635 adopting Supplement 159** which codifies previously adopted Ordinances as amendments to the Boulder Revised Code, 1981; and setting forth related details
- I. **Second reading and motion adopt Ordinance 8626 designating the North Foothills Habitat Conservation Area** pursuant to Section 8-8-2, “Habitat Conservation Area Designation,” B.R.C. 1981; and setting forth related details
- J. **Third reading and consideration of a motion to adopt Ordinance 8622, amending Title 9, “Land Use Code,” B.R.C. 1981, to simplify certain development review processes,** and setting forth related details
- K. Consideration of a motion **to accept the City Clerk's certification to City Council of sufficient valid signatures on the petition submitted by "Repurpose Our Runways"** to add a new code section 11-4-8 as described in the petition
- L. Consideration of a **motion to accept the City Clerk’s certification to City Council of sufficient valid signatures on the petition submitted by "Runways to Neighborhoods"** to add a new code section 11-4-8 as described in the petition

Motion	Made By/Seconded	Vote
Motion to PASS the consent agenda items A-L	Benjamin / Wallach	Carried 8:0 NAY on 3F: Adams, Folkerts

4. **Call-Up Check-In**

- A. **Concept Plan Review and Comment for a redevelopment proposal of 2555 30th Street.** The proposal includes **demolition of the existing car dealership and redevelopment of the site with residential uses.** The new development **proposes approx. 150 units including studio, one-, two-, and three-bedroom units totaling ranging from studio units to three-bedroom units for a total of 118,927 square feet.** Parking will be located on-site and below grade. Reviewed under case no. LUR2024-00018.

NO ACTION

- B. **Landmark Alteration Certificate application to construct a new two-story building, construct a rear addition to the primary building, and modify an existing accessory building at 1105 Spruce St.,** a contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981

NO ACTION

- C. **Landmark Alteration Certificate application to demolish an existing c. 1990s accessory building, construct a new 1 ½ story, two-car garage, and remodel the existing house at 432 Concord Ave.,** a non-contributing property in the Mapleton Hill Historic District, pursuant to Section 9-11-18 of the Boulder Revised Code 1981

NO ACTION

5. Public Hearings

- A. **Second reading and consideration of a motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark** under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details. Reviewed under case number HIS2023-00262

Marcy Gerwing, City Principal Planner, reviewed the Quasi-judicial procedures, provided a presentation and answered questions from Council.

The public hearing **opened** at 7:22 p.m. and the following spoke:

➤ **Virtual**

- 1. ~~Lynn Segal~~ – *did not show*

The public hearing **closed** at 7:22 p.m.

The owner provided remarks in support of the designation.

Motion	Made By/Seconded	Vote
Motion to adopt Ordinance 8634 designating the property at 904 Mapleton Ave., City of Boulder, Colorado, to be known as the Gardiner-Sandoe House, as an individual landmark under Chapter 9-11, “Historic Preservation,” B.R.C. 1981; and setting forth related details. Reviewed under case number HIS2023-00262	Wallach / Benjamin	Adopted 8:0

B. Boards and Commissions Appointments

Elesha Johnson, City Clerk, provided an application summary and outlined the nomination process.

The public hearing **opened** at 7:27 p.m. and the following spoke:

➤ **Virtual**

1. ~~Lynn Segal~~ – *did not show*

The public hearing **closed** at 7:27 p.m.

Elesha Johnson, City Clerk and John Morse, Elections Administrator provided a presentation of applications for each available board and Council made nominations.

Council Member Benjamin made a motion to approve the appointments as indicated which as seconded by Council Member Folkers. The motion was carried 9:0 and the following appointments were made:

Board or Commission	First Name	Last Name	Appointed/ Seat
Beverage Licensing Authority	Brendan	Hagerty	Seat #5 – 5-year term
Cannabis Licensing Advisory Board	Del	Kreiser	Seat #7 – 1-year term
Design Advisory Board	Harriet	Ingham	Seat #4 – 5-year term
Downtown Management Commission	Andy	Nathan	Seat #3 – 4-year term
	Erica	Dahl	Seat #4 – 5-year term

6. **Matters from the City Manager**

A. **Follow up Discussion with Council on Ballot Measures**

Deputy City Attorney Erin Poe presented each of the 3 proposed ballot measure items, provided background and timeline information, and answered questions from Council.

Council directed the Deputy City Attorney to move forward with preparing the ordinances to have these ballot measures placed on the November 5, 2024 ballot.

7. **Matters from the City Attorney**

8. **Matters from the Mayor and Members of Council**

9. **Discussion Items**

10. **Debrief**

11. **Adjournment**

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Pro Tem Speer at 9:00 p.m.**

Approved this 8th day of August 2024.

APPROVED BY:

Nicole Speer, Mayor Pro Tem

ATTEST:

Elesha Johnson, City Clerk

DRAFT



COVER SHEET

MEETING DATE

August 8, 2024

AGENDA ITEM

Consideration of a motion to authorize the city attorney to initiate and pursue litigation against the United States of America, the Federal Aviation Administration (“FAA”), and Michael G. Whitaker in his official capacity as Administrator of the FAA, to obtain a judicial determination of the duration of the city’s obligation to continue operating the Boulder Municipal Airport.

PRIMARY STAFF CONTACT

Teresa Taylor Tate, City Attorney, 303.441-3020

REQUESTED ACTION OR MOTION LANGUAGE

Motion to authorize the city attorney to initiate and pursue litigation against the United States of America, the Federal Aviation Administration, and Michael G. Whitaker in his official capacity as Administrator of the Federal Aviation Administration, to obtain a judicial determination of the duration of the city’s obligation to continue operating the Boulder Municipal Airport.

ATTACHMENTS:

Description

- **Item 2C - Motion to authorize the city attorney to initiate and pursue litigation to obtain a judicial determination FAA**



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 8, 2024

AGENDA TITLE

Consideration of a motion to authorize the city attorney to initiate and pursue litigation against the United States of America, the Federal Aviation Administration (“FAA”), and Michael G. Whitaker in his official capacity as Administrator of the FAA, to obtain a judicial determination of the duration of the city’s obligation to continue operating the Boulder Municipal Airport.

EXECUTIVE SUMMARY

The city is considering the potential closure and redevelopment of Boulder Municipal Airport. The FAA has asserted that the city’s acceptance of three prior federal grants obligate the city to operate the airport in perpetuity. In order to obtain a judicial determination of the city’s rights and obligations as owner of the airport property, the city attorney has caused the filing of a lawsuit in federal court to quiet title the airport property and to obtain related relief.

Pursuant to B.R.C. § 2-2-14(c), the city attorney may initiate litigation when exigent circumstances exist, and “[a]s soon after initiating such an action as possible, the city attorney shall seek the authorization of the city council or city manager.”

The city manager and city attorney both recommend approval of the lawsuit filed.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to authorize the city attorney to initiate and pursue litigation against the United States of America, the Federal Aviation Administration, and Michael G. Whitaker in his official capacity as Administrator of the Federal Aviation Administration, to obtain a judicial determination of the duration of the city's obligation to continue operating the Boulder Municipal Airport.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – The airport property constitutes a valuable asset of the city, and the lawsuit should result in a judicial determination whether the city must operate the airport in perpetuity or may choose to decommission the airport and redevelop the property after the most recent grant agreement expires in May 2040.
- **Environmental** – The potential closure of the airport may mitigate environmental concerns arising from current airport operations.
- **Social** – The airport currently serves a relatively limited population of aircraft owners and operators. The lawsuit could result in a determination that the city is free to consider other uses for the property in the future that could benefit a wider cross-section of the community.

OTHER IMPACTS

- **Fiscal** – While the course of litigation is difficult to predict, the cost of this litigation is estimated to be \$500,000 - \$750,000, not inclusive of any potential appeals or related proceedings that may be initiated by the FAA.
- **Staff time** – The suit is not expected to consume a great deal of staff time as it primarily presents legal questions, should not involve extensive discovery, and is being handled by outside counsel who are supervised by the city attorney.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

None.

BOARD AND COMMISSION FEEDBACK

None.

PUBLIC FEEDBACK

None.

BACKGROUND

The city has been engaged in a conversation about the future of the Boulder Municipal Airport site. One option considered has been the lawful decommissioning of the airport

when the city's obligation to operate the airport under the terms of grant assurances it made in connection with federal grants expires. The FAA has taken the position that the City is obligated by the terms of previous federal grants to operate the airport in perpetuity and thus may never decommission its municipal airport without the FAA's approval. The city's position is that it is obligated to operate the airport only through May 21, 2040, twenty years after it accepted the last federal grant that contained an assurance that the city would operate the airport for that period of time. The city manager has elected for the time being not to seek additional federal grants that could extend the city's obligation to operate the airport beyond 2040. Through the lawsuit filed in federal court, the city seeks a judicial determination of its rights in the real property comprising the airport and whether it may lawfully close the airport when its most recent grant assurance expires in 2040.

ANALYSIS

The city attorney has determined that the pending federal lawsuit is the best way to resolve the dispute with the FAA over the duration of the city's obligation to operate the airport. Pursuant to B.R.C. § 2-2-14(c), city council or the city manager must approve the city attorney's decision to initiate litigation.

NEXT STEPS

None at this time.

ATTACHMENT

Attachment A – Complaint *City of Boulder v. United States of America, et al.*, United States District Court, District of Colorado Case No. 1:24-cv-02057-NYW-MEH.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 24-2057

CITY OF BOULDER, a home rule municipality established
under the Constitution and laws of the State of Colorado,

Plaintiff,

v.

UNITED STATES OF AMERICA,
the FEDERAL AVIATION ADMINISTRATION, an agency of
the U.S. Department of Transportation, and
MICHAEL G. WHITAKER, in his official capacity as
Administrator of the Federal Aviation Administration,

Defendants.

COMPLAINT

Plaintiff City of Boulder (the “City”), by and through its undersigned attorneys, bring this
action against Defendants United States of America, the Federal Aviation Administration
(the “FAA”), and Michael G. Whitaker, Administrator of the FAA, in his official capacity.

NATURE OF THE ACTION

1. In response to a dwindling supply of affordable housing, mounting concern
regarding noise and other environmental impacts associated with aircraft operations at the Boulder
Municipal Airport (the “Airport”), and potential liability arising from its ownership and operation
of the Airport, the City is considering the closure and redevelopment of the Airport.

2. Like many public airports, the City has previously accepted grants from the FAA to maintain the Airport, and the terms of such grant agreements generally obligate the City to keep the Airport open as an airport for a maximum term of 20 years.

3. Accordingly, the City has stopped accepting grants – and has elected to carry the considerable cost of operating the Airport on its own – in order that it may lawfully close the Airport when its most recent grant agreement expires in 2040.¹

4. But the FAA claims that because three prior grants – all accepted between 30 and 65 years ago – were for the acquisition of real property, the City is obligated to operate the Airport *in perpetuity*, unless the FAA – and only the FAA – says otherwise.

5. The FAA’s position is not only inconsistent with the express terms of its grant agreements with the City but is also an unconstitutional overreach – in violation of the separation of powers doctrine, the Spending Clause, and the Fifth and Tenth Amendments – that wrests from the City its ability to provide for the public health, safety, and welfare of its citizens, and clouds the City’s fee simple title to the property comprising the Airport. Declaratory and injunctive relief from this Court is required to permit the City to dispose of the Airport as it deems appropriate.

PARTIES

Plaintiff

6. The City is a home rule municipality established under the Constitution and laws of the State of Colorado and is located in Boulder County, Colorado. The City is the owner and

¹ The City previously reported that its most recent grant agreement would expire in 2041. However, as discussed below, its most recent grant under the Airport Improvement Program was accepted in May 2020. The 2021 grant agreement executed under the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act did not operate to extend the City’s grant assurance obligations.

operator of the Airport and the “legal sponsor” for purposes of receiving federal assistance from the FAA under the FAA’s Airport Improvement Program (“AIP”).

Defendants

7. Defendant United States of America is a sovereign nation established under the Constitution of the United States and has claimed an interest in the property comprising the Airport through its agencies and officers, including the FAA.

8. Defendant FAA is the agency of the United States responsible for the oversight of airports and the administration of the AIP, as well as certain other grants-in-aid programs previously established by the FAA and its predecessor agencies.

9. Defendant Michael G. Whitaker is the Administrator of the FAA, named in his official capacity. The Administrator is responsible for administering the AIP, including through delegated authority from the U.S. Secretary of Transportation.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over the claims asserted in the First Claim for Relief pursuant to the provisions of 28 U.S.C. § 1346(f) and the Quiet Title Act, 28 U.S.C. § 2409a, under which the United States has waived sovereign immunity with respect to such claims seeking adjudication of title to real property in which the United States has claimed an interest.

11. This Court has subject matter jurisdiction over the claims asserted in the Second through Fifth Claims for Relief pursuant to the provisions of 28 U.S.C. § 1331, as the claims arise under the Constitution and laws of the United States.

12. To the extent that any of the claims or allegations asserted herein arise under the laws of the State of Colorado, this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) because such claims form part of the same case or controversy.

13. This Court may issue declaratory relief pursuant to 28 U.S.C. § 2201(a).

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e), in that Defendant FAA is an agency of the United States which maintains an office within this District, a substantial part of the events or omissions giving rise to this action occurred in this District, and all of the property that is the subject of this action is located in this District.

15. The City has standing because it is the fee simple owner of the property comprising the Airport in which the FAA claims a perpetual interest, and because the FAA's asserted interest intrudes on the City's sovereign authority to regulate the use of land and dispose of its property. The City has elected to forego any further federal grant funds and to bear the substantial expense of maintaining the Airport in accordance with its federal obligations on its own, in order that it may choose to close and redevelop the Airport, with or without the FAA's permission, when its most recent grant agreement expires in 2040.

16. Declaratory and injunctive relief would redress the City's injuries by enabling it to exercise its sovereign authority without federal interference and by confirming the City's authority to close and dispose of the Airport when its most recent grant agreement with the FAA expires.

FACTUAL BACKGROUND

17. The Airport was initially developed in the 1920s as a small, dirt landing strip known as "Hayden Field" by the Silver Wing Aircraft Company.

18. In 1943, the City purchased approximately 36 acres of the property comprising Hayden Field and renamed it the Boulder Municipal Airport.

19. Beginning in 1958, the City sought to improve the Airport by lengthening the runway and acquiring additional property to expand the Airport's facilities. The City applied for and obtained a grant from the Civil Aeronautics Administration, a predecessor agency to the FAA, under the Federal Aid to Airports Program ("FAAP") to acquire property identified as "Parcel A," as well as "clear zone easements" on each end of the Airport's runway (the "1959 Grant Agreement," attached as Exhibit 1).

20. The City acquired "Parcel A" in fee simple in 1959 for \$5,000 (Exhibit 2).

21. The City acquired the "clear zone easements" by order of condemnation dated March 27, 1963 (Exhibit 3). The City paid a total of \$1,000 in just compensation. The eastern clear zone easement was later extinguished due to the City's acquisition in fee simple of the property underlying the eastern clean zone easement.

22. The 1959 Grant Agreement, executed on June 3, 1959, provides that it shall "remain in force and effect throughout the useful life of the facilities developed under the Project but *in any event not to exceed twenty years from the date of said acceptance*" (emphasis added).

23. Accordingly, the 1959 Agreement expired not later than June 3, 1979.

24. In 1977, the City applied for and obtained from the FAA a grant under the Airport Development Aid Program ("ADAP") to acquire an 8.45-acre parcel for the protection of aircraft on approach to the Airport's runway (the "1977 Grant Agreement," attached as Exhibit 4).

25. The City acquired such parcel in fee simple for \$120,000 (Exhibit 5).

26. The 1977 Grant Agreement, executed on September 27, 1977, provides that it shall “remain in force and effect throughout the useful life of the facilities developed under the Project but *in any event not to exceed twenty years from the date of said acceptance*” (emphasis added).

27. Accordingly, the 1977 Agreement expired not later than September 27, 1997.

28. In 1991, the City undertook a project to realign the taxiway that ran alongside the Airport’s runway. The City applied for and obtained from the FAA a grant under the AIP. The grant was subsequently amended to also include the City’s acquisition of a necessary “construction easement” (the “1991 Grant Agreement,” attached as Exhibit 6).

29. The City acquired the construction easement, permitting the City to construct and maintain a berm on the servient estate to support a taxiway on the Airport (Exhibit 7), for \$5,800.

30. By this time, the FAA had adopted standard assurances that were incorporated by reference into each grant agreement. In 1980, these assurances were “revised to provide that the 20-year limitation on the effectiveness of the assurances does not apply to those affecting the use of real property acquired with Federal funds.” 45 Fed. Reg. 34,782, 34,784 (May 22, 1980). Rather, the FAA stated that the assurances set forth in future grant agreements for the acquisition of land would apply in perpetuity, unless and until released by the FAA.

31. As a result, and as further explained below, the FAA takes the position that an airport sponsor which accepted a grant for the acquisition of land after 1980 remains obligated to *operate* the airport in perpetuity, unless and until released by the FAA.

32. The 1991 Grant Agreement does not contain any durational language but incorporates by reference the AIP grant assurances promulgated by the FAA. In 1991, such grant assurances provided (as they continue to provide today):

The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise program implementation project, or throughout the useful life of the project items installed within a facility under a noise program implementation project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurance against exclusive rights or the terms, conditions, and assurances with respect to real property acquired with Federal funds.

33. The City reasonably understood the durational language “with respect to real property acquired with Federal funds” to *not* include the acquisition of the construction easement, but rather only the acquisition of land. Indeed, to the City’s knowledge, the FAA had never taken the position prior to 1991 (or any other time prior to March 2024) that the federally assisted acquisition of an easement would obligate an airport sponsor to operate an airport in perpetuity.

34. The City would not and did not agree to obligate itself to operate the Airport in perpetuity in exchange for a mere \$5,800 in federal assistance to acquire the easement.

35. The City executed the 1991 Grant Agreement on September 20, 1991. Accordingly, the 1991 Grant Agreement expired not later than September 20, 2011.

36. The 1959 Grant Agreement and the 1977 Grant Agreement are the only grant agreements through which the FAA provided the City funds to acquire property to be used for airport purposes. As discussed above, the 1991 Grant Agreement related to the acquisition of an off-Airport easement, not the acquisition of real property within the meaning of the grant assurances.

37. The Airport comprises several other parcels which were acquired *without* federal assistance. The City is required by its federal grant assurance obligations to maintain and

periodically submit for the FAA's approval an Airport Property Map, which inventories all property comprising the Airport. The most recent FAA-approved Airport Property Map is attached as Exhibit 8, and identifies each of the above-referenced parcels as follows:

a. The property acquired pursuant to the 1959 Grant Agreement described above is identified on the Airport Property Map as Tract 1.

b. The western clear zone easement acquired pursuant to the 1959 Grant Agreement described above is identified on the Airport Property Map as Tract 5-I.

c. The property acquired pursuant to the 1977 Grant Agreement described above is identified on the Airport Property Map as Tract 4-I.

d. The construction easement acquired pursuant to the 1991 Grant Agreement described above is identified on the Airport Property Map as Tract 12.

38. The FAA claims that if *any* portion of an airport is federally obligated, then the *entire* Airport, as described on the Airport Property Map, is federally obligated.

39. Notably, the construction easement acquired pursuant to the 1991 Grant Agreement is *not* described as lying within obligated Airport property boundaries.

40. The City has continuously operated the Airport in accordance with its federal grant assurance obligations. Such obligations require the City to maintain the Airport in accordance with federal standards and, in most years, the City of Boulder has accepted federal and state grant funds to help defray the substantial cost of maintaining the Airport.

41. The last FAA grant accepted by the City is dated May 21, 2020.

42. The City's grant assurance obligations require, among other things, that the Airport remains continuously open as an airport. For as long as an airport remains grant obligated, an

airport sponsor may not close the airport unless “released” from its grant assurance obligations by the FAA. The FAA has explained that it will only consider releasing an airport sponsor from such obligations where this is a net benefit to civil aviation. The FAA has further stated that it would not consider the closure of the Airport to benefit civil aviation.

43. In anticipation of the expiration of the City’s grant agreements with the FAA and, with them, the FAA’s authority to approve or deny closure of the Airport, the City has stopped accepting FAA grants so as not to restart the 20-year clock on its federal grant assurance obligations. The City also stopped accepting grants from the Colorado Department of Transportation, which have similar requirements expressly limited to 20 years.

44. The City’s decision to forego further federal and state grant funds has substantial financial consequences. Based on a report prepared by the City’s consultant, the City believes that without any federal or state grant assistance, it may cost more than \$41 million to operate and manage the Airport in accordance with the City’s federal grant assurance obligations through the expiration of its most recent grant agreement with the FAA, whereas with federal and state grant assistance, the Airport would be financially self-sufficient and maintain a positive net position.

45. On December 9, 2022, the FAA issued “Change 2” to FAA Order 5190.6B, *Airport Compliance Manual*, which establishes the FAA’s interpretation and administration of the federal grant assurances. Change 2 added new paragraph 4.3(a) stating, *for the very first time*, the FAA’s assertion that the acceptance of *any* ADAP or AIP grant after 1980 obligates an airport sponsor to maintain its airport in perpetuity if property had *ever* been acquired with federal assistance. In other words, Change 2 establishes the FAA’s position that an airport sponsor’s acceptance of any

modern FAA grant agreement operates to revive and retroactively modify the duration of all prior grant agreements under which land was acquired for airport purposes.

46. Change 2 is inconsistent with the City’s understanding as to when its federal grant assurance obligations would expire (i.e., on May 21, 2040). Indeed, prior to Change 2, the FAA’s Airport Compliance Manual provided, “In cases where land was acquired with FAAP or ADAP grants, FAA should review the language of such grants when it is necessary to determine the status of the sponsor’s obligations since most FAAP land grants and some ADAP grant documents do *not* impose a perpetual obligation” (emphasis added).

47. Change 2 was issued over 25 years after the expiration of the 1977 Grant Agreement, the City’s last grant agreement for the acquisition of land for airport purposes.

48. Change 2 also claimed, “The public has been on notice [of the FAA’s position] since at least 1980.” But the FAA’s 1980 modification of the ADAP grant assurances did *not* purport to retroactively modify the duration of earlier grant agreements. At most, the FAA’s 1980 modification of the ADAP grant assurances stated a policy that would apply to any future grants for the acquisition of land for airport purposes.

49. In August 2023, representatives of the City met with the FAA to discuss, among other things, the City’s desire to close and repurpose the Airport. The FAA indicated that it would not be willing to release the City from its grant assurance obligations and asserted that such grant assurance obligations would apply in perpetuity.

50. On January 25, 2024, the City wrote to the FAA, asking it to clarify the basis upon which the FAA asserted the grant assurances would apply in perpetuity.

51. FAA responded on March 20, 2024, confirming its position that because the City had accepted an AIP grant after 1980, it was obligated to maintain the Airport in perpetuity. The FAA based its conclusion on the new language contained in Change 2.

52. The City presently faces a quandary as a result of its desire to consider closing and redeveloping the Airport and the FAA's position articulated through Change 2. In order to preserve the option of closing the Airport, the City must forego any additional federal grant assistance and continue to operate the Airport in accordance with its federal obligations, at substantial expense to the City and its taxpayers, through the expiration of the most recent FAA grant agreement in 2040. But the FAA claims that the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement not only remain in effect but will *never* expire; thus, the City may find in 2040 that despite foregoing new federal grant assistance, it remains prohibited from closing the Airport, and its expenditure of significant taxpayer dollars will have been in vain. The Court's assistance is necessary to resolve the present dispute over the duration of the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement now and avoid the potentially wasteful expenditure of taxpayer funds.

FIRST CLAIM FOR RELIEF
(Quiet Title Action Under 28 U.S.C. § 2409a)

53. The allegations set forth in paragraphs 1 through 52 above are fully incorporated herein by reference and made part of this First Claim for Relief.

54. The City is the owner in fee simple of the property comprising the Airport, including those tracts acquired with federal assistance from the FAA and its predecessor agencies.

55. Through the FAA, the United States claims a perpetual interest in the property comprising the Airport. Specifically, the FAA claims that the assurances set forth in the 1959

Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement apply in perpetuity. The FAA further claims that such assurances require the City to continue operating the Airport as an airport, unless and until the FAA releases the City from such obligation.

56. The FAA’s asserted interest constitutes a clear and substantial cloud on the City’s legal title to the property comprising the Airport. Unless otherwise permitted by the FAA, the City is forever prohibited from selling the property comprising the Airport or using any portion of Airport property for other than airport purposes.

57. The FAA’s asserted interest is in conflict with the plain language of the 1959 Grant Agreement and 1977 Grant Agreement, each of which *expressly* expired after 20 years.

58. The 1991 Grant Agreement also expired after 20 years because the durational language regarding acquisitions of “real property” did not apply to the acquisition of an off-Airport construction easement for \$5,800.

59. Insofar as the FAA attempts to retroactively impose an obligation to continue operating the Airport as an airport in perpetuity through the 1959 Grant Agreement, the 1977 Grant Agreement, and/or the 1991 Grant Agreement, the FAA’s asserted interest violates the Separation of Powers doctrine and the Spending Clause of the U.S. Constitution.

60. Prior to issuing Change 2 to the Airport Compliance Manual in 2022, the FAA had never asserted that the acceptance of an ADAP or AIP grant after 1980 operated to retroactively extend the duration of a prior grant for the acquisition of real property in perpetuity. Indeed, prior to Change 2, the FAA clearly believed that “most FAAP land grants and some ADAP grant documents do *not* impose a perpetual obligation.” FAA Order 5190.6B, Change 1 ¶ 4.3.

61. Prior to the FAA’s March 2024 letter, the FAA had never asserted that the City’s acquisition of a mere construction easement with federal assistance would obligate the City to operate the Airport in perpetuity, and the City did not understand the 1991 Grant Agreement to have such effect (and it did not have such effect). The FAA has routinely approved documents indicating the construction easement is not even considered part of the obligated Airport property.

62. The FAA’s asserted interest places the City’s fee simple title to the property comprising the Airport in dispute, and does not “peaceably coexist” with the City’s present intention and course of action to preserve its authority to close the Airport.

63. The City requests that the Court quiet title in the property comprising the Airport by declaring that the 1959 Grant Agreement, 1977 Grant Agreement, and 1991 Grant Agreement have each expired, and the FAA has no continuing interest in the Airport thereunder.

SECOND CLAIM FOR RELIEF
(Violation of the U.S. Constitution; Separation of Powers Doctrine)

64. The allegations set forth in paragraphs 1 through 63 above are fully incorporated herein by reference and made part of this Second Claim for Relief.

65. Under the U.S. Constitution, “Congress may attach conditions on the receipt of federal funds and has repeatedly employed the power ‘to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives.’” *South Dakota v. Dole*, 483 U.S. 203, 206-07 (1987).

66. However, a federal agency “literally has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986).

67. In authorizing the FAAP, ADAP, and AIP programs, under which the 1959 Grant Agreement, 1977 Grant Agreement, and 1991 Grant Agreement were respectively awarded,

Congress did not expressly authorize the FAA to impose otherwise statutorily mandated grant conditions in perpetuity with respect to land acquisitions. Indeed, the authorizing statutes for these programs are *completely silent* as to the duration of grant agreements issued thereunder.

68. Congress did not (and could not) delegate such sweeping policymaking authority to the FAA through its silence. As evidenced by the present controversy involving the future of the Airport, the imposition of a *permanent and irrevocable* commitment to continue operating an airport within a municipality carries significant political and economic consequences, such that Congress must “clearly” confer such authority on the FAA. And it did not.

69. In the absence of any express or implied authority to impose the statutorily mandated grant assurances in perpetuity, the City requests that the Court declare the FAA’s *ultra vires* policy with respect to the duration of grant agreements for the acquisition of land to be unconstitutional under the Separation of Powers doctrine.

THIRD CLAIM FOR RELIEF
(Violation of the U.S. Constitution; Spending Clause)

70. The allegations set forth in paragraphs 1 through 69 above are fully incorporated herein by reference and made part of this Third Claim for Relief.

71. Even where Congress lawfully delegates authority to a federal agency to impose further funding conditions, the range of permissible conditions is not unlimited. Chief among such constitutional constraints is the requirement that funding conditions be clear and unambiguous, such that a grantee must “voluntarily and knowingly accept[] the terms of the ‘contract.’” *Pennhurst State Sch. and Hosp. v. Halderman*, 451 U.S. 1 (1981).

72. The FAA’s imposition of retroactive conditions necessarily violates this constitutional principle. The City did not and could not know that by executing a grant agreement

for the acquisition of property in 1957, 1977, and 1991, the FAA would later assert that the City was obligated to continue operating the Airport in perpetuity.

73. The 1959 Grant Agreement and the 1977 Grant Agreement were expressly limited to a maximum term of 20 years. Contrary to the FAA’s assertion in Change 2, the FAA’s 1980 change to the standard grant assurances did not put airport sponsors on notice that the acceptance of any further grants would extend prior grant agreements for the acquisition of land in perpetuity.

74. Although the 1991 Grant Agreement incorporated the FAA’s standard grant language providing that grants for the acquisition of land were not subject to the typical 20-year term, the FAA’s contemporaneous guidance referred to the perpetual obligation as only applying to the acquisition of *land*, which the City understood not to apply to the acquisition of an easement. Indeed, prior to the FAA’s March 20, 2024 letter, the agency had never claimed that the acquisition of an easement would alone obligate an airport sponsor to operate an airport in perpetuity.

75. Moreover, the FAA did not appear to believe that the 1991 Grant Agreement obligated the City to operate the Airport in perpetuity. The City was regularly required to submit for the FAA’s approval an “Airport Property Map,” which describes all of the property comprising the Airport. Over the years, the FAA-approved Airport Property Maps have never depicted the construction easement as constituting Airport property. Moreover, the FAA’s position that grant agreements do not expire with respect to the acquisition of property is based on the notion that underlying land “always has had an unlimited useful life,” which cannot be said of an easement to construct and maintain a berm; rather, its useful life expires when the berm is no longer needed to support Airport operations because the Airport has closed.

76. The City’s inability to “knowingly accept” the conditions that the FAA now seeks to impose renders the FAA’s position constitutionally invalid.

FOURTH CLAIM FOR RELIEF
(Violation of the U.S. Constitution; Anticommandeering Doctrine)

77. The allegations set forth in paragraphs 1 through 76 above are fully incorporated herein by reference and made part of this Fourth Claim for Relief.

78. Congress’ legislative authority is limited to those enumerated powers set forth in the U.S. Constitution. Under the Tenth Amendment to the U.S. Constitution, all other legislative powers are reserved to the States or the people. The anti-commandeering doctrine protects this system of dual federalism by prohibiting the federal government from commandeering or otherwise requiring state or local governments to implement a federal program.

79. By asserting a perpetual interest which allows it to forever control the disposition of all property comprising the Airport, the FAA has effectively commandeered the City to continue operating the Airport for as long as the FAA – and only the FAA – determines appropriate.

80. The FAA’s asserted interest violates the basic principle that the United States may not compel the City to administer a federal regulatory program and violates the Tenth Amendment rights of the City and its citizens. Indeed, as a result of the City’s decision to accept federal funds *over thirty years ago*, the FAA now claims that the City is *forever* obligated to maintain the Airport, regardless of the present or future desires of the City or its citizens. Such a policy impermissibly strips from the City the fundamental right to regulate the use of its public property.

81. Moreover, the FAA’s policy goes far beyond that which is necessary to protect its prior federal investment in property. Statutory provisions provide – and the City does not dispute

– that the City must reimburse the FAA for its proportional share of any property acquired with federal assistance in the event that it is no longer used for airport purposes.

82. By using the AIP to commandeer the City’s sovereign authority over the use and disposition of its property *in perpetuity*, the FAA goes well beyond Congress’ enumerated powers in violation of the Tenth Amendment.

FIFTH CLAIM FOR RELIEF
(Violation of the U.S. Constitution; Due Process Clause)

83. The allegations set forth in paragraphs 1 through 82 above are fully incorporated herein by reference and made part of this Fifth Claim for Relief.

84. The Fifth Amendment to the U.S. Constitution provides that “[n]o person shall be . . . deprived of life, liberty, or property without due process of law.”

85. The City has an established and protected property interest in the property comprising the Airport, which it has at all times owned in fee simple.

86. By asserting a perpetual interest which allows it to control the disposition of all property comprising the Airport, the FAA has unlawfully deprived the City of its fee simple ownership in violation of the Due Process Clause.

87. The City also has a protected property interest in the terms of the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement, all of which expired not later than 20 years after their execution. The FAA’s attempt to retroactively extend the duration of these agreements impairs the City’s rights thereunder in violation of the Due Process clause.

PRAYER FOR RELIEF

WHEREFORE, the City requests that the Court:

- a. Declare the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement to have each expired and to be of no further force and effect;
- b. Declare that the City is not obligated to keep the Airport open after the expiration of its last grant agreement with the FAA on May 21, 2040;
- c. As applied to the City, declare the FAA’s position described in in Paragraph 4.3(a) of Change 2 and the March 20, 2024 letter regarding the perpetual duration of the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement unconstitutional, in violation of the Separation of Powers doctrine;
- d. As applied to the City, declare the FAA’s position described in Paragraph 4.3(a) of Change 2 and the March 20, 2024, letter regarding the retroactive extension of the 1959 Grant Agreement, the 1977 Grant Agreement, and the 1991 Grant Agreement, by virtue of having accepted subsequent AIP grants, in excess of the FAA’s statutory authority and unconstitutional, in violation of the Spending Clause and the Fifth and Tenth Amendments to the U.S. Constitution;
- e. Enjoin the Defendants from taking any action to enforce the 1959 Grant Agreement, the 1977 Grant Agreement, and/or the 1991 Grant Agreement, or otherwise prevent the City from exercising its right to close the Airport after its obligations under later grant agreements expire;
- f. Award the City the costs of this action and reasonable attorney’s fees; and
- g. Award such other and further relief as the Court determines is just and proper.

Attachment A – Complaint City of Boulder v.
United States of America, et al.,
United States District Court, District of Colorado
Case No. 1:24-cv-02057-NYW-MEH.

Respectfully submitted this 26th day of July, 2024, in Denver, Colorado.

By: /s/ Steven L. Osit
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Attorneys for City of Boulder

Exhibit 1

THE ADMINISTRATOR, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the CIVIL AERONAUTICS ADMINISTRATION WASHINGTON 25

GRANT AGREEMENT

1. The maximum obligation of the United States payable under this Offer shall be \$52,000.00 Part I - Offer

2. The Sponsor shall Date of Offer May 20, 1959 Boulder Municipal Airport Project No. 9-05-029-5901 Contract No. FA4-195

TO: The City of Boulder, Colorado

(herein referred to as the "Sponsor")

FROM: The United States of America (acting through the Administrator of the Civil Aeronautics, herein referred to as the "Administrator")

WHEREAS, the Sponsor has submitted to the Administrator a Project Application dated May 20, 1958 for a grant of Federal funds for a project for development of the Boulder Municipal Airport (herein called the "Airport"), together with plans and specifications for such project, which Project Application, as approved by the Administrator, is hereby incorporated herein and made a part hereof; and

WHEREAS, the Administrator has approved a project for development of the Airport (herein called the "Project") consisting of the following described airport development:

- Land acquisition (Parcel A and clear zone easements each end E/W runway); construct E/W runway (approximately 4100' x 75'); relocate existing fence (approximately 1960') and install new fence (approximately 2930')

5. Any misrepresentation or omission of a material fact by the Sponsor concerning the Project or the Sponsor's authority or ability to carry out the obligations assumed by the Sponsor in accepting this Offer shall terminate the obligation of the United States, and it is understood and agreed by the Sponsor in accepting this Offer that if a material fact has been misrepresented or omitted by the Sponsor, the Administrator on behalf of the United States may recover all grant payments made.

all as more particularly described in the property map and plans and specifications incorporated in the said Project Application;

NOW THEREFORE, pursuant to and for the purposes of carrying out the provisions of the Federal Airport Act (60 Stat. 170; Pub. Law 377, 79th Congress), and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application, and its acceptance of this Offer, as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and the operation and maintenance of the Airport, as herein provided,

THE ADMINISTRATOR, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States' share of costs incurred in accomplishing the project, 53.28 per centum of all allowable project costs, subject to the following terms and conditions:

1. The maximum obligation of the United States payable under this Offer shall be **\$52,866.00**
2. The Sponsor shall
 - (a) begin accomplishment of the Project within a reasonable time after acceptance of this Offer, and
 - (b) carry out and complete the Project in accordance with the terms of this Offer, and the Federal Airport Act and the Regulations promulgated thereunder by the Administrator in effect on the date of this Offer, which Act and Regulations are incorporated herein and made a part hereof, and
 - (c) carry out and complete the Project in accordance with the plans and specifications and property map incorporated herein as they may be revised or modified with the approval of the Administrator or his duly authorized representatives.
3. The Sponsor shall operate and maintain the Airport as provided in the Project Application incorporated herein.
4. **The Administrator having determined that no space in airport buildings will be required by any civil agency of the United States for the purposes set forth in Paragraph 9 of Part III of the Project Application, the provisions of said paragraph shall be deemed to be of no force or effect.**
5. Any misrepresentation or omission of a material fact by the Sponsor concerning the Project or the Sponsor's authority or ability to carry out the obligations assumed by the Sponsor in accepting this Offer shall terminate the obligation of the United States, and it is understood and agreed by the Sponsor in accepting this Offer that if a material fact has been misrepresented or omitted by the Sponsor, the Administrator on behalf of the United States may recover all grant payments made.
6. The Administrator reserves the right to amend or withdraw this Offer at any time prior to its acceptance by the Sponsor.
7. This Offer shall expire and the United States shall not be obligated to pay any of the allowable costs of the Project unless this Offer has been accepted by the Sponsor within 60 days from the above date of Offer or such longer time as may be prescribed by the Administrator in writing.

16-54957-2

Form ACA-1632
(5-49)

*Satisfied
Per WF - J
Opinions dated
6-24-64*

8. It is hereby understood and agreed by and between the parties hereto that the sponsor will acquire a fee title or such lesser property interests as may be found satisfactory to the Administrator to those two areas identified as "clear zones" on the property map attached hereto and identified as Exhibit "A"; and that the United States will not make nor be obligated to make any payments involving said "clear zones" nor final payment hereunder, until the sponsor has submitted evidence that it has acquired a fee title or such lesser property interest as may be found satisfactory to the Administrator in and to the land comprising said "clear zones" subject to no liens, encumbrances, reservations or exceptions which in the opinion of the Administrator might create an undue risk of interference with the use and operation of the airport.

9. By its acceptance hereof, the sponsor hereby covenants that to the extent it has or may have either present or future control over each area identified on the Exhibit "A" as "clear zone", and unless exceptions to or deviations from the following obligations have been granted to it in writing by the Administrator, it will clear said area or areas of any existing structure or any natural growth which constitutes an obstruction to air navigation within the standards established by Federal Aviation Agency Technical Standard Order N18; and the sponsor further covenants that it will control the subsequent erection of structures and control natural growth to the extent necessary to prevent the creation of obstructions within said standards.

10. It is understood and agreed by and between the parties hereto that the terms "Administrator of Civil Aeronautics", "Administrator", "Civil Aeronautics Administration", "Department of Commerce", "CAA" or "Section 303 of the Civil Aeronautics Act of 1938" wherever they appear in this Agreement, in the Project Application, plans and specifications or in any other documents constituting a part of this Agreement shall be deemed to mean the Federal Aviation Agency or the Administrator thereof or Section 308(a) of the Federal Aviation Act of 1958, as the case may be.

CERTIFICATE OF SPONSOR'S ATTORNEY.

I, _____, being an Attorney for _____ do hereby certify:

That I have examined the foregoing Grant Agreement and the proceedings taken by said _____ relating thereto, and find that the Acceptance thereon by said _____ has been duly authorized and that the execution thereof is in all respects legal and proper and in accordance with the laws of the State of _____ and further that, in my opinion, said Grant Agreement constitutes a legal and binding obligation of the City of _____ in accordance with the terms thereof.

Dated at _____ this _____ day of _____ 1964.

Title _____

Exhibit 1

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and said Offer and acceptance shall comprise a Grant Agreement, as provided by the Federal Airport Act, constituting the obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and the operation and maintenance of the Airport. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer and shall remain in full force and effect throughout the useful life of the facilities developed under the Project but in any event not to exceed twenty years from the date of said acceptance.



UNITED STATES OF AMERICA
~~THE ADMINISTRATOR OF CIVIL AERONAUTICS~~

By [Signature]
Regional Administrator, Region IV (IA)
FEDERAL AVIATION AGENCY

Part II - Acceptance

The **City of Boulder, Colorado** does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept said Offer and by such acceptance agrees to all of the terms and conditions thereof.

Executed this 3rd day of June 1959.

THE CITY OF BOULDER, COLORADO
(Name of Sponsor)

By [Signature]
Title Mayor, City of Boulder, Colorado

(SEAL)

Attest: [Signature]
Title: Dir. of Finance

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Guy A. HOLLENBECK, acting as Attorney for City of Boulder, do hereby certify:

That I have examined the foregoing Grant Agreement and the proceedings taken by said City of Boulder relating thereto, and find that the Acceptance thereof by said City of Boulder has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of Colorado, and further that, in my opinion, said Grant Agreement constitutes a legal and binding obligation of the City of Boulder, Colorado in accordance with the terms thereof.

Dated at Boulder, Colorado this 3rd day of June 1959.

[Signature]
Title City Attorney

BOOK 1100 PAGE 600

Filed for record the 6th day of Feb. A. D. 19 59 9:56 A.

Exhibit 2

No. 628456 MILTON E. ISCHICHE RECORDER.

Know all Men by these Presents, That I, _____

MICHAEL L. STENDEL

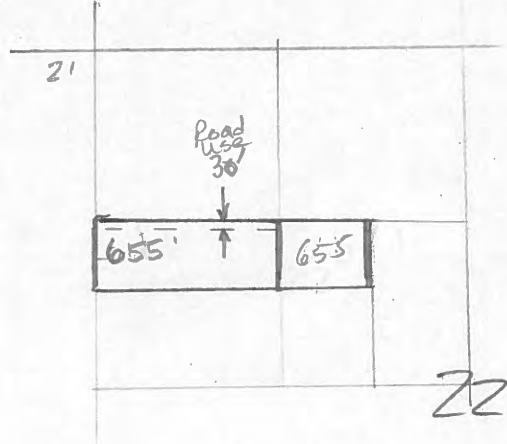
of the County of BOULDER and State of COLORADO for the consideration of FIVE THOUSAND DOLLARS (\$5,000.00) and other good and valuable consideration _____

in hand paid, hereby sell and convey to the City of BOULDER, COLORADO, a municipal corporation organized and existing under and by virtue of the Laws of Colorado of the County of BOULDER and the State of COLORADO, the following real property situate in the County of BOULDER and State of Colorado, to-wit:

"The North 655 feet of the SW 1/4 of the NW 1/4 and the North 655 feet of the W 1/2 of the SW 1/4 of the NW 1/4 of Section 22, Township 1 North, Range 70 West of the 6th P. M., Boulder County, State of Colorado, subject, however, to the use of 30 feet off of the North Side of the SW 1/4 of the NW 1/4 of said Section 22 for public road purposes."

TRACT 1

FFE PAID UNTER S. B. No. 272 \$
HE PAID UNDER TEST
PFG EXCISE



with all its appurtenances and warrant the title to the same except as to the North 30 feet of the SW 1/4 of the NW 1/4 of said Section 22 used for public road purposes

Signed and delivered this 3rd day of February A. D. 19 59
IN THE PRESENCE OF } Michael L. Stengel

STATE OF COLORADO, } ss.
County of BOULDER

The foregoing instrument was acknowledged before me this 3rd day of February, 19 59, by* Michael L. Stengel.

Witness my hand and official seal.
My commission expires Aug 26, 1961
Paul K. Chapel
NOTARY PUBLIC.



*If acting in official or representative capacity, insert name and also office or capacity and for whom acting.

500-AP-Rev-1-54

WARRANTY DEED Statutory Form—Out West Printing and Stationery Co., Colorado Springs, Colo.

Recorded APR 16 1963 11:05 A.
Reception No. 724045 at _____ O'clock _____ W
Milton E. Tschiche, Recorder

IN THE DISTRICT COURT IN AND FOR THE
COUNTY OF BOULDER AND
STATE OF COLORADO
Civil Action No. 16408

CITY OF BOULDER,
a municipal corporation,

Petitioner,

vs.

RULE AND ORDER

THE BOULDER AND LEFT HAND
IRRIGATION COMPANY; LESTER E.
MANCHESTER; FREDA R. McINTOSH
as Treasurer of Boulder County;
and ALL UNKNOWN PERSONS who may
claim any interest in the subject
matter of this action,

Respondents.

THIS MATTER came on regularly for hearing this day upon
the Commissioners' Certificate of Ascertainment and Assessment
filed herein on the 21st day of February, 1963, which Commission
was duly appointed to determine the compensation to be allowed
the respondents interested in the property rights herein in-
volved;

The Court finds that it has full and complete jurisdiction
herein as to the subject matter of this action and the parties
thereto; that service has been made upon all interested parties
as required by law; and that the Commission after hearing the
proofs and allegations of the parties, and after viewing the
premises, did find and determine in accordance with the laws
of the State of Colorado in such cases made and provided;

- (1) That Exhibit "A", attached hereto, pertaining to
parcels Nos. 1 and 2, is an accurate description

of the lands over which petitioner is acquiring clear zone easements; and that the extent of said easements is shown on Exhibit "B", also attached hereto.

- (2) That the value of the land or property actually taken is

Parcel 1	\$ <u>250.00</u>
Parcel 2	\$ <u>750.00</u>

- (3) That the damages, if any, to the residue of the subject land or property are

Parcel 1	\$ <u>None</u>
Parcel 2	\$ <u>None</u>

- (4) That the amount and value of the benefit, if any, is

Parcel 1	\$ <u>None</u>
Parcel 2	\$ <u>None</u>

The Court further finds that the petitioner has deposited with the Clerk of this Court the sum of \$1,120.00, \$1,000.00 of which shall be paid to the respondents for the taking of the property rights herein condemned and \$120.00 of which shall be paid to the Commissioners, it is, therefore;

ORDERED, ADJUDGED AND DECREED that the petitioner has lawfully acquired, pursuant to the statutes and Constitution of the State of Colorado, clear zone easements over that property described in Exhibit A (Parcels 1 and 2), attached hereto and incorporated herein by reference, which clear zone easements are more fully described and detailed in Exhibit B, attached hereto and incorporated herein by reference, and that title to ^{said} the area within/clear zone easements is hereby vested perpetually in the petitioner for the uses and purposes set forth in the

Petition in Condemnation herein, and;

IT IS FURTHER ORDERED that a certified copy of this Rule and Order be recorded and indexed in the office of the Clerk and Recorder of Boulder County, Colorado, in like manner and with life effect as if it were a deed of conveyance from the owners and parties interested to the petitioner herein.

DATED this ~~27th day of February, 1963~~ 27th day of March, 1963.

BY THE COURT:

ATTEST: TRUE COPY

Dated April 15, 1963
Chas. E. Smevly
Clerk of District Court
Boulder County, Colorado

By James P. Adams
Deputy

Ronald A. Langfester
JUDGE

Unofficial Copy

BOOK 1275 PAGE 218

EXHIBIT "A"

PARCEL NO. 1

Commencing at the Northwest Corner of the Southwest Quarter of the Northeast Quarter of Section 21, Township 1 North, Range 70 West of the 6th Principal Meridian, Boulder County, Colorado; thence South $00^{\circ} 07' 10''$ East a distance of 241.95 feet to the true point of beginning; thence South $84^{\circ} 20' 02''$ East a distance of 189.69 feet; thence North $89^{\circ} 57' 20''$ East a distance of 84.07 feet; thence South $08^{\circ} 00' 00''$ West a distance of 6.58 feet; thence South $35^{\circ} 25' 00''$ West a distance of 310.87 feet; thence South $84^{\circ} 14' 42''$ West a distance of 907.30 feet; thence North $00^{\circ} 02' 40''$ West a distance of 450.00 feet; thence South $84^{\circ} 20' 02''$ East a distance of 815.30 feet to the true point of beginning, containing 8.020 acres, more or less.

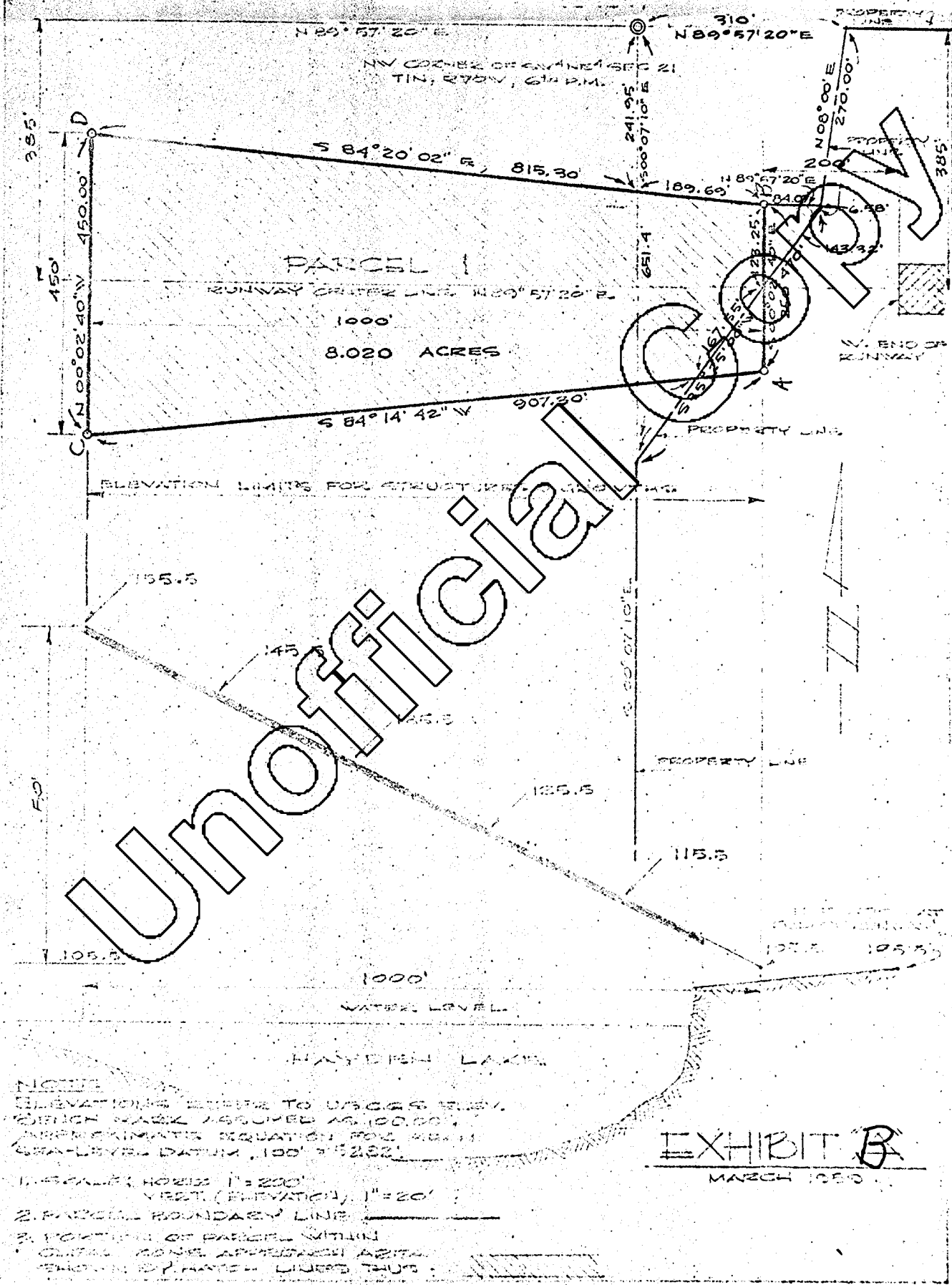
PARCEL NO. 2

Commencing at the NE corner of NW $1/4$, SE $1/4$, NW $1/4$, Section 22, Township 1 North, Range 70 West, 6th P.M., Boulder County, Colorado; thence South $00^{\circ} 20' 40''$ East a distance of 247.93 feet to the true point of beginning; thence North $89^{\circ} 57' 20''$ East, a distance of 103.32 feet; thence North $81^{\circ} 06' 49''$ East, a distance of 455.41 feet; thence South $00^{\circ} 02' 40''$ East, a distance of 390.00 feet; thence North $81^{\circ} 12' 09''$ East, a distance of 455.41 feet; thence South $89^{\circ} 57' 20''$ West, a distance of 102.01 feet; thence North $00^{\circ} 20' 40''$ West a distance of 250.00 feet to the true point of beginning; containing 3.301 acres, more or less.

EXHIBIT "A"
PARCEL NO. 1
PARCEL NO. 2

EXHIBIT B (Parcel 1)

All of that area above the surface of an inclined plane over the property described in Exhibit A which inclined plane has a slope of 20 to 1 (one foot of elevation for each 20 feet of horizontal distance) and which has an elevation of 5,287.5 feet (mean sea level) at its inner and lower edge (Line A-B) and an elevation of 5,337.5 feet at the outer and upper edge (Line C-D) as shown on the diagram below.



NOTE:
 1. ELEVATIONS REFER TO USCGS TIDE GAUGE
 WHICH MARK ASSUMED AS 100.00'
 2. APPROXIMATE EQUATION FOR MEAN
 SEA-LEVEL DATUM: 100' = 5282'

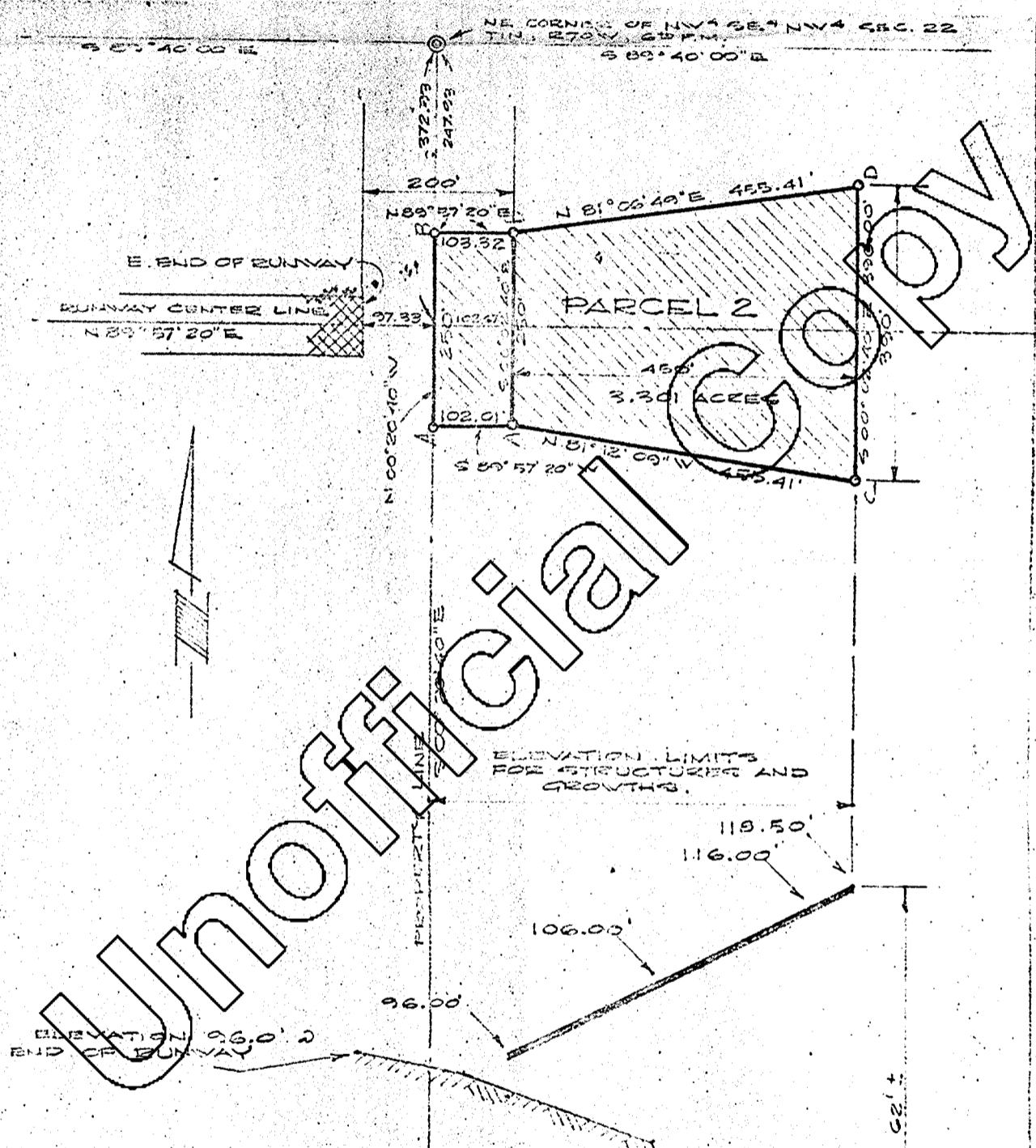
EXHIBIT B
 MARCH 1950

1. SCALE: HORIZ. 1" = 200'
2. VERT. (ELEVATION), 1" = 20'
3. PARCEL BOUNDARY LINE
4. PORTION OF PARCEL WITHIN
 CRITICAL CONE APPROACH AREA
 SHOWN BY HATCHED LINES THUS:

BOOK 1275 PART 220

EXHIBIT B (Parcel 2)

All of that area above the surface of an inclined plane over the property described in Exhibit A which inclined plane has a slope of 20 to 1 (one foot of elevation for each 20 feet of horizontal distance) and which has an elevation of 5,278 feet (mean sea level) at its inner and lower edge (Line A-B) and an elevation of 5,300.5 feet at its outer and upper edge (Line C-D) as shown on the diagram below.



NOTE

ELEVATIONS REFER TO U.S.C.G.S. ELEV.
BENCH MARK ASSUMED AS 100.00'
APPROXIMATE EQUATION FOR MEAN
SEA-LEVEL DATUM - 100' = 5282'

1. SCALE: HORIZ. 1" = 200'
VERTICAL (ELEV.) 1" = 20'
2. PARCEL BOUNDARY LINE
3. SECTION OF PARCEL WITHIN CLEAR ZONE APPROACH AREA SHOWN BY HATCH LINES THUS

EXHIBIT B
MARCH 1959

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

GRANT AGREEMENT

Part 1-Offer

Date of Offer **SEP 26 1977**
Boulder Municipal Airport
Project No. 5-08-0004-01
Contract No. DOT-FA77RM-0060

TO: City of Boulder, Colorado
(herein referred to as the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein referred to as the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated September 16, 1977, for a grant of Federal funds for a project for development of the Boulder Municipal Airport (herein called "Airport"), together with plans and specifications for such project, which Project Application, approved by the FAA is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for development of the Airport (herein called the "Project") consisting of the following-described airport development:

Acquire land for approach protection, Parcel 1, (approximately 8.45 acres).

all as more particularly described in the property map and plans and specifications incorporated in said Project Application;

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701), and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application, and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and the operation and maintenance of the Airport as herein provided, THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States share of the allowable costs incurred in accomplishing the Project, **90 percent**

This Offer is made on and subject to the following terms and conditions:

1. The maximum obligation of the United States payable under this Offer shall be **\$106,592**
2. The Sponsor shall:
 - (a) begin accomplishment of the Project within **sixty** days after acceptance of this Offer or such longer time as may be prescribed by the FAA, with failure to do so constituting just cause for termination of the obligations of the United States hereunder by the FAA;
 - (b) carry out and complete the Project without undue delay and in accordance with the terms hereof, the Airport and Airway Development Act of 1970, and Sections 152.51–152.63 of the Regulations of the Federal Aviation Administration (14 CFR 152) in effect as of the date of acceptance of this Offer; which Regulations are hereinafter referred to as the "Regulations";
 - (c) carry out and complete the Project in accordance with the plans and specifications and property map, incorporated herein, as they may be revised or modified with the approval of the FAA.
3. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under Section 152.47 (b) of the Regulations.
4. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of Sections 152.65 – 152.71 of the Regulations. Final determination as to the allowability of the costs of the project will be made at the time of the final grant payment pursuant to Section 152.71 of the Regulations: Provided, that, in the event a semi-final grant payment is made pursuant to Section 152.71 of the Regulations, final determination as to the allowability of those costs to which such semi-final payment relates will be made at the time of such semi-final payment.

5. The Sponsor shall operate and maintain the airport as provided in the Project Application incorporated herein and specifically covenants and agrees, in accordance with its Assurance 20 in Part V of said Project Application, that in its operation and the operation of all facilities thereof, neither it nor any person or organization occupying space or facilities thereon will discriminate against any person or class of persons by reasons of race, color, creed or national origin in the use of any of the facilities provided for the public on the airport.
6. The FAA reserves the right to amend or withdraw this Offer at any time prior to its acceptance by the Sponsor.
7. This Offer shall expire and the United States shall not be obligated to pay any part of the costs of the Project unless this Offer has been accepted by the Sponsor on or before Sept. 30, 1977, or such subsequent date as may be prescribed in writing by the FAA.
8. The Sponsor hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee the following Equal Opportunity Clause.

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, or national origin. Such actions shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c. The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising

10/20/72

the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or order, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts of federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the portion of the sentence immediately preceding paragraph a. and the provisions of paragraph a. through g. in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Sponsor further agrees that it will be bound by the above Equal Opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government,

10/20/72

the above Equal Opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Sponsor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor that it will furnish the administering agency with the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Sponsor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of 24 September 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part III, Subpart D, of the Executive Order. In addition, the Sponsor agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Sponsor under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the Sponsor; or refer the case to the Department of Justice for appropriate legal proceedings.

9. The Sponsor hereby further covenants that it will not permit any permanent-type structures, other than structures required for aids to air navigation and such other structures as may be specifically excepted in writing by the FAA, to be erected on, and that it will cause any existing structures to be removed from, each area identified on the Exhibit "A" as "clear zone" or any portions thereof, concerning which the Sponsor has acquired a fee interest with federal financial assistance, irrespective of whether such structures constitute an obstruction to air navigation.
10. By its acceptance hereof, the Sponsor hereby covenants that to the extent it has or may have either present or future control over each area identified on the Exhibit "A" as "clear zone", and unless exceptions to or deviations from the following obligations have been granted to the Sponsor in writing by the FAA, it will clear said area or areas of any existing structure or any natural growth which constitutes an obstruction to air navigation with the standards established by Section 77.23 as applied to Section 77.25, Part 77, of the Federal Aviation Regulations; and the Sponsor further covenants that it will control the subsequent erection of structures and control natural growth to the extent necessary to prevent creation of obstructions within said standards.

10/20/72

Page 6 of 9 pages

11. Assurance Number 18 of Part V of the project application incorporated herein is amended by including at the end of the second sentence the following language:

"including the requirement that (A) each air carrier, authorized to engage directly in air transportation pursuant to Section 401 or 402 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any sponsor provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed base operator using a general aviation airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed base operators making the same or similar uses of such airport utilizing the same or similar facilities; provision (A) above, shall not require the reformation of any lease or other contract entered into by a sponsor before July 12, 1976. Provision B above shall not require the reformation of any lease or other contract entered into by a sponsor before July 1, 1975."

It is understood and agreed that no part of the Federal share of an airport development project for which a grant is made under the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.), or under the Federal Airport Act, as amended (49 U.S.C. 1101 et seq.), shall be included in the rate base in establishing fees, rates, and charges for users of the airport.

13. This project and all work performed thereunder is subject to the Clean Air Act and the Federal Water Pollution Control Act. Accordingly,
 - a. The sponsor hereby stipulates that any facility to be utilized in performance under the grant or to benefit from the grant is not listed on the EPA List of Violating Facilities.
 - b. The sponsor agrees to comply with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations issued thereunder.
 - c. The sponsor shall notify the FAA of the receipt of any communication from the EPA indicating that a facility to be utilized for performance of or benefit from the grant is under consideration to be listed on the EPA list of Violating Facilities.
 - d. The sponsor agrees that he will include or cause to be included in any contract or subcontract under the grant which exceeds \$100,000 the criteria and requirements in these subparagraphs a through d.

Page 6 (Rev. 8/11/76)

Page 7 of 9 pages

14. The sponsor will send a copy of all invitations for bids, advertised or negotiated, for concessions or other businesses at the airport to the Director, Dallas Regional Office of Minority Business Enterprise (OMBE), 1412 Main Street, Dallas, Texas 75202. The sponsor will disclose and make information about the contracts, contracting procedures and requirements available to the designated OMBE representative and minority firms on the same basis that such information is disclosed and made available to other organizations or firms. Responses by minority firms to invitations for bids shall be treated in the same manner as all other responses to the invitations for bids. Compliance with the foregoing will be deemed to constitute compliance by the sponsor with requirements of 49 CFR 21 Appendix C(a)(1)(x), Regulations of the Office of the Secretary of Transportation.
15. The grantee agrees to effectuate the purposes of Section 30 of the Airport and Airway Development Act of 1970, as amended, by assuring that minority business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds provided under this Agreement. For the purposes of this provision, "Minority Business Enterprise" means a business enterprise that is owned by, or is controlled by, a socially or economically disadvantaged person or persons. Such disadvantage may arise from cultural, racial, religious, sex, national origin, chronic economic circumstances or background or other similar cause. Such persons may include, but are not limited to, blacks not of Hispanic origin; persons of Hispanic origin; Asians or Pacific Islanders; American Indians; and Alaskan natives. Grantee further agrees to comply with such regulations as may be issued by the Federal Aviation Administration to implement Section 30 of the Act.
16. It is hereby understood and agreed by and between the parties hereto that the sponsor will acquire a fee title or such lesser property interest as may be found satisfactory to the FAA in Parcel 1 as shown on the property map attached hereto and identified on Exhibit "A"; and that the United States will not make nor be obligated to make any payments involving said parcel until the sponsor has submitted evidence that it has acquired a fee title or such lesser property interest as may be found satisfactory to the FAA in and to said parcel (or any portion thereof for which grant payment is sought) subject to no liens, encumbrances, reservations, or exceptions which in the opinion of the FAA might create an undue risk of interference with the use and operation of the airport.
17. It is understood and agreed by and between the parties hereto that the United States shall not make nor be obligated to make final grant payment hereunder until the Sponsor has furnished a current Airport Layout Plan and said plan has been approved by the FAA.

- A. Pursuant to Section 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646); Part 25, Regulations of the Secretary of Transportation, "Relocation Assistance and Land Acquisition under Federal and Federally Assisted Programs" (49 CFR Part 25, 36 Fed. Reg 9178); the Regulations; and other applicable provisions of law--the terms used in this paragraph to have the meanings assigned to them under such Act and regulations;
 1. Sponsor will fully comply with Subpart I of said Part 25,
 2. Sponsor will adequately inform the public of the acquisition policies, requirements, and payments which will apply to the project with respect to any acquisition of real property to which said Part 25 and this agreement apply.

With respect to every person from whom real property was acquired after 1 January 1971 and who would have been entitled to any payments pursuant to the assurances of this agreement had this agreement been in effect at the time of such acquisition, Sponsor represents and undertakes as the case may be: (1) That such person has received or will receive all the payments and has timely been or will be timely afforded all the advantages that would have accrued to him under the provisions of this agreement; and (2) that Sponsor has timely performed or will timely perform all acts that would have been or would still be required of the sponsor had the assurances of this paragraph been applicable at the times identified in this paragraph.

B. It is understood and agreed by and between the parties hereto that the United States shall not make nor be obligated to make any payment hereunder for land acquisition, or reimbursement for land acquisition, until the sponsor has complied with the requirements of this condition.

C. The obligation of the United States under any part of this agreement to share in the allowable costs incurred by the Sponsor under this paragraph shall be subject to all the pertinent and applicable provisions, limitations, and conditions contained in the laws and regulations of the United States.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and said Offer and Acceptance shall comprise a Grant Agreement, as provided by the Airport and Airway Development Act of 1970, constituting the obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and the operation and maintenance of the Airport. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer and shall remain in full force and effect throughout the useful life of the facilities developed under the Project but in any event not to exceed twenty years from the date of said acceptance.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

J.P. Manning
By Chief, Engineering and Development Branch
(TITLE)

Part II-Acceptance

The _____ does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept said Offer and by such acceptance agrees to all of the terms and conditions thereof.

Executed this 27th day of September, 1977.

City of Boulder, Colorado
(Name of Sponsor)

By *Joseph A. Buchanan*
Title Mayor

(SEAL)

Attest: *Burt Chapel*
Title: City Clerk

CERTIFICATE OF SPONSOR'S ATTORNEY

I, *WALTER L. WAGENHALS*, acting as Attorney for the City of Boulder, Colorado, (herein referred to as the "Sponsor") do hereby certify:

That I have examined the foregoing Grant Agreement and the proceedings taken by said Sponsor relating thereto, and find that the Acceptance thereof by said Sponsor has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of Colorado, and further that, in my opinion, said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Boulder, Colorado this 27th day of September, 1977.

Walter L. Wagenhals
Title City Attorney

FILM

956

Recorded at 3:59 o'clock P.M., MAR 16 1977
Reception No. 214698 CLEA A. ROEX BOULDER Recorder.

Exhibit 5

3-1

THIS DEED, Made this 15th day of MARCH, 1977, between

WILLIAM W. REYNOLDS,

of the County of Boulder, and State of Colorado, of the first part, and
CITY OF BOULDER, A Colorado municipal corporation,

a corporation duly organized and existing under and by virtue of the laws of the State of Colorado,
of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of
One Hundred Twelve Thousand and no/100 - - - - - DOLLARS,

to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is
hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does
grant, bargain, sell, convey and confirm, unto the said party of the second part, its successors and assigns forever,
all of the following described or parcel of land, situate, lying and being in the
County of Boulder, and State of Colorado, to-wit:

A parcel of real property situate in the South one-half of the Northwest one-quarter of Section 21, T. 1 N., R. 70 W. of the 6th P.M., described as follows:
Commencing at the West one-quarter corner of Section 21, T. 1 N., R. 70 W. of the 6th P.M.; thence N 89°48'30" E, 95.65 feet along the East-West centerline of said Section 21 to the East right-of-way of the Colorado and Southern Railroad; thence N 25°08'10" E, 1188.46 feet along the East right-of-way of the Colorado and Southern Railroad to the TRUE POINT OF BEGINNING; thence N 25°08'10" E, 276.64 feet along the East right-of-way of the Colorado and Southern Railroad to the North line of the South one-half of the Northwest one-quarter of said Section 21; thence N 89°47'00" E, 1669.18 feet along the North line of the South one-half of the Northwest one-quarter of said Section 21, said North line also being the centerline of Boulder County Road No. 46; thence S 63°51'10" W, 142.22 feet; thence S 66°49'36" W, 233.96 feet; thence S 48°25'10" W, 146.11 feet; thence S 89°47'00" W, 1384.65 feet parallel to the North line of the South one-half of the Northwest one-quarter of said Section 21 to the TRUE POINT OF BEGINNING, reserving, however, unto the party of the first part, his heirs and assigns, an easement for utility purposes over, under and across the Westerly 40 feet of said real property.

This conveyance is made subject to all easements, rights of way, reservations and restrictions of record.

also known as street and number

STATE DOCUMENT FEE
MAR 16 1977
Exempt

ELK

956

3-2

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances unto the said party of the second part, its successors and assigns forever. And the said

part y of the first part, for him sel f, his heirs, executors and administrators, do es covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the ensealing and delivery of these presents he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever. except general real property taxes for the year 1977, payable in the year 1978, which taxes the party of the second part assumes

and agrees to pay;

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in Presence of

William W. Reynolds (SEAL)
William W. Reynolds (SEAL)

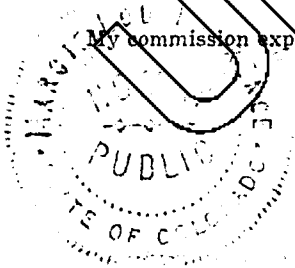
..... (SEAL)
..... (SEAL)
..... (SEAL)
..... (SEAL)
..... (SEAL)

STATE OF COLORADO, } ss.
County of Boulder.

The foregoing instrument was acknowledged before me this 15th day of March 19 77, by William W. Reynolds.

My commission expires May 9, 19 79. Witness my hand and official seal.

Margie Lou Lawrence
Notary Public.



APPLICATION FOR FEDERAL ASSISTANCE

TYPE OF SUBMISSION: Application <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-Construction Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	2. DATE SUBMITTED Sept. 6, 1991	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier (b) (4)

5. APPLICANT INFORMATION

Legal Name City of Boulder, Colorado	Organizational Unit: City of Boulder
Address (give city, county, state, and zip code) City of Boulder P.O. Box 791, 1739 Broadway Boulder, Colorado 80306	Name and telephone number of the person to be contacted on matters involving this application (give area code) Mr. Glenn Carriere, Project Manager (303) 441-3266
6. EMPLOYER IDENTIFICATION NUMBER (EIN): (b) (4)	7. TYPE OF APPLICANT: (enter appropriate letter in box) <input checked="" type="checkbox"/> C A State B County C Municipal D Township E Interstate F Intermunicipal G Special District H Independent School Dist. I State Controlled Institution of Higher Learning J Private University K Indian Tribe L Individual M Profit Organization N Other (Specify): _____
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify): _____	9. NAME OF FEDERAL AGENCY: Federal Aviation Administration
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 2 0 1 0 6 TITLE: Airport Improvements Program AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): City of Boulder and Boulder County	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Realign Parallel Taxiway "A" to Runway 8/26 (with fill) and Rehabilitate and Expand T-Hangar Apron Grant executed 9/20/91

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date July 1991	Ending Date July 1992	a Applicant 2nd	b Project 2nd
15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a Federal	\$ 653,454 .00	a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE July 24, 1986	
b Applicant	\$ 75,606 .00	b NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E O 12372	
c State	\$.00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d Local	\$.00		
e Other	\$.00		
f Program Income	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT	
g TOTAL	\$ 729,060 .00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ⁹ If "Yes," attach an explanation.	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative Stephen T. Honey	b Title City Manager	c Telephone number (303) 441-3090
Signature of Authorized Representative (b) (6)		e Date Signed 9/12/91

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED Sept. 6, 1991	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name City of Boulder, Colorado		Organizational Unit: City of Boulder	
Address (give city, county, state, and zip code) City of Boulder P.O. Box 791, 1739 Broadway Boulder, Colorado 80306		Name and telephone number of the person to be contacted on matters involving this application (give area code) Mr. Glenn Carriere, Project Manager (303) 441-3266	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): (b) (4)		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input checked="" type="checkbox"/> C A State B County C Municipal D Township E Interstate F Intermunicipal G Special District H Independent School Dist. I State Controlled Institution of Higher Learning J Private University K Indian Tribe L Individual M Profit Organization N Other (Specify): _____	
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY: Federal Aviation Administration	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 2 0 1 0 6 TITLE: Airport Improvements Program		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Realign Parallel Taxiway "A" to Runway 8/26 (with fill) and Rehabilitate and Expand T-Hangar Apron	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): City of Boulder and Boulder County			
13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date July 1991	Ending Date July 1992	a Applicant 2nd	b Project 2nd
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a Federal	\$ 653,454 .00	a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE July 24, 1986	
b Applicant	\$ 75,606 .00	b NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E O 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
c State	\$.00		
d Local	\$.00		
e Other	\$.00		
f Program Income	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No * If "Yes," attach an explanation.	
g TOTAL	\$ 729,060 .00		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED			
a Typed Name of Authorized Representative Stephen T. Honey		b Title City Manager	c Telephone number (303) 441-3090
Signature of Authorized Representative (b) (6)		e Date Signed 9/12/91	

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Standard Form 424 (REV 4-88)
 Prescribed by OMB Circular A-102

PART II

PROJECT APPROVAL INFORMATION SECTION A

Item 1.

Does this assistance request require State, local, regional, or other priority rating? Yes No

Name of Governing Body _____ Priority Rating _____

Item 2.

Does this assistance request require State, or local advisory, educational or health clearances? Yes No (Attach Documentation)

Name of Agency or Board _____

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? Yes No (Attach Comments)

This was done under the Preapplication submittal (October, 1990)

Item 4.

Does this assistance request require State, local, regional or other planning approval? Yes No

Name of Approving Agency _____ Date _____

Item 5.

Is the proposed project covered by an approved comprehensive plan? Yes No

Check one: State Local Regional Airport Master Plan _____ City of Boulder _____

Item 6.

Will the assistance requested serve a Federal installation? Yes No

Name of Federal Installation _____ Federal Population benefiting from Project _____

Item 7.

Will the assistance requested be on Federal land or installation? Yes No

Name of Federal Installation _____ Location of Federal Land _____ Percent of Project _____

Item 8.

Will the assistance requested have an impact or effect on the environment? Yes No

See instruction for additional information to be provided.

Item 9.

Will the assistance requested cause the displacement of individuals families, businesses, or farms? Yes No

Number of: Individuals _____ Families _____ Businesses _____ Farms _____

Item 10.

Is there other related Federal assistance on this project previous, pending, or anticipated? Yes No

See instructions for additional information to be provided.

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use.—The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

- A. Current Airport Master Plan on file.
- B. City Council recently adopted ordinance to enforce FAR Part 77 Criteria

2. Defaults.—The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

None

3. Possible Disabilities.—There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

None

4. Land.—(a) The Sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

See attached Exhibit "A"

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART II - SECTION C (Continued)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

N/A

5. Exclusive Rights.—There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

N/A

**State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.*

PART III - BUDGET INFORMATION - CONSTRUCTION

SECTION A - GENERAL

Federal Domestic Assistance Catalog No. 20.106

2. Functional or Other Breakout N/A

SECTION B - CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$ 3,000
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			47,752
5. Other architectural engineering fees <small>Testing, AIP, DBE, Exhibit "A", Survey</small>			30,078
6. Project inspection fees			48,929
7. Land development			
8. Relocation Expenses			
Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			599,301
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			729,060
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions (Extended Warranty) <i>3yr</i>			3,000
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			726,060
20. Federal Share requested of Line 19 90%			653,454
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (Lines 20 & 21)			653,454
23. Grantee share 10% plus non-eligible costs			75,606
24. Other shares			
25. Total project (Lines 22, 23 & 24)	\$	\$	\$ 729,060

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
26		
a. Extended Warranty Option	\$ 3,000	\$ N/A
b.		
c.		
d.		
e.		
f.		
g. Totals	\$ 3,000	\$ N/A

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	\$
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	75,606
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	75,606
28. Other Shares	
a. State	
b. Other	
c. Total Other Shares	
29. TOTAL	\$ *75,606

* Includes \$3,000 Non-Eligible costs for Extended Warranty

SECTION E - REMARKS

The following items are incorporated by reference

1. Exhibit "A"
2. Assurances
3. Plans and Specifications for AIP Project No. 3-08-0004-05

PART IV PROGRAM NARRATIVE (Attach - See Instructions)

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

Page 1 of 2 Pages

Contract No. DOT-FA91NM-1075

Boulder Municipal Airport

Boulder, Colorado
(Location)

AMENDMENT NO. 1 TO GRANT AGREEMENT FOR PROJECT NO. 3-08-0004-05

WHEREAS, the Federal Aviation Administration (hereinafter referred to as the "FAA") has determined it to be in the interest of the United States that the Grant Agreement between the FAA, acting for and on behalf of the United States, and the City of Boulder, Colorado

(hereinafter referred to as the "Sponsor"), accepted by said Sponsor on the 20th day of September, 1991, to be amended as hereinafter provided.

NOW THEREFORE, WITNESSETH:

That in consideration of the benefits to accrue to the parties hereto, the FAA on behalf of the United States, on the one part, and the Sponsor, on the other part, do hereby mutually agree as follows:

That the maximum amount of the obligation of the United States as set forth in said Grant Agreement is hereby increased from \$653,454 to \$692,277.

That the described airport development now included in said Grant Agreement is hereby revised to add "Credit as the partial local share the donation of sponsor-owned gravel."

The revised description becomes "Relocate eastern portion of parallel taxiway; Rehabilitate T-hanger Apron; Acquire construction easement; Credit as the partial local share the donation of sponsor-owned gravel."

This offer to amend the described airport development and to increase the maximum obligation of the United States shall expire unless this amendment has been accepted by April 10, 1992.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to said Grant Agreement to be duly executed as of the 27th day of March, 1992.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

By (b) (6)

Alan E. Wiechmann,

Title Manager, Denver Airports District Office

Page 2 of 2 Pages

Project No. 3-08-0004-05

Boulder Municipal Airport

Boulder, Colorado
(Location)

City of Boulder, Colorado
(Name of Sponsor)

By (b) (6)

Title City Manager

Date: March 24, 1992

(SEAL)

(b) (6)

Attest:

Title City Clerk

FOR THE AFB

CERTIFICATE OF SPONSOR'S ATTORNEY

I, [redacted], acting as Attorney for the City of Boulder, Colorado (hereinafter referred to as "Sponsor") do hereby certify:

That I have examined the foregoing Amendment to Grant Agreement and the proceedings taken by said Sponsor relating thereto, and find that the execution thereof by said Sponsor has been duly authorized and is in all respects due and proper and in accordance with the laws of the State of Colorado, and Regulations of the FAA (14 CFR Part 152) and further that, in my opinion, said Amendment to Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Boulder, Colorado, this 24th day of March 19 92.

A

U.S. Department
of Transportation

Grant Agreement

Federal Aviation
Administration

Part I - Offer

Date of Offer **SEP 17 1991**

Boulder Municipal Airport

Project Number: 3-08-0004-05

Contract Number: DOT-FA91NM-1075

To: City of Boulder, Colorado
(herein called the "Sponsor")

From: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

Whereas, the sponsor has submitted to the FAA a Project Application dated September 12, 1991, for grant of Federal funds for a project at or associated with the Boulder Municipal Airport which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

Whereas, the FAA has approved a project for the Airport (herein called the "Project") consisting of the following:

- Relocate eastern portion of Parallel Taxiway; Rehabilitate T-Hangar apron;
- Acquire construction easement,

all as more particularly described in the Project Application.

Now therefore, pursuant to and for the purpose of carrying out the provisions of the Airport and Airway Improvement Act of 1982, as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987, herein called the "Act", and/or the Aviation Safety and Noise Abatement Act of 1979, and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **The Federal Aviation Administration, for and on behalf of the United States, hereby offers and agrees to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 90.00 percent.**

This Offer is made on and subject to the following terms and conditions:

Conditions

1. The maximum obligation of the United States payable under this offer shall be \$653,454. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 512(b) of the Act, the following amounts are being specified for this purpose:

\$ - 0 - for planning

\$653,454 for airport development and noise program implementation

2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The sponsor shall carry out and complete the Project without undue delay and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before September 27, 1991; or such subsequent date as may be prescribed in writing by the FAA.

7. The sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgement, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

Special Conditions

9. The sponsor will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the "Current FAA Advisory Circulars for AIP Projects," dated July 15, 1991, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
10. Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The sponsor will include in every contract a provision implementing this special condition.
11. The sponsor agrees to perform the following:
 - a. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:
 - (1) The name of the person representing the sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
 - (2) Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
 - (3) Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation, referenced in the contract specifications (D 3666, C 1077).
 - (4) Qualifications of engineering supervision and construction inspection personnel.

- (5) A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - (6) Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, that the proper corrective actions, where necessary, are undertaken.
- b. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and reasons for accepting any out-of-tolerance material.

The sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

United States of America
Federal Aviation Administration

(b) (6)

Manager, Denver Airports District Office

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this 20th day of September, 1991.

CITY OF BOULDER, COLORADO

(b) (6)

SEAL)

By: (b) (6)

Sponsor's Designated Official Representative

Attest:

Title: City Manager (Acting)

Title: Finance Director

Certificate of Sponsor's Attorney

I, Alan Bole, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Boulder this 25th day of September, 1991.

(b) (6)

Signature of Sponsor's Attorney

SPONSOR CERTIFICATION FOR REAL PROPERTY ACQUISITION

City of Boulder, Colorado Boulder Municipal AIP 3-08-0004-05
Sponsor's Name Airport Project Number

Taxiway "A" Realignment and T-Hangar Apron Rehabilitation
Project Description

Section 509(d) of the Airport and Airway Improvement Act of 1982, as amended (herein called the Act), authorizes the Secretary to require certification from sponsors that they will comply with statutory and administrative requirements. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. Every certified item must be marked. Each certified item with a "no" response must be fully explained in an attachment to this certification. If the item is not applicable to this project, mark the item "N/A". General requirements on real property acquisition and relocation assistance are in 49 CFR 24. The project Grant Agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act).

1. Good and sufficient title (is) (will be) held on property in the project. The sponsor's attorney or other official (has prepared) (will prepare) and (has (will have) on file title evidence on the property.
Yes No N/A
2. If defects and/or encumbrances exist in the title which adversely impact the sponsor's intended use of property in the project, they (have been) (will be) extinguished, modified, or subordinated.
Yes No N/A
3. If property for airport development (is) (will be) leased, the term is for 20 years or the useful life of the project. The lessor is a public agency and the lease contains no provisions which prevent full compliance with the grant agreement.
Yes No N/A
4. Property in the project (is) (will be) in conformance with the current Exhibit A (property map). The property map is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.
Yes No N/A
5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest (was) (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.
Yes No N/A

6. For any acquisition of property interest in runway protection zones and areas related to FAR Part 77 surfaces, property interest (was) (will be) obtained for the right of flight and right of ingress and egress to remove obstructions. Interest (was) (will be) obtained for the right to restrict the establishment of future obstructions.
Yes _____ No _____ N/A X
7. Appraisals (include) (will include) valuation data to estimate the current market value for the property interest acquired on each parcel and (were) (will be) prepared by qualified real estate appraisers hired by the sponsor. An opportunity (was) (will be) provided the property owner or representative to accompany appraisers during inspections.
Yes X No _____ N/A _____
8. Each appraisal (has been) (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation. The written appraisals and review appraisal are available to FAA for review.
Yes X No _____ N/A _____
9. A written offer to acquire each parcel (was) (will be) presented to the property owner for not less than the approved amount of just compensation.
Yes X No _____ N/A _____
10. Effort (was) (will be) made to acquire each property through negotiation with no coercive action to induce agreement. If negotiation (was) (will be) successful, project files (contain) (will contain) supporting documents for settlements.
Yes X No _____ N/A _____
11. If a negotiated settlement is not reached, condemnation (was) (will be) initiated and a court deposit not less than the just compensation (was) (will be) made prior to possession of the property. Project files (contain) (will contain) supporting documents for awards.
Yes _____ No _____ N/A X
12. If displacement of persons, businesses, farm operations, or nonprofit organizations is involved, a relocation assistance program (was) (will be) established. Displaced persons (received) (will receive) general information on the relocation program in writing, notice of relocation eligibility, and a 90-day notice to vacate.
Yes _____ No _____ N/A X
13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses (were) (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.
Yes _____ No _____ N/A X

I certify that, for the project identified herein, the responses to the foregoing items are correct as marked, and that the attachments, if any, are correct and complete.

Signed: (b) (6)
Sponsor's Authorized Representative

Date: 3/19/92

Stephen T. Honey, City Manager
Typed Name and Title of Sponsor's Representative

(b) (6)

LEGAL DESCRIPTION

A 65.00 FOOT STRIP OF LAND FOR A SLOPE EASEMENT LOCATED IN SECTION 22, T1N,R70W, OF THE 6TH P.M., ALONG THE NORTHERN LINE OF A TRACT OF LAND DESCRIBED ON FILM 1651 AT RECEPTION NUMBER 1074089 IN THE BOULDER COUNTY RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF THE W1/2,NE1/4,OF THE SW1/4,OF SAID SECTION 22 AS DESCRIBED ON FILM 1651 AT RECEPTION NUMBER 1074089;

THENCE N $00^{\circ}16'17''$ W, 665.38 FEET ALONG THE EAST LINE OF THE W1/2,SE1/4,NW1/4 OF SECTION 22 TO THE SOUTHEAST CORNER OF THE NORTH 655 FEET OF THE W1/2,SE1/4,NW1/4 OF SAID SECTION 22 AND THE POINT OF BEGINNING;

THENCE N $89^{\circ}39'33''$ W, 653.25 FEET ALONG THE NORTH LINE OF SAID PARCEL ON FILM 1651 AT RECEPTION NUMBER 1074089;

THENCE S $00^{\circ}09'11''$ E, 65.00 FEET;

THENCE S $89^{\circ}39'33''$ E, 653.38 FEET TO A POINT ON THE EAST LINE OF THE W1/2,SE1/4,NW1/4 OF SAID SECTION 22;

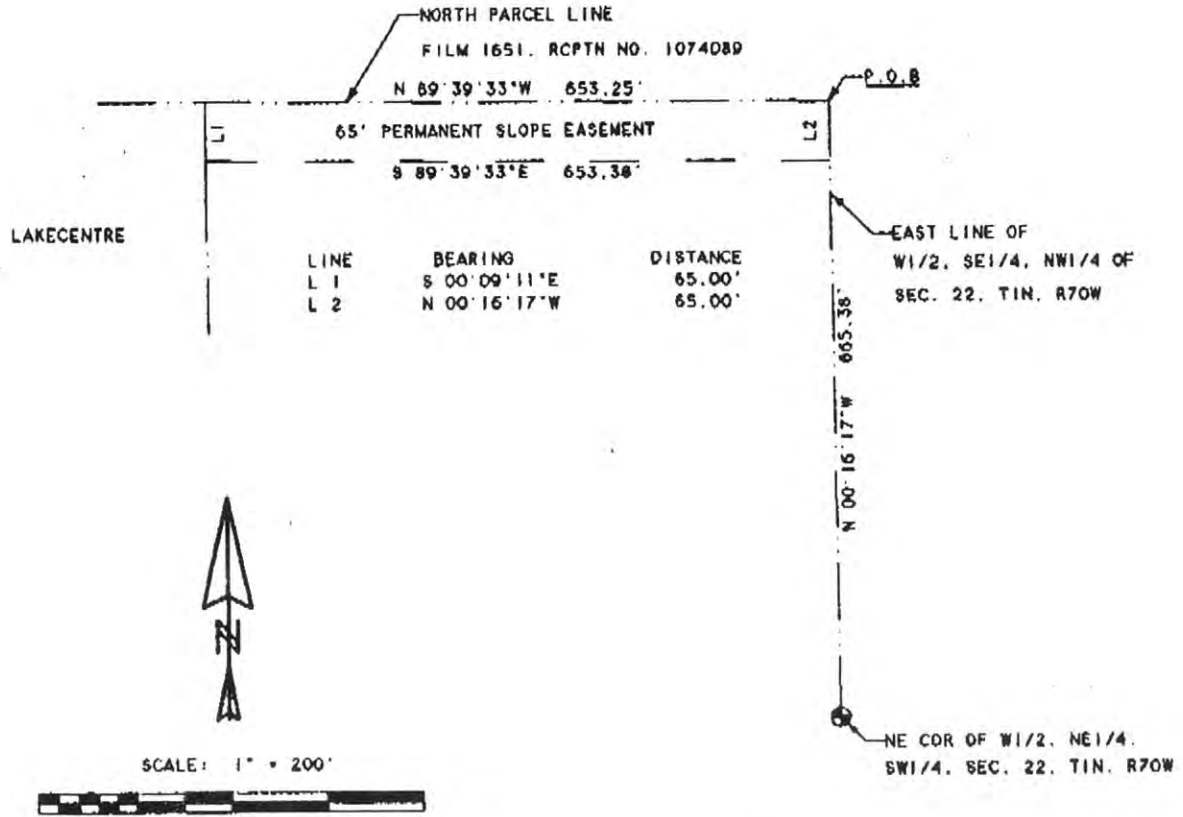
THENCE N $00^{\circ}16'17''$ W, 65.00 FEET ALONG THE SAID EAST LINE OF THE W1/2,SE1/4,NW1/4, OF SECTION 22, TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINS 42,465 SQ. FT. OR 0.97 ACRES.

AIRPORT SLOPE EASE.

Item 2C - City attorney to
initiate and pursue litigation FAA

EXHIBIT



LEGAL DESCRIPTION

A 25.00 FOOT STRIP OF LAND FOR A CONSTRUCTION EASEMENT LOCATED IN SECTION 22, T1N, R70W, OF THE 6TH P.M., ON A TRACT OF LAND DESCRIBED ON FILM 1651 AT RECEPTION NUMBER 1074089 IN THE BOULDER COUNTY RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF THE W1/2, NE1/4, OF THE SW1/4, OF SAID SECTION 22 AS DESCRIBED ON FILM 1651 AT RECEPTION 1074089;

THENCE N 00°16'17"W, 600.38 FEET ALONG THE EAST LINE OF THE W1/2, SE1/4, NW1/4 OF SECTION 22, TO THE POINT OF BEGINNING;

THENCE N 89°39'33"W, 653.38 FEET;

THENCE S 00°09'11"E, 25.00 FEET;

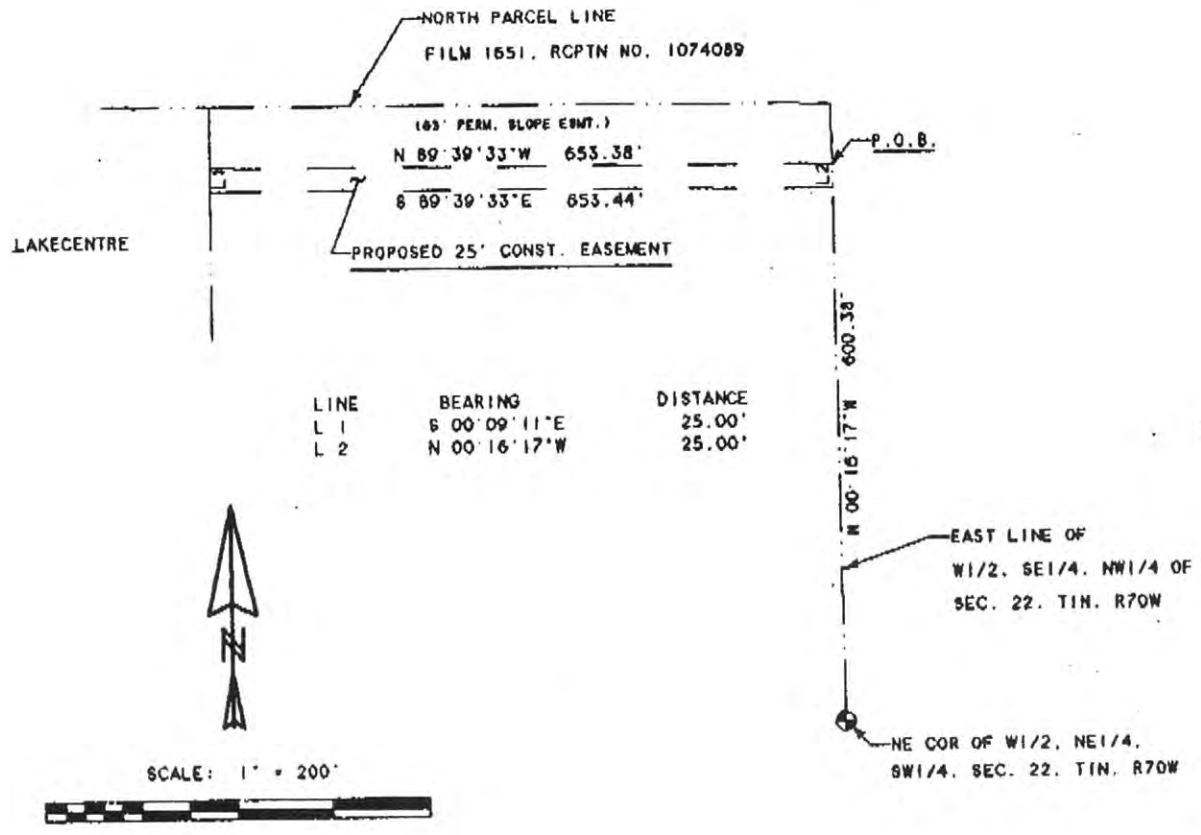
THENCE S 89°39'33"E, 653.44 FEET, TO A POINT ON THE EAST LINE OF THE W1/2, SE1/4, NW1/4 OF SAID SECTION 22;

THENCE N 00°16'17"W, 25.00 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINS 16,335 SQUARE FEET OR 0.37 ACRES.

AIRPORT CONST. EASE.

EXHIBIT



4-1

GRANT OF EASEMENT

Kenneth Eugene Cline, Jr., Thomas Foster Cline, Steven Eric Cline and Jean F. Burgoon, formerly Jean F. Cline ("Grantors"), whose address is 5555 Valmont Road, Boulder, CO 80301, for FIVE THOUSAND EIGHT HUNDRED and NO/100 DOLLARS, do hereby grant, bargain, sell and convey to the City of Boulder, a Colorado home rule city (the "City"), the address of which is 1777 Broadway, Boulder, Colorado 80302, a non-exclusive easement for the installation, construction, repair, maintenance, and reconstruction of a berm with a mass and slope adequate to provide lateral and subjacent support of an airplane taxiway constructed or to be constructed on adjacent property owned by the City and used in conjunction with the City of Boulder Municipal Airport, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

20

See attached Exhibit A

The City shall construct, install and adequately maintain the berm and landscaping on the berm. Such landscaping shall be sufficient to reasonably protect the berm from erosion and be acceptable to the Federal Aviation Administration.

Notwithstanding anything to the contrary herein, it is specifically agreed that any landscaping installed by either party in the easement shall not penetrate the floor of the Transitional Surface Slope of the Boulder Municipal Airport as defined by Federal Aviation Administration regulations.

Grantors, for themselves and for their heirs, successors and assigns, do hereby covenant and agree that no permanent structure or improvement shall be placed on said easement and right-of-way by themselves or their heirs, agents, lessees, successors or assigns, and that the City's use of such easement shall not otherwise be obstructed or interfered with.

Grantors warrant their ability to grant and convey this easement.

The terms of this easement shall be binding upon the Grantors, their heirs, agents, lessees and assigns, and all other successors to them in interest in the subject property or any part thereof, and shall continue as a servitude running in perpetuity with the above described property,

IN WITNESS WHEREOF, Grantors have caused this instrument to be duly executed as of this 12th day of September, 1991.

Kenneth Eugene Cline, Jr.
Kenneth Eugene Cline, Jr.

Steven Eric Cline
Steven Eric Cline

Thomas Foster Cline by Kenneth E. Cline
his agent and attorney in fact
Thomas Foster Cline

Jean F. Burgoon by Kenneth E. Cline
her agent and attorney in fact
Jean F. Burgoon
formerly Jean F. Cline

Exhibit 2

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 12th day of September, 1991, by Kenneth Eugene Cline, Jr.; Steven Eric Cline; and Thomas Foster Cline and Jean F. Burgam by Kenneth E. Cline as Attorney in Fact.



Witness my hand and official seal.
My commission expires: February 14, 1992

[Signature]
Notary Public

Unofficial Copy

LEGAL DESCRIPTION

A 65.00 FOOT STRIP OF LAND FOR A SLOPE EASEMENT LOCATED IN SECTION 22, T1N,R70W, OF THE 6TH P.M., ALONG THE NORTHERN LINE OF A TRACT OF LAND DESCRIBED ON FILM 1651 AT RECEPTION NUMBER 1074089 IN THE BOULDER COUNTY RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF THE W1/2, NE1/4, OF THE SW1/4, OF SAID SECTION 22 AS DESCRIBED ON FILM 1651 AT RECEPTION NUMBER 1074089;

THENCE N 00°16'17"W, 665.38 FEET ALONG THE EAST LINE OF THE W1/2, SE1/4, NW1/4 OF SECTION 22 TO THE SOUTHEAST CORNER OF THE NORTH 655 FEET OF THE W1/2, SE1/4, NW1/4 OF SAID SECTION 22 AND THE POINT OF BEGINNING;

THENCE N 89°39'33"W, 653.25 FEET ALONG THE NORTH LINE OF SAID PARCEL ON FILM 1651 AT RECEPTION NUMBER 1074089;

THENCE S 00°09'11"E, 65.00 FEET;

THENCE S 89°39'33"E, 653.38 FEET TO A POINT ON THE EAST LINE OF THE W1/2, SE1/4, NW1/4 OF SAID SECTION 22;

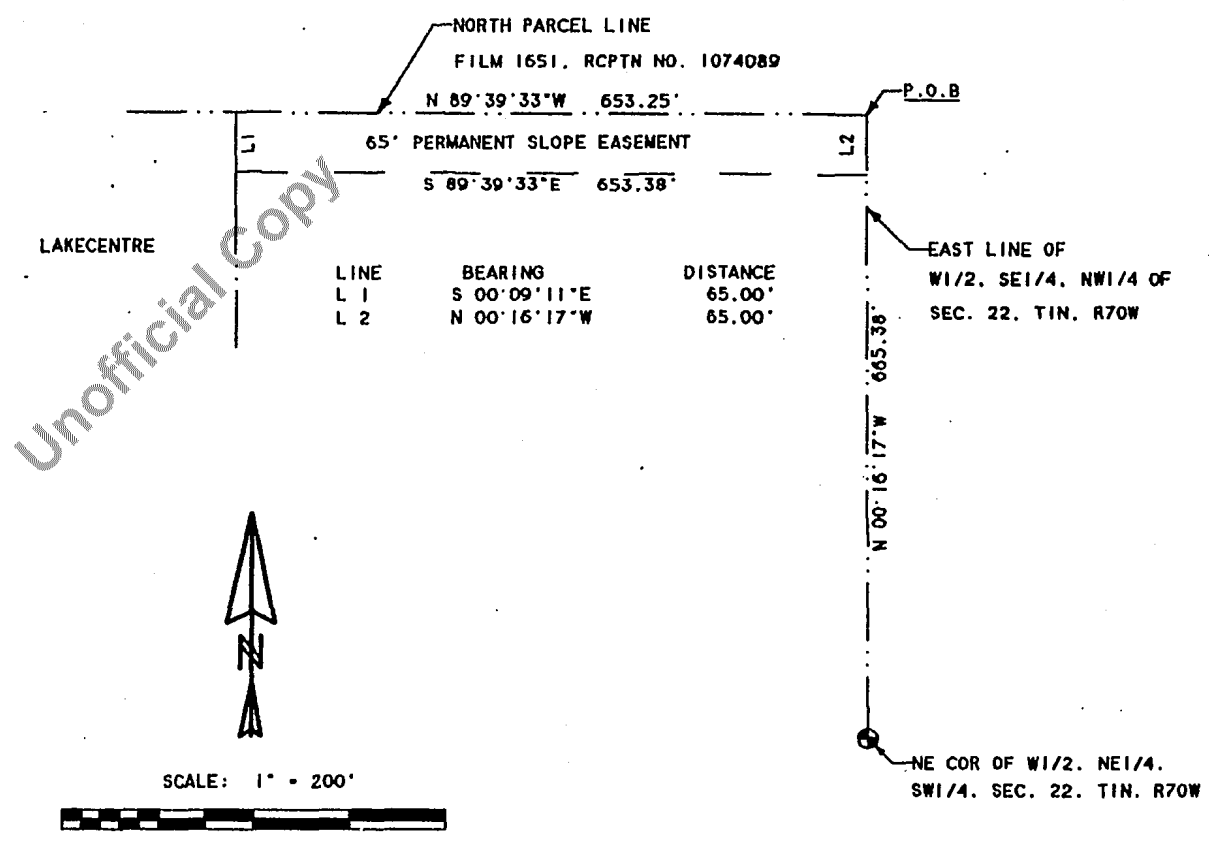
THENCE N 00°16'17"W, 65.00 FEET ALONG THE SAID EAST LINE OF THE W1/2, SE1/4, NW1/4, OF SECTION 22, TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINS 42,465 SQ. FT. OR 0.97 ACRES.

AIRPORT SLOPE EASE.

EXHIBIT A

Exhibit 7
4-4



Unofficial Copy

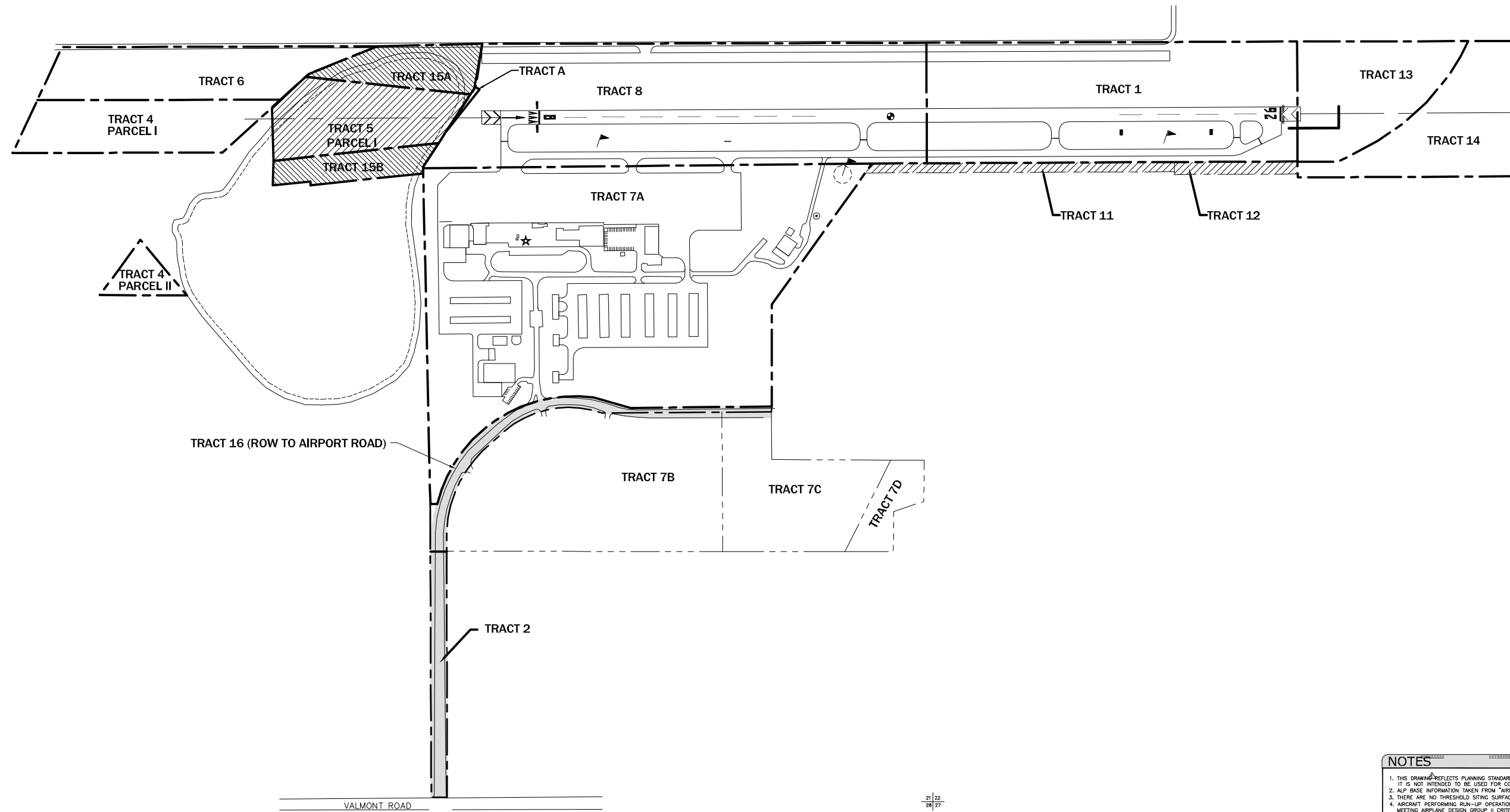
EXHIBIT MAP:

Proposed 65' Permanent
Slope Easement
across Cline Property
In Section 22, T1N, R70W

8/10/91 18391LDA.DWG
PROJECT NO. 183C0B-91

BOULDER LAND CONSULTANTS

4180 AMBER PLACE
BOULDER, COLORADO 80304
303 • 443 • 3616



21 22
28 27

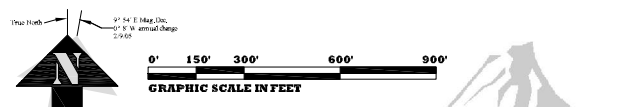
- NOTES**
- THIS DRAWING REFLECTS PLANNING STANDARDS SPECIFIC TO THIS AIRPORT, AND IS NOT A PRODUCT OF DETAILED ENGINEERING DESIGN ANALYSIS. IT IS NOT INTENDED TO BE USED FOR CONSTRUCTION DOCUMENTATION OR NAVIGATION.
 - ALP BASE INFORMATION TAKEN FROM "AIRPORT LAYOUT DRAWING", BY WASHINGTON INFRASTRUCTURE SERVICES, INC., AUGUST 2001.
 - THERE ARE NO THRESHOLD SITING SURFACE OBJECT PENETRATIONS.
 - AIRCRAFT PERFORMING RUN-UP OPERATIONS AT 1/4 "A" WILL REMAIN OUTSIDE OF TAXIWAY OBJECT FREE AREA MEETING AIRPLANE DESIGN GROUP II CRITERIA.
 - AIRPORT LOCATED IN SECTIONS 21 AND 22, TOWNSHIP 1 NORTH, RANGE 70 WEST.
 - ALL LAT./LONG. COORDINATE INFORMATION IS WGS84. RUNWAY END COORDINATES DETERMINED WITH GEODETIC CALCULATOR BASED ON NGS MARKER (PID LL1137) DESCRIPTION. NO SITE SURVEY WAS PERFORMED.

PARCEL DATA							
TRACT NO.	OWNER	TYPE	ACRES	PROJECT #	RECORDING INFO	RECEPTION #	DATE
1	CITY OF BOULDER	FEE	29.43	FAAP-01	PART N1/2 OF S1/2 NW1/4 SECTION 22	626856	2-3-59
2	CITY OF BOULDER	FEE	3.1	N/A	PART SW1/4 OF SE1/4 SECTION 21	625808	6-13-60
4 PARCEL I	CITY OF BOULDER	FEE	8.5	ADP 5-08-0004-01	PART N1/2 OF S1/2 OF NW1/4 SECTION 21	214697	2-14-77
4 PARCEL II	CITY OF BOULDER	FEE	1.5	N/A	PART S1/2 OF S1/2 OF NW1/4 SECTION 21	214697	9-29-77
5 PARCEL I	CITY OF BOULDER	EASEMENT	8.2	FAAP-01	PART N1/2 OF SE1/4 OF NW1/4 SECTION 21	724045	4-16-63
6	CITY OF BOULDER	FEE	8.18	N/A	PART N1/2 OF S1/2 SECTION 21	625808	3-15-77
7A	CITY OF BOULDER	FEE	73.94	N/A	PART SW1/4 OF NE1/4 OF N1/2 OF SE1/4 SECTION 21		8-8-58
7B	CITY OF BOULDER	RELEASED	22	N/A	PART N 1/2 OF SE 1/4 SECTION 21	791028	7-18-90
7C	CITY OF BOULDER	RELEASED	9.7	N/A	PART N 1/2 OF SE 1/4 SECTION 21		10-25-90
7D	CITY OF BOULDER	RELEASED	2.4	N/A	PART N 1/2 OF SE 1/4 SECTION 21	1064282	
8	CITY OF BOULDER	FEE	36.2	N/A	PART N 1/2 OF SE 1/4 OF NE 1/4 SECTION 21		6-1-43
A	PART OF TRACT 5, PARCEL I AND TRACT 8 (OVERLAPPING BOUNDARY)						
11	CITY OF BOULDER	EASEMENT	1.86	N/A	PART SW1/4 OF NW1/4 SEC. 22 & SE1/4 OF NE1/4 SEC.21	1074089	11-2-89
12	CITY OF BOULDER	EASEMENT	0.97	N/A	PART SW1/4 OF NW1/4 SEC. 22 & SE1/4 OF NE1/4 SEC.21	1074089	9-13-91
13	CITY OF BOULDER	FEE	9.0	N/A	PART NW1/2 OF SE1/4 OF NW1/4 SECTION 21	1064282	10-25-90
14	CITY OF BOULDER	FEE	9.1	N/A	PART NW1/2 OF SE1/4 OF NW1/4 SECTION 21		
15A		EASEMENT	3.8		FUTURE ACQUISITION		
15B		EASEMENT	2.7		FUTURE ACQUISITION		
16	CITY OF BOULDER	RELEASE	6.2		FUTURE RELEASE TRACT 2 & PORTIONS OF TRACT 7A		
N/A - NOT APPLICABLE							
TOTAL FEE		ACRES		TOTAL EASEMENT		ACRES	
FAA		47.61		FAA		2.83	
CITY		131.45		CITY		8.2	
PORTIONS OF SECTION 21 AND 22, T1N, R70W.							

AIRPORT DATA		
AIRPORT ELEVATION (AMSL)	EXISTING	FUTURE
	5288.0'	SAME
AIRPORT REFERENCE POINT (ARP)	LAT. 40°02'21"N LON. 105°13'35"W	SAME
MEAN MAX. TEMP. HOTTEST MONTH	87.5°F	SAME
AIRPORT REFERENCE CODE (ARC)	B-II	SAME
TAXIWAY LIGHTING	MITL	SAME
TAXIWAY STRIPING	CENTERLINE	SAME
NPIAS SERVICE LEVEL	GA	SAME

REVISIONS		
NO.	DESCRIPTION	DATE
1	AIP 3-08-0004-014-2020 Grant Application	2/26/20

LAYOUT PLAN LEGEND		
	EXISTING	FUTURE
AIRPORT PROPERTY LINE	---	---
AIRPORT SECURITY FENCE	X	X
AIRPORT BUILDINGS	[Symbol]	[Symbol]
AIRFIELD PAVEMENT	[Symbol]	[Symbol]
PAVED ROADS	[Symbol]	[Symbol]
AVIGATION EASEMENT	[Symbol]	[Symbol]
RUNWAY PROTECTION ZONE	[Symbol]	[Symbol]
BUILDING RESTRICTION LINE	[Symbol]	[Symbol]
RUNWAY SAFETY AREA	[Symbol]	[Symbol]
RUNWAY OBJECT FREE AREA	[Symbol]	[Symbol]
FUEL STORAGE AREA	[Symbol]	[Symbol]
AIRPORT BEACON	[Symbol]	[Symbol]
LIGHTED WIND CONE	[Symbol]	[Symbol]
AUTOMATED WEATHER OBSERVATION SYSTEM (AWOS)	[Symbol]	[Symbol]
VISUAL APPROACH SLOPE INDICATOR (VASI)	[Symbol]	[Symbol]
THRESHOLD LIGHTS	[Symbol]	[Symbol]
HOLDLINES	[Symbol]	[Symbol]
TREES	[Symbol]	[Symbol]
NGS SURVEY MONUMENT	[Symbol]	[Symbol]



**Boulder Municipal Airport
Airport Master Plan Update
Figure E8
Airport Property Map**



COVER SHEET

MEETING DATE

August 8, 2024

AGENDA ITEM

Second reading and consideration of a motion to adopt Ordinance 8637 repealing and reenacting Chapter 10-2.5, "Abatement of Public Nuisances," B.R.C. 1981, expanding the city's local nuisance laws to redefine public nuisance and create a chronic nuisance designation and amending Chapter 10-3, "Rental Licenses," B.R.C. 1981, to align with the changes made to Chapter 10-2.5; and setting forth related details

PRIMARY STAFF CONTACT

Brad Mueller, Director Planning & Development Services

REQUESTED ACTION OR MOTION LANGUAGE

Motion to adopt Ordinance 8637 repealing and reenacting Chapter 10-2.5, "Abatement of Public Nuisances," B.R.C. 1981, expanding the city's local nuisance laws to redefine public nuisance and create a chronic nuisance designation and amending Chapter 10-3, "Rental Licenses," B.R.C. 1981, to align with the changes made to Chapter 10-2.5; and setting forth related details.

ATTACHMENTS:

Description

- ▣ **Item 3A - 2nd Rdg Ord 8637 Chronic Nuisance**



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 8, 2024

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance 8637 repealing and reenacting Chapter 10-2.5, "Abatement of Public Nuisances," B.R.C. 1981, expanding the city's local nuisance laws to redefine public nuisance and create a chronic nuisance designation and amending Chapter 10-3, "Rental Licenses," B.R.C. 1981, to align with the changes made to Chapter 10-2.5; and setting forth related details

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Taylor Tate, City Attorney
Christopher Reynolds, Deputy City Attorney, Prosecution
Laurel Witt, Assistant City Attorney II
Deshawna Zazueta, Assistant City Attorney II
Rewa Ward, Paralegal II
Brad Mueller, Director of Planning & Development Services Dept.
Elizabeth Crowe, Deputy Director, Housing and Human Services
Brenda Ritenour, Neighborhood Services and Engagement Manager
Tony Spencer, Senior IT Business Analyst
Stephen Redfearn, Police Chief
Ron Gosage, Deputy Police Chief
Barry Hartkopp, Deputy Police Chief
Darren Fladung, Police Commander
Jen Riley, Code Enforcement Manager
David Lowrey, Fire Marshal
Kevin Bennett, Contractor and Rental Licensing Manager
Jenn Ross, Code Compliance Manager
Carin Armstrong, Community Resolution Manager

EXECUTIVE SUMMARY

A wide range of quality of life projects, initiated in 2021, paved the way for the current work within chronic nuisance and the associated proposed ordinance. A “chronic” nuisance is one category of public nuisances at a particular residential property that has been persistent, unresolved, and resulted from lack of engagement by the property owner. Staff estimates chronic nuisance to be applicable to a very small set of property owners throughout the city (owner-occupied and rental). The city conducted a data-driven programmatic approach to chronic nuisance, with attention to providing awareness and education as critical components to gain voluntary compliance throughout the community. This approach is consistent with the city’s historic philosophical approach of seeking compliance, versus being punitive. As such, proposed Ordinance 8637, **Attachment A**, itself is only one tool in promoting and enforcing community standards for health, safety and welfare.

Staff administered a continuously evolving strategic community engagement process, utilizing the city’s racial equity instrument and through the recommendations and requests of community partners. All recommendations received from community partners have been considered over the last year, including the April 25, 2024, study session with City Council, and changes have been incorporated into proposed Ordinance 8637.

Updating the nuisance codes is the third and final step in implementing the various quality of life initiatives discussed below. The proposed ordinance revision effectively provides a new definition for both public nuisance and chronic nuisance, while adding an additional pathway of administrative process for resolution of those violations that may now include revocation of a rental license in extreme situations. Proposed Ordinance 8637 also establishes an escalating fine schedule and abatement recovery process. Several off-ramps for potential chronic nuisance violations are included for property owners who respond and work with the city through the abatement agreement process.

STAFF RECOMMENDATION

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

Motion to adopt Ordinance 8637 repealing and reenacting Chapter 10-2.5, “Abatement of Public Nuisances,” B.R.C. 1981, expanding the city’s local nuisance laws to redefine public nuisance and create a chronic nuisance designation and amending Chapter 10-3, “Rental Licenses,” B.R.C. 1981, to align with the changes made to Chapter 10-2.5; and setting forth related details.

PUBLIC FEEDBACK

A [Public Nuisance Ordinance Update webpage](#) includes information such as the proposed ordinance, an annotated version of the current ordinance highlighting changes, and a Frequently Asked Questions (“FAQ”) reference. The FAQs largely reflect questions and concerns raised by community stakeholders.

Because the chronic nuisance provisions of the proposed ordinance respond to a pattern of violations, the vast majority of community members will not be impacted by these changes. Rather than a broad, generalized approach, staff took a strategic approach to community engagement. Those likely to be impacted by the proposed ordinance were given priority: top historic potential violators, tenants, landlords, students, University of Colorado Staff and Administration, Community Connectors in Residence, and various community service providers: Boulder Chamber of Commerce, Thistle Community Housing, Emergency Family Assistance Association (EFAA), TGTHR, Boulder Shelter for the Homeless, Imagine! Colorado, Mental Health Partners, Center for People with Disabilities, Element Properties/Bluebird, led and organized by Boulder Housing Partners.

Details, including specific comments, can be found in [Attachment B](#), Community Engagement and Feedback.

EQUITY ASSESSMENT

Throughout the process to update the ordinance, city staff worked to understand and address potential equity impacts to residents and property owners. Specifically, staff utilized the city’s Racial Equity Instrument (REI) to: 1) determine who best to engage with and how, at the earliest stage of the process and throughout the process; 2) look at nuisance data through an equity lens, and to work to avoid stigma and stereotypes based on where people live and the predominant identities of people who live there; 3) determine how best to balance the desire for using data for decision-making, with the rights of community members to privacy and a dignified experience; and, 4) explore what services the city already has or would ideally provide to reduce potentially harmful impacts on affected individuals and neighborhoods.

It is challenging to discuss precisely who this proposed ordinance will impact, as the data does not yet exist. However, consulting with city staff, advisory groups, and community partners helped identify which populations and communities could experience benefits or burdens. Throughout the process staff solicited and received comments and recommendations from the city’s Tenant Advisory Committee, CU Administration and Staff, CU students, Community Connectors in Residence, BARHA and a group of community service providers, organized by Boulder Housing Partners. Some recommendations included specific changes to the proposed ordinance, while others were more general items of consideration or concern. Staff added to the REI all comments related to socio-economic and/or racial equity for additional consideration by the core team.

This equity assessment process resulted in a number of tangible changes to the proposed ordinance. Examples of these changes are described on page 7 of this memo.

The staff team also recognizes that institutional biases could impact the violation count toward a chronic nuisance designation. Stereotypes and stigma may be directed at community members living in subsidized housing, or who are receiving housing or behavioral health support services, relative to this ordinance. City staff assert that a community member's race or ethnicity, level of income, neighborhood of residence, or length of time in stable housing does not warrant an assumption or suspicion that they will violate a chronic nuisance ordinance. When considering a potential chronic nuisance designation, individual violations will be carefully reviewed through the existing established investigative process to help ensure protection of Boulder's most vulnerable, while still holding accountable the landlords and residents that are negligent and refuse to effectively communicate or problem-solve with the city. The program will operate through an equity lens that is consistent with the Values and Intentions, and as part of the commitment to provide an 18-month check-in with Council (see below), the degree of success in doing so will be assessed.

The REI also prompted discussion among staff about existing city policies, practices and investments that can further help alleviate potential burdens on community members and property owners. For example, if tenants are experiencing socio-economic or behavioral health challenges and also need to be held accountable for chronic nuisance, Boulder Municipal Court can leverage referrals to programs and professional services for the tenant; these services can also benefit responsive property owners. Both the Boulder Municipal Court and the Prosecution Division of the City Attorney's Office are adept at creating processes and operating with a focus on equity for all individuals. Community Court is a strong example in which the problem-solving prosecutor's goal is not to further harm individuals but rather to address over-representation of people of color in the legal/justice system and to find services that will assist individuals in moving successfully through those systems. Programs like Critical Incident Training for Boulder police officers are also important elements in a citywide equity approach.

Other city programs such as Building Home, the Community Mediation and Resolution Center; city investments in many nonprofit behavioral health, economic assistance and navigation programs; and resident services from agencies like Boulder Housing Partners, Boulder Shelter for the Homeless, and TGTHR are some examples of the city's holistic approach to serving community members in need.

BACKGROUND

City Council directed the re-write of the current [Abatement of Public Nuisances](#) ordinance and creation of chronic nuisance as a more clear designation for properties reaching a specific threshold of violations. A "Nod of Five" was made in March 2021 to explore options for quality of life projects, and City Council confirmed an update to the nuisance ordinance at the July 28, 2022 study session as one of those projects. A full list of quality of life projects can be found in [Attachment C](#). City Council again supported the notion of the proposed ordinance revision coming before them for consideration at a

study session on April 25, 2024. This update represents the final step in the overall set of quality of life initiatives.

Current code is ineffective and difficult to implement in a consistent manner citywide. It is vague and creates a timeline and process that is not suitable for enforcement or landlord accountability. The following additional considerations led to plans for an updated ordinance:

- Current code makes no distinction between public and chronic nuisance, grouping all types of violations as “public nuisance” once there are two or more violations at a particular property. This is not reasonable or enforceable given the large number of properties that receive more than two violations in the stated timeframe.
- Chronic nuisance will impact a very small number of properties. The definition for chronic nuisance was developed by reviewing the number of violations for the historically most egregious offenders representing the top two percent (per total nuisance violations in the timeframe studied) of properties. From that, staff analyzed the dwelling unit numbers and numbers of violations among this population to determine the most fair and equitable set of categories. Staff estimates that 20 properties or less a year will actually qualify as “chronic nuisance” candidates, and of those, all would first be given the opportunity for compliance through an abatement agreement.
- Core Chronic Nuisance Team. Created in the last quarter of 2022, and meeting bi-weekly since January 2023, this is a cross-organizational team. In addition to the quality of life projects, data analysis and a series of studies, as well as community questions and recommendations, this team has led the continued exploration, analysis, reflection, and creation of recommendations to council. A Values & Intentions document was produced by the core team while working to apply the REI to the project. The document has guided the development of the proposed nuisance ordinance update and is found as [Attachment D](#).
- Comparison City Research. The study was conducted by the City Attorney’s Office and the Unlocking Government consultant. Findings were shared with the core team and serve as a reference when questions are presented. In Colorado, Fort Collins, Parker, and Aurora were studied. Other cities studied were Kansas City (MO), Madison (WI), Minneapolis (MN), Portland (OR), Seattle (WA), Spokane (WA), Springfield (IL), and Berkely (CA). (See [Attachment E](#))
- Administrative Review and Actions. Any existing ordinances and administrative processes currently available to the city manager were reviewed by the city’s legal team to determine whether any intermediate actions could be taken to address current conditions. During this review in 2023, staff determined that administrative options were significantly limited under the current code, so a longer project plan was developed to re-write the ordinance to include a new administrative process.

- **Continuous Data Use and Analysis.** Data analysis led this project as both a stand-alone effort and as a continuous feedback loop for decision-making. The first task in understanding the nature of chronic nuisance properties (both owner-occupied and rental) in the city was to geocode and analyze property data across several city systems. Historically, violation data was siloed by data sets related to various city programs or departments, and the resulting data was ineffective in addressing chronic nuisance, a limitation of meaningfully administrating such related codes. This effort required overcoming complicated internal information sharing and development of various tools. With this work, the city has a mechanism to efficiently look across systems, codes, and departments to see a complete picture of a property as it relates to all city code violations -- code compliance, code enforcement, and police reports/citations.
- **Investigative Process.** Despite the advances provided by the data abilities, it is important to recognize that, like the data sources that support them, any tools will only function as a starting point to the administrative enforcement process. An administrative tools will simply be a notification to staff of an increasing number of violations at a property, which will then prompt further investigation and a careful and individualized determination regarding the nuisance status of a property. This ordinance will be able to be administered, as in the past, with current resources. However, as discussed at the study session, a review is underway to look at all citywide enforcement resources as a way to potentially achieve more capacity in the future.

STUDY SESSION FEEDBACK

Staff met with city council during the April 25, 2024, study session, as an update to overall quality of life projects and specifically to review staff process and plans for the Abatement of Public Nuisance ordinance update, including the recommendations for managing chronic nuisance issues.

City Council at that time acknowledged and appreciated the significant community engagement that had been completed, and Council supported that this update should move forward with recommendations for changes to the proposed ordinance. Council also referenced two letters received from the Boulder Area Rental Housing Association (BARHA) and a coalition of community service providers led by Boulder Housing Partners (BHP), and requested that staff follow up with those groups to better understand their recommendations and to adopt changes if and where it was possible, in balance with the various goals of the work plan item.

In addition to affirming the course of action, City Council raised the prospect of retiring the term “landlord,” which staff has made as a work item to potentially address in the future.

Since the April study session, several further changes were made to the proposed ordinance because of the additional community recommendations, as follows:

1. Language was placed in the legislative intent section to indicate that nuisances are intended to provide more robust remedies than typical single violations for particularly egregious acts or to address situations that are continually unaddressed.
2. The definition of “abatement agreement” was changed in section 10-2.5.2 to include the terms “reasonable” and “legally enforceable” as a description of the corrective action that the city may request from the property owner.
3. The crime victims exemption of the definition of public nuisance in Section 10-2.5-2 was modified to include not only residents but also “the owner, the agent, or the operator of a parcel.”
4. The timeframe of “year” for the definition of chronic nuisance changed to August 1 to July 31 to accommodate student rentals even though this is a citywide ordinance that will impact both owner-occupied and rental properties. Changes are reflected in Section 10-2.5-2 per the definition of chronic nuisance property. This reset created the need to rework the historical data used to set the ordinance, and, although this data change did suggest the possibility of actually lowering some thresholds, staff determined that it remained close to the planned thresholds and is therefore maintaining the numbers as they are presented. Maintaining the thresholds was done due to community partner feedback over the last eighteen months.
5. Demand for compliance was added as a defense in Section 10-2.5-17 and as an option for a remedy in the abatement agreement.
6. An additional defense was added in Section 10-2.5-17 for landlords or property managers who already have a documented court order or an affidavit of trespass against the person committing the nuisance.
7. “Outstanding” was added to the term “violation” in the reduced rental provision and to Sections 10-3-3 and 10-3-4 to clarify that the provision is related to violations that have gone unaddressed.
8. The number of tiers used to define properties of certain unit sizes to define the number of violations required to qualify as chronic changed from four to five, based on further stakeholder discussions regarding potential over-representation among larger properties

The following elements were carefully considered, but staff feels they do not further the Values and Intents of the work plan item; as such, no changes related to them are reflected in the proposed ordinance:

1. Exemption for 100% permanently supportive housing. City staff does not support exempting any properties from this proposed ordinance. While aware of the critical service that 100% permanently supportive housing provides to the community, staff are also accountable for preserving public safety for residents in those and neighboring properties and communities. The proposed ordinance allows for both landlord and tenant accountability in those circumstances. The

city will work, through existing programs and services, to provide off-ramps to chronic nuisance designations, as outlined in the proposed ordinance. Additionally, the Prosecution Division of the City Attorney's Office and the Boulder Municipal Court skillfully work in this type of situation and are well connected to community resources. The additional monitoring, support, and connection is often what is needed in certain circumstances involving supportive housing.

2. Additional requirements for warning notices and violations. Business processes within the Code Compliance Division, which will manage public and chronic nuisance enforcement, already dictate that property owners and property managers receive warning letters when possible. Staff experience is that there is a need to allow flexibility for certain life-safety circumstances when things escalate quickly. Additionally, property managers change or are not listed in a formal and legal way, such as in the county property records. Property records also may list the property owner as a trust or company, which already creates hurdles in the notification process. All agree that in most situations, issuing a warning letter to the property owner(s) and manager is best practice. Making this a condition prior to pursuing legal remedies, however, is not conducive to the goal of improved and efficient enforcement.
3. Separation of property owner responsibilities and behavior-based violations of tenants for rental properties for chronic nuisance count. Extensive research was completed to identify best practices for this request. While there are examples of both separate and combined approaches, the core team believes that while challenging, a single ordinance that addresses both types of violations provides for the most holistic view of a single property and its impact on neighbors and the community. The proposed ordinance will leave it to the investigative process to determine who is at fault for which violations and pursue a chronic nuisance violation if and when it is appropriate to remedy specific situations.

ANALYSIS

Why does the current abatement ordinance need changes?

The nature of the city's current Abatement of Public Nuisance Ordinance prohibits an effective, timely, or sustainable system for dealing with what become "problem properties" due to a high number of violations, across the city's regulatory agencies. Even though they represent a small number of properties (estimated at 20 or less per year), field staff report of the challenges and frustrations in dealing with severe "problem properties" citywide and a lack of escalating alternatives for accountability. Community complaints, confirmed by city officials, frequently culminate in only single-violation level responses, as there is not currently an effective mechanism to hold properties accountable for multiple accumulated violations of different types.

Consequently, a property may continually receive nuisance violations and ultimately become a detriment for its occupants and neighbors, having far-reaching, enduring, and

negative impacts that are both personal and have property value consequences for the neighborhood. As a result, the current ordinance has been used infrequently and ineffectively.

Definition of Public Nuisance

Following the March 2021 disturbance in the University Hill Neighborhood, a full review of police action and review of related ordinances was conducted. Much of that effort evolved into the larger quality of life project, and it was determined that a clear definition was missing regarding existing singular violations.

The current definition of “public nuisance” includes two or more violations, presumed to be an earlier effort to identify properties with repeated violations, though it is set too low to be equitable or meaningful for enforcement. At the same time, it does not clearly address situations where there is a single egregious violation that presents an immediate danger to public safety (e.g., a collapsing stairwell).

The proposed ordinance reduces the public nuisance designation from two to one violation to allow for greater clarity on the application of this proposed ordinance in dangerous situations. This designation is intended for only egregious acts, and to facilitate the defining of chronic nuisances. It is important to note that owners, tenants, and property managers may self-report such violations and would be protected from charges under this proposed ordinance if self-reported. City administration and the court would have access to the same set of remedies for a public nuisance as for chronic nuisance, detailed below.

Definition of Chronic Nuisance

The current chronic nuisance project focuses on residential properties only. Commercial properties could be considered in the future, but at this time the community need and city resources are available to best focus on residential use (both owner-occupied and rental properties). The team focused on three key areas to inform the development of the proposed ordinance: 1) the number of violations used to determine “chronic” (and thus a threshold for the consideration of action by the city); 2) types of qualifying violations to be included (excluding, for example, crimes against victims); and, 3) remedies and pathways viable for consideration.

Number of Violations

Thresholds to define “chronic” are based on the historic top two percent violator properties across the city, grouped based on the number of dwelling units on a property. Staff then determined the number of groupings by the most even distribution of property numbers within the grouping, while balancing a need for operational simplicity.

Four groupings are based on unit count to provide the balance between equitable distribution and practical administration of the proposed ordinance. Chronic nuisance property means:

- (1) A parcel with a single dwelling unit where five (5) or more public nuisances have occurred within a year; or
- (2) A parcel with two dwelling units where seven (7) or more public nuisances have occurred within a year; or
- (3) A parcel with three to nine dwelling units where seven (7) or more public nuisances have occurred within a year;
- (4) A parcel with ten to ninety-nine dwelling units where fifteen (15) or more public nuisances have occurred within a year; or
- (5) A parcel with one hundred dwelling units or more where fifty (50) or more public nuisances have occurred within a year.

Earlier drafts of the proposed ordinance suggested three groupings. Staff added an additional grouping based on early community partner input and concerns that larger units would be over-represented.

Type of Violations Included or Excluded

The core team defined which types of violation/incidents qualify as nuisance conditions and which do not. Only verified and cited violations qualify (as opposed to calls for service, complaints, warnings, etc.). Multiple studies were completed to better determine the mix of different types of nuisances and their prevalence across the city, by subcommunity, over time. All relevant departments spent several rounds of review to determine which “qualifying” violations should be included, specific to its own jurisdiction. The project work team then conducted secondary and tertiary review processes to review interactions across departments. Matters such as community and neighbor impacts were considered, as well as the types of violations that are indicative of more substantive and ongoing impacts. Data analysis provided the numbers of incidents per year and ranking of incidents for prevalence.

Ultimately, the group included a broad set of violations associated with general code enforcement and policing, with the following key types excluded: all crimes in which the resident of a property is a victim of crime, including those of a sexual nature, child abuse, kidnapping, domestic violence, and other individual crimes against the resident, the owner, the agent, or the operator; or crimes committed in a commercial or business zone. Vehicular and traffic violations are also excluded, along with false alarms and false reports.

Code compliance (administered by P&DS) and fire code violations (administered by the Fire Department) were examined and those that are included represent public safety concerns and accountability toward property owners in rental and ownership situations, as well as in multi-unit, multi-ownership situations.

Due to the nature of code enforcement violations (administered by the Code Enforcement Unit within the Police Department), all of these violation types are included, since they carry a high impact on neighboring properties by their very nature of being exterior and already explicitly classified as nuisances (weeds, trash, snow, etc.).

Remedies and Pathways

Chronic nuisance violators will have already accumulated individual violations, which will have been cited, addressed and assigned consequences according to the associated law, including fines, abatement of conditions, restorative justice actions, and more. The remedies required once a property reaches a threshold of being a “chronic” violator are, therefore, in addition and above and beyond those for the individual violations. As stated above, these remedies are for that small group of properties that have been persistently unresponsive to other penalties and consequences.

The proposed ordinance allows for as many remedies as possible, with administrative, civil and criminal pathways, as well as injunctive relief. This range of options is an acknowledgement that the nature and severity of violations will vary greatly. Both rental license revocation and reduced term rental licenses have been added as remedies for egregious situations. Property owners can use the following processes to present evidence to reduce consequences.

Off-Ramp for Chronic Nuisance Properties: Abatement Agreement

An offending property owner will have an opportunity to create an abatement agreement with the city. Completion of an abatement agreement will provide an off-ramp to further prosecution for chronic nuisance properties. A notice is required to be posted on the property when the threshold for chronic nuisance is met and verified. At that time, the property owner must respond within 10 days with a written plan for abatement. Such an agreement will be as unique as to the violations and individuals involved but may include such items as:

- The rental property owner issuing a Demand for Compliance.
- Establishing tenant screening, leasing, and rule enforcement.
- Implementing physical improvements for crime prevention (e.g., lighting).
- Providing security for the property.
- Pursuing other remedies available under any lease or other agreement applicable to the property.
- Promptly reporting nuisance activities to law enforcement.
- Regular cleaning, maintenance, and repair of the properties and buildings located on it.

To avoid further prosecution, the offending party will need to implement the abatement agreement once it is approved by the city.

Additional Modifications to Effectuate the Proposed Ordinance

To make the changes identified, the Rental License code is proposed to be modified. The ability to reduce rental license terms and to remove them in extreme circumstances already exists within the court system. The proposed change in the Rental License code is to add these options as administrative remedies, under the circumstances of either public or chronic nuisance violations. These include the following proposals:

- 10-3-4, B.R.C. 1981, providing reduced term rental license for violations.
- 10-3-16, B.R.C. 1981, permitting removal of rental license, only to be used in extreme circumstances
- 10-3-20, B.R.C. 1981, adding reconsideration for occupancy due to administrative confusion of current ordinance.

NEXT STEPS

If the proposed ordinance is adopted, staff recommends an 18-month check-in with City Council. Staff proposes this timeline because of the timeframe to set up the administrative process and work through a chronic nuisance situation (i.e., the year timeframe in the code). Education and training in the community, including through community partners, will be important to the success of the broader effort and would ideally result in no public or chronic nuisance cases whatsoever, as compliance increases. The core team will evolve into a cross-departmental group that will review potential chronic and public nuisance situations and discuss these across personnel/departments, with an eye toward equity and a clear understanding of previous contacts by the property owner with the city as a whole.

Second reading and public hearing of Proposed Ordinance 8637 is scheduled for August 8, 2024.

ATTACHMENTS

- A – Proposed Ordinance 8637
- B – Community Engagement and Feedback
- C – Quality of Life Projects
- D – Values and Intentions
- E – Comparison City Research

ORDINANCE 8637

AN ORDINANCE REPEALING AND REENACTING CHAPTER 10-2.5, "ABATEMENT OF PUBLIC NUISANCES," B.R.C. 1981, EXPANDING THE CITY'S LOCAL NUISANCE LAWS TO REDEFINE PUBLIC NUISANCE AND CREATE A CHRONIC NUISANCE DESIGNATION AND AMENDING CHAPTER 10-3, "RENTAL LICENSES," B.R.C. 1981, TO ALIGN WITH THE CHANGES MADE TO CHAPTER 10-2.5; AND SETTING FORTH RELATED DETAILS

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

Section 1. Chapter 10-2.5, "Abatement of Public Nuisances," B.R.C. 1981, is hereby repealed in its entirety and reenacted to read as follows:

Chapter 2.5 - Abatement of Public Nuisance and Chronic Nuisance Property

10-2.5-1. - Legislative Findings and Statement of Purpose.

The City Council of the City of Boulder, Colorado, hereby makes the following legislative findings and determinations of fact:

- (a) The Boulder Revised Code 1981 presently contains various provisions enacted under the police power of the city which are intended to maintain order and promote the health, safety and welfare of the residents of the city.
- (b) Existing code provisions are directed towards the conduct of persons on private property, and are intended to ensure that neither the conduct of such persons, nor the physical condition of such properties, constitutes a public nuisance to other residents in the vicinity of the properties or passers-by on the public rights-of-way.
- (c) Various code provisions, including those pertaining to unreasonable noise, trash, litter, assault, brawling and harassment, can be enforced by the filing of criminal prosecutions against the persons immediately responsible for violations of the same.
- (d) Notwithstanding these enforcement efforts, recurring code violations on parcels of property in the city can result in the creation of public nuisances on such properties which threaten the peace and safety and undermine the quality of life of the residents of the city.
- (e) Public nuisance laws exist under state statute, but such laws are enforceable only in the state courts and not in the municipal court.
- (f) Section 31-15-401(1)(c), C.R.S., authorizes the city to declare and abate public nuisances.

- 1 (g) Section 16-13-302(1), C.R.S., specifically provides that the state public nuisance laws shall
2 not be construed to limit or preempt the powers of any court or political subdivision to
3 abate or control public nuisances.
- 4 (h) It is necessary, desirable and in the public interest to enact a local public nuisance law to
5 eliminate local public nuisances by removing parcels of real property in the city from a
6 condition that either creates an immediate need for abatement to protect the public health,
7 safety, or welfare, or lead to consistent and repeated violations of state or municipal law;
8 make property owners vigilant in preventing public nuisances on or in their property; make
9 property owners responsible for the use of their property by tenants, guests and occupants;
10 provide locally enforceable remedies for violations of local ordinances; and, otherwise
11 deter public nuisances.
- 12 (i) The purpose of this chapter is to enact a local nuisance abatement law that addresses both
13 public nuisances and chronic nuisances. Nuisance violations are intended to provide more
14 robust remedies than typical single violations for particularly egregious acts or to address
15 situations that are continually unaddressed.
- 16 (j) Premises governed by the Colorado Beer Code and Colorado Liquor Code need not be
17 regulated by the provisions of this chapter, because regulations promulgated under Articles
18 3, 4, and 5 of Title 44 of the Colorado Revised Statutes establish adequate local remedies to
19 address recurring disturbances or other activities occurring on such premises which are
20 offensive to the residents of the neighborhood in which such licensed establishments are
21 located.

22 **10-2.5-2. - Definitions.**

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

25 *Abate* means to bring to a halt, eliminate or, where that is not possible or feasible, to
suppress, reduce and minimize.

Abatement agreement means a written contract between the city and a person owning or
leasing a property, or their agent, on which there is a public nuisance or that has become a
chronic nuisance property, in which the person agrees to timely take all corrective actions to
abate the public nuisance or chronic nuisance property and to prevent the public nuisance or
chronic nuisance from reoccurring as agreed in the contract. The contract must be reasonable and
contain corrective actions that are legally enforceable. Such corrective actions taken by a person
owning or leasing a property, or their agent, may include, without limitation, and as applicable:

- (1) Issuing a Demand for Compliance;
- (2) Effective tenant screening, leasing, and rule enforcement;
- (3) Implementing physical improvements for crime prevention;
- (4) Providing security for the property;
- (5) Pursuing other remedies available under any lease or other agreement applicable to the property;

- 1 (6) Promptly reporting nuisance activities to law enforcement; and
- 2 (7) Regular cleaning, maintenance, and repair of the property and the buildings located
- 3 on it.

4 *Agent* means any person legally authorized to act on behalf of or in place of the owner or

5 lessee of a property, which may include, without limitation, an operator, a person providing

6 property management services, a trustee, conservator, or personal representative.

7 *Chronic nuisance property* means:

- 8 (1) A parcel with a single dwelling unit where five or more public nuisances have
- 9 occurred within a twelve-month period, beginning August 1 through July 31 of the
- 10 following year; or
- 11 (2) A parcel with two dwelling units where seven or more public nuisances have
- 12 occurred within a twelve-month period, beginning August 1 through July 31 of the
- 13 following year; or
- 14 (3) A parcel with three to nine dwelling units where seven or more public nuisances have
- 15 occurred within a twelve-month period, beginning August 1 through July 31 of the
- 16 following year;
- 17 (4) A parcel with ten to ninety-nine dwelling units where fifteen or more public
- 18 nuisances have occurred within a twelve-month period, beginning August 1 through
- 19 July 31 of the following year; or
- 20 (5) A parcel with one hundred or more dwelling units where fifty or more public
- 21 nuisances have occurred within a twelve-month period, beginning August 1 through
- 22 July 31 of the following year.

23 For enforcement purposes and in accordance with Section 5-2, "General Provisions,"

24 B.R.C. 1981, each day in which a violation of this chapter occurs constitutes a separate violation

25 remediable through the enforcement provisions of this chapter.

Crime victim means any natural person against whom any crime has been perpetrated or

attempted. Crime victim, for the purposes of determining a public nuisance or a chronic nuisance

property violation, includes, but is not limited to, any request for peace officer protection or any

peace officer intervention in the face of a threat or a perceived threat to person or property, or

any request for the assistance of any peace officer to enforce a court order, including, but not

limited to, circumstances in which the conviction, request for assistance, or other peace officer

intervention arises from an incident relating to domestic violence, dating violence, sexual assault,

child neglect, stalking against any person at or near the premises, or medical emergencies for

serious bodily injury or death.

Leasehold interest means a lessor's or lessee's interest in real property under a verbal or

written lease agreement.

1 *Legal or equitable interest* means every legal and equitable interest, title, estate, tenancy
 2 and right of possession recognized by law or equity, including, but not limited to, free-holds, life
 3 estates, future interests, condominium rights, timeshare rights, leaseholds, easements, licenses,
 4 liens, deeds of trust, contractual rights, mortgages, security interests, and any right or obligation
 5 to manage or act as agent or trustee for any person holding any of the foregoing.

6 *Notice of violation* means a written notice advising the owner, known operator, tenant, or
 7 occupant of a parcel that the parcel, such persons and other affected persons may be subject to
 8 proceedings under this chapter if the remaining number of public nuisance violations needed to
 9 declare the parcel a chronic nuisance property under this chapter occur in or on the parcel within
 10 the required period of time.

11 *Operator* means any person, firm, partnership, company, corporation or association,
 12 including their employees, agents, or contractors, that controls, operates, or manages a parcel(s).

13 *Parcel or property* means any lot or other unit of real property, including, without
 14 limitation, individual dwelling units or any combination of contiguous lots or units owned by the
 15 same person or persons. The terms *parcel* or *property* exclude homeless shelters run by a
 16 homeless service provider or governmental entity.

17 *Public nuisance* means any act or omission that constitutes a violation of the Boulder
 18 Revised Code 1981, public health order, or state criminal law occurring or existing on any parcel
 19 that creates an unreasonable risk of harm or is injurious to the public health, safety, or welfare or
 20 that unreasonably injures, damages, annoys, inconveniences, or disturbs the peace of any
 21 member of the public with normal sensitivity with respect to their comfort, health, repose, or
 22 safety, or with respect to the free use and comfortable enjoyment of their property, sidewalks,
 23 streets, or other public spaces near, upon, and/or around the offending property. Multiple
 24 violations committed within any twenty-four-hour period on or in the same parcel constitute
 25 separate violations, irrespective of whether the violations are otherwise related to each other by
 some underlying unity of purpose or scheme. Violations that are first reported to a peace officer
 by a person having an ownership or leasehold interest in the parcel where a violation or
 violations have occurred, or having a contractual obligation to manage such parcel, or occupying
 such parcel may not be deemed public nuisances under this chapter. Violations of the Boulder
 Revised Code 1981 regarding noise, trash and weeds shall create a rebuttable presumption that
 such violations are public nuisances. However, this definition of *public nuisance* is subject to the
 defenses set forth in subparagraph 10-2.5-17, B.R.C. 1981. It is not necessary that a criminal
 prosecution has been initiated to establish that a violation has occurred.

The term *public nuisance* does not include:

- 21 (1) traffic offenses;
- 22 (2) offenses in which the resident, the owner, the agent, or the operator of a parcel is a
 23 crime victim;
- 24 (3) receipt of false report as defined in Section 5-5-10, "False Reports," B.R.C. 1981,
 25 unless the false information was provided by an occupant or owner of the parcel; and

- (4) a false alarm as defined in Chapter 4-16, "Police Alarm Systems," B.R.C. 1981, unless the false alarm was caused, permitted, or allowed by an occupant or owner of the parcel in violation of Chapter 16.

Relative means an individual related as a member of a "family" as "family" is defined in Section 1-2-1, "Definitions," B.R.C. 1981.

10-2.5-3. - Owner Responsibility.

- (a) No person having an ownership or leasehold interest in any parcel, or having a contractual obligation to manage such parcel, or occupying such parcel, shall commit, conduct, promote, facilitate, permit, fail to prevent or otherwise let happen any public nuisance or chronic nuisance in or on such parcel. Such persons shall abate any such nuisance upon the parcel and prevent any further violations from occurring on the parcel.
- (b) Any person who has possession or control of a parcel as an owner, lessee, agent, tenant or occupant where any public nuisance or chronic nuisance property activity exists or has occurred shall be presumed under this chapter to be the person causing or allowing the public nuisance or chronic nuisance property activity unless clear and convincing evidence indicate otherwise. Notwithstanding this presumption and any other provision of this chapter, nothing herein shall be construed to release the owner of a parcel on which there is a public nuisance or that has become a chronic nuisance property from the legal obligations and responsibilities they have under this chapter and any other laws to prevent their parcel from becoming a public nuisance or chronic nuisance property and to abate any such activity occurring or existing on their parcel.

10-2.5-4. - Procedures in General.

- (a) The municipal court is vested with the jurisdiction, duties and powers to hear and decide all cases arising under this chapter, and to provide the remedies specified herein.
- (b) Any civil action commenced pursuant to the provisions of this chapter shall be in the nature of a special statutory proceeding. All issues of fact and law in such civil actions shall be tried to the court without a jury. No equitable defenses may be set up or maintained in any such action except as provided specifically in this chapter. Injunctive remedies under this chapter may be directed toward the parcel or toward a particular person.
- (c) **Strict Liability.** Public nuisance or chronic nuisance property as defined by this chapter shall be strict liability violations. No culpable mental state shall be required to establish a public nuisance or chronic nuisance property under this chapter or to obtain court approval for remedies provided by this chapter. However, if a public nuisance is used by the city to establish the existence of a chronic nuisance property that has not been previously adjudicated, all of the elements of such public nuisance, including any culpable mental state required for the commission of such public nuisance, must be established by the city by a preponderance of the evidence at the trial on the merits of any civil action commenced pursuant to the provisions of this chapter.

- 1 (d) Burden of Proof. In any criminal proceeding under this chapter, the city shall have the
2 burden of proving beyond a reasonable doubt that any alleged public nuisance or chronic
3 nuisance property activity occurred on the property, including proving all the elements of
4 the offense constituting the public nuisance or chronic nuisance property activity except as
5 hereafter provided.
- 6 (1) In any civil proceeding under this chapter, the city shall have the burden of proving,
7 by a preponderance of the evidence, that any alleged public nuisance or chronic
8 nuisance property activity occurred on the property, including proving all the
9 elements of the offense constituting the public nuisance or chronic nuisance property
10 activity except as hereafter provided.
- 11 (2) However, the city shall not be required in either case to prove that a person was cited,
12 held liable for, or convicted in municipal or any state court for the civil or criminal
13 charge underlying that public nuisance or chronic nuisance property activity. If,
14 however, a person is held liable for or convicted of the civil or criminal charge
15 underlying the alleged public nuisance or chronic nuisance property activity and such
16 decision is final, that decision shall be deemed by the municipal court as conclusive
17 evidence the public nuisance or chronic nuisance property activity occurred and the
18 city need only prove the public nuisance or chronic nuisance property activity
19 occurred on the property.
- 20 (e) Civil proceedings pursuant to the provisions of this chapter shall be governed by Chapter 1-
21 3, "Quasi-Judicial Hearings," B.R.C. 1981, and any rules adopted by the city manager.
- 22 (f) Civil actions pursuant to the provisions of this chapter shall be filed by the office of the city
23 attorney for the city or by such other legal counsel as the city attorney may designate to
24 represent the city.
- 25 (g) In the event that the city pursues any criminal penalties provided in any other section of
this code, any other civil remedies or the remedies of any administrative action, the
remedies in this chapter shall not be delayed or held in abeyance pending the outcome of
any proceedings in the criminal, civil, or administrative action, or any action filed by any
other person, unless all parties to the action initiated pursuant to this chapter agree
otherwise.
- (h) An action brought pursuant to the provisions of this chapter may be consolidated with
another civil action brought pursuant to the provisions of this chapter that involve the same
parcel of real property. However, such actions shall not be consolidated with any other civil
or criminal action except upon the stipulation of all parties. No party may file any
counterclaim, crossclaim, third-party claim, or setoff of any kind in any action pursuant to
the provisions of this chapter.

10-2.5-5. - Notices for Public Nuisance.

- (a) Upon discovering a public nuisance, a peace officer may issue and serve a notice to abate
on the owner, lessee, or agent, as applicable, directing them to remove and abate the
nuisance from the parcel within the time specified in the notice as follows:

- 1 (1) Within twenty-four hours of the issuance of the notice, if the nuisance poses an
 2 imminent and substantial risk of damaging other property (including personal
 3 property of any other person), injuring an individual, or threatening the public health,
 4 safety, or welfare; or
- 5 (2) Within seven days for all other public nuisances, or such longer period of time as the
 6 peace officer determines is appropriate, if, based on the facts and circumstances, the
 7 nuisance could not reasonably be abated within seven days.
- 8 (b) If the owner, lessee, or agent, as applicable, fails to abate the nuisance within the time
 9 stated in the notice to abate, the peace officer may remove or abate the nuisance from the
 10 parcel without delay as provided in Section 10-2.5-9, "Abatement Costs – assessment,
 11 collection and lien," B.R.C. 1981, or take such other action or actions as are authorized in
 12 this chapter.
- 13 (c) The officer may serve the notice to abate by any of the following methods:
- 14 (1) Personal service of the notice to the owner, lessee, or agent, as applicable;
- 15 (2) Mail a copy of the notice by first class mail to the last known address of the owner as
 16 reflected in the records of the Boulder County Assessor's Office or the Boulder
 17 County Clerk and Recorder's Office;
- 18 (3) Mail a copy of the notice by first class mail to the owner, lessee, or agent at their last
 19 known address within the city's records or as found in other publicly available
 20 records;
- 21 (4) Email the notice to the owner, lessee, or agent; or
- 22 (5) Post a copy of the notice in a conspicuous place at the entrance of the parcel or
 23 entrance of any building on the parcel.
- 24 (d) The notice to abate shall include:
- 25 (1) A description of the public nuisance;
- (2) The date by which the nuisance must be abated;
- (3) A statement that if the nuisance is not abated within the time specified in the notice,
 the city may take any enforcement action authorized by the Boulder Revised Code
 1981;
- (4) A statement that, if the city abates the nuisance at its cost, it will be entitled to recover
 its actual internal and external costs plus interest as provided in Section 10-2.5-9,
 "Abatement Costs – assessment, collection and lien," B.R.C. 1981; and
- (5) A statement that, if the city's cost of abatement is not paid, a lien shall attach to the
 parcel as provided in Section 10-2.5-9, "Abatement Costs – assessment, collection
 and lien," B.R.C. 1981, until such cost and accrued interest is paid in full.

10-2.5-6. - Notices for Chronic Nuisance Property.

No chronic nuisance property abatement action shall be brought forward until the following

1 notice and procedures have been utilized:

- 2 (a) Upon discovery that a parcel will become a chronic nuisance property if one or more
3 violation occurs on the parcel within the requisite time period, a peace officer may issue
4 and serve a written warning notice in the manner provided in subsection (d), of this section.
5 Issuance of this warning shall not be a prerequisite to any proceedings under this chapter.
- 6 (b) Upon discovery that a property has become a chronic nuisance property, a peace officer
7 may issue and serve a notice of chronic nuisance property as provided in subsection (d), of
8 this section.
- 9 (c) The notice of chronic nuisance property is a lawful order. Each directive in the notice is a
10 separate lawful order, and failure to obey any directive is subject to the penalties and costs
11 set forth in this chapter.
- 12 (d) Such written notice shall be deemed sufficient if personally served on the owner of the
13 parcel, sent by email, or sent by first class mail to the owner's address as shown in the
14 records of the Boulder County Assessor's Office or the Boulder County Clerk and
15 Recorder's Office. If the notice is returned as undeliverable, the notice shall be deemed
16 properly served if it is thereafter posted in a conspicuous place on the parcel. The notice
17 shall contain the following information:
- 18 (1) the street address or a legal description sufficient for identification of the parcel and,
19 if the public nuisance occurred at a multi-unit building, the city manager shall identify
20 the unit or units involved, where known;
 - 21 (2) the nature of the nuisances leading to the chronic nuisance notice, including the
22 provision or provisions of the Boulder Revised Code 1981 or any other law or laws
23 that were violated;
 - 24 (3) the dates of the nuisances;
 - 25 (4) a requirement that the property owner respond in writing to the notice within ten days
of the date of the owner's receipt of the notice or date of the posting, whichever is
later;
 - (5) a statement that the owner or an agent of the owner is required to respond in writing,
which must include a written plan to abate the chronic nuisance property and cure
nuisance activities. This requirement is a lawful order and failure of the owner to
provide a written plan to cure nuisance activities and enter into an abatement
agreement as described below in Section 10-2.5-7, "Abatement Agreement for
Chronic Nuisance Property," B.R.C. 1981, could subject the owner to criminal and
civil penalties as provided in this chapter;
 - (6) a warning that, if the owner does not respond, as required, or if the public nuisance is
not voluntarily abated to the satisfaction of the peace officer, or as set forth in Section
10-2.5-7, "Abatement Agreement for Chronic Nuisance Property," B.R.C. 1981, the
city may file a civil or criminal action to abate the property as a public nuisance or a
chronic nuisance property; and
 - (7) a statement that the cost of future enforcement at the parcel as a result of public
nuisance activities shall be billed to the property owner and could become a lien if not

1 paid as provided in Section 10-2.5-9, “Abatement Costs – assessment, collection and
2 lien,” B.R.C. 1981.

- 3 (e) The peace officer may also send copies of the notice to tenants, occupants, known agents,
4 or others, if in the judgment of the city manager, notice to such additional persons will
5 assist in the abatement of public nuisance conditions.
- 6 (f) The notice may be accompanied by educational materials which, in the judgment of the
7 peace officer, will be of assistance to responsible parties in abating and avoiding public
8 nuisance conditions.
- 9 (g) The city attorney may file a chronic nuisance property abatement action immediately and
10 without the notice set forth in this section if accompanied by a sworn statement that a
11 public nuisance posing an immediate threat to public safety is in existence as a result of the
12 condition or use of the parcel in question. For the purposes of this subsection (g), “threat to
13 public safety” shall include only those violations that involve actual or threatened physical
14 violence directed at persons or animals, substantial property damage, or other specific acts
15 that harm or threaten to harm human health or human safety.

16 **10-2.5-7. - Abatement Agreement for Chronic Nuisance Property.**

- 17 (a) An owner issued a notice of chronic nuisance property pursuant to Section 10-2.5-6,
18 “Notices for Chronic Nuisance Property,” B.R.C. 1981, shall, within ten business days of
19 such receipt or date of posting, whichever is later, contact the peace officer who issued the
20 notice or other contact individual designated in the notice and enter into an abatement
21 agreement with the city to eliminate the conditions, behaviors, or activities which constitute
22 the chronic nuisance activity at the parcel.
- 23 (b) If the owner does not timely respond to the notice under subsection (a), of this section, or
24 the owner does timely respond, but the city and owner are unable to agree to an abatement
25 agreement to the satisfaction of the city within thirty days of the date of the notice, the city
may proceed to abate the nuisance activities using any of the processes and remedies
available under the law.
- (c) If the owner fails to comply with any of the terms and conditions of the written abatement
agreement entered into with the city under this section, the city may file a civil action in
municipal court or, if appropriate, Boulder County district court to enforce the abatement
agreement in accordance with its terms and conditions.

10-2.5-8. - Nature of Remedies.

The remedies provided in this chapter shall be either administrative in the form of civil
fines or civil injunctive or other relief pursuant to a filed civil abatement action except that
violations noted in Section 10-2.5-10, “Criminal Sanctions,” B.R.C. 1981, shall be criminal in
nature.

10-2.5-9. - Abatement Costs – assessment, collection and lien.

- (a) If the city acts under any provision of this chapter to abate a public nuisance or chronic nuisance property, the owner of the parcel shall be liable to the city for the city’s total internal and external costs incurred in the abatement. The city’s internal costs shall be set and assessed under a written schedule of fees approved by the city manager, which fees shall be based on a reasonable estimate of the city’s direct and indirect internal costs to abate a nuisance, as amended from time to time. External costs shall include all amounts the city paid a vendor or contractor to assist in the abatement.
- (b) After the abatement is completed, the city shall send the owner of the parcel an invoice itemizing and totaling the city’s internal and external costs for the abatement. The invoice shall be mailed by first class mail addressed to the owner at the address of the parcel abated and to the last known address of the owner as reflected in the records of the Boulder County Assessor’s Office or the Boulder County Clerk and Recorder’s Office. The invoice may also be mailed by first class mail to any known agent of the owner at its last known address(es) within the city’s records or as found in other publicly available records. The invoice may also be sent by email to the owner or any known agent of the owner. The total costs invoiced shall be paid to the city by the owner or their agent within forty-five days of the date of the invoice. If not paid when due, the total assessed cost shall accrue interest at the rate of eight percent compounded annually.
- (c) The city’s assessed total cost of abatement, as stated in the invoice sent under this section, plus the interest accruing thereon, shall be deemed a perpetual lien imposed upon the parcel from the date such assessed cost became due until paid.
- (d) Any action taken under this section shall be pursuant to Section 2-2-17, “Administrative Fees, Rates and Charges Constitute Lien,” B.R.C. 1981.
- (e) If the offending parcel is not subject to taxation or for any other reason, the city may elect alternative means to collect the amounts due pursuant to this chapter, including the commencement of a judicial action at law or in equity, to include, without limitation, commencement of a civil action in Boulder County district court to judicially foreclose the lien and, after judgment, pursue such remedies as are provided by law.

10-2.5-10. - Criminal Sanctions.

This section shall apply to public nuisances and chronic nuisance properties.

- (a) No person shall:
 - (1) fail to remove and abate the public nuisance from the property within the time specified in the notice to abate after being served as provided in Section 10-2.5-5, “Notices for Public Nuisance,” B.R.C. 1981; or
 - (2) fail to obey a notice of chronic nuisance property issued by the city manager under Section 10-2.5-6, “Notices for Chronic Nuisance Property,” B.R.C. 1981; or
 - (3) fail or refuse to abide by a temporary or permanent abatement order issued by the municipal court under the provisions of this chapter; or

- 1 (4) interfere with or prevent, or attempt to interfere with or prevent, any city employee,
2 or city contractor from abating any such nuisance as authorized under this chapter.
- 3 (b) Each day's continuation of a violation or failure to comply is deemed a separate offense
4 and prosecutable and punishable as a separate offense.
- 5 (c) A violation of this section is an offense subject to the penalties of Section 5-2-4, "General
6 Penalties," B.R.C. 1981.

7 **10-2.5-11. - Administrative Remedies.**

8 This section shall apply to public nuisances and chronic nuisance properties.

- 9 (a) No person shall cause, allow, facilitate, or fail to abate a public nuisance from the property
10 within the time specified in the notice to abate as provided in Section 10-2.5-5, "Notices for
11 Public Nuisance," B.R.C. 1981.
- 12 (b) If a peace officer finds a violation of any provision of this chapter, the city manager, after
13 notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3,
14 "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the
15 following schedule:
- 16 (1) For the first infraction at a property, a penalty assessment of two hundred and fifty
17 dollars (\$250);
- 18 (2) For a second infraction at a property within a one-year period, a penalty assessment
19 of five hundred dollar (\$500);
- 20 (3) For a third infraction at a property within a one-year period, a penalty assessment of
21 one thousand dollars (\$1,000); and
- 22 (4) For a fourth and any subsequent infraction at a property within a one-year period, a
23 penalty assessment of two thousand dollars (\$2,000) for each infraction.
- 24 (c) The city's authority under this section is in addition to any other authority the city has to
25 enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C.
1981, and election of one remedy by the city shall not preclude resorting to any other
remedy as well.
- (d) Notice under this subsection is sufficient if hand delivered, emailed, mailed, or telephoned
to such person, or by posting in a prominent place on the parcel.
- (e) Each and every day during which any public nuisance continues to exist on a property after
the time period for abatement, as stated in the notice to abate, shall be deemed a separate
civil infraction and prosecutable and punishable as a separate infraction for a penalty
assessment under this section.
- (f) In establishing the amount of any civil penalty requested, the city may consider, without
limitation, any of the following factors:
- (1) The action or inaction taken by the owner to mitigate or correct the nuisance activities
at the property;

- 1 (2) Whether the nuisance activities at the property were repeated or continuous;
- 2 (3) The magnitude or gravity of the nuisance activities;
- 3 (4) The level of cooperation of the owner with the city;
- 4 (5) The cost incurred by the city in investigating and correcting, or attempting to correct,
5 the public nuisance at the property or the chronic nuisance property;
- 6 (6) The disturbance of neighbors; and
- 7 (7) Whether the nuisance activities continued on the property after the city provided the
8 notice to abate under Section 10-2.5-5, "Notices for Public Nuisance," B.R.C. 1981,
9 or the notice of chronic nuisance property under Section 10-2.5-6, "Notices for
10 Chronic Nuisance Property," B.R.C. 1981.

11 **10-2.5-12. - Commencement of Civil Abatement Action to Abate a Public Nuisance or**
12 **Chronic Nuisance Property.**

13 This section shall apply to public nuisances and chronic nuisance properties.

- 14 (a) In addition to the notices required in Sections 10-2.5-5, "Notices for Public Nuisance," and
15 10-2.5-6, "Notices for Chronic Nuisance Property," B.R.C. 1981, the following notification
16 is required before filing civil abatement actions:
 - 17 (1) At least ten calendar days before filing a civil action pursuant to the provisions of this
18 chapter, a notice to the owner and occupants of the parcel shall be posted at some
19 prominent place on the parcel. A notice shall also be mailed to the owner and known
20 operator of the parcel, if applicable. The mailing of the notice shall be deemed
21 sufficient if mailed by first class mail to the owner at the address shown of record
22 relating to the parcel in the records of the Boulder County Assessor's Office or the
23 Boulder County Clerk and Recorder's Office. The notice may also be emailed to the
24 owner, any known agents of the owner, and/or the occupants of the parcel. The
25 mailed and, if applicable, emailed notice shall state that the parcel has been identified
as the location of an alleged public nuisance or chronic nuisance property and that a
civil abatement action pursuant to the provisions of this chapter may be filed.
 - (2) Agents of the city are authorized to enter upon the parcel for the purpose of posting
these notices and to affix the notice in any reasonable manner to the outside of
buildings and structures.
 - (3) The city shall not be required to post or mail any notice specified herein before filing
a civil abatement action if it determines that any of the following conditions exist;
however, the city will provide such notice as soon as reasonably possible after filing a
civil abatement action, and, if notice has not been provided earlier, shall provide such
notice before any fine or other liability is imposed:
 - (A) The nuisance poses an immediate threat to public safety;
 - (B) Notice would jeopardize a pending investigation of criminal or nuisance
activity, confidential informants or other police activity; or

1 (C) Any other emergency circumstance exists.

2 (b) A civil abatement action pursuant to the provisions of this chapter shall be commenced by
3 the filing of a complaint verified by an affidavit, which may be accompanied by a motion
4 for a temporary abatement order, through and in the name of the city attorney. However,
5 any complaint filed pursuant to subsection 10-2.5-6(g), B.R.C. 1981, shall include an
6 affidavit or declaration attesting under penalty of perjury to the facts establishing the
7 immediate threat to public safety.

8 (1) The parties-defendants to an action commenced under the provisions of this chapter
9 and the persons liable for the remedies provided by this chapter may include the
10 parcel of real property itself, any person owning or claiming any ownership or
11 leasehold interest in the parcel, all tenants and occupants of the parcel, all managers
12 and agents for any person claiming an ownership or leasehold interest in the parcel,
13 any person committing, conducting, promoting, facilitating or aiding in the
14 commission of a public nuisance, and any other person whose involvement may be
15 necessary to abate the nuisance, prevent it from recurring, or to carry into effect the
16 court’s orders. None of these parties shall be deemed necessary or indispensable
17 parties. Any person holding any legal or equitable interest in the parcel who has not
18 been named as a party-defendant may intervene as a party-defendant. No other person
19 may intervene.

20 (2) The parties-defendants shall be served by personal service on the parties-defendants
21 or by first class mail to the parcel owner’s address as shown in the records of the
22 Boulder County Assessor’s Office or the Boulder County Clerk and Recorder’s
23 Office. The notice may be emailed in addition to personal service or first-class mail.
24 If the notice is returned as undeliverable, the notice shall be deemed properly served
25 if it is thereafter posted in a conspicuous place on the parcel.

(3) The complaint and, if applicable, temporary abatement order, shall be served upon the
real property itself by posting copies of the same in a prominent place on the parcel.

17 **10-2.5-13. - Remedies for Civil Abatement Action.**

18 (a) In a civil abatement action, in addition to injunctive relief, or any other remedy available at
19 law, the court may impose a separate civil judgment on every party-defendant who
20 committed, conducted, promoted, facilitated, permitted, failed to prevent or otherwise let
21 happen any public nuisance or chronic nuisance property in or on the parcel that is the
22 subject of the civil action.

23 (b) This civil judgment may also include civil penalties as follows:

24 (1) In the amount of not less than one hundred dollars (\$100) and not more than one
25 thousand dollars (\$1,000) per day, payable to the city, for each day the court finds
that a public nuisance continued to exist on the parcel after the time period for the
required abatement as stated in the notice to abate provided under Section 10-2.5-5,
“Notices for Public Nuisance,” B.R.C. 1981; or for each day the court finds the
property continued to exist as a chronic nuisance property either, (A) after the
property owner failed to timely respond to the notice of chronic nuisance property as

1 provided in Section 10-2.5-6, “Notices for Chronic Nuisance Property,” B.R.C. 1981;
 2 or (B) if the owner did timely respond but the city did not approve the submitted
 3 abatement agreement as provided in Section 10-2.5-7, “Abatement Agreement for
 4 Chronic Nuisance Property,” B.R.C. 1981.

- 5 (2) In establishing the amount of any civil penalty requested, the municipal court may
 6 consider, without limitation, any of the following factors:
- 7 (A) The action or inaction taken by the owner to mitigate or correct the nuisance
 8 activities at the property;
 - 9 (B) Whether the nuisance activities at the property were repeated or continuous;
 - 10 (C) The magnitude or gravity of the nuisance activities;
 - 11 (D) The level of cooperation of the owner with the city;
 - 12 (E) The cost incurred by the city in investigating and correcting, or attempting to
 13 correct, the public nuisance at the property or the chronic nuisance property;
 - 14 (F) The disturbance of neighbors; and
 - 15 (G) Whether the nuisance activities continued on the property after the city
 16 provided the notice to abate under Section 10-2.5-5, “Notices for Public
 17 Nuisance,” B.R.C. 1981, or the notice of chronic nuisance property under
 18 Section 10-2.5-6, “Notices for Chronic Nuisance Property,” B.R.C. 1981.

19 **10-2.5-14. - Supplementary Remedies for Public Nuisance and Chronic Nuisance Property.**

20 In any action filed under the provisions of this chapter, in the event that any one of the
 21 parties-defendants fails, neglects or refuses to comply with an order of the court, the court may,
 22 upon the motion of the city, in addition to or in the alternative to the remedy of contempt and the
 23 possibility of criminal prosecution, permit the city to enter upon the parcel of real property and
 24 abate the nuisance, take steps to prevent nuisances from occurring, or perform other acts required
 25 of the parties-defendants in the court’s orders. In addition, the court may order the parties-
 defendants to pay for the costs incurred in abating the nuisance as set forth in Section 10-2.5-9,
 “Abatement Costs – assessment, collection and lien,” B.R.C. 1981.

20 **10-2.5-15. - Stipulated Alternative Remedies.**

- 21 (a) The city and any party-defendant to an action pursuant to the provisions of this chapter may
 22 voluntarily stipulate orders and remedies, temporary or permanent, that are different from
 23 those provided in this chapter.
- 24 (b) The court shall make such stipulations for alternative remedies an order of the court and
 25 shall be enforceable as an order of the court.

24 **10-2.5-16. - Remedies Under Other Laws Unaffected.**

25 Nothing in this chapter shall be construed as limiting or forbidding the city or any other

1 person from pursuing any other remedies available at law or in equity, or requiring that evidence
2 or property seized, confiscated, closed, forfeited or destroyed under other provisions of law be
3 subjected to the special remedies and procedures provided in this chapter.

4 **10-2.5-17. - Effect of Abatement Efforts; Defense to Action.**

5 (a) If a person named as a party-defendant is the owner of a parcel of real property and is
6 leasing the parcel to one or more tenants, or the person named has been hired by the owner
7 of the parcel to manage and lease the parcel, and public nuisances were committed by one
8 or more of the tenants or occupants of the parcel, it shall be a defense to an action pursuant
9 to the provisions of this chapter that said person has:

- 10 (1) evicted, or attempted to evict by commencing and pursuing with due diligence
11 appropriate court proceedings, all of the tenants and occupants of the parcel that
12 committed each of the alleged public nuisance or the chronic public nuisance
13 property; or
14 (2) posted a Demand for Compliance and, if the public nuisance or chronic nuisance has
15 not been abated within thirty days, evicted, or attempted to evict by commencing and
16 pursuing with due diligence appropriate court proceedings, all of the tenants and
17 occupants of the parcel that committed each of the alleged public nuisance or the
18 chronic public nuisance property.

19 (b) The defenses in subsection (a), of this section, shall only be available to any person if they
20 have also undertaken reasonable means to abate similar violations on the parcel by the
21 tenants or occupants of the parcel.

22 (c) The defenses in subsection (a), of this section, shall not be available to any person who
23 fails to enter into an abatement agreement with the city to eliminate the conditions,
24 behaviors, or activities which constitute the nuisance activity at the parcel prior to the filing
25 of a nuisance abatement action.

(d) If a person named as a party-defendant is the owner of a parcel of real property and is
leasing the parcel to one or more tenants, or the person named has been hired by the owner
of the parcel to manage and lease the parcel, and public nuisances were committed by one
or more person(s) with a documented Court Order or Affidavit of Trespass to not enter the
property, it shall be a defense to an action pursuant to the provisions of this chapter.

(e) If, in the judgment of the city manager, a person who has received a notice of violation has
established sufficient grounds to assert a defense to an action under subsection (a), of this
section, the public nuisance which was the subject of the notice of violation shall no longer
be considered a violation within the meaning of this chapter. Nothing herein shall be
construed to prohibit the introduction of evidence of said public nuisance at a subsequent
court proceeding, if a public nuisance or chronic nuisance property action is commenced on
the basis of additional public nuisances, for the purpose of determining whether the
defendants named in such action have undertaken and pursued with due diligence
reasonable means to avoid a recurrence of similar violations on the parcel of real property
by the present and future tenants or occupants of the parcel.

- 1 (f) Except as provided in subsection (a), of this section, the fact that a party-defendant took
 2 steps to abate the nuisance or chronic nuisance property after receiving the notice of its
 3 existence does not constitute a defense to an action brought pursuant to the provisions of
 4 this chapter.

4 **10-2.5-18. - Abatement Orders.**

- 5 (a) Issuance and Effect of Temporary and Permanent Abatement Orders on public nuisance
 6 and chronic nuisance property in a civil abatement action. The issuance of temporary or
 7 permanent abatement orders under this chapter shall be governed by the provisions of Rule
 8 65 of the Colorado Rules of Civil Procedure pertaining to temporary restraining orders,
 9 preliminary injunctions and permanent injunctions, except to the extent of any
 10 inconsistency with the provisions of this chapter, in which event the provisions of this
 11 chapter shall prevail. Temporary abatement orders provided for in this chapter shall go into
 12 effect immediately when served upon the property or party against whom they are directed.
 13 Permanent abatement orders shall go into effect as determined by the court. No bond or
 14 other security shall be required of the city.
- 15 (b) Form and Scope of Abatement Orders. Every abatement order under this chapter shall set
 16 forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in
 17 reasonable detail the acts and conditions authorized, required or prohibited; and shall be
 18 binding upon the parcel, the parties to the action, agents and employees and any other
 19 person named as a party-defendant in the civil abatement action and served with a copy of
 20 the order.
- 21 (c) Substance of Abatement Orders. Temporary or permanent abatement orders entered
 22 pursuant to the provisions of this chapter shall be narrowly tailored to address the particular
 23 nuisance. Such orders may include, but are not limited to:
- 24 (1) requiring any parties-defendants to take steps to abate the nuisance;
 - 25 (2) authorizing the city manager to take reasonable steps to abate the public nuisance or
 chronic nuisance property and prevent it from recurring, considering the nature and
 extent of the public nuisance;
 - (3) requiring certain named individuals to stay away from the parcel at all times or for
 some specific period of time;
 - (4) issuing any order that is reasonably necessary to access, maintain or safeguard the
 parcel; and
 - (5) issuing any order that is reasonably necessary for the purposes of abating or
 preventing the public nuisance or chronic nuisance property from occurring or
 recurring; provided, however, that no such order shall require the seizure of, the
 forfeiture of title to, or the temporary or permanent closure of a parcel or the
 appointment of a special receiver to protect, possess, maintain, or operate a parcel.
- (d) Temporary Abatement Orders.
- (1) The purpose of a temporary abatement order shall be to temporarily abate an alleged

- 1 public nuisance or chronic nuisance property pending the final determination of a
 2 civil abatement action. A temporary abatement order may be issued by the court
 3 pursuant to the provisions of this section even if the effect of such order is to change,
 4 rather than preserve, the status quo.
- 5 (2) At any hearing on a motion for a temporary abatement order, the city shall have the
 6 burden of proving that there are reasonable grounds to believe that a public nuisance
 7 or chronic nuisance property occurred in or on the parcel and, in the case of a
 8 temporary order granted without notice to the parties-defendants, that such order is
 9 reasonably necessary to avoid some immediate, irreparable loss, damage or injury. In
 10 determining whether there are such reasonable grounds, the court may consider
 11 whether an affirmative defense may exist under any of the provisions of this chapter.
- 12 (3) At any hearing on a motion for a temporary abatement order or a motion to vacate or
 13 modify a temporary abatement order, the court shall temper the rules of evidence and
 14 admit hearsay evidence unless the court finds that such evidence is not reasonably
 15 reliable and trustworthy. The court may also consider the facts alleged in the verified
 16 complaint or in any affidavit submitted in support of the complaint or motion for
 17 temporary abatement order.
- 18 (e) Permanent Abatement Orders.
- 19 (1) At the trial on the merits of a civil abatement action commenced under this chapter,
 20 the city shall have the burden of proving by a preponderance of the evidence that a
 21 public nuisance or chronic nuisance property occurred on or in the parcel identified in
 22 the complaint. At such a trial, the city must also prove, by a preponderance of the
 23 evidence, any public nuisances asserted as grounds for the civil action that have not
 24 been previously adjudicated. The Colorado Rules of Evidence shall govern the
 25 introduction of evidence at all such trials.
- (2) Where the existence of a public nuisance or chronic nuisance property is established
 in a civil abatement action pursuant to the provisions of this chapter after a trial on the
 merits, the court shall enter a permanent abatement order requiring the parties-
 defendants to abate the public nuisance or chronic nuisance property and take specific
 steps to prevent the same and other nuisances from occurring or recurring on the
 parcel or in using the parcel.
- (f) Violation of Abatement Order.
- (1) No person shall fail to comply with any abatement order issued pursuant to the
 provisions of this chapter. Each day that a person is in violation of any such
 abatement order shall constitute a separate violation of these provisions.
- (2) Whether or not a prosecution is brought pursuant to subparagraph (f)(1), above, the
 municipal court shall retain full authority to enforce its abatement orders by the use of
 its contempt powers. In a contempt proceeding brought as a result of the violation of
 an abatement order issued pursuant to this chapter, the municipal court may, in its
 discretion, treat each day during which a party is in violation of an abatement order as
 a separate act of contempt.

10-2.5-19. - Motion to Vacate or Modify Temporary Abatement Orders.

- (a) Timing of Motion to Vacate Temporary Order. At any time a temporary abatement order is in effect, any party-defendant or any person holding any legal or equitable interest in any parcel governed by such an order may file a motion to vacate or modify said order. Any motion filed under this subsection (a) shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at a hearing.
- (b) Standard of Proof for Vacation of Temporary Order. The court shall vacate the order if it finds by a preponderance of the evidence that there are no reasonable grounds to believe that a public nuisance or chronic nuisance was committed in or on the parcel. The court may modify the order if it finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the public nuisances.
- (c) Continuance of Hearing. The court shall not grant a continuance of any hearing set under this section unless all the parties so stipulate.
- (d) Consolidation of Hearing with Other Proceedings. If all parties consent, the court may order a trial on the merits to be advanced and tried with the hearing on these motions.

10-2.5-20. - Limitation of Actions.

Actions pursuant to the provisions of this chapter shall be filed no later than one year after the public nuisance or chronic nuisance property incident that serves as the basis for the bringing of an action pursuant to this chapter. Actions concerning a chronic nuisance property shall be commenced no later than one year after: (1) the last nuisance activity occurs that causes the parcel to be a chronic nuisance property; or (2) the notice of chronic nuisance property is served, whichever is later. This limitation shall not be construed to limit the introduction of evidence of any other public nuisance violations that occurred more than one year before the filing of the complaint for the purpose of establishing the existence of a public nuisance or chronic nuisance property or when relevant for any other purpose.

10-2.5-21. - Effect of Property Conveyance.

When title to a parcel is conveyed from one person to another, any public nuisances existing at the time of the conveyance which could be used under this chapter to prove that a public nuisance or chronic nuisance property exists with respect to such parcel, shall not be so used unless a reason for the conveyance was to avoid the parcel being declared a public nuisance or chronic nuisance property pursuant to the provisions of this chapter. It shall be a rebuttable presumption that a reason for the conveyance of the parcel was to avoid the parcel from being declared a public nuisance or chronic nuisance property pursuant to the provisions of this chapter if:

- (1) the parcel was conveyed for less than fair market value;
- (2) the parcel was conveyed to an entity or entities controlled directly or indirectly by the person conveying the parcel including but not limited to, any occupants, operators, owners, or other tenants; or

1 (3) the parcel was conveyed to a relative of the person conveying the parcel.

2 **10-2.5-22. - Attorney’s Fees.**

- 3 (a) Other than as specifically provided by this section, attorney’s fees shall not be awarded to
- 4 any party in a civil abatement proceeding brought pursuant to the provisions of this chapter.
- 5 (b) Attorney’s fees may be awarded at the discretion of the court under the following
- 6 circumstances:
- 7 (1) Where there has been a judicial finding of the existence of a chronic nuisance
- 8 property, as defined by the provisions of this chapter, whether such finding is made at
- 9 trial or as part of a settlement in advance of a trial; and
- 10 (2) When the party found to be responsible for the chronic nuisance property failed to
- 11 submit an abatement agreement pursuant to subsection 10-2.5-7(a), B.R.C. 1981.

12 **10-2.5-23. - City Manager Rules.**

13 The city manager is authorized to adopt rules and regulations necessary to interpret, further
14 define or implement the provisions of this chapter.

15 ~~Chapter 2.5 Abatement of Public Nuisances.~~

16 ~~10-2.5-1. Legislative Findings and Statement of Purpose.~~

17 ~~The city council of the City of Boulder, Colorado, hereby makes the following legislative~~
18 ~~findings and determinations of fact:~~

- 19 ~~(a) The Boulder Revised Code presently contains various provisions enacted under the police~~
20 ~~power of the city which are intended to maintain order and promote the health, safety and~~
21 ~~welfare of the residents of the city.~~
- 22 ~~(b) Existing code provisions are directed towards the conduct of persons on private property,~~
23 ~~and are intended to ensure that neither the conduct of such persons, nor the physical~~
24 ~~condition of such properties, constitutes a nuisance to other residents in the vicinity of the~~
25 ~~properties or passers by on the public rights of way.~~
- 26 ~~(c) Various code provisions, including those pertaining to unreasonable noise, trash, litter,~~
27 ~~assault, brawling and harassment, are enforced by the filing of criminal prosecutions~~
28 ~~against the persons immediately responsible for violations of the same.~~
- 29 ~~(d) Notwithstanding these enforcement efforts, recurring code violations on parcels of~~
30 ~~property in the city can result in the creation of public nuisances on such properties which~~
31 ~~seriously threaten the peace and safety of neighboring residents and undermine the~~
32 ~~quality of life of the residents of the city.~~
- 33 ~~(e) Public nuisance laws exist under the state statutes, but such laws are enforceable only in~~
34 ~~the state courts and not in the municipal court.~~

1 (f) ~~Section 31-15-401(1)(e), C.R.S., authorizes the city to declare and abate public nuisances.~~

2 (g) ~~Section 16-13-302(1), C.R.S., specifically provides that the state public nuisance laws shall not be construed to limit or preempt the powers of any court or political subdivision to abate or control nuisances.~~

3
4 (h) ~~It is necessary and desirable in the public interest to enact a local public nuisance law in order to: eliminate local public nuisances by removing parcels of real property in the city from a condition that consistently and repeatedly violates municipal law; make property owners vigilant in preventing public nuisances on or in their property; make property owners responsible for the use of their property by tenants, guests and occupants; provide locally enforceable remedies for violations of local ordinances; and otherwise deter public nuisances.~~

5
6
7
8 (i) ~~The purpose of this chapter is to enact such a local public nuisance law.~~

9 (j) ~~Premises governed by the Colorado Beer Code and Colorado Liquor Code need not be regulated by the provisions of this chapter, because regulations promulgated under articles 46, 47 and 48 of title 12 of the Colorado Revised Statutes establish adequate local remedies to address recurring disturbances or other activities occurring on such premises which are offensive to the residents of the neighborhood in which such licensed establishments are located.~~

10
11
12 **10-2.5-2. Definitions.**

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

14 Abate means to bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce and minimize.

15 Leasehold interest means a lessor's or lessee's interest in real property under a verbal or written lease agreement.

16 Legal or equitable interest means every legal and equitable interest, title, estate, tenancy and right of possession recognized by law or equity, including, but not limited to, free holds, life estates, future interests, condominium rights, timeshare rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests and any right or obligation to manage or act as agent or trustee for any person holding any of the foregoing.

17 Notice of violation means a written notice advising the owner and tenant or occupant of a parcel that the parcel, such persons and other affected persons may be subject to proceedings under this chapter if the remaining number of separate violations needed to declare the parcel a public nuisance under this chapter occur in or on the parcel within the required period of time. Such written notice shall be deemed sufficient if sent by first class mail or certified mail to the parcel, addressed to the owner by name and to all tenants and occupants and to the owner by name at any different address of the owner as shown in the records of the Boulder County Assessor or of the Boulder County Clerk and Recorder. Each notice of violation shall be limited to one separate date or range of dates of violation. Although each notice of violation may list a number of specific code violations on a particular date or range of dates, it shall count as notice

1 of a single violation for the purpose of establishing the separate violations needed to declare the
2 parcel a public nuisance.

3 Ownership interest means a fee interest in title to real property.

4 Parcel means any lot or other unit of real property, including, without limitation,
5 individual apartment units or any combination of contiguous lots or units owned by the same
6 person or persons.

7 Public nuisance means the condition or use of any parcel on or in which two or more
8 separate violations have occurred within the preceding twelve month period between August 1
9 and continuing through July 31 of each year or three or more separate violations have occurred
10 within any period of twenty four consecutive months, if, during each such violation, the conduct
11 of the person committing the violation was such as to annoy residents in the vicinity of the parcel
12 or of passers by on the public streets, sidewalks and rights of way in the vicinity of the parcel.
13 However, this definition of "public nuisance" is subject to the defenses set forth in paragraph 10-
14 2.5 8(a)(2), B.R.C. 1981. Also, a public nuisance is not established when the only person
15 annoyed is a law enforcement officer engaged in carrying out official duties.

16 Relative means an individual related as a member of a "family" as "family" is defined in
17 Section 1-2-1, "Definitions," B.R.C. 1981.

18 Separate violation means any act or omission that constitutes a violation of the Boulder
19 Revised Code, or state criminal law with the exception of traffic offenses and offenses in which
20 the resident of the parcel is a crime victim, provided that: an ongoing and uninterrupted violation
21 shall be deemed to have been committed only on the last day during which all the necessary
22 elements of the violation existed; multiple violations committed within any twenty-four hour
23 period of time on or in the same parcel shall be considered a single separate violation,
24 irrespective of whether the violations are otherwise related to each other by some underlying
25 unity of purpose or scheme; and violations that are first reported to a city police or code
enforcement officer by a person having an ownership or leasehold interest in any parcel, or
having a contractual obligation to manage such parcel, or occupying such parcel shall not be
deemed violations under this chapter. It is not necessary that a criminal prosecution has been
initiated in order to establish that a violation has occurred.

18 **10-2.5-3. Nature of Remedies.**

19 The remedies provided in this chapter shall be civil and remedial in nature except that, if
20 any person knowingly fails or refuses to abide by a temporary or permanent abatement order
21 issued by the municipal court under the provisions of this chapter, such person shall be guilty of
22 a misdemeanor.

21 **10-2.5-4. Nuisance Prohibited.**

22 No person having an ownership or leasehold interest in any parcel, or having a
23 contractual obligation to manage such parcel, or occupying such parcel, shall commit, conduct,
24 promote, facilitate, permit, fail to prevent or otherwise let happen, any public nuisance in or on
25 such parcel. Such persons shall abate any public nuisance upon the parcel and prevent any public
nuisance from occurring on the parcel.

1 **10-2.5-5. Procedures in General.**

2 (a) ~~The municipal court is vested with the jurisdiction, duties and powers to hear and decide all causes arising under this chapter, and to provide the remedies specified herein.~~

3 (b) ~~Any civil action commenced pursuant to the provisions of this chapter shall be in the nature of a special statutory proceeding. All issues of fact and law in such civil actions shall be tried to the court without a jury. No equitable defenses may be set up or maintained in any such action except as provided specifically in this chapter. Injunctive remedies under this chapter may be directed toward the parcel or toward a particular person.~~

6 (c) ~~Public nuisances as defined by this chapter shall be strict liability violations. No culpable mental state shall be required to establish a public nuisance under this chapter or to obtain court approval for remedies provided by this chapter. However, if a separate violation is used by the city to establish the existence of a public nuisance that has not been previously adjudicated, all of the elements of such separate violation, including any culpable mental state required for the commission of such separate violation, must be established by the city by a preponderance of the evidence at the trial on the merits of any civil action commenced pursuant to the provisions of this chapter.~~

11 (d) ~~Proceedings pursuant to the provisions of this chapter shall generally be governed by the Colorado Rules of County Court Civil Procedure unless this chapter provides a more specific rule, provided, however, that with respect to the rules related to injunctions, Rule 65 of the Colorado Rules of Civil Procedure shall control rather than Rule 365 of the Colorado Rules of County Court Civil Procedure. Where this chapter, the Colorado Rules of Civil Procedure or the Colorado Rules of County Court Civil Procedure fail to state a rule of decision, the court shall first look to the Public Nuisance Abatement Act, § 16-13-301, et seq., C.R.S., and the cases decided thereunder.~~

16 (e) ~~Actions pursuant to the provisions of this chapter shall be filed by the office of the city attorney for the city or by such other legal council as the city attorney may designate to represent the city.~~

18 (f) ~~In the event that the city pursues any criminal penalties provided in any other section of this code, any other civil remedies or the remedies of any administrative action, the remedies in this chapter shall not be delayed or held in abeyance pending the outcome of any proceedings in the criminal, civil or administrative action, or any action filed by any other person, unless all parties to the action initiated pursuant to this chapter agree otherwise.~~

21 (g) ~~An action brought pursuant to the provisions of this chapter may be consolidated with another civil action brought pursuant to the provisions of this chapter that involves the same parcel of real property. However, such actions shall not be consolidated with any other civil or criminal action except upon the stipulation of all parties. No party may file any counterclaim, cross claim, third party claim or setoff of any kind in any action pursuant to the provisions of this chapter.~~

1 **10-2.5-6. Required Procedures Prior to Commencement of Public Nuisance Action.**

2 (a) ~~No action shall be brought pursuant to the provisions of this chapter until the following procedures have been utilized:~~

3 (1) ~~Following the first violation that serves as the basis for a nuisance abatement~~
4 ~~action, written notice of violation shall be given by the city manager to the owner~~
5 ~~of the parcel at which the nuisance conditions occurred.~~

6 (A) ~~The notice shall be personally served upon the owner or served by~~
7 ~~certified mail to the parcel, addressed to the owner by name, mailed to the~~
8 ~~owner by name at any different address of the owner as shown in the~~
9 ~~records of the Boulder County Assessor or of the Boulder County Clerk~~
10 ~~and Recorder. Personal service or service by mail shall be given no later~~
11 ~~than thirty days following the date of the violation.~~

12 (B) ~~The notice shall specify the nature of the nuisance, the date or dates of the~~
13 ~~nuisance and the provision of the Boulder Revised Code that was violated.~~
14 ~~When a nuisance occurred at a multi-unit building, the city manager shall~~
15 ~~identify the unit or units involved in the problem.~~

16 (C) ~~The city manager shall also send copies of the notice to tenants or others~~
17 ~~if, in the judgment of the city manager, notice to such additional persons~~
18 ~~will assist in abatement of nuisance conditions.~~

19 (D) ~~The notice may be accompanied by educational materials which, in the~~
20 ~~judgment of the city manager, will be of assistance to responsible parties~~
21 ~~in abating and avoiding nuisance conditions.~~

22 (E) ~~No notice shall be given pursuant to this provision, nor shall any event be~~
23 ~~utilized as a "first incident" for the purpose of bringing a nuisance~~
24 ~~abatement action, unless the city manager determines that such incident~~
25 ~~properly could serve as the basis of the filing of a criminal case in~~
~~municipal court.~~

(2) ~~Following a second violation within a twelve-month period, or a third violation~~
~~within a twenty-four month period, but prior to the filing of a nuisance abatement~~
~~action based upon those violations, the city manager shall schedule a settlement~~
~~meeting involving all persons who will be named as party-defendants in any~~
~~nuisance abatement proceeding based upon those incidents.~~

(A) ~~No meeting shall be set up based upon any incident unless the city~~
~~manager, in the exercise of due diligence, determines that there is~~
~~reasonable cause to believe that a violation or problem that could trigger~~
~~the nuisance abatement process has occurred.~~

(B) ~~Notice of the meeting may be given by personal service, by first class mail~~
~~confirmed by a telephonic communication with the person to whom notice~~
~~is provided, or by any other means so long as it can be established that~~
~~notice of the meeting was actually received by the party to whom such~~
~~notice was provided. Notice shall be provided within thirty days of the~~
~~date of the final violation that serves as the basis for the meeting.~~

1 (C) — Landlords, tenants, residents and others whose corrective action is deemed
2 necessary by the city manager in order to resolve nuisance conditions will
3 be asked to attend the settlement meeting. Owners of rental properties may
4 participate in such meetings through representatives legally authorized to
5 enter into voluntary compliance agreements on behalf of those owners.

6 (D) — Neighbors, victims and others may also be invited to attend such meetings.
7 However, attendance of such persons will not be required. When victims
8 and impacted neighbors do not choose to attend such meetings, the city
9 manager will attempt to determine the impact of nuisance conditions upon
10 such persons and present that information at the meeting.

11 (E) — The scheduling, location and format of settlement meetings will be
12 determined by the city manager in a manner that the city manager believes
13 will be best suited resolving the problem. The city manager may utilize
14 mediators, facilitators and other experts (including community volunteers)
15 to assist in the resolution of the problem.

16 (F) — The desired outcome of the settlement meeting will be to obtain a
17 voluntary compliance agreement, in which relevant parties agree to take
18 corrective action to abate and avoid nuisance conditions.

19 (G) — If no voluntary compliance agreement is achieved or, if such agreement is
20 achieved and thereafter the city manager determines that a party has failed
21 to comply with the terms of such agreement to the city manager's sole
22 satisfaction, or if an owner fails to attend a scheduled settlement meeting
23 to which they have been invited, the matter may be referred to the city
24 attorney for evaluation and potential filing of a nuisance abatement action.
25 Proof of violation of the voluntary compliance agreement shall not be
 required to establish the existence of a public nuisance.

(b) — Upon receipt of a referral for nuisance abatement, the city attorney shall evaluate the case
and determine whether or not to initiate a court action. In evaluating such a case, the city
attorney may consider, without limitation, the following factors:

(1) — The level of cooperation of potential parties in attempting to resolve issues;

(2) — The level of disturbance associated with the violations and the impact of those
violations upon neighbors or other victims;

(3) — The degree to which potential parties to the nuisance abatement action have taken
reasonable steps to try and resolve the problem;

(4) — The existence or nonexistence of prior cases or incidents in which potential
parties to a nuisance abatement action have been involved and the nature of that
involvement;

(5) — The percentage of units in a multi-unit housing context in which problems have
occurred;

(6) — The existence or nonexistence, within a multi-unit housing context, of a
condominium association or other internal governing body or management

structure that might provide an avenue for relief of the problem and the probability that such governing body or management structure will be able to resolve the problem;

(7) ~~The existence of any equitable, factual, legal, ethical or other consideration of the type that would normally be considered by an attorney when deciding whether or not to file a civil action;~~

(8) ~~The availability of resources required for the prosecution of the potential case;~~

(9) ~~The availability of any other enforcement tools that might be better suited to resolution of the particular problem; and~~

(10) ~~The probability of prevailing at a trial on the matter.~~

(e) ~~Notwithstanding the settlement meeting and case evaluation procedures described in subsections (a)(2) and (b) above, the city manager may request that the city attorney file a nuisance abatement action immediately if, in the city manager's judgment, facts exist to support a sworn statement that a public nuisance posing an immediate threat to the public safety is in existence as a result of the condition or use of parcel in question. The city attorney shall file such an action only if he or she concurs with the city manager's request. The city manager and city attorney may consult with the city council on such actions. For the purposes of this subsection (e), threat to the public safety shall include only those violations that involve actual or threatened physical violence directed at persons or animals, substantial property damage or other specific acts that harm or threaten to harm human health or human safety.~~

10-2.5-7. Commencement of Public Nuisance Actions; Prior Notification.

(a) ~~Notification is required before filing civil actions pursuant to the provisions of this chapter as follows:~~

(1) ~~At least ten calendar days before filing a civil action pursuant to the provisions of this chapter, a notice to the owner and occupants of the parcel shall be posted at some prominent place on the parcel. A notice shall also be mailed to the owner of the parcel. The mailing of the notice shall be deemed sufficient if mailed by certified mail to the owner at the address shown of record relating to the parcel for such owner in the records of the Boulder County Assessor. The posted and mailed notices shall state that the parcel has been identified as the location of an alleged public nuisance and that a civil action pursuant to the provisions of this chapter may be filed.~~

(2) ~~Agents of the city are authorized to enter upon the parcel for the purpose of posting these notices and to affix the notice in any reasonable manner to buildings and structures.~~

(3) ~~The city shall not be required to post or mail any notice specified herein before filing a civil action if it determines that any of the following conditions exist; however, the city will provide such notice as soon as reasonable possible after filing a civil action, and, if notice has not been provided earlier, shall provide such notice before any fine or other liability is imposed:~~

1 (A) — ~~The public nuisance poses an immediate threat to public safety;~~

2 (B) — ~~Notice would jeopardize a pending investigation of criminal or public
nuisance activity, confidential informants or other police activity; or~~

3 (C) — ~~Any other emergency circumstance exists.~~

4 (b) — ~~An action pursuant to the provisions of this chapter shall be commenced by the filing of a
verified complaint or a complaint verified by an affidavit, which may be accompanied by
5 a motion for a temporary abatement order, through and in the name of the city attorney.
Any complaint filed pursuant to Subsection 10-2.5-6(c) without a settlement meeting or
6 case evaluation shall include an affidavit or declaration attesting under penalty of perjury
to the facts establishing the immediate threat to public safety.~~

7 (1) — ~~The parties defendant to an action commenced under the provisions of this
chapter and the persons liable for the remedies provided by this chapter may
8 include the parcel of real property itself, any person owning or claiming any
ownership or leasehold interest in the parcel, all tenants and occupants of the
9 parcel, all managers and agents for any person claiming an ownership or
leasehold interest in the parcel, any person committing, conducting, promoting,
10 facilitating or aiding in the commission of a public nuisance, and any other person
whose involvement may be necessary to abate the nuisance, prevent it from
11 recurring, or to carry into effect the court's orders. None of these parties shall be
deemed necessary or indispensable parties. Any person holding any legal or
12 equitable interest in the parcel who has not been named as a party defendant may
intervene as a party defendant. No other person may intervene.~~

13 (2) — ~~The parties defendant shall be served as provided in the Colorado Rules of Civil
Procedure for other civil actions except as otherwise provided in this chapter.~~

14 (3) — ~~The summons, complaint and, if applicable, temporary abatement order shall be
15 served upon the real property itself by posting copies of the same in some
16 prominent place on the parcel.~~

17 **10-2.5-8. Effect of Abatement Efforts; Defense to Action.**

18 (a) — ~~If a person named as a party defendant is the owner of a parcel of real property and is
leasing the parcel to one or more tenants, or the person named has been hired by the
19 owner of the parcel to manage and lease the parcel, and the separate violations which
constitute the alleged public nuisance were committed by one or more of the tenants or
20 occupants of the parcel, it shall be a defense to an action pursuant to the provisions of this
chapter that said person has:~~

21 (1) — ~~Evicted, or attempted to evict by commencing and pursuing with due diligence
appropriate court proceedings, all of the tenants and occupants of the parcel that
22 committed each of the separate violations that constitute the alleged public
nuisance; and~~

23 (2) — ~~Has, considering the nature and extent of the separate violations, undertaken and
24 pursued with due diligence, reasonable means to avoid a recurrence of similar
violations on the parcel by the present and future tenants or occupants of the
25~~

1 parcel.

2 (b) ~~The defenses set forth in subsection (a) above shall not be available to any person who~~
3 ~~fails to attend a settlement meeting set up by the city manager prior to the filing of a~~
4 ~~nuisance abatement action.~~

5 (c) ~~If, in the judgment of the city manager, a person who has received a notice of violation~~
6 ~~has established sufficient grounds to assert a defense to an action under subsection (a)~~
7 ~~above, the separate violation which was the subject of the notice of violation shall no~~
8 ~~longer be considered a separate violation within the meaning of this chapter. Nothing~~
9 ~~herein shall be construed to prohibit the introduction of evidence of said separate~~
10 ~~violation at a subsequent court proceeding, if a public nuisance action is commenced on~~
11 ~~the basis of additional separate violations, for the purpose of determining whether the~~
12 ~~defendants named in such action have undertaken and pursued with due diligence~~
13 ~~reasonable means to avoid a recurrence of similar violations on the parcel of real property~~
14 ~~by the present and future tenants or occupants of the parcel.~~

15 (d) ~~Except as provided in subsection (a) above, the fact that a defendant took steps to abate~~
16 ~~the public nuisance after receiving the notice of its existence does not constitute a defense~~
17 ~~to an action brought pursuant to the provisions of this chapter.~~

18 **10-2.5-9. Court Directed Settlement Procedure.**

19 (a) ~~After a nuisance abatement action is filed pursuant to the provisions of this chapter, any~~
20 ~~party may file with the court clerk and serve a request for a court settlement conference,~~
21 ~~together with a notice for setting of such request. The court shall grant such request if, in~~
22 ~~its judgment, a settlement conference is appropriate under the particular circumstances.~~
23 ~~The court shall not grant any such request over the objection of the city attorney if the~~
24 ~~action is filed pursuant to Subsection 10-2.5-6(c) due to the city manager's determination~~
25 ~~of an immediate threat to public safety.~~

(b) ~~At any time prior to trial, the court may, without a request of the parties, order that a~~
~~settlement conference be held.~~

(c) ~~Any settlement conference held pursuant to the provisions of subsections (a) or (b) above~~
~~shall be conducted as follows:~~

(1) ~~The court settlement conference shall, if the request is granted, be conducted by~~
~~any available judge other than the judge assigned to handle a trial in the matter, or~~
~~by such other settlement officer, referee or mediator as may be selected by the~~
~~court for such purpose.~~

(2) ~~All discussions at the settlement conference shall remain confidential and shall~~
~~not be disclosed to the judge who presides at trial.~~

(3) ~~Statements at the settlement conference shall not be admissible evidence for any~~
~~purpose at the trial of the matter or in any other proceeding.~~

(d) ~~Settlement conferences, when held, shall be provided without special costs to the parties~~
~~except in the following circumstances:~~

(1) ~~With court approval, the parties may agree to retain the services of a particular~~

mediator or settlement officer to assist with settlement discussions. In this event, the parties must agree to pay for the services of such outside settlement facilitator and must agree about the terms of such payment.

(2) — In the event that any party failed to participate in a pre-filing settlement meeting pursuant to the provisions of paragraph 10-2.5-6(a)(2), B.R.C. 1981, the court may order such party to pay up to one-half of the reasonable costs or value of court-ordered settlement procedures.

10-2.5-10. Abatement Orders.

(a) — Issuance and Effect of Temporary and Permanent Abatement Orders: The issuance of temporary or permanent abatement orders under this chapter shall be governed by the provisions of Rule 65 of the Colorado Rules of Civil Procedure pertaining to temporary restraining orders, preliminary injunctions and permanent injunctions, except to the extent of any inconsistency with the provisions of this chapter, in which event the provisions of this chapter shall prevail. Temporary abatement orders provided for in this chapter shall go into effect immediately when served upon the property or party against whom they are directed. Permanent abatement orders shall go into effect as determined by the court. No bond or other security shall be required of the city.

(b) — Form and Scope of Abatement Orders: Every abatement order under this chapter shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the parcel, the parties to the action, their attorneys, agents and employees and any other person named as a party-defendant in the public nuisance action and served with a copy of the order.

(c) — Substance of Abatement Orders: Temporary or permanent abatement orders entered pursuant to the provisions of this chapter shall be narrowly tailored to address the particular kinds of separate violations that form the basis of the alleged public nuisance. Such orders may include:

(1) — Requiring any parties-defendant to take steps to abate the public nuisance;

(2) — Authorizing the city manager to take reasonable steps to abate the public nuisance activity and prevent it from recurring, considering the nature and extent of the separate violations;

(3) — Requiring certain named individuals to stay away from the parcel at all times or for some specific period of time;

(4) — Issuing any order that is reasonably necessary to access, maintain or safeguard the parcel; and

(5) — Issuing any order that is reasonably necessary for the purposes of abating the public nuisance or preventing the public nuisance from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to, or the temporary or permanent closure of, a parcel, or the appointment of a special receiver to protect, possess, maintain or operate a parcel.

(d) — Temporary Abatement Orders:

1 (1) ~~The purpose of a temporary abatement order shall be to abate temporarily an~~
2 ~~alleged public nuisance pending the final determination of a public nuisance. A~~
3 ~~temporary abatement order may be issued by the court pursuant to the provisions~~
4 ~~of this section even if the effect of such order is to change, rather than preserve,~~
5 ~~the status quo.~~

6 (2) ~~At any hearing on a motion for a temporary abatement order, the city shall have~~
7 ~~the burden of proving that there are reasonable grounds to believe that a public~~
8 ~~nuisance occurred in or on the parcel and, in the case of a temporary order granted~~
9 ~~without notice to the party defendants, that such order is reasonably necessary to~~
10 ~~avoid some immediate, irreparable loss, damage or injury. In determining whether~~
11 ~~there are such reasonable grounds, the court may consider whether an affirmative~~
12 ~~defense may exist under any of the provisions of this chapter.~~

13 (3) ~~At any hearing on a motion for a temporary abatement order or a motion to vacate~~
14 ~~or modify a temporary abatement order, the court shall temper the rules of~~
15 ~~evidence and admit hearsay evidence unless the court finds that such evidence is~~
16 ~~not reasonably reliable and trustworthy. The court may also consider the facts~~
17 ~~alleged in the verified complaint or in any affidavit submitted in support of the~~
18 ~~complaint or motion for temporary abatement order.~~

19 (e) ~~Permanent Abatement Orders:~~

20 (1) ~~At the trial on the merits of a civil action commenced under this chapter, the city~~
21 ~~shall have the burden of proving by a preponderance of the evidence that a public~~
22 ~~nuisance occurred on or in the parcel identified in the complaint. At such trial, the~~
23 ~~city must also prove, by a preponderance of the evidence, any separate violations~~
24 ~~asserted as grounds for the public nuisance action that have not been previously~~
25 ~~adjudicated. The Colorado Rules of Evidence shall govern the introduction of~~
 ~~evidence at all such trials.~~

 (2) ~~Where the existence of a public nuisance is established in a civil action pursuant~~
 ~~to the provisions of this chapter after a trial on the merits, the court shall enter a~~
 ~~permanent abatement order requiring the parties defendant to abate the public~~
 ~~nuisance and take specific steps to prevent the same and other public nuisances~~
 ~~from occurring or recurring on the parcel or in using the parcel.~~

 (f) ~~Violation of Abatement Order:~~

 (1) ~~No person shall fail to comply with any abatement order issued pursuant to the~~
 ~~provisions of this chapter. Each day that a person is in violation of any such~~
 ~~abatement order shall constitute a separate violation of these provisions.~~

 (2) ~~Whether or not a prosecution is brought pursuant to paragraph (1) of this~~
 ~~subsection, the municipal court shall retain full authority to enforce its abatement~~
 ~~orders by the use of its contempt powers. In a contempt proceeding brought as a~~
 ~~result of violation of an abatement order issued pursuant to this chapter, the~~
 ~~municipal court may, in its discretion, treat each day during which a party is in~~
 ~~violation of an abatement order as a separate act of contempt.~~

10-2.5-11. Attorney's Fees.

(a) ~~Other than as specifically provided by this section, attorney's fees shall not be awarded to any party in a nuisance abatement proceeding brought pursuant to the provisions of this chapter.~~

(b) ~~Attorney's fees may be awarded at the discretion of the court under the following circumstances:~~

(1) ~~Where there has been a judicial finding of the existence of a nuisance, as defined by the provisions of this chapter, whether such finding is made at trial or as part of a settlement in advance of a trial; and~~

(2) ~~When the party found to be responsible for the nuisance failed to attend a settlement meeting set up by the city manager pursuant to paragraph 10-2.5-6(a)(2), B.R.C. 1981.~~

10-2.5-12. Motion to Vacate or Modify Temporary Abatement Orders.

(a) ~~Timing of Motion to Vacate Temporary Order: At any time a temporary abatement order is in effect, any party defendant or any person holding any legal or equitable interest in any parcel governed by such an order may file a motion to vacate or modify said order. Any motion filed under this subsection (a) shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing.~~

(b) ~~Standard of Proof for Vacation of Temporary Order: The court shall vacate the order if it finds by a preponderance of the evidence that there are no reasonable grounds to believe that a public nuisance was committed in or on the parcel. The court may modify the order if it finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the separate violations.~~

(c) ~~Continuance of Hearing: The court shall not grant a continuance of any hearing set under this section unless all the parties so stipulate.~~

(d) ~~Consolidation of Hearing With Other Proceedings: If all parties consent, the court may order the trial on the merits to be advanced and tried with the hearing on these motions.~~

10-2.5-13. Civil Judgment.

~~In any case in which a public nuisance is established, in addition to a permanent abatement order, the court may impose a separate civil judgment on every party defendant who committed, conducted, promoted, facilitated, permitted, failed to prevent or otherwise let happen any public nuisance in or on the parcel that is the subject of the public nuisance action. This civil judgment shall be for the purpose of compensating the city for the costs it incurs in pursuing the remedies pursuant to the provisions of this chapter, and shall not be punitive in nature. For the purpose of this section, costs include expenses of the type detailed in § 13-16-122, C.R.S.~~

10-2.5-14. Supplementary Remedies for Public Nuisances.

~~In any action filed under the provisions of this chapter, in the event that any one of the parties fails, neglects or refuses to comply with an order of the court, the court may, upon the motion of the city, in addition to or in the alternative to the remedy of contempt and the~~

possibility of criminal prosecution, permit the city to enter upon the parcel of real property and abate the nuisance, take steps to prevent public nuisances from occurring, or perform other acts required of the defendants in the court's orders.

~~10-2.5-15. Stipulated Alternative Remedies.~~

~~(a) — The city and any party defendant to an action pursuant to the provisions of this chapter may voluntarily stipulate to orders and remedies, temporary or permanent, that are different from those provided in this chapter.~~

~~(b) — The court shall make such stipulations for alternative remedies an order of the court and they shall be enforceable as an order of the court.~~

~~10-2.5-16. Remedies Under Other Laws Unaffected.~~

~~Nothing in this chapter shall be construed as limiting or forbidding the city or any other person from pursuing any other remedies available at law or in equity, or requiring that evidence or property seized, confiscated, closed, forfeited or destroyed under other provisions of law be subjected to the special remedies and procedures provided in this chapter.~~

~~10-2.5-17. Limitation of Actions.~~

~~Actions pursuant to the provisions of this chapter shall be filed no later than one year after the final public nuisance incident that serves as the basis for the bringing of an action pursuant to this chapter. This limitation shall not be construed to limit the introduction of evidence of any other separate violations that occurred more than one year before the filing of the complaint for the purpose of establishing the existence of a public nuisance or when relevant for any other purpose.~~

~~10-2.5-18. Effect of Property Conveyance.~~

~~When title to a parcel is conveyed from one person to another, any separate violation existing at the time of the conveyance which could be used under this chapter to prove that a public nuisance exists with respect to such parcel, shall not be so used unless a reason for the conveyance was to avoid the parcel being declared a public nuisance pursuant to the provisions of this chapter. It shall be a rebuttable presumption that a reason for the conveyance of the parcel was to avoid the parcel from being declared a public nuisance pursuant to the provisions of this chapter if: a) the parcel was conveyed for less than fair market value; b) the parcel was conveyed to an entity or entities controlled directly or indirectly by the person conveying the parcel; or c) the parcel was conveyed to a relative of the person conveying the parcel.~~

Section 2. Chapter 10-3, "Rental Licenses," B.R.C. 1981, is amended to read as follows:

...

10-3-3. - Terms of Licenses.

(a) License terms shall be as follows:

Licenses, other than reduced term licenses issued under Section 10-3-4, "Reduced Term License," B.R.C. 1981, or temporary licenses issued under Section 10-3-9, "Temporary License Appeals," B.R.C. 1981, shall expire four years from issuance or when ownership

1 of the licensed property is transferred.

- 2 (b) In addition to any other applicable requirements, new licenses and renewals shall require
3 that the licensee submit to the city manager a complete application packet for the license,
4 on forms provided by the manager. The application shall satisfy the following
5 requirements:
- 6 (1) A current rental inspection report (for a new license except as set forth in Section 10-
7 3-5, "License Procedure for Newly Constructed Rental Property," B.R.C. 1981,) certifying compliance with those portions of Chapter 10-2, "Property Maintenance
8 Code," and Section 9-9-16, "Lighting, Outdoor," B.R.C. 1981, for which the report
9 form requires inspection and certification; and
 - 10 (2) The operator shall certify on the application forms provided by the manager that the
11 operator has a current valid contract with a commercial trash hauler for removal of
12 accumulated trash from the licensed property in accordance with Subsection 6-3-3(b),
13 B.R.C. 1981; and
 - 14 (3) The property has no outstanding violations pursuant to Chapter 10-2.5, "Abatement
15 of Public Nuisance and Chronic Nuisance Property," B.R.C. 1981.
- 16 (c) The city manager shall issue separate licenses for individual buildings. Such licenses shall
17 cover all dwelling units and rooming units within such buildings. In a building containing
18 attached but individually owned dwelling units, or any other dwelling units which may be
19 separately conveyed, the city manager shall issue separate licenses for each dwelling unit.
20 A structure, or group of structures, shall be considered to be a single building if it has been
21 assigned a single street address by the City. If a complex of buildings on one property is
22 under common ownership, and this owner is willing to have a common expiration date for
23 the licenses for all dwelling and rooming units, the city manager may consider the whole
24 complex to be the equivalent of a single building for the purposes of licensing and the fee
25 schedule in Section 4-20-18, "Rental License Fee," B.R.C. 1981.
- (d) Whenever an existing license is renewed, the renewal license shall be effective from the
date of expiration of the last license if the applicant submits a complete renewal application
by or within ninety days from the expiration date.
- (e) Issuance of any license (new or renewed) requires meeting the energy efficiency
requirements of Chapter 10-2, "Property Maintenance Code, Appendix C - Energy
Efficiency Requirements," B.R.C. 1981.

21 **10-3-4. - Reduced Term License.**

- 22 (a) The city manager shall issue a reduced term license whenever the city manager determines
23 that:
- 24 (1) Violations of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, revealed
25 during an inspection, individually or in combination, demonstrate a failure to
maintain the rental property in a safe, sanitary and clean condition so that the
dwelling endangers the health and safety of the occupants;

- 1 (2) There is or has been a violation of a limitation on numbers of occupants or numbers
- 2 of dwelling units found in Title 9, "Land Use Code," B.R.C. 1981, which
- 3 demonstrates a failure to maintain the rental property in compliance with that title; or
- 4 (3) Violations of Section 9-9-16, "Lighting Outdoor," B.R.C. 1981, of a building or
- 5 complex of buildings on the same property with multiple dwelling units that are all
- 6 held under common ownership, revealed during an inspection or otherwise,
- 7 demonstrate a failure to maintain the rental property in compliance with Title 9,
- 8 "Land Use Code," B.R.C. 1981; or
- 9 (4) There is an outstanding violation of Chapter 10-2.5, "Abatement of Public Nuisance
- 10 and Chronic Nuisance Property," B.R.C. 1981, within the past two years.
- 11 (b) The terms of a reduced term license shall be as follows:
 - 12 (1) For violations of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, the
 - 13 license term shall be reduced to twenty-four months.
 - 14 (2) For violations of Title 9, "Land Use Code," and Chapter 10-2.5, "Abatement of
 - 15 Public Nuisance and Chronic Nuisance Property," B.R.C. 1981, the license term shall
 - 16 be reduced to twelve months. A reduced term license issued to allow the operator to
 - 17 bring the rental property into compliance with Section 9-9-16, "Lighting Outdoor,"
 - 18 B.R.C. 1981, may only be issued one time.
- 19 (c) The city manager may issue a reduced term short-term rental license if the operator has
- 20 received a penalty, suspension or other order pursuant to Section 10-3-16(a),
- 21 "Administrative Remedy," B.R.C. 1981.
- 22 (d) If an operator disagrees with the decision of the city manager to issue a reduced term
- 23 license under subsection (a) of this section, such person may appeal the city manager's
- 24 decision within thirty days after the issuance of the reduced term license, as follows:
 - 25 (1) For reduced term licenses issued as a result of violations of Chapter 10-2, "Property
 - Maintenance Code," B.R.C. 1981, the appeal shall be made as provided in Section
 - 10-2-2, Section 111, "Means of Appeal," B.R.C. 1981.
 - (2) For reduced term licenses issued as a result of violations of Title 9, "Land Use Code,"
 - or Chapter 10-2.5, "Abatement of Public Nuisance and Chronic Nuisance Property,"
 - B.R.C. 1981, the appeal shall be made to the board of zoning adjustment, although
 - the fee amount shall be as specified for an appeal to the board of building appeals.

...

10-3-14. - Local Agent Required.

Whenever any rental property is required to be licensed under this chapter, and neither the owner nor the operator is a natural person domiciled within Boulder County, Colorado, the owner shall appoint a natural person who is capable of responding to the property within sixty minutes, to serve as the local agent of the owner and the operator for service of such notices as are specified in Section 10-2-2, "Property Maintenance Code," Chapter 10-2.5, "Abatement of Public Nuisance and Chronic Nuisance Property," Section 108, "Unsafe Structures and Equipment," and Section 109, "Emergency Measures," B.R.C 1981, and notices given to the

1 local agent shall be sufficient to satisfy any requirement of notice to the owner or the operator.
2 The owner shall notify the city manager in writing of the appointment within five days of being
3 required to make such an appointment, and shall thereafter notify the city manager of any change
4 of local agent within fifteen days of such change.

5 . . .

6 **10-3-16. - Administrative Remedy.**

7 (a) If the city manager finds that a violation of any provision of this chapter, ~~or~~ Chapter 10-2,
8 “Property Maintenance Code,” or Chapter 10-2.5, “Abatement of Public Nuisance and
9 Chronic Nuisance Property,” B.R.C. 1981, exists, the manager, after notice to the operator
10 and an opportunity for hearing under the procedures prescribed by Chapter 1-3, “Quasi-
11 Judicial Hearings,” B.R.C. 1981, may take any one or more of the following actions to
12 remedy the violation:

13 (1) Impose a civil penalty according to the following schedule:

14 (A) ~~For any violation in the following areas or of affordability standards: The area~~
15 ~~south of Arapahoe Avenue, north of Baseline Road, east of 6th Street and west~~
16 ~~of Broadway, the area south of Baseline Road, north of Table Mesa Drive, east~~
17 ~~of Broadway and west of U.S. Route 36 and the area south of Canyon~~
18 ~~Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th~~
19 ~~Street or for any violation of affordability standards for an affordable accessory~~
20 ~~unit approved under Subsection 9-6-3(n), B.R.C. 1981:~~

21 (i) ~~For the first violation of the provision, \$500;~~

22 (ii) ~~For the second violation of the same provision, \$750; and~~

23 (iii) ~~For the third violation of the same provision, \$1,000;~~

24 (B) ~~For a violation in any other area:~~

25 (A*i*) For the first violation of the provision, \$150;

(B*ii*) For the second violation of the same provision, \$300; and

(C*iii*) For the third violation of the same provision, \$1,000.

(2) Revoke the rental license;

(3) If the city manager finds that a short-term rental license was issued to a licensee who
is determined not to comply with subsections (1), (2) or (3) of Section 10-3-19(c),
“Short-Term Rentals,” B.R.C. 1981, the city manager shall revoke the short-term
rental license; and

(4) Issue any order reasonably calculated to ensure compliance with this chapter, and
Chapter 10-2, “Property Maintenance Code,” B.R.C. 1981.

(b) If the city manager finds that an affordable accessory unit was advertised, offered for rent
or rented for an amount in excess of the affordability standard, in addition to the actions the
manager may take under subsection (a), of this section, the manager shall impose a penalty
equal to the amount charged in excess of the affordability standard during the term of the
license, plus interest at the rate of twelve percent per annum, and shall pay such funds

collected to the tenant who was charged in excess of the affordability standard.

- (c) If notice is given to the city manager by the operator at least forty-eight hours before the time and date set forth in the notice of hearing on any violation that the violation has been corrected, the manager will reinspect the building. If the manager finds that the violation has been corrected, the manager may cancel the hearing.
- (d) The city manager’s authority under this section is in addition to any other authority the manager has to enforce this chapter, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
- (e) The city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, “City Manager May Certify Taxes, Charges and Assessments to County Treasurer for Collection,” B.R.C. 1981.
- (f) To cover the costs of investigative inspections, the city manager will assess operators a \$250 fee per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.
- (g) The city manager shall not accept a new application from the same licensee for the same dwelling unit or units after revocation of a license:
 - (1) For at least six months following the revocation; and
 - (2) Unless the applicant demonstrates compliance with all licensing requirements.

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.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 25th day of July 2024.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 8th day of August 2024.

Aaron Brockett,
Mayor

Attest:

City Clerk

ENGAGEMENT & FEEDBACK

Because the proposed chronic nuisance ordinance responds to a pattern of violations, the vast majority of community members will not be impacted by these changes. Rather than engaging broadly, staff took a strategic approach to community engagement. Those likely to be impacted by the proposed ordinance were given priority: top historic potential violators, tenants, landlords, students and housing partners.

Top Historic Potential Violators

The project team reached out to property owners and rental license holders of the hundred addresses with the highest number of historical violations. These property owners were provided the opportunity for a private meeting with members of the project team to inform about their unique perspective and to get feedback about what might support future compliance actions. The team also sent specific questions by email. Overall response was minimal, leading to conversations and emails with a handful of people.

Tenants

Members of the core team worked with Housing and Human Services staff, including Eviction Prevention and Rental Assistance Services program staff who support the city's Tenant Advisory Committee. Core team staff made several presentations to the Tenant Advisory Committee, and received committee input.

The project team prioritized the need to hear from tenants throughout the design of this proposed ordinance. However, staff recognizes that it is difficult for tenants to feel safe discussing landlord concerns and building issues given different power dynamics in landlord-tenant relationships. The work group looked to our other listed conversations (Tenant Advisory Committee, student groups, Community Connectors in Residence) to provide this perspective.

Boulder Area Rental housing Association (BARHA)

As a member of the HRWG, the Boulder Area Rental Housing Association has been aware of the chronic nuisance project since its earliest conception. BARHA staff have been highly engaged throughout several ordinance iterations. A presentation to the BARHA Board of Directors was provided, and staff have shared multiple versions of reviews and recommendations for improvements to the proposed ordinance.

Students

Through the city's partnership with the University of Colorado's Office of Student Affairs and the Office of Off-Campus Housing and Neighborhood Relations, the team has engaged with the Dean's Leadership and Values committee, Student Government, and CU Fraternity and Sorority Life. Members of the Core Team provided an overview of the proposed ordinance to the independent Interfraternity Council.

University of Colorado Staff and Administration

Through the University of Colorado contacts within the Hill Revitalization Group, many staff and departments have engaged regarding the initial concepts of both public and chronic nuisance. Staff from Off Campus Housing and Neighborhood Relations; Student Conduct and the Office of the Dean of Students; Office of Governmental Affairs and Community Engagement, and the Office of Student Legal Services have served as a feedback loop through multiple ordinance drafts in 2023-2024.

Community service providers (some of whom house or serve vulnerable and difficult-to-house populations)

Members of the project team have met with Boulder Housing Partners and the Boulder Shelter for the Homeless multiple times; discussions ranged from informal overviews to presentations on specific elements of the proposed ordinance. A presentation about the proposed ordinance was hosted by the Chamber of Commerce on April 11, 2024. The Boulder Shelter for the Homeless, and shelters as a land use type, are not subject to this proposed ordinance though staff from the shelter participated heavily to promote concerns and host further dialogue regarding the role of transition from homelessness and how this proposed ordinance change could impact those individuals and the landlords who house them. Boulder Housing Partners served as the leader and organizer of this group of community service providers and worked as a single contact point to share information and feedback, as well as to host dialogue between the city and group representatives. Three sets of recommendations/questions were received from this group throughout the project timeline; each time, city staff answered and/or considered recommendations accordingly and provided written response as well as opportunity for further dialogue. Groups included Boulder Chamber of Commerce, Thistle Community Housing, Emergency Family Assistance Association (EFAA), TGTHR, Boulder Shelter for the Homeless, Imagine! Colorado, Mental Health Partners, Center for People with Disabilities, and Element Properties/Bluebird.

Community Connectors in Residence

Members of the Core Team visited the Community Connectors in Residence for their counsel in completing the Racial Equity Instrument. Initial project plans included hiring CCIR representatives to serve on the project team but due to the nature of this ordinance and its potential to pit tenants against landlords, it was decided to meet with the group, instead, as a team on two occasions and to seek additional insight and response through email.

Key Takeaways from Engagement Discussions

- There is a tension around enforcing, within a single ordinance, patterns of violations that involve life safety codes (such as building/fire violations) and those that are behavior-focused (such as noise.) **This was flagged by housing partners who house vulnerable and difficult-to-house populations, students, the Tenant Advisory Committee, Community Connectors in Residence and market-rate landlords.**
- Groups expressed a concern about the unintended consequences of reduced housing opportunities for populations who may be perceived as likely to be involved in behavior-focused violations. **Raised by housing partners who house vulnerable and difficult-to-house populations, BARHA, market-rate landlords and students.**

- Participants in discussions expressed a desire to understand the investigation process and how it will be applied to reflect the situation occurring on a specific property before it is charged with chronic nuisance. **Raised by all.**
- A tension was noted between whole property versus dwelling unit violations and the impact or inability of the landlord to affect enough control over an individual unit to control potentially chronic behavior. **Raised by all.**
- Discussion was held regarding potential stigmatization in the designation of properties as a chronic nuisance, and the reputation of properties as well as the owners (landlords) of those properties. **Housing partners who house vulnerable and difficult-to-house populations.**
- There are concerns about penalty fines being passed down to tenants, even if they are not responsible for the violations. **Raised by Tenants, Students, and Community Connectors in Residence.**
- Students are particularly interested in landlord trainings and incentives for property owners/managers to increase onsite interaction, and for clear expectation-setting at their rental properties. Students and student advocates anticipate in particular the building safety benefits of the updated ordinance.
- There were concerns about the school calendar and the count toward chronic nuisance, given student turnover. **Raised by BARHA and market-rate landlords.**
- There are concerns that cultural practices could lead to repeated violations (ex. large families hosting Quinceanera's for children close in age). **This was raised by tenants, specifically members of the Tenant Advisory Council, as well as Community Connectors in Residence.**
- There is a need for access to free or affordable community spaces where celebrations and gatherings can be held to keep them from becoming a nuisance violation. **This was raised by Community Connectors in Residence**
- Biased use of the law by neighbors, city staff or law enforcement is a concern. **Raised by all.**
- Concerns that this will have the unintended consequence of fracturing relationships between tenants and landlords instead of strengthening. **Raised by all.**
- Request for thorough education materials and process be put in place to educate all aspects of the community, specifically student renters, who need to be aware of this ordinance and its potential implications (remedies). Greek life was called out as a specific entity who will need additional awareness and education; request is that this be completed in partnership with the city. BARHA initially requested that Sorority and Fraternity houses be considered differently for the threshold of single-family homes while CU Staff and Administration requested that those entities rather be trained and encouraged to meet the neighborhood livability standards around them. **Raised by CU Staff and Administration and BARHA. A similar suggestion for education programming for students was shared by Community Connectors-in-Residence.**

2023 Quality of Life Projects, City of Boulder

City/CU Quality of Life Working Group

Project Team: Boulder City Manager Nuria Rivera-Vandermyde, Director of Planning and Development Services Brad Mueller, Deputy City Attorney Sandra Llanes, Assistant City Attorney Laurel Witt, Police Chief Maris Herold, Deputy Police Chief Stephen Redfearn, Senior Data Analyst Tony Spencer, Chief Data Analyst Daniel Reinhard, PhD, Enterprise Data Lead Richard Todd, Paralegal Rewa Ward (supports CAO) Jenn Ross, Code Compliance Supervisor

CU liaisons: Assistant Vice Chancellor for Local Government and Community Relations Lori Call, Acting Associate Vice Chancellor and Dean of Student Devin Cramer

Assisting/Attending as needed: BPD Neighborhood Impact Team Sergeant Darren Fladung, BPD Code Enforcement Unit Supervisor, Jennifer Riley

Chronic Nuisance

Core Chronic Nuisance Team: Brad Mueller (Lead), John Bergelin, Edward Stafford, Sandra Llanes, Laurel Witt, Stephen Redfearn, Tony Spencer, Brenda Ritenour (as needed)

Project Description: The staff team is evaluating how the city currently manages nuisance and abatement processes (current code terms and definitions) with the goal of creating, implementing and operationalizing a chronic nuisance program (to be defined in new code) for the City of Boulder.

The following are considered key components of program development and are underway: Landlord Notification (became Rental Property Calls for Service Notification), Landlord Education, Administrative Actions, Comparison Cities Study, Chronic Nuisance Ordinance, Organizational Structure Changes, and Rental Licensing. Some of these components are also considered stand-alone quality of life projects but are: 1) being steered by the core chronic nuisance team; and 2) overlap as a part of chronic nuisance phasing.

Timeline – Community Engagement initiated April, 2023 and will continue throughout the ordinance process.

Anticipated January-February, 2024: First Reading and Public Hearing

December, 2023-December, 2024: Organizational structuring, staffing and administrative design to implement ordinance and supporting programs and processes.

Landlord Education

Team: Unlocking Government through city contract, Christian Phillips, BARHA are the planning team with Jenn Ross, Jen Riley, Darren Fladung, Stephen Redfearn, Dave Lowrey support/teaching

CU Staff: Jeff Morris

BARHA Staff: Jen Crowell and Meghan Pfansteil

Project Description: A program is being developed in which the city partners with BARHA and others to produce a curriculum for educating landlords regarding their duties and responsibilities as well as to increase knowledge regarding resources and regulations for landlords. Local ordinances and toolkits will be highlighted and explained as a part of this program. This is also a Phase 1 element of the chronic nuisance project.

A proposal was submitted by Unlocking Government to support this project more fully in 2023; adopted in March, 2023. The plan is to create a curriculum that could be self-sustained in 2024 and beyond.

June, 2022: Initiated and explored; stalled by September, 2022.

April-June, 2023: Pilot created in partnership with BARHA, HHS, and Unlocking Government.

September 12, 2023: First session hosted; 1 email sent to rental license owners/applicants/agents created a filled register of 60 attendees and 81 persons on a waitlist for the next session. Feedback was positive and appreciative with some recommendations for focus and timing. Revisions will be implemented for next session.

November 3, 2023: 55 persons registered from email notification to waitlist. New Boulder Model Lease completed through Health and Human Services; will be highlighted as resource provided by city. Addendum will be focus of recommended landlord-tenant dialogue.

December, 2023: Sessions will be fully evaluated with recommendations provided for changes/improvements/growth in 2024.

Greek Life/Annex Houses

City Staff: Brad Mueller, Sandra Llanes, Laurel Witt, Tony Spencer, Brenda Ritenour, Darren Fladung, Edward Stafford

CU Staff: Devin Cramer, Jeff Morris, Samantha Baldwin

Purpose: City of Boulder and University of Colorado staff are coming together to determine how Greek Life/Annex Houses, and other legacy houses, are passed between classes of students and how they impact the quality of life on University Hill. By more fully understanding this impact, it can be considered in chronic nuisance work and as a stand-alone aspect of life in the University Hill neighborhood. As further scope is defined, other groups will be included in the dialogue for engagement and information sharing purposes. Defined strategies to address various issues may arise from this effort.

Timeline: This project was paused so that the data team could focus on the development of the internal dashboard. Further study of Greek Life, utilizing the database, is now underway.

-The data sharing MOU for BPD and CUPD is currently being updated for inclusion of other departments/additional chronic nuisance and Greek Life work.

Previously Completed Quality of Life Projects

Rental Property Calls for Service Notification

Team: Mike Zidar, Nuria Rivera-Vandermyde, Brad Mueller, Sandra Llanes, Laurel Witt, Stephen Redfearn, Maris Herold

Project Description: This project was requested by BARHA as a pre-cursor to any chronic nuisance modification, with the caveat that until property owners were aware of violations on their property, they could not be held accountable effectively. It was determined that this system would be the foundation of any future landlord accountability model that the city adopted. Quotes were received from several vendors with high costs or limited capacity. IT staff agreed to develop the system in-house.

Timeline-Heads Up to Council on July 14; Go-live of system on July 17, 2023

The [tool](#) received a few questions and inquiries during its first week of operation but very little since that time. BARHA has been an effective partner in sharing information and setting expectations about the limitations of calls for service data itself and the multi-unit base addressing impacts; i.e. the reality that all units are notified regarding calls for service at any multi-unit development. It was promoted through a QR code on postcards mailed to all rental license addresses within the city. Additionally, all emails registered as an applicant, owner, or agent received information via email.

Who to Call Poster for Tenants

Team: Brenda Ritenour, Communications Support

Project Description: A poster was created to assist tenants with “who/how to report” issues to the city. This was released in correlation with the Rental Property Calls for Service notification system so that there are tools for both accountability and support available to tenants. BARHA, Naropa and CU assisted in distribution of posters. The city will continue to make this available to rental properties throughout the city. This resource is available on [Health and Human Services webpage](#); alongside the Landlord-Tenant Handbook, in both English and Spanish. It was promoted through a QR code on postcards mailed to all rental license addresses within the city. Additionally, all emails registered as an applicant, owner, or agent received information via email.

Timeline- July 17, 2023

BPD/CUPD Partnership

June, 2022

New data use agreement put into place and shared Business Intelligence Analyst position was created and hired with costs split between city IT Dept and CU.

Noise Ordinance

Adopted by Council September, 2022

Ordinance change increased enforceability for excessive daytime noise and nuisance parties.

Neighborhood Safety Walk

October, 2022

Three walks were held on May 22, October 21 and November 16. Requests are unanswered for additional lighting in the neighborhood.

Weeds and Trash

Core Team: Sandra Llanes (Lead), Laurel Witt, Jennifer Riley, Brenda Ritenour, Tony Spencer (as needed)

Purpose: The request was to improve the process utilized for notice of violations related to weeds and trash originated from the Code Enforcement Unit (CEU) and is in line with the identification of neighborhood aesthetics and cleanliness as a primary concern and contributor to overall neighborhood culture in the University Hill neighborhood. The administrative process is intended to create an option for posting notices directly on a residence, saving time by negating the need to chase down residents.

Timeline- This ordinance was adopted in February, 2023.

Neighborhood Clean Up

Team: Amanda Nagl (Unlocking Government) led/coordinated in partnership with BARHA and CU staff .

Brought residents and BARHA members, as well as BARHA vendors, together to vet needs related to neighborhood clean up. Residents requested that focus be on dirt yards and debris collection that did not merit citation but did create a “junky” or “disrespectful” feel to the neighborhood. Residents explained that one dirt yard quickly spreads to 3 or more and then impacts an entire block of the neighborhood.

-Struggle to find partners both within the city organization and in the community.

-BARHA vendors not interested; said it should be one on one outreach vs. blanket program.

-BARHA property managers echoed vendors and did not imagine their owners willing to invest as the front yards are trampled quickly.

-About 25 yards are primarily dirt in the neighborhood; Pennsylvania, 14th and University have “blocks” of dirt yards; specifically, the 900 block of University is the most obvious with both sides of the street (many chalked houses in this area).

-Suspect but have not yet been able to verify that some of these 25 may also have multiple nuisance violations. In that case, it may be a conversation point in the engagement strategy associated with the chronic nuisance work.

-Struggle to determine recommendations for yard cover. Resource Central is a partner with the city and spoke with them:

- Non-natural covering **not recommended** as it heats up and will be watered to cool it, creates particles that go into storm water system; this could quickly look bad as well given the user group and the tendency toward a failure to maintain/update
- Must be larger than pea gravel rock fill or large flagstones
- Expensive for landlord with little pay off
- Plant materials will be trampled, not cared for (like garden in a box), takes watering and care to be successful-not willing to invest in this area as not likely to be successful
- Contest for students was mentioned but believes it will not be attractive enough to stay out of front yards, especially on the blocks who have the most issues

- NOCO Water should be able to recommend hardy plants if there are interested landlords who will engage and water/care for plants

-Unlocking Government applied for support with this project through McGuckins Hardware community support program; the project was not selected.

2 other clean-up projects did take place in the neighborhood:

- 1) Sunday March 12 from 1:30pm to 3pm, students led by [Circle K International](#) at CU and the [Phi Kappa Tau](#) fraternity and other greek organizations, along with members of [Foothill Kiwanis](#) and other community members picked up trash and identified maintenance needs in the University Hill neighborhood, bounded by Broadway to the northeast, Baseline to the south, 9th St to the west, Arapahoe Ave to the north, and 20th St to the east.
- 2) Jake Hudson Humphrey and the Hill Boulder: May and June events were held; primarily focused on commercial district.

Timeline-It was decided that the team would support other clean-up efforts and seek out ways to promote neighborhood pride in the upcoming fall season but would not host any event or program specific to dirt yards as this is not a city code or requirement.

Values and Intentions Related to “Abatement of Public Nuisance” Ordinance Revision

Why the Public Nuisance Abatement Ordinance is Being Revised:

- a large shift in housing stock to being a predominantly rental community
- repetitive actions of enforcement agencies at the same few locations (wastes already limited resources)
- a need to hold negligent landlords accountable with escalating penalties
- staff frustration and the inability to make the current ordinance work without considerable effort
- create the basis for an envisioned stronger role for rental licensing
- look at the potential connection between police activity and building safety differently/more thoroughly, effectively and equitably
- more recently: council looking to this as assist in neighborhood livability concerns associated with the increased occupancy decision

Values/Intentions:

- Public Safety
- Collaboration
- Equity and fairness
- Creativity
- Solution-oriented mindset
- De-escalation of tense neighbor-neighbor impacts and interactions
- Increased Livability conditions for residents and neighbors
- Accountability for disengaged/non-responsive landlords
- Data-driven approach to ordinance development and, following adoption, its administration

Intended Outcomes:

- **Hold property owners accountable for achieving compliance.** In situations where property owners are responsible, they will be held accountable for both public and chronic violations. Property owners are both of owner-occupied and rental properties.
- **Maintain or improve residents’ lives.** This includes easing resident and neighbor stress and frustration, as well as focusing on keeping people safely sheltered.
- **Enable holistic solutions.** While the city provides many resources (information, guidance, services), it also expects landlords to articulate what they already are doing, or what they will do toward resolving violations.
- **Advance equity.** Avoid stigma in how we review and use data for decision-making and enforcement, and in alignment with the city’s racial equity plan.
- **Foster respectful partnerships.** This ordinance will improve upon the partnerships between city government, landlords, property owners and residents to address complex problems.
- **Reflect other existing city policies and resources.** This policy is focused on a specific set of chronic nuisance situations, and there are other city policies, practices, services and external resources designed to advance solutions for other specific and systemic problems.
- **Continue to uphold city values and expectations for enforcement officers.** Enforcement officers are expected to be equitable, data-driven, creative and solution-oriented.

Attachment E - Chronic Nuisance Comparison Chart

Chronic Nuisance Comparison Chart - for Research and Discussion Purposes																		
	Boulder, CO	Colorado	Fort Collins, CO	Arvada, CO	Canon City, MO	Madison, WI	Mississippi, MS	Montgomery, AL	Portland, OR	Seattle, WA	Spokane, WA	Springfield, IL	Berkley, CA	Chicagoland, OH	Indiana, IN	Bozeman, MT	Bozeman, AK	
Chronic Nuisance Ordinance (Link to code if any)	Boulder, CO	Colorado	Fort Collins, CO	Arvada, CO	Canon City, MO	Madison, WI	Mississippi, MS	Montgomery, AL	Portland, OR	Seattle, WA	Spokane, WA	Springfield, IL	Berkley, CA	Chicagoland, OH	Indiana, IN	Bozeman, MT	Bozeman, AK	
Purpose of Chronic Nuisance Ordinance	N/A	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.	To improve the health, safety, convenience, order, prosperity and welfare of the people and to protect the public interests of the City.
Applies to Residential and/or commercial districts	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential	Residential
Number of contacts in a period before triggering the ordinance	2 or 12 month period for 2 or 12 month period	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months	3 or more in 12 months
Activity at abandoned property included?	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Notice of Chronic Nuisance Activity	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation	Notice of a nuisance violation
From who?	City Manager	Neighborhood officers	Code enforcement officer	Chief of Police	Director of Housing and Neighborhood Services	Chief of Police and/or Building Inspectors	The City Attorney	Police commander	Chief of Police	Chief of Police or Director	Chief of Police or Director	Chief of Police	Jointing Adjustments Board	Chronic nuisance investigation officer	Chief of Police	Chief of Police	N/A	
To who?	Owner and Tenant or Occupant of property	Person in charge of the property	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner	Property Owner
Required response from Notice Recipient	Ordinance does not specify but there is an opportunity for a settlement meeting with the city manager	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days	Respond to notice within 10 days
Abatement plan?	Yes, voluntary compliance agreement developed by the owner	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan	Yes, abatement plan
Fee for excessive calls	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Exclusion for domestic violence	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Other exclusions	None	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances	Any and all nuisances that are not defined as public nuisances
Enforcement Procedure if Failure to Respond to Notice or Failure to Abate																		
Failure to respond to notice	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order	Yes, notice required before filing an abatement order
Administrative process before court process	Yes, city manager will schedule a settlement meeting before an abatement proceeding begins	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Court involvement	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court	Yes, Municipal Court
Burden of Proof	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)	Preponderance of the evidence (the city)
Remedies	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties	Abatement, civil penalties, criminal penalties
Do remedies include revoking rental license from the property?	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No
Notes?																		



COVER SHEET

MEETING DATE

August 8, 2024

AGENDA ITEM

Project Update on Access Management and Parking Strategy (AMPS): Code and Policy Enhancements

PRIMARY STAFF CONTACT

Lisa Houde, Senior Planner

ATTACHMENTS:

Description

- ▣ **Item 4A - Access Management and Parking Strategy (AMPS): Code and Policy Enhancements**



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 8, 2024

AGENDA TITLE

Project Update on Access Management and Parking Strategy (AMPS): Code and Policy Enhancements

REQUESTING DEPARTMENT / PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Mark Woulf, Assistant City Manager
Brad Mueller, Director of Planning & Development Services
Natalie Stiffler, Director of Transportation & Mobility
Cris Jones, Director of Community Vitality
Valerie Watson, Deputy Director of Transportation & Mobility
Stephen Rijo, Transportation Planning Manager
Charles Ferro, Senior Planning Manager
Karl Guiler, Senior Policy Advisor
Chris Hagelin, Principal Transportation Planner
Samanta Bromberg, Senior Project Manager
Lisa Houde, Principal City Planner

EXECUTIVE SUMMARY

The purpose of this item is to update the City Council on the status of the final initiative to implement the [Access Management and Parking Strategy \(AMPS\)](#) project and to discuss major focus areas to refine the scope of work.

Adopted by City Council in late 2017, AMPS was developed as a guide through which city staff, leadership, boards, commissions, and the community at large could work toward improving Boulder's approach to multimodal access and parking management across the city. One of the recommendations to come out of the AMPS work was a comprehensive update of parking requirements and transportation demand management (TDM) requirements.

Parking code updates and transportation demand management changes were underway in 2020 when the project was indefinitely paused due to staffing impacts during the

pandemic. The project has been reinitiated in 2024. City Council also identified their interest in completing this project as an important part of the staff work plan for 2024-2025 at their 2024 retreat.

The scope of this interdepartmental project involves three main focus areas:

- Off-street parking standards (Planning & Development Services)
- Transportation demand management requirements (Transportation & Mobility)
- On-street parking management strategies (Community Vitality)

This project will also implement changes required by HB24-1304, passed by the Colorado State Legislature earlier this year.

Staff anticipates returning to City Council in the first quarter of 2025 to provide more detailed analysis of best practices and options to receive further guidance and direction prior to drafting code changes. Staff plans to complete the project in the second quarter of 2025. A draft project charter is in **Attachment A** and is expected to be refined based on the discussion with council.

QUESTIONS FOR CITY COUNCIL

Staff is seeking input and direction from City Council to guide next steps for the AMPS Code and Policy Enhancements project.

1. Does City Council have feedback on the scope recommendations for the three focus areas?
2. Does City Council have any other comments or direction to provide on engagement strategy, project timeline, or other topics?

BACKGROUND

Off-Street Parking Standards

This specific parking related project has been in process for many years and has been composed of several phases:

Phase I: In early 2014, an interdepartmental team of city staff began the AMPS project. In 2014, City Council passed Ordinances 8005 and 8006 to update the Land Use Code and Design and Construction Standards, which simplified vehicular parking standards, reduced vehicle parking requirements for warehouses, storage facilities and airports, and required both short- and long-term bicycle parking standards based on land use type.

Phase II: In 2016, the project team conducted additional parking supply and occupancy observations at 20 sites, including commercial, office, industrial, mixed-use, and residential land uses. These observations supplemented more than 30 sites that had previously been studied in 2014. A range of draft parking rate recommendations, including parking maximums and minimums, were developed for consideration. The potential to coordinate and link the recommended parking supply rates with the evolving TDM strategy was also identified. No changes were adopted at this time as City Council

did not choose to prioritize the project in its work plan and requested additional data collection before considering reducing parking requirements.

Phase III: In 2019, as part of that year’s Council work plan, a final phase of the parking code changes was initiated. Another round of data collection was completed at this time. The planned updates to the parking standards were intended to balance an appropriate amount of parking based on parking supply and utilization data collected over a multi-year period while also reflecting the multimodal goals of the Transportation Master Plan and aligning parking supply rates with the city’s evolving TDM goals. The project was paused indefinitely due to the COVID-19 pandemic in 2020.

This phase has been reinitiated in 2024, as staffing has returned to full capacity and City Council, the Transportation Advisory Board (TAB), and the Planning Board have indicated interest in restarting the project, including potentially considering eliminating minimum parking requirements entirely.

Zoning for Affordable Housing: In 2023, the Zoning for Affordable Housing project included updates to the city’s parking reduction standards to simplify code language, a change to the process for parking reductions to allow residential projects up to a 25 percent parking reduction without Site Review, and a reduction in parking required for residential projects that were composed primarily of one-bedroom units.

HB24-1304: In 2024, the Colorado State Legislature passed [HB24-1304](#) related to minimum parking requirements in Colorado municipalities subject to a metropolitan planning organization, like the Denver Regional Council of Governments of which Boulder is a part. The bill prohibits the city from enforcing minimum parking requirements within a defined “transit service area” except for certain projects that meet specific exemptions. By state law, the city must comply with this bill by June 30, 2025. All changes proposed as part of this project will need to comply with the new state regulations.

Transportation Demand Management Requirements

The purpose of requiring Transportation Demand Management (TDM) Plans for new developments is to mitigate the transportation impacts for the new development by providing programs, amenities, and services to the employees or residents.

Prior to the COVID-19 pandemic, as part of the AMPS work effort, City Council directed staff to modify the TDM Plan process for new developments and design an ordinance that provides a mechanism to monitor and enforce regulations, which is not currently in place. Council also specifically directed staff to integrate a new TDM ordinance for new development into the efforts to update the city’s off-street parking requirements.

Prior to the project delay, the work effort focused on identifying the key components of a TDM ordinance for new developments, understanding the different ways each component could be designed, and establishing options for future boards and council consideration. Past work also included a review of peer cities with TDM ordinances for new developments which will be updated during this renewed effort.

On-Street Parking Management Strategies & AMPS

Building on the foundation of Boulder’s successful multimodal, district-based access and parking system, the AMPS project was initiated in 2014 and identified guiding principles, over-arching policies, tailored programs, priorities and tools to address citywide access management in a manner consistent with the community’s social, economic and environmental sustainability principles. Adopted by council in 2017, the city’s AMPS approach emphasizes collaboration among city departments and reflects the policies of the Boulder Valley Comprehensive Plan, the Climate Commitment, the Transportation Master Plan (TMP) and the Economic Sustainability Strategy.

The AMPS Guiding Principles are:

1. **Provide for all transportation modes:** support a balance of all modes of access in the city’s transportation system: pedestrian, bicycle, transit and multiple forms of motorized vehicles— with the pedestrian at the center.
2. **Support a diversity of people:** Address the transportation needs of people at all ages and stages of life and with different levels of mobility – residents, employees, employers, seniors, business owners, students and visitors.
3. **Customize tools by area:** Use a toolbox with a variety of programs, policies and initiatives customized for the unique needs and character of the city’s diverse neighborhoods, both residential and commercial.
4. **Seek solutions with co-benefits:** Find common ground and address tradeoffs between community character, economic vitality and community well-being with elegant solutions— those that achieve multiple objectives and have co-benefits. Plan for the present and future: while focusing on today’s needs, develop solutions that address future demographic, economic, travel, and community design needs.
5. **Cultivate partnerships:** Be open to collaboration and public and private partnerships to achieve desired outcomes.

The projects identified in the AMPS Summary Report were the culmination of the multi-year strategic planning process and represent each of the interdisciplinary AMPS focus areas:

- Chautauqua Access Management Program (CAMP)
- Civic Area Parking Management and TDM Programs
- Neighborhood Permit Parking (NPP) Review -- Now under Residential Access Management Program (RAMP)
- Parking Pricing
- Off-Street Parking Standard Changes
- TDM Plan Ordinance for New Developments

In 2019, the Community Vitality department partnered with a consultant to rework the city’s parking products, including long-term permits, daily parking, and hourly parking, to better reflect the AMPS vision and specific goals related to neighborhood parking management and parking pricing. The implementation plan from this work was presented

at a City Council Special Meeting in October 2021. Council supported the implementation of priority-based neighborhood access management, performance-based pricing, and graduated fines and mobility safety fines. All three programs were implemented in 2022.

Chautauqua Access Management Program (CAMP)

CAMP began in 2017 to address parking, access, and livability issues at the historic park and in the surrounding residential area by charging for parking at the park, providing a free shuttle from remote lots and establishing an NPP in the North Chautauqua neighborhood. After a successful pilot program, the Council directed staff to operate the CAMP program through 2023 and then to conduct an evaluation of the program. Following the 2023 evaluation, council directed staff to continue the CAMP program with minor modifications and conduct a future analysis to explore expanding CAMP operations under the Trailhead Access Management Program.

Civic Area Parking Management and TDM Program

To manage parking demand and reduce single-occupant vehicle travel by city municipal employees in the Civic Area, daily parking rates were increased, and a parking cash-out program was initiated. In 2016, the cost of parking increased from \$2 to \$3 per day, but employees who did not drive and park their vehicles in the Civic Area were paid \$2 per day. Together with the EcoPass and Boulder BCycle commuter benefits, the Civic Area program significantly reduced single-occupant vehicle travel with increasing numbers of employees taking advantage of the parking cash-out benefit each year. This program was suspended in 2020 with the onset of the pandemic but is being considered for application at the future Western City Campus.

Residential Access Management Program (RAMP)

Priority-based neighborhood access management is the holistic strategy to manage parking in residential neighborhoods, which was used to create the Residential Access Management Program (RAMP). RAMP uses existing tools such as Neighborhood Permit Parking (NPP), and newly identified tools based on data-driven analysis. RAMP conducts an annual assessment of the entire city based on key metrics, such as parking occupancy, high trip generating land use, and resident or staff identified areas of interest. Staff monitors existing managed parking zones regularly to track their performance. The program aims to be more responsive to user behaviors and neighborhood diversity; promote predictability, transparency, and understanding of regulations; generate revenue and achieve cost recovery; advance climate and sustainability goals and increase the quality of life for everyone, residents, and visitors alike.

Performance-Based Pricing

Performance-based pricing entails variable pricing of on-street parking by block face in existing paid parking districts. Pricing is based on typical peak occupancy, with higher pricing for the areas where parking is most in demand and lower pricing for the areas where parking is least in demand. Pricing for off-street parking in our municipal parking garages is now uniformly lower for visits lasting two hours or longer. Performance-based pricing is measured and adjusted annually. This strategy encourages turnover, recognizes the value of the public street right of way, and responds to user behaviors as well as the

diversity of needs for different user groups. It also generates revenue and achieves cost recovery, promotes effective parking management, and advances climate and sustainability goals.

Graduated Fines and Mobility Safety Fines

Graduated fines and mobility safety fines entails graduated fines for most parking violations citywide, and higher fines for violations that impede mobility safety, such as parking in a bike lane, in a crosswalk, or in a fire lane. These higher fines are called “Mobility Safety Fines” and are premiums for safety violations already levied by the city. Similar to performance-based pricing, this strategy encourages turnover, recognizes the value of the public street right of way, responds to user behaviors, and the diversity of needs for different user groups. Graduated fines generate revenue and achieve cost recovery, promote effective parking management, improves customer compliance, and advances climate and sustainability goals.

Remaining AMPS Implementation Projects

The last of the identified projects from the original AMPS report include the Off-Street Parking Standard Changes and TDM Plan Ordinance for New Developments which are the topics of this memorandum.

ANALYSIS

The following section will provide background information on the main focus areas of the updates as well as the key questions for City Council input.

- **Off-street parking standards**
- **Transportation Demand Management requirements**
- **On-street parking management strategies**

Off-Street Parking Standards

History of Parking Requirements

After World War II, car ownership in the United State increased drastically and zoning codes began incorporating requirements for off-street parking, which is vehicle parking on private property to serve housing or businesses without parking on the public street. Over 70 years later, parking requirements remain a significant influence on urban form and development and mobility options due to their incorporation in most zoning codes around the country. Typically, parking requirements are based on a number of parking spaces per square foot calculation, although they can be even more nuanced, based on number of seats, employees, bedrooms in a house, or other factors.

Boulder’s first zoning ordinance, adopted in 1928, established the first zoning districts, height, setback, permitted uses, and lot area requirements, but did not include any mention of vehicle parking. The city’s first off-street parking requirements were adopted in 1954. While many more specific requirements have been added and new processes to provide flexibility have been introduced, the basic parking requirements have not

significantly changed in the 70 years since they were first adopted. After a major update in 1983 the intent of the parking standards was: “*in order to prevent undue congestion in and interference with the traffic-carrying capacity of city streets, off-street parking and loading shall be provided for all land uses.*”

Other than a code standard reorganization in 2006, a comprehensive update of the parking standards has not been completed since the first requirements were added in 1954. For a detailed history of parking requirements in Boulder, see **Attachment B**.

Recent Zoning Reform in Other Cities

Many cities throughout the country have been rethinking their off-street parking requirements in recent years. In 2017, Buffalo, New York was the first major city in the United States to eliminate parking requirements citywide. Hundreds of other cities have considered changes to their parking standards since that time. Parking Reform Network maintains a comprehensive map of cities that have undertaken changes to their parking standards. [Their research is summarized on this map and](#) shows that 78 cities have eliminated parking requirements citywide, and almost 900 have reduced parking requirements.

Some examples of other cities similarly sized to Boulder with large universities that have eliminated all minimum parking requirements include Gainesville, Florida, Cambridge, Massachusetts, Duluth, Minnesota, and Eugene, Oregon. Nearby, Longmont eliminated all minimum parking requirements earlier this year. Some larger cities like Austin, Minneapolis, Sacramento, San Francisco, San Jose, Raleigh, and Portland have also removed parking requirements citywide.

HB24-1304: Minimum Parking Requirements

States have also been focused on parking legislation recently. [Parking Reform Network](#) notes that 22 states have introduced parking reform legislation since 2019, and 10 states have passed bills so far.

As noted above, the Colorado State Legislature passed [HB24-1304](#) this year, which prohibits cities and counties within a Metropolitan Planning Organization (like the Denver Regional Council of Governments) from enforcing minimum parking requirements for certain uses. As of June 30, 2025, Boulder will no longer be able to enforce minimum requirements for multifamily residential development, residential adaptive reuse, or mixed-use adaptive reuse projects with 50 percent residential uses within an “*applicable transit service area.*”

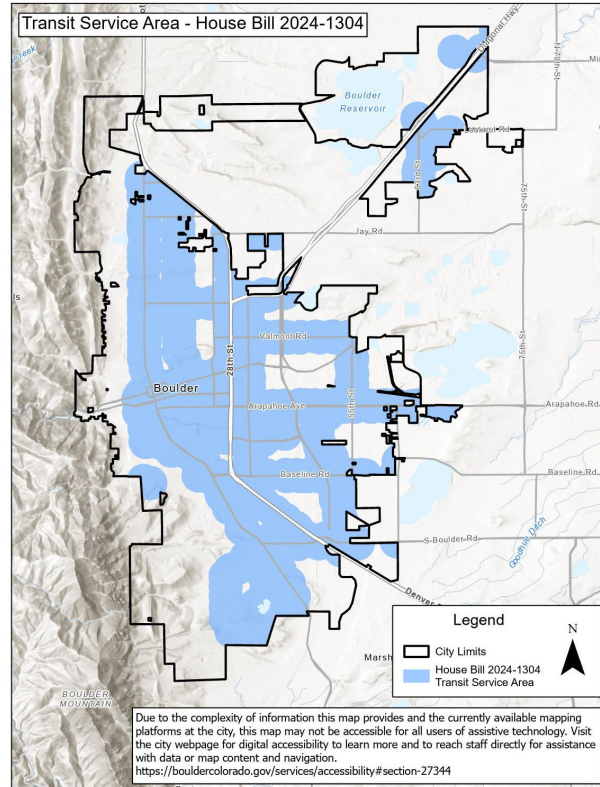
The official applicable transit service area will be mapped by the state by September 30, 2024. It will include areas that are within 1/4 mile of existing stations served by routes in an applicable transit plan for:

- Commuter Bus Rapid Transit
- Commuter rail or light rail with planned or scheduled service at least every 30 minutes during rush hour
- Public bus routes with planned or scheduled service at least every 30 minutes for at least four hours on weekdays

The transit service area will also include areas within 1/4 mile of planned or existing stations and stops served by public bus routes that:

- Have planned or scheduled service at least every 30 minutes for at least four hours on weekdays
- And are identified within an applicable transit plan for short-term implementation or before January 1, 2030.

City staff prepared the map below to generally anticipate the location of the applicable transit service area before the state releases the official map. About 29,000, or 81%, of the city’s parcels in the city are expected to intersect the Transit Service Area.



The bill does provide some potential exceptions to the prohibition on minimum parking requirements for these uses, although a high bar is set to utilize the exception. Cities can impose a parking requirement of one space per dwelling unit for projects over 20 units or affordable housing developments, but only if findings are met that *“not imposing or enforcing a minimum parking requirement... would have a substantial negative impact.”*

The city would have to support the parking requirement with substantial evidence of negative impacts on safe pedestrian, bike, or emergency access, or the existing on- or off-street parking spaces within 1/8 mile of the project. The city would need to include parking utilization data from the area surrounding the project, engineer approval, and demonstrate that *“strategies to manage demand for on-street parking for the... [surrounding] area would not be effective to mitigate a substantial negative impact.”* Each year, the city would submit information to the Colorado Department of Local Affairs about the parking requirements enforced using this exception.

Research and Data Collection

Comparable City Research

In late 2023, staff completed a review of over 30 different comparable cities to understand their parking requirements for various uses. A matrix summarizing this research is available in **Attachment C**.

Parking Reduction Research

Staff also has been studying parking reductions granted in Boulder for the last several years to help inform this work. Off-street parking requirements can be reduced by up to 25% administratively, and reductions over 25% can be approved through a Site Review application. Any reduction over 50% must be approved by Planning Board or City Council.

On average, since 2011, the city has approved about three administrative parking reductions per year and five parking reductions annually through the Site Review process. About three-quarters of requested parking reductions have been approved in those years. The average approved parking reduction request has been 18% administratively and 28% through Site Review. Since 2011, approximately 39% of Site Review applications have included a parking reduction request. The extent of parking reductions in development projects speaks to a need to comprehensively re-evaluate the city's off-street parking requirements.

Parking Supply and Utilization Data Collection

Over the last few months, staff has been working with Fox Tuttle, a transportation planning consulting firm, to update parking supply and utilization data counts at nearly 50 sites around the city to inform this project. Fox Tuttle has completed these counts three times throughout the AMPS project, most recently in 2018/2019. Since that data was 5-6 years old and there have been significant social, economic, and cultural shifts post-pandemic, a new study of supply and utilization was completed this year. This data has repeatedly shown that the parking supply dictated by current requirements exceeds maximum utilization across all land uses in the city. More detail is available in **Attachment D** and will be shared during the August 8 presentation.

Requested Council Direction: Off-Street Parking Standards

The initial direction from Council in 2014 for the AMPS project was to update the off-street parking standards, most likely by reducing requirements to better match utilization. In the many years since the project was first initiated, many more cities have rethought their minimum parking requirements and even eliminated them entirely citywide. During the 2024-2025 council retreat, several city council members expressed an interest in eliminating minimum parking requirements.

As noted previously, it is expected that approximately 81 percent of parcels in the city will fall within the “*applicable transit service area*” where parking requirements are prohibited through HB24-1304 for multifamily residential, residential adaptive reuse, or mixed-use adaptive reuse projects with 50% residential. Staff is also seeking direction from council on whether those parts of the city that are not included in the service area (19% of parcels) should retain minimum parking requirements for those uses, or whether

the state mandate should apply citywide given the extent of city parcels that are subject to the bill.

Proposed Scope of Work: Off-Street Parking Standards

For this project, staff recommends exploring the benefits and drawbacks of eliminating off-street parking requirements for all uses, while also determining feasible reductions to the requirements in lieu of a wholesale elimination. Thorough best practices research of comparable cities that have both reduced and eliminated requirements, as well as community engagement will inform further recommendations.

Staff recommends applying the changes required by HB24-1304 to areas outside of the applicable transit service area as well, since such a significant percentage of the city's parcels are already included in the area. Carving out specific parts of the city where multifamily residential parking requirements would differ than those within the transit service area would introduce significant complexity to the code.

These recommendations are summarized in the **Scope Recommendations** at the end of this memo.

Transportation Demand Management Requirements

Current TDM Plan Requirements

The foundation for TDM Plans within the development review process is located in the [Section 9-2-14\(d\)\(16\) and \(21\)](#), which requires a TDM Plan for all Site Review applications, and requires a traffic study if required by the city's Design and Construction Standards. Additionally, in the Boulder Junction area (the MU-4, RH-6 and RH-7 districts), a TDM Plan is required for all development applications that add a nonresidential use floor area or an additional dwelling unit that demonstrates compliance with the trip generation requirements of [Section 9-9-22](#).

In section 2.02 of the city of Boulder Design and Construction Standards, it states:

(A) Traffic Assessment

The Director will require an applicant to submit a Traffic Assessment in order to adequately assess the impacts of any development proposal on the existing and planned transportation system. The Assessment shall include a peak hour trip generation study projection (Refer to 2.03(J)) and may require additional information as determined by the Director.

(B) Traffic Study Requirements

For any development proposal where trip generation from the development during the peak hour of the adjacent street is expected to exceed 100 vehicles for nonresidential applications, or 20 vehicles for residential applications the Director will require an applicant to submit a Traffic Study to evaluate the traffic impacts of any development proposal required to undergo a concept review as set forth in Section 9-4-10, "Concept Plan Review and Comment," B.R.C. 1981. The traffic study may include the information required in Subsections (A) through (K), of Section 2.03, "Traffic Study Format," of these Standards at the discretion of the Director.

The TDM Plan requirements are specifically referred to in section I of Chapter 2:

(I) Travel Demand Management Strategies

Include an outline of travel demand management strategies to mitigate traffic impacts created by proposed development and implementable measures for promoting alternate modes travel, including but not limited to the following:

(1) Site Design: Incorporate design features that facilitate walking, biking, and use of transit services to access a proposed development, including features such as transit shelters and benches site amenities, site design layouts, orientations and connections to increase convenience for alternate modes and reduce multiple trips to and from the site, and direct connections to existing offsite pedestrian, bicycle, and transit systems.

(2) Programs and Education: Incorporate alternate modes programs, such as providing transit passes to employees and residents, van pooling to the site by a major employer, ride-sharing, parking pricing, and planned delivery services, and educational measures such, as promoting telecommuting, distributing transit schedules and trails maps, signing alternate travel routes, and providing an onsite transportation coordinator or plan to educate and assist residents, employees, and customers in using alternate modes.

When TDM Plans are required as part of the Site Review process, the current process is for staff to work with developers and their consultants to design a customized TDM Plan within the opportunities and limitations of the regulations. Staff works with the developer to include infrastructure and amenities that enhance multimodal access and options and focuses on the handful of traditional TDM programs and strategies that can be implemented by the developer.

Many traditional TDM programs and strategies are not implemented by developers as they are implemented through employer tenants for commercial land uses or property managers for residential developments. For example, while a developer can provide short- and long-term bicycle parking or showers and changing facilities, they cannot be required to implement a TDM program like parking cash-out or vanpool subsidies.

The city has been successful in requiring developers to put funds in escrow to pay for certain TDM programs, like the RTD EcoPass, but for a limited time period.

Requested Council Direction: Transportation Demand Management Requirements

The key components of any TDM ordinance include:

1. Determining **purpose and desired outcomes** of TDM Plans and the ordinance
2. Setting **triggers and thresholds of ordinance applicability**
3. Establishment of the **measurable objective or performance metric**
4. Designing a methodology or formula to set **target levels**
5. Selection of required TDM Plan **design elements**
6. Deciding on **monitoring, compliance and enforcement** requirements
7. Understanding **funding and staffing** needs

At this time, staff would like to focus on the first two components with boards and council. Before addressing the other components, staff will want to update the best practice research and share that information through the engagement process before returning to boards and council.

Purpose and Desired Outcomes

In general, a TDM Plan ordinance is enacted to mitigate the impacts of a new development on the adjacent transportation system and surrounding land uses. However, an ordinance could also be used to go beyond mitigation and be used as a policy tool to motivate or push further travel behavior change to achieve broader transportation and community goals.

The overarching reason for incorporating TDM into the Site Review process and regulating implementation and evaluation is to meet the goals and objectives of the Boulder Valley Comprehensive Plan, the City of Boulder's Sustainability Framework and the Transportation Master Plan, and the Access Management and Parking Strategy. However, when designing a new set of policies and a TDM toolkit, it is important to understand the *specific* reasons to have new developments comply with an ordinance.

One option would be to design an ordinance that is intended to mitigate the impacts of a new development on the adjacent transportation system and surrounding area. Or, staff could design one that goes beyond mitigation to the use of incentives and disincentives to further push mode shift to meet goals. The way to achieve a more significant mode shift would be through performance measure targets and where they are set for new developments for ordinance compliance. While pushing beyond mitigation may be desired, it is important to understand that the overall impact of doing this on only new development will be small compared to a TDM ordinance that applies to existing developments. This approach also makes it more difficult for developments to comply with the ordinance, and may cause other unintended consequences.

Triggers and Thresholds of Ordinance Applicability

In all communities with TDM ordinances for new development, there are some projects that are exempt from the requirements. Typically, this is based on size or estimated vehicle trip generation rates. Under current policies in Boulder, the Design and Construction Standards state that when a commercial development is expected to exceed 100 vehicle trips at peak hour or 20 vehicle trips at peak hour for residential developments, an approved TDM Plan is required. The city may want to revisit these figures and raise or lower the thresholds based on staff feedback on the frequency of exempted Site Review developments.

Most cities with TDM ordinances use a tiered approach. For example, the [City and County of Denver uses a three-tier approach](#) based on size for commercial, industrial or office uses or the number of dwelling units for residential. In this approach, small developments of minimal impact are not required to comply with the ordinance. Medium sized developments are required to include TDM-supportive infrastructure, assign a transportation coordinator and achieve a designated target SOV rate. In addition to those requirements, larger developments are also required to identify and implement

programmatic strategies for a TDM Plan, conduct surveys to measure program impacts and demonstrate achievement of the target SOV rate.

While trip generation or size measured in square feet, or number of bedrooms for residential, are most typically used, the City may want to consider some other triggers which either exempt or automatically require a regulated TDM plan. Other options to consider include location within a Transit-Oriented Development (TOD) or subcommunity plan area or in an existing district such as the Central Area or University Hill General Improvement Districts (CAGID or UHGID). Under the current code, any property that redevelops in Boulder Junction is already required to meet the trip generation allowance through the District or independently.

Proposed Scope of Work: Transportation Demand Management Plan Requirements

Staff recommends designing a TDM ordinance for new developments that works in tandem with the updated off-street parking requirements and improves residential access and livability. Staff recommends designing requirements that primarily focus on mitigating the impacts of new development on the adjacent transportation system and surrounding area.

Based on previous direction from City Council and boards and public input prior to the pandemic delay, staff recommends exploring a tiered approach that considers size and location with the smallest developments exempt from the ordinance and increasing requirements for medium to larger developments which have more significant impacts on the transportation system and surrounding area.

These recommendations are summarized in the **Scope Recommendations** at the end of this memo.

On-Street Parking Management Strategies

History of On-Street Residential Parking Management Strategies

In 1986, the Boulder City Council adopted the Residential Permit Parking (RPP) program as a mechanism to relieve spillover parking in residential areas. The RPP program was designed to give preference in the use of on-street parking spaces to residents or businesses located within a designated zone, to maintain quality of life by restricting long- and short-term non-resident parking on neighborhood streets.

The program was first implemented in 1993 when RPP zones were established in the Mapleton Hill and University Hill neighborhoods. The RPP program restricted nonresident parking on neighborhood streets to two hours, Monday through Friday from 9 a.m. to 5 p.m. Concerns about the impacts associated with RPP implementation led Council to request an evaluation of the RPP program before proceeding with further zone implementation.

The NPP program was adopted by the City Council in May 1997 as an improved version of the RPP program. The NPP program was designed to improve the balance between preserving neighborhood character and providing public access to community facilities. The NPP program provided for greater flexibility in managing parking restrictions and expanded the RPP program to make available commuter permits within NPP zones.

Today, twelve NPP zones and one seasonal zone (Chautauqua North) exist. The provisions for the city’s NPP zone program are set forth in [Section 2-2-15](#), “Neighborhood Permit Parking Zones”.

NPP parking restrictions limit on-street parking for vehicles without a parking permit. Vehicles without an NPP permit may park one time only, per day, per zone for the posted time limit and may not re-park in that zone again on the same day. Vehicles with a valid permit are exempt from these posted parking restrictions. Residents who live within an NPP zone may purchase up to two annual resident permits, and a resident permit holder may receive up to two annual visitor passes when they purchase their resident permit. Resident permit holders may also obtain two two-week guest permits per year at no cost. NPP zone residents may purchase additional guest permits for social gatherings at their home.

Businesses located within a zone may purchase up to three permits for use by employees and may apply for additional employee parking permits if necessary. The maximum number of commuter permits issued on any one block face within an NPP zone is four, which number may be reduced if needed and according to the formulas set forth in the Boulder Revised Code.

As a continuation of the 2017 AMPS work, RAMP was introduced in 2022. RAMP utilizes tools such as the existing NPP program to help manage parking and access in Boulder’s residential areas.

Proposed Scope of Work: On-Street Parking Management Strategies

In conjunction with the work on the off-street parking standards and TDM requirements, staff proposes exploring some minor updates to the existing NPP program to allow application across all neighborhoods regardless of density, and the creation of new tools within RAMP to help mitigate impacts of new development. Under current regulations, an NPP is not permitted in higher density neighborhoods. Minor changes to the program could allow it to be a viable tool for parking management in higher density neighborhoods by ensuring that permit issuance does not exceed curbside capacity.

New higher intensity development in a residential area could trigger a RAMP study, and based on observed thresholds, RAMP tools, including but not limited to an NPP, could be proposed to the surrounding neighborhood for their consideration. Sufficient support by the neighborhood would prompt a public hearing process for the proposed changes to determine if they should be implemented.

These new tools would help to manage curbside demand, including vehicle storage, generated by new development. Along with the existing Curbside Management program which considers other curbside uses, these RAMP tools could mitigate the additional demand on the curb generated by the new development. This would enable accessibility and manage demand in the residential neighborhoods surrounding new development. The tools will complement the TDM requirements for new developments and will align with the TMP and BVCP goals and policies to encourage multimodal transportation options that support walking, biking, and transit use.

SCOPE RECOMMENDATIONS

The following summarizes the proposed scopes of work for each topic area for council's consideration in guiding the future direction of this project.

Off-Street Parking Standards

- Explore the benefits and drawbacks of eliminating off-street parking requirements for all uses citywide, while also determining feasible reductions to the requirements in lieu of a wholesale elimination.
- Apply the changes required by HB24-1304 to areas outside of the applicable transit service area (19% of the city's parcels).

TDM Requirements

- Design a TDM ordinance for new developments as part of this project.
- Establish requirements that mitigate impacts of new development on the adjacent transportation system and surrounding area.
- Use a tiered approach that considers size and location with the smallest developments exempt from the ordinance and increasing requirements for medium to larger developments.

On-Street Parking Management Strategies

- Minor updates to the existing NPP program to allow application across all neighborhoods regardless of density.
- Explore new tools within RAMP to help mitigate impacts and facilitate new development, triggered by the development review process and proposed to the surrounding neighborhood for their consideration.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Relevant Past AMPS Engagement

Previous phases of the AMPS project included community engagement activities such as stakeholder meetings, consultations with community connectors, questionnaires, and open houses. The feedback received throughout the history of the project will continue to inform next steps, but will be significantly supplemented by further engagement efforts.

Community Engagement Plan

Engagement will be an important part of this project. Thus far, staff has begun researching how other cities have engaged on this topic with their communities and brainstorming engagement ideas for Boulder. In addition, staff has started reaching out to stakeholders to understand the impact of the state requirements on residential parking, especially related to permanently affordable projects. The city's racial equity instrument has also been utilized to guide efforts in this project and advance racial equity.

Staff will further develop an engagement plan based on the scope of work provided by council. Because part of the project is mandated by the HB24-1304 requirements, engagement on that topic will remain at an “inform” level, while other topics will focus on a “consult” level of engagement.

The project charter in **Attachment A** outlines some of the engagement strategies being explored. Initial ideas for engagement include convening a working group of interested stakeholders, including one member each from TAB and Planning Board, and incorporating both in-person and virtual engagement efforts on project options.

NEXT STEPS

Staff plans to attend meetings of Planning Board and the Transportation Advisory Board in the coming weeks to kickoff the project with the boards and solicit initial feedback on scope. Tentatively, staff anticipates returning to both boards and to City Council in quarter one of 2025 to bring best practice research and specific options to guide ordinance drafting. The goal is to complete this project in the second quarter of 2025, which aligns with the required compliance date for HB24-1304.

ATTACHMENTS

Attachment A: Project Charter

Attachment B: History of Parking Requirements in Boulder

Attachment C: Comparable City Parking Research Matrix

Attachment D: Off-Street Parking Inventory and Occupancy Data Summary

Access Management and Parking Strategy: Code and Policy Enhancements

Land Use Code Amendment
Project Charter – *Working Draft*

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Project Purpose & Goals

Background

The City of Boulder is a recognized national leader in providing a variety of options for access, parking, and transportation. To support the community's social, economic, and environmental goals, Boulder must continuously innovate and prepare for a world that is rapidly changing.

This project has been in process for many years and has been composed of several phases.

Phase I: In early 2014, an interdepartmental team of city staff began a new project called the Access Management and Parking Strategy or AMPS. That year, City Council passed Ordinances 8005 and 8006 to update the Land Use Code and Design and Construction Standards, including simplifications to vehicular parking standards, reducing vehicle parking requirements for warehouses, storage facilities and airports, and requiring both short- and long-term bicycle parking standards based on land use type.

Phase II: In 2016, the project team conducted additional parking supply and occupancy observations at 20 sites, including commercial, office, industrial, mixed-use, and residential land uses. These observations supplemented more than 30 sites that had previously been studied. A range of draft parking rate recommendations, including parking maximums and minimums, were developed for consideration. The potential to coordinate and link the recommended parking supply rates with the evolving Transportation Demand Management (TDM) strategy was also identified. No changes were adopted at this time.

Phase III: In 2019, as part of a previous Council work plan, a final phase of the parking code changes was initiated. Updates to the parking code were intended to balance an appropriate amount of parking based on parking supply and utilization data collected over a multi-year period while also reflecting the multimodal goals of the Transportation Master Plan and aligning parking supply rates with the city's evolving TDM goals. The project was paused due to the COVID-19 pandemic in 2020.

This phase has been reinitiated in 2024, as staffing has returned to full capacity and City Council, the Transportation Advisory Board (TAB), and the Planning Board have indicated interest in restarting the project, and potentially considering eliminating minimum parking requirements entirely.

HB24-1304: In 2024, the Colorado State Legislature passed HB24-1304 related to minimum parking requirements. The bill prohibits the city from enforcing minimum parking requirements within a defined "transit service area" except for certain projects that meet specific exemptions. By state law, the city must comply with this bill by June 30, 2025. All changes proposed as part of this project will need to comply with the new state regulations.

Problem/Issue Statement

A comprehensive update to the city's off-street parking standards has not been done in many years, and as evidenced by collected data and continued requests for parking reductions, existing standards often do not reflect current parking needs in Boulder. Changes to parking needs after the impacts of the COVID-19 pandemic are not fully understood. In addition, the Transportation Demand Management

requirements in the code have not been revised in many years. The residential access management program should be reassessed simultaneously.

Project Purpose Statement

This project groups three interrelated topics related to parking: off-street parking standards, TDM, and the residential access management program. This project will reimagine the approach to parking regulation in Boulder.

OFF-STREET PARKING STANDARDS:

- Understand the actual parking supply and demand rates that currently exist throughout Boulder.
- Minimize construction of underutilized parking spaces while also avoiding or mitigating transportation and public on-street parking impacts.
- Encourage efficient use of land.
- Explore the benefits and drawbacks of eliminating minimum parking requirements.
- Reflect the multimodal goals of the Transportation Master Plan (TMP) and Boulder Valley Comprehensive Plan policies to encourage alternative modes of transportation and support walking, bike, and transit use.
- Increase predictability in the application of parking standards and reduce the number of parking reductions requested.
- Acknowledge the impact of parking regulations on housing affordability and local business support.
- Reflect changing market conditions nationwide.
- Comply with state requirements per HB24-1304.

TDM:

- Coordinate and align parking supply rates with the city's evolving Transportation Demand Management goals and strategies.
- Design a TDM Plan Ordinance for New Development to mitigate the impact of new development on the surrounding transportation system and adjacent properties.
- Formalize and codify TDM Plan requirements for new development regarding trip generation targets, thresholds and project tiers, required plan elements, timing and duration, monitoring compliance, program evaluation and staffing resources.
- Develop a toolkit for developers on TDM Plan requirements, strategy options, and compliance guidelines.

RESIDENTIAL ACCESS MANAGEMENT PROGRAM:

- Explore the creation of new tools within the Residential Access Management Program (RAMP) and modification of the existing Neighborhood Permit Parking (NPP) Program to mitigate the parking impacts of denser development in residential zones by proactively managing curbside demand

- Enhance accessibility and reduce congestion in the residential neighborhoods surrounding new development.
- Consider tools which complement the Transportation Demand Management (TDM) Plan requirements for new development and are aligned with the Transportation Master Plan (TMP) and Boulder Valley Comprehensive Plan goals and policies to encourage multimodal transportation options and support walking, biking, and transit use.

Guiding BVCP Policies

The project is guided by many key BVCP policies:

Built Environment Policy 2.16: Mixed Use & Higher-Density Development

The city will encourage well-designed mixed use and higher-density development that incorporates a substantial amount of affordable housing in appropriate locations, including in some commercial centers and industrial areas and in proximity to multimodal corridors and transit centers. The city will provide incentives and remove regulatory barriers to encourage mixed use development where and when appropriate. This could include public-private partnerships for planning, design or development, new zoning districts, and the review and revision of floor area ratio, open space and parking requirements.

Built Environment Policy 2.19: Neighborhood Centers

Neighborhood centers often contain the economic, social and cultural opportunities that allow neighborhoods to thrive and for people to come together. The city will encourage neighborhood centers to provide pedestrian-friendly and welcoming environments with a mix of land uses. The city acknowledges and respects the diversity of character and needs of its neighborhood centers and will pursue area planning efforts to support evolution of these centers to become mixed-use places and strive to accomplish the guiding principles noted below.

Neighborhood Centers Guiding Principles

4. Encourage parking management strategies.

Encourage parking management strategies, such as shared parking, in neighborhood centers.

Built Environment Policy 2.25: Improve Mobility Grid & Connections

The walkability, bikeability and transit access should be improved in parts of the city that need better connectivity and mobility, for example, in East Boulder. This should be achieved by coordinating and integrating land use and transportation planning and will occur through both public investment and private development.

Built Environment Policy 2.41: Enhanced Design for All Projects

Through its policies and programs, the city will encourage or require quality architecture and urban design in all development that encourages alternative modes of transportation, provides a livable environment and addresses the following elements:

f. Parking.

The primary focus of any site should be quality site design. Parking should play a subordinate role to site and building design and not jeopardize open space or other opportunities on the property. Parking should be integrated between or within buildings and be compact and dense. The placement of parking should be behind and to the sides of buildings or in structures rather than in large street-facing lots. Surface parking will be discouraged, and versatile parking structures that are designed with the flexibility to allow for different uses in the future will be encouraged.

Economy Policy 5.01: Revitalizing Commercial & Industrial Areas

The city supports strategies unique to specific places for the redevelopment of commercial and industrial areas. Revitalization should support and enhance these areas, conserve their strengths, minimize displacement of users and reflect their unique characteristics and amenities and those of nearby neighborhoods. Examples of commercial and industrial areas for revitalization identified in previous planning efforts are Diagonal Plaza, University Hill commercial district, Gunbarrel and the East Boulder industrial area. The city will use a variety of tools and strategies in area planning and in the creation of public/private partnerships that lead to successful redevelopment and minimize displacement and loss of service and retail uses. These tools may include, but are not limited to, area planning with community input, infrastructure improvements, shared parking strategies, transit options and hubs and changes to zoning or development standards and incentives (e.g., financial incentives, development potential or urban renewal authority).

Economy Policy 5.05: Support for Local Business & Business Retention

The city and county value the diverse mix of existing businesses, including primary and secondary employers of different sizes, in the local economy. Nurturing, supporting and maintaining a positive climate for the retention of existing businesses and jobs is a priority. The city recognizes the vital role of small, local and independent businesses and non-profits that serve the community and will balance needs of redevelopment in certain areas with strategies that minimize displacement of existing businesses and create opportunities for startups and growing businesses. The city will continue to proactively analyze trends in market forces to shape its activities, plans and policies regarding local business and business retention. The city and county will consider the projected needs of businesses and their respective employees, such as commercial and office space, when planning for transportation infrastructure, programs and housing.

Economy Policy 5.06: Affordable Business Space & Diverse Employment Base

The city and county will further explore and identify methods to better support businesses and non-profits that provide direct services to residents and local businesses by addressing rising costs of doing business in the city, including the cost of commercial space. The city will consider strategies, regulations, policies or new programs to maintain a range of options to support a diverse workforce and employment base and take into account innovations and the changing nature of the workplace.

Economy Policy 5.08: Funding City Services & Urban Infrastructure

The city will encourage a strong sustainable economy to generate revenue to fund quality city services and recognizes that urban infrastructure, facilities, services and amenities are important to the quality of life of residents, employees and visitors to the community. A strong and complete local and regional multimodal transportation system and transportation demand management programs are essential to a thriving economy, as they offer options for commuters, help attract and retain key businesses, employers and visitors and provide regional access to global markets. The city will continue to plan for and invest in urban amenities and infrastructure (e.g., bike paths, parks, shared and managed parking, public spaces, quality gathering places, cultural destinations and public art) as well as community services (e.g., open space and mountain parks, high speed internet, fire-rescue, public safety and senior services).

Economy Policy 5.14: Responsive to Changes in the Marketplace

The city recognizes that development regulations and processes have an impact on the ability of businesses to respond to changes in the marketplace. The city will work with the local business community and residents to make sure the city's regulations and development review processes provide a level of flexibility to allow for creative solutions while meeting broader community goals. This could involve modifying regulations to address specific issues and make them more responsive to emerging technologies and evolving industry sectors.

Transportation Policy 6.02: Equitable Transportation

The city and county will equitably distribute transportation investments and benefits in service of all community members, particularly vulnerable populations, ensuring that all people benefit from expanded mobility options. Providing more transportation options – like walking, biking, transit and shared options – in areas where people are more reliant on various modes will have a greater benefit to overall mobility. New transportation technologies and advanced mobility options provide Boulder with an opportunity to expand affordable transportation choices to those who need them the most, including those who cannot use existing fixed route transit such as service and shift workers.

Transportation Policy 6.06: Transportation System Optimization

The transportation system serves people using all modes, and maintaining its efficient and safe operation benefits all users. The city and county will monitor the performance of all modes as a basis for informed and systematic trade-offs supporting mobility, safety, GHG reduction and other related goals.

Transportation Policy 6.07: Integrated Transportation Demand Management (TDM) Programs

The city and county will cooperate in developing comprehensive Transportation Demand Management (TDM) programs for residents and employees, which include incentives, such as developing a fare-free local and regional transit system; promoting shared-use mobility, ridesharing, bikesharing, carsharing, vanpools and teleworking; and supporting programs for walking and biking, such as secured long-term bike parking. The city will employ strategies such as shared, unbundled, managed and paid parking (i.e., “Shared Unbundled, Managed, and Paid” – “SUMP” principles) to reflect the real cost of Single Occupancy Vehicle (SOV) travel. The city will require TDM plans for applicable residential and commercial developments.

Transportation Policy 6.08: Accessibility and Mobility for All

The city and county will continue development of a complete all-mode transportation system accommodating all users, including people with mobility impairments, youth, older adults, non English speakers and low-income persons. This will include increased support for mobility services for older adults and people with disabilities, reflecting the expected increases in these populations. Efforts should focus on giving people options to live well without a car and may include prioritizing affordable public transportation and transit passes, new technologies such as electric bikes, mobility services and prioritizing connections between multimodal transportation and affordable housing to facilitate affordable living.

Transportation Policy 6.13: Access Management & Parking

The city considers vehicular and bicycle parking as a component of a total access system for all modes of transportation (bicycle, pedestrian, transit and vehicular). Such parking will be consistent with the desire to reduce single-occupant vehicle travel, balance the use of public spaces, consider the needs of residential and commercial areas and address neighborhood parking impacts. The city will accommodate parking demands in the most efficient way possible with the minimal necessary number of new spaces and promote parking reductions through a variety of tools, including parking maximums, shared parking, unbundled parking, parking districts and transportation demand management programs. The city will expand and manage parking districts based on SUMP principles (shared, unbundled, managed and paid) to support transportation and GHG reduction goals as well as broader sustainability goals, including economic vitality and neighborhood livability.

Transportation Policy 6.14: Transportation Impacts Mitigated

Transportation or traffic impacts from a proposed development that cause unacceptable transportation or environmental impacts, or parking impacts, to surrounding areas will be mitigated. All development will be designed and built to be multimodal and pedestrian-oriented and include TDM strategies to reduce the vehicle miles traveled generated by the development.

Supporting these efforts, new development will provide continuous multimodal networks through the development and connect these systems to those surrounding the development. The city and county will provide tools and resources to help businesses manage employee access and mobility and support public-private partnerships, such as transportation management organizations, to facilitate these efforts.

Transportation Policy 6.16: Integrated Planning for Regional Centers & Corridors

Land use in and surrounding the three intermodal regional centers (i.e., Downtown Boulder, the University of Colorado and the Boulder Valley Regional Center, including at Boulder Junction) will support their function as anchors to regional transit connections and Mobility Hubs for connecting a variety of local travel options to local and regional transit services.

The land along multimodal corridors, the major transportation facilities that provide intra-city access and connect to the regional transportation system, will be designated as multimodal transportation zones where transit service is provided on that corridor. In and along these corridors and centers, the city will plan for a highly connected and continuous transportation system for all modes, identify locations for mixed use and higher-density development integrated with transportation functions, emphasize high quality urban design and pedestrian experience, develop parking maximums and encourage parking reductions.

Transportation Policy 6.18 Transportation Facilities in Neighborhoods

The city will strive to protect and improve the quality of life within city neighborhoods while developing a balanced multimodal transportation system. The city will prioritize improvements to access by all modes and safety within neighborhoods by controlling vehicle speeds and providing multimodal connections over vehicle mobility. The city and county will design and construct new transportation facilities to minimize noise levels to the extent practicable. Neighborhood needs and goals will be balanced against the community necessity or benefit of a transportation improvement. Additionally, the city will continue its neighborhood parking permit (NPP) programs to seek to balance access and parking demands of neighborhoods and adjacent traffic generators.

Transportation Policy 6.22: Improving Air Quality & Reducing Greenhouse Gas Emissions

Both the city and county are committed to reductions in GHG emissions, with the city committing to an 80 percent reduction from 2005 levels by 2050 and the county committing to a 45% reduction by 2030 and a 90% reduction by 2050. The city and county will design the transportation system to minimize air pollution and reduce GHG emissions by promoting the use of active transportation (e.g., walking and bicycling) and low-emission transportation modes and infrastructure to support them, reducing auto traffic, encouraging the use of fuel-efficient and clean-fueled vehicles that demonstrate air pollution reductions and maintaining acceptable traffic flow.

Housing Policy 7.01: Local Solutions to Affordable Housing

The city and county will employ local regulations, policies and programs to meet the housing needs of low, moderate and middle-income households. Appropriate federal, state and local programs and resources will be used locally and in collaboration with other jurisdictions. The city and county recognize that affordable housing provides a significant community benefit and will continually monitor and evaluate policies, processes, programs and regulations to further the region's affordable housing goals. The city and county will work to integrate effective community engagement with funding and development requirements and other processes to achieve effective local solutions.

Housing Policy 7.07: Mixture of Housing Types

The city and county, through their land use regulations and housing policies, will encourage the private sector to provide and maintain a mixture of housing types with varied prices, sizes and densities to meet the housing needs of the low-, moderate- and middle-income households of the Boulder Valley population. The city will encourage property owners to provide a mix of housing types, as appropriate. This may include support for ADUs/OAUs, alley houses, cottage courts and building multiple small units rather than one large house on a lot.

Housing Policy 7.08: Preserve Existing Housing Stock

The city and county, recognizing the value of their existing housing stock, will encourage its preservation and rehabilitation through land use policies and regulations. Special efforts will be made to preserve and rehabilitate existing housing serving low-, moderate- and middle-

income households. Special efforts will also be made to preserve and rehabilitate existing housing serving low-, moderate- and middle-income households and to promote a net gain in affordable and middle-income housing.

Housing Policy 7.10: Housing for a Full Range of Households

The city and county will encourage preservation and development of housing attractive to current and future households, persons at all stages of life and abilities, and to a variety of household incomes and configurations. This includes singles, couples, families with children and other dependents, extended families, non-traditional households and seniors.

Housing Policy 7.17: Market Affordability

The city will encourage and support efforts to provide market rate housing priced to be more affordable to middle-income households by identifying opportunities to incentivize moderately sized and priced homes.

Local Governance and Community Engagement Policy 10.01: High-Performing Government

The city and county strive for continuous improvement in stewardship and sustainability of financial, human, information and physical assets. In all business, the city and county seek to enhance and facilitate transparency, accuracy, efficiency, effectiveness and quality customer service. The city and county support strategic decision-making with timely, reliable and accurate data and analysis.

Project Timeline

	2024									2025								
	Q2			Q3			Q4			Q1			Q2			Q3		
	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S
PROJECT SCOPING																		
Internal scoping																		
Peer research																		
Consultant contracting																		
Data collection																		
PUBLIC ENGAGEMENT																		
Convene groups																		
Working group meetings																		
Be Heard Boulder																		
In-person events																		
DRAFTING																		
Options development																		
Initial draft																		
CAO review																		
PLANNING BOARD AND TAB REVIEW																		
PB matters					8/20													
TAB matters					8/12													
TAB final review																		
PB public hearing																		
CITY COUNCIL REVIEW																		
Study session					8/8													
Agenda/matters																		
1 st reading																		
2 nd reading																		
IMPLEMENTATION																		

*Note: HB24-1304 requires compliance by June 30, 2025.

Project Scoping | Q2 2024 | Planning

- Develop initial scope of work for parking and TDM changes
- Research minimum and maximum parking requirements for several key land uses in peer communities
- Internal issue identification meetings – engineers, case managers, transportation
- Regular coordination meetings – P&DS, TM, CV

- Engage with consultants to collect updated parking data at 40 sites for comparison to data collection in 2014/2016 and 2018/2019
- Analyze recent data related to parking reductions
- Develop Be Heard Boulder landing page, update city website
- Begin developing options to present for public engagement
- Meet with interested stakeholders as requested

Deliverables – P&DS

- *Peer city research matrix and graphics*
- *Project charter*
- *Internal meeting summaries*
- *Application data*
- *Be Heard Boulder page*
- *Working group invite email*

Deliverables – Consultant

- *Updated parking data spreadsheet*

Engagement and Initial Direction | Q3 2024 | Shared Learning

- Send invites for working group
- Finalize option development
- Hold first working group meeting
- Develop and launch Be Heard Boulder virtual engagement
- In-person engagement events
- Present project introduction as Matters item to TAB, Planning Board, and City Council study session
- Working group meeting to review parking utilization data and best practices research, TDM peer city review, and options, and TAB/ Planning Board/ City Council direction
- Continued internal staff stakeholder engagement
- Begin potential reorganization drafting strategies

Deliverables – P&DS

- *Working group meeting materials*
- *Engagement summary*
- *Be Heard Boulder engagement tool*
- *Initial reorganizing draft*
- *Materials for in-person events*
- *Planning Board Matters memo and attachments*
- *City Council study session memo and attachments*

Deliverables – Transportation

- *Peer city ordinance review/best practices*

- *Ordinance design*
- *TDM Toolkit for Developers*
- *Engagement and Communication Strategy*
- *TAB Matters memo and attachments*
- *Engagement summary*

Deliverables – Consultant

- *Summary slides & comparison to previous years*
- *Recommended standards*
- *9-9-6 audit*
- *Methodology slides*

Deliverables – Community Vitality

- *Peer city policy review/best practices*
- *RAMP Toolkit for new development*
- *Engagement and Communication Strategy*
- *Engagement summary*

Draft Ordinance | Q4 2024 – Q1 2025 | Options

- Draft ordinance of parking changes and TDM
- Draft City Manager Rule updates for RAMP toolkit
- Begin CAO review meetings
- Final working group/focus group meeting to present draft for review

Deliverables – P&DS

- *Draft ordinance*
- *Planning Board memo*
- *TAB memo*
- *City Council memos*

Deliverables – TAB

- *TAB memo*

Deliverables – Community Vitality

- *Draft City Manager Rule updates*

Adoption | Q2 2025 | Decision

- Finalize CAO review of ordinance and City Manager Rule updates
- Engagement – feedback on draft ordinance and City Manager Rule updates
- Public hearings at Planning Board, TAB and City Council – final adoption by June 30, 2025

Deliverables – P&DS

- *Draft ordinance*
- *Planning Board memo*

- *City Council memos*
- *TAB memo*

Engagement & Communication

Level of Engagement

The City of Boulder has committed to considering four possible levels when designing future public engagement opportunities (see chart in the appendix). For this project, the public will be **Consulted** on potential changes. One important factor in this project is that HB24-1304 mandates certain changes related to residential off-street parking, so communication regarding those changes will be an **Inform** level, as the city will now be prohibited from enforcing those types of requirements.

Who Will be Impacted by Decision/Anticipated Interest Area

- **Residents and neighborhoods** who may be impacted in the neighborhoods where they live/work/play.
- **Historically excluded communities** that may be unfamiliar with the methods to offer input.
- **City staff, City boards, and City Council** who will administer parking-related programs and regulations.

Overall Engagement Objectives

- Model the engagement framework by using the city's decision-making wheel, levels of engagement and inclusive participation.
- Involve people who are affected by or interested in the outcomes of this project.
- Be clear about how the public's input influences outcomes to inform decision-makers.
- Provide engagement options.
- Remain open to new and innovative approaches to engaging the community.
- Provide necessary background information in advance to facilitate meaningful participation.
- Be efficient with our community's time.
- Show why ideas were or were not included in the staff recommendation.

Engagement Strategies

WORKING GROUP

Purpose: Convene a group of diverse interests to provide guidance and feedback on potential options and proposed code changes. One member each of Planning Board and TAB will attend the meetings as well. Follow-up meetings with Planning Board and TAB members may be scheduled as needed to solicit additional direct feedback.

Logistics: The working group will meet quarterly throughout the project. The meetings will be hybrid, held in-person and virtual. Staff will send out time options when convening the group to determine a regular time and day of week that works for everyone. For each meeting, staff will provide a

presentation and develop engagement activities to solicit the group's input. A summary of each meeting will be sent to the group and compiled throughout the project.

IN-PERSON ENGAGEMENT

Purpose: Obtain feedback on potential options for parking, TDM, and neighborhood parking program changes.

Logistics: Staff will focus in-person engagement to existing events in late summer/early fall 2024. P&DS and TM staff will prepare engagement activities and informational boards and/or handouts. Staff will identify 2-3 events to attend. Further planning will take place after more direction is received by City Council, TAB, and Planning Board in August.

WHAT'S UP BOULDER

Purpose: What's Up Boulder is a citywide community outreach event. This is a great opportunity to highlight the project and develop ways to solicit input.

Logistics: The event will be held Saturday, Sept. 7, 2024, 1 – 4 p.m. P&DS will have at least one table. Communications staff has indicated that the event should not be used for long conversations or engagement, but this event could be used to pass out flyers or information about the larger project.

BE HEARD BOULDER

Purpose: A home page for all project-related documents, announcements of engagement opportunities, and virtual engagement.

Logistics: Virtual engagement will align with in-person engagement efforts in the late summer. Staff will work with consultants to develop options.

OFFICE HOURS

Purpose: Provide an informal forum for interested residents to chat with staff about the project and answer any questions.

Logistics: P&DS, TM, and CV staff will attend. One will be held virtually and one will be held in person.

COMMUNITY CONNECTORS-IN-RESIDENCE

Purpose: The Community Connectors-In-Residence (CCR) support the voices and build power of underrepresented communities by reducing barriers to community engagement, advancing racial equity, and surfacing the ideas, concerns, and dreams of community members.

Logistics: Coordinate with CCR staff to determine if the topic is of interest of the group and schedule a time to attend a meeting to seek feedback on the project's racial equity strategies and on any proposed alternatives or changes. Provide meeting minutes afterwards for approval.

NEXTDOOR

Purpose: Nextdoor is another method to promote opportunities to provide input about the project and raise awareness that has a wide reach that may reach people who are not otherwise involved or engaged in planning-related topics.

Logistics: Staff will work with communications staff to craft posts to promote engagement efforts.

WEBSITE

Purpose: The code change website will be maintained and updated throughout the remainder of the project to inform the public of the project, provide updates, and link to any engagement opportunities.

Logistics: Work with communications staff to make updates as needed to the website.

NEWSLETTER AND EMAIL UPDATES

Purpose: Updates on the project will be provided to interested parties.

Logistics: Staff will work with communications staff to draft content for the planning newsletter during key engagement windows. Additional email updates will be provided on an as-needed basis.

Project Team & Roles

Team Goals

- Follow City Council and Planning Board direction regarding changes to parking standards, TDM, and the neighborhood parking program.
- Seek community feedback on proposed standards or criteria and incorporate relevant ideas.
- Solution must be legal, directly address the purpose and issue statement, and must have application citywide.

Critical Success Factors

- Conduct a successful public engagement process.
- Identify solution that meets policy goals and transportation needs of the community.

Expectations

Each member is an active participant by committing to attend meetings; communicate the team's activities to members of the departments not included on the team; and demonstrate candor, openness, and honesty. Members will respect the process and one another by considering all ideas expressed, being thoroughly prepared for each meeting, and respecting information requests and deadlines.

Potential Challenges/Risks

The primary challenge of this project is making sure that proposed code changes avoid land use impact, unintended consequences, and over complication of the code.

Administrative Procedures

The core team will meet regularly throughout the duration of the project. An agenda will be set prior to each meeting and will be distributed to all team members. Meeting notes will be taken and will be distributed to all team members after each meeting.

CORE TEAM	
Executive Sponsor	Brad Mueller
Executive Team	Brad Mueller, Charles Ferro, Karl Guiler
Project Leads	
Project Manager	Lisa Houde
Community Vitality	Samantha Bromberg
Transportation & Mobility	Chris Hagelin
Other Department Assistance	
CAO	Hella Pannewig
Comprehensive Planning	TBD
Communications	Cate Stanek
GIS	Sean Metrick
Community Engagement	Vivian Castro-Wooldridge

Executive Sponsor: The executive sponsor provides executive support and strategic direction. The executive sponsor and project manager coordinates and communicates with the executive team on the status of the project, and communicate and share with the core team feedback and direction from the executive team.

Project Manager: The project manager oversees the development of the Land Use Code changes and overall project. The project manager coordinates the core team and project management. The project manager will be responsible for preparing (or coordinating) agendas and notes for the core team meetings, coordinating with team members on the project, and coordinating public outreach and the working group. The project manager coordinates the preparation and editing of all council/board/public outreach materials for the project, including deadlines for materials

Project Leads: Other project leads from Transportation & Mobility and Community Vitality will manage the consultants for the TDM and RAMP topics. Project leads will attend regular check in meetings, help to coordinate public outreach and the working group, and will attend most board or council meetings related to the project.

Other Department Assistance: Staff from other departments coordinate with the project manager on the work efforts and products. These staff members will assist in the preparation and editing of all council/board/public outreach materials including code updates as needed.

Project Cost

Throughout the early years of the project, staff worked with Fox Tuttle on various parts of the project. Fox Tuttle is currently completing an update of the parking utilization count. Staff is working on an updated scope of work for additional consulting assistance, primarily during the initial stages of the project. The cost of the parking utilization count is approximately \$19,000. Further work could be maintained under \$50,000 for continuing services with Fox Tuttle. Additional consulting assistance is anticipated through Urban Trans (for TDM work) and Dixon (for RAMP). Scoping and cost are still being determined.

Decision-Makers

- **City Council:** Decision-making body.
- **Planning Board:** Will provide input throughout the process, and make a recommendation to council that will be informed by other boards and commissions.
- **City Boards and Commissions:** Will provide input throughout process and ultimately, a recommendation to council around their area of focus.

Boards & Commissions

City Council – Will be kept informed about project progress and issues; periodic check-ins to receive policy guidance; invited to public events along with other boards and commissions. Will ultimately decide on the final code changes.

Planning Board – Provides key direction on the development of options periodically. Will make a recommendation to City Council on the final code changes.

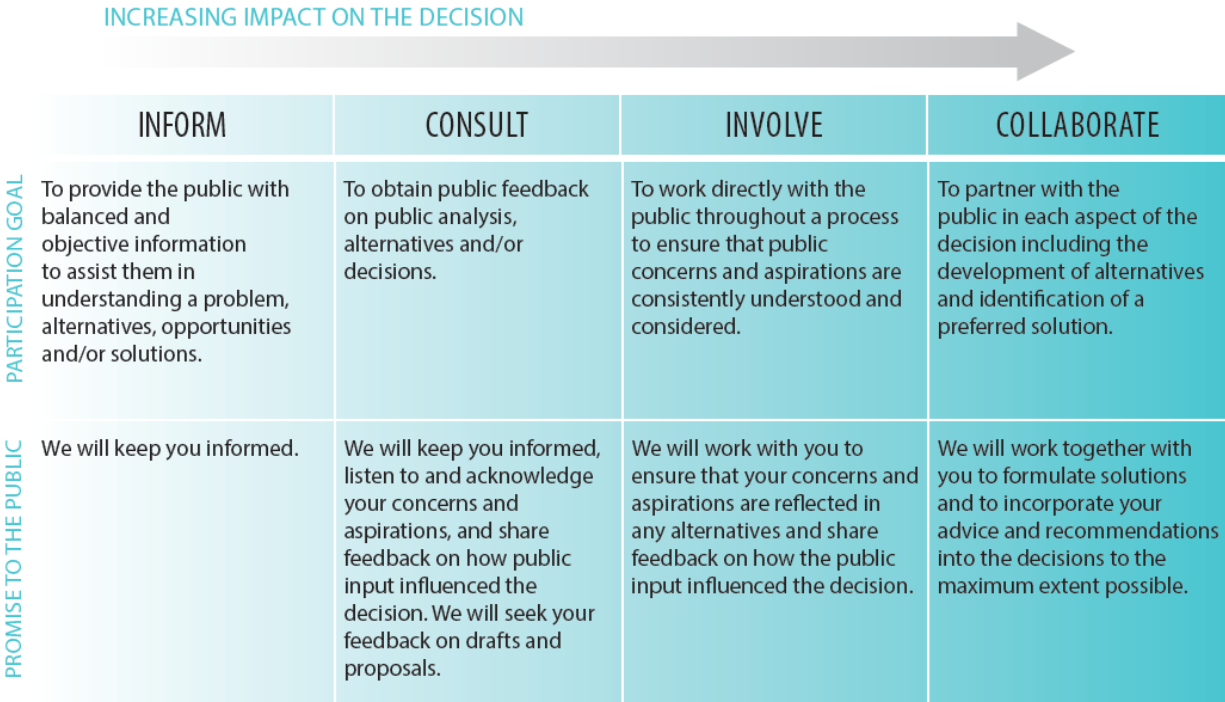
Transportation Advisory Board - Provides key direction on the development of options periodically. Will make a recommendation to City Council on the final code changes.

Appendix: Engagement Framework

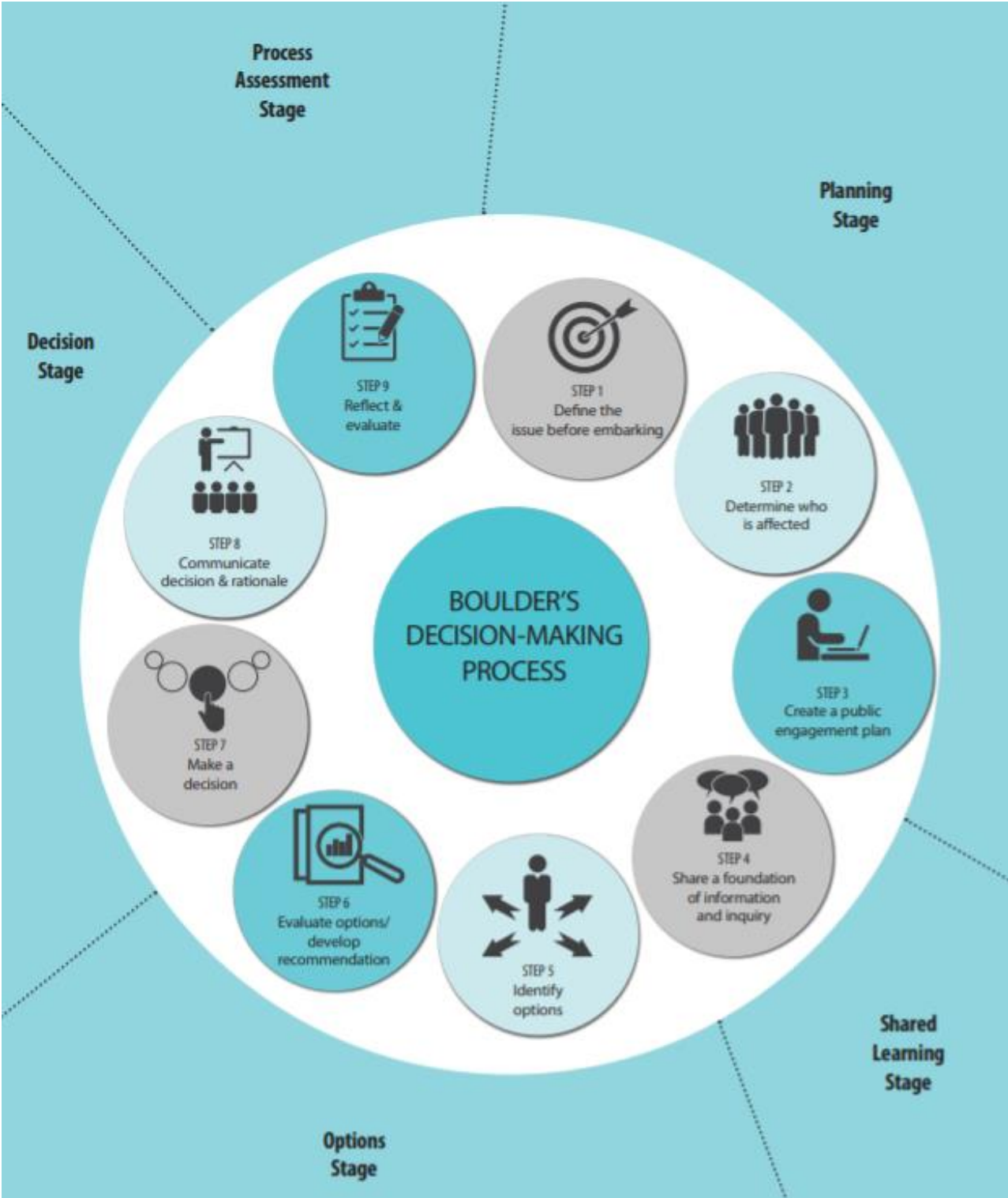
City of Boulder Engagement Strategic Framework

BOULDER'S ENGAGEMENT SPECTRUM

The city will follow a modified version of IAP2's engagement spectrum to help identify the role of the community in project planning and decision-making processes.



Boulder's Decision Making Process



History of Parking Requirements in Boulder

After World War II, car ownership in the United State increased drastically and zoning codes began incorporating requirements for off-street parking, or vehicle parking on private property to serve housing or businesses without requiring parking on the public street. Over seventy years later, parking requirements remain a significant influence on urban form and development and mobility options due to their incorporation in most zoning codes around the country. Typically, parking requirements are based on a number of parking spaces per square foot calculation, although they can be even more nuanced, based on number of seats, employees, bedrooms in a house, or other factors.

Boulder's first zoning ordinance, adopted in 1928, established the first zoning districts, height, setback, permitted uses, and lot area requirements, but did not include any mention of vehicle parking.

1954: The city's first off-street parking requirements were adopted in 1954. The parking requirements differed based on the zoning district and use type. While many more use types and accompanying requirements have been added since then, the basic parking requirements have not significantly changed in the 70 years since they were first adopted.

1983: The next major update occurred in 1983. The intent of the parking regulation was stated: *"in order to prevent undue congestion in and interference with the traffic-carrying capacity of city streets, off-street parking and loading shall be provided for all land uses."* This version of the code incorporated new options for parking deferrals and parking reductions, acknowledging a need for flexibility in the application of these requirements. Parking area design standards were added, as well as flexibility for small car spaces. Bicycle parking requirements had also been added by this point, but were significantly less than today's requirements. Vehicle parking requirements were increased to 1.5 spaces per dwelling unit in "redeveloping" districts, with higher requirements for attached units of 3 bedrooms or larger. Nonresidential uses were primarily generalized, rather than specific to use type, and subject to requirements as high as 1 space per 300 square feet, depending on zoning district.

1993: In 1993, a significant overhaul of the land use regulations repealed and reenacted several chapters. The parking requirements at the time necessitated additional options for flexibility. An administrative parking reduction process was added to the code and the allowable amount of parking deferrals was increased. The nonresidential parking requirements were not specific to use type, with some exceptions. In the 1990s, parking requirements were increased for residential districts dominated by student rentals.

2006: Boulder completed a land use code simplification project in 2006, which reorganized the increasingly complex regulations and established the general organization of the parking standards in the code today in [Section 9-9-6](#). Parking requirements were consolidated into the current parking-specific charts and many more use-specific parking standards were added. The changes incorporated more diagrams and more emphasis on parking design standards. The intent section of the parking standards was updated to:

“provide adequate off-street parking for all uses, to prevent undue congestion and interference with the traffic carrying capacity of city streets, and to minimize the visual and environmental impacts of excessive parking lot paving.”

Since 2006, [Section 9-9-6](#) has been updated many times, but primarily with many minor changes. More significant changes occurred in 2009 to implement the Transit Village Area Plan, including trip generation requirements and unbundled parking requirements for the area. In 2014, the initial work of the AMPS project resulted in changes for several use types as well as the addition of much more detailed short- and long-term bicycle parking requirements.

Other than the reorganization in 2006, a comprehensive update of the parking standards has not been completed since the first requirements were added in 1954.

Comparable City Research: Parking Requirements

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
BOULDER	Minimum: 1 space	Minimum: Varies by bedroom# 1 space for 1 BR 1.5 spaces for 2 BR 2 spaces for 3 BR 3 for 4+ BR (varies by zoning district)	Minimum: Varies by bedroom# - per unit 1 space for 1 BR 1.5 spaces for 2 BR 2 spaces for 3 BR 3 for 4+ BR (varies by zoning district)	Minimum: 1 space per DU	Minimum: indoor seats: 1 space per 3 seats Outdoor seats: if outdoor seats don't exceed 20% of indoor seats, no additional parking is required. For portion of outdoor seats exceeding 20%: 1 space per 3 seats	Minimum: Depends on total floor area occupied by restaurants, taverns, and brewpubs: >30%: 1 space per 250 sq. ft. <30% >60%: 1 space per 175 sq. ft. <60%: 1 space per 100 sq. ft.	Minimum: Depends on total floor area occupied by restaurants, taverns, and brewpubs: >30%: 1 space per 250 sq. ft. <30% >60%: 1 space per 175 sq. ft. <60%: 1 space per 100 sq. ft.	Minimum: 1 space per guest room or unit + 1 space per 300 sq. ft. of floor area for accessory uses	-parking reduction for housing the elderly -Joint use parking -Proximity to transit reduction	
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
ANN ARBOR, MI	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none		
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: Up to 600,000 sq. ft.: 1 space per 250 sq. ft. More than 600,000 sq. ft.: 1 space per 235 sq. ft.	Maximum: 1 space per 250 sq. ft.	Maximum: none	
ARVADA, CO	Minimum: 2 spaces per DU	Minimum: Varies by bedroom#: 1 BR: 1.6 spaces per DU 2 BR: 2.1 spaces per DU 3+ BR: 2.5 spaces per DU	Minimum: 2 spaces per DU	Minimum: 1.4 spaces per unit	Minimum: 5 spaces per 1,000 sq. ft.	Minimum: 4 spaces per 1,000 sq. ft.	Minimum: 3 spaces per 1,000 sq. ft.	1 space per guest room	-Shared Parking Reduction table -On street parking credits -Off street reduction zones (TOD and Urban centers)	-Allows tandem spaces -Townhomes min. 2.2/unit -Senior housing - 1/2DU -Required number of accessible parking spaces
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: for commercial centers more than 50,000 sq. ft. maximum parking shall be 115% of minimum requirements	Maximum: none	Maximum: none		

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
BERKELEY, CA	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: Differs based on zoning district, 1 per 300 sq. ft. or 2 per 1,000 sq. ft.	Minimum: Differs based on zoning district, 2 per 1,000 sq. ft. in commercial districts.	Minimum: Differs based on zoning district, 1 space per 400 sq. ft. in residential districts, 2 per 1,000 sq. ft. in commercial	Minimum: Differs based on zoning district, typically 1 space per 3 guest rooms + 1 space per 3 employees	-AUP to allow shared parking to meet requirements -Some commercial districts/projects are exempt from parking requirements	-Hillside overlay has minimum reqts.
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum for R-BMU: 1.5 spaces for 1,000 sq. ft.	Maximum for R-BMU: 1.5 space per 1,000 sq. ft.	Maximum for R-BMU: 1.5 spaces per 1,000 sq. ft.	Maximum: none		
BLOOMINGTON, IN	Minimum: none	Minimum: 1 BR: 1 space per DU 2 BR: 1.5 spaces per DU 3 BR: 2 spaces per DU	Minimum: 0.5 spaces per DU	Minimum: 0.5 spaces per DU	Minimum: none	Minimum: none	Minimum: none	Minimum: none	-Shared parking reductions -Proximity to transit reductions -Affordable and senior housing reductions -On-street parking reductions	- No parking reqd. for duplex, triplex, fourplex in MD district
	Maximum: none	Maximum: 125% of the required minimum or 1.25 spaces per BR (whichever is less)	Maximum: 2 spaces per DU	Maximum: 125% of the required minimum or 1.25 spaces per BR (whichever is less)	Maximum: Indoor seating: 10 spaces per 1,000 sq. ft. Outdoor seating: 5 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft. For large retail: 3.3 spaces per 1,000 sq. ft.	Maximum: 3.3 spaces per 1,000 sq. ft.	Maximum: 1 space per guest room		
BOISE, ID	Minimum: 2 spaces per DU	Minimum: Multi-family: 1 BR: 1 space per DU 2 BR: 1.25 spaces per DU 3+ BR: 1.5 spaces per DU Guest: 1 space per 10 units	Minimum: 2 spaces per DU	Minimum: 0.75 spaces per DU	Minimum: 1 space per 3 seats	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per guest room	-Transit proximity reductions -On-street parking reductions -Joint parking reductions	-Minimum for ADUs: 1 space per DU - Structured parking exempt from maximum -Maximum is 1.5x min. when >20 spaces reqd.
	Maximum: none	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces	Maximum: 1.75 times the required spaces		
BOZEMAN, MT	Minimum: 1 BR: 1 space 2+ BR: 2 spaces per DU	Minimum: 1 BR: 1 space 2+ BR: 2 spaces per DU	Minimum: 1 BR: 1 space 2+ BR: 2 spaces per DU	Minimum: 1 space per DU	Minimum: 1 space per 50 sq. ft. of indoor dining area + 1 space per 100 sq. ft. of outdoor dining area	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 250 sq. ft.	Minimum: 1.1 spaces per guest room + 1 space per employee + Spaces for accessory uses	-10% parking reduction if development is within 800 ft. of a transit stop. -Shared parking to meet requirements -Parking adjustments for affordable housing	
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
BROOMFIELD, CO	Minimum: 2 spaces per DU	Minimum: 1 BR: 1.5 spaces per unit 2 BR: 2 spaces per unit 3 BR: 2.5 spaces per unit	Minimum: 2 spaces per DU	Minimum: 1.5 spaces per DU	Minimum: 1 space per 150 sq. ft.	Minimum: 1 space per 200 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 per guest room + 1 space per 3 employees	-Joint parking	Minimum for ADUs: 1 space per DU

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
		4 BR: 3 spaces per unit 4+ BR: 3 spaces + ½ space per additional BR								
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
CAMBRIDGE, MA	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per 400/800/1,200 sq. ft.	Minimum: 1 space per 500/700/900 sq. ft.	Minimum: 1 space per 800 or 1,000 sq. ft.	Minimum: 1 space per 2 guest rooms	<ul style="list-style-type: none"> -Small business exemptions -Shared parking -Proximity to transit -Age or occupancy restriction reduction 	-Many non-res reqts differ by zoning district
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: 1 space per 200/400/600 sq. ft.	Maximum: 1 space per 250/500/600 sq. ft.	Maximum: 1 space per 400 or 500 sq. ft.	Maximum: none		
CHAMPAIGN, IL	Minimum: 2 spaces per DU	Minimum: Depends on zoning district, none, 0.25 or 0.5 spaces per BR	Minimum: 2 spaces per DU	Minimum: Depends on zoning district, none, 0.25 or 0.5 spaces per DU	Minimum: 1 space per 100 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 250 or 300 sq. ft.	Minimum: 1 space per guest room + spaces for accessory units	<ul style="list-style-type: none"> -Historic property reductions -Shared parking 	
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
COLORADO SPRINGS, CO	Minimum: 2 spaces per DU	Minimum: 1 BR: 1 space per DU 2 BR: 1.5 spaces per DU 3+ BR: 2 spaces per DU	Minimum: 2 spaces per DU	Minimum: 1 space per DU	Minimum: Indoor seats: 1 space per 300 sq. ft. Outdoor seating: if outdoor seating is less than 20% the size of indoor seating, no additional parking is required. If it is more than 20% then additional parking of 1 space per 350 sq. ft. if required	Minimum: 1 space per 350/400/500 sq. ft. (depends on size of retail as defined "small" "medium" or "large" in zoning code)	Minimum: 1 space per 500 sq. ft.	Minimum: 0.5 spaces per room + 1 per 300 sq. ft. of restaurant or bar + 1 space per 10 seats of meeting space	<ul style="list-style-type: none"> -Reduced parking requirements for affordable housing -On street parking where more than ½ of the space is located between the side or rear property line can be counted towards min. parking requirements -Shared parking reductions -Transit proximity reductions -Bike parking reductions 	
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
COLUMBIA, MO	Minimum: 2 spaces per DU	1 BR: 1.5 spaces per DU 2BR: 2 spaces per DU 3+ BR: 2.5 spaces per DU	Minimum: 2 spaces per DU	Minimum: 1 space per DU	Minimum: 1 space per 150 sq. ft.	Minimum: 1 space per 300 or 400 sq. ft. (depends on size of retail as defined "small" or "large" in zoning code)	Minimum: 1 space per 300 sq. ft.	Minimum: 2 spaces per 3 guestrooms + 1 space per 200 sq. ft. for accessory uses	<ul style="list-style-type: none"> -Shared parking reductions -Transit proximity reductions -Credit for public parking nearby -Credit for on-street parking 	No parking reqd for ADUs with up to two BR, 1 space reqd for ADUs with 3 BR For the M-DT District: No minimums

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
		1 space per 5 DU required for visitor parking								Maximum: 150% of required minimum in other mixed-use districts
	Maximum: 200% of minimum requirement	Maximum: 200% of minimum requirement	Maximum: 200% of minimum requirement	Maximum: 200% of minimum requirement	Maximum: 200% of minimum requirement	Maximum: 200% of minimum requirement Mixed-Use Districts: for buildings more than 50,000 sq.ft. 150% of minimum requirement	Maximum: 200% of minimum requirement Mixed-Use Districts: for buildings more than 50,000 sq.ft. 150% of minimum requirement	Maximum: 200% of minimum requirement		
DENVER, CO Pg. 415	Minimum: none	Minimum: 1 space per unit	Minimum: 1 space per unit	Minimum: 1 space per unit	Minimum: 3.75 spaces per 1,000 sq. ft.	Minimum: 1.875 spaces per 1,000 sq. ft.	Minimum: 1.875 spaces per 1,000 sq. ft.	Minimum: 1 space per guest room	<ul style="list-style-type: none"> -Shared parking reductions -Affordable housing reductions -Senior housing reductions -Proximity to multi-modal transportation reduction -Car share reductions -Small dwelling reduction -Bike share reduction -Alternative min. parking ratios allowed for certain uses like affordable housing, congregate living 	<ul style="list-style-type: none"> -Each district has separate minimum requirement, these numbers are based on "general urban neighborhood" standards -The suburban district varies by about 0.25 spaces in each category
	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement	Maximum: 110% of minimum requirement		
DURANGO, CO	Minimum: 2 spaces per DU	Minimum: Studio: 1 space per DU 1 BR: 1 space per DU 2 BR: 1.5 spaces per DU 3 BR: 2 spaces per DU	Minimum: Studio: 1 space per DU 1 BR: 1 space per DU 2 BR: 1.5 spaces per DU 3 BR: 2 spaces per DU	Minimum: 1 space per DU	Minimum: 1 space per 75 sq. ft. of "customer access area" 1 space per 50 sq. ft. of "customer access area" for restaurant w/ drive through	Minimum: 1 space per 200/250/300 sq. ft. (depends on volume of retail as defined "High, Medium, or Low")	Minimum: 1 space per 350 sq. ft.	Minimum: 1.1 spaces per room + 50% of required parking for restaurant and alcoholic beverage sales	<ul style="list-style-type: none"> -On street parking credits -Bike parking reductions -Restricting occupancy numbers -Transit proximity reductions -Shared parking reductions -TDM programs 	<ul style="list-style-type: none"> -EV and Accessible parking required -"Customer access area" is defined as "the area where customers congregate including seating and standing areas, waiting areas and ordering areas, excluding restrooms and hallways."
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
EUGENE, OR	Minimum: 1 space per DU	Minimum: 1 BR: 1 space 2 BR: 1 space 3 BR: 1.5 spaces 0.5 spaces required for each additional BR	Minimum: 1 space per DU	Minimum: 1 space	Minimum: 1 space per 66 sq. ft. of seating floor area + 1 seat per 440 sq. ft. of non-seating floor area	Minimum: 1 space per 330 sq. ft. (or 660 sq. ft. - depends on size of use)	Minimum: 1 space per 330 sq. ft.	Minimum: 1 space per guest room	<ul style="list-style-type: none"> -No required parking for an ADU -Parking exempt areas -Reductions for low-income housing and senior housing -On-street parking credits 	<ul style="list-style-type: none"> -2 spaces per DU on flag lots -No parking reqt for ADUs

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	-Proximity to transit reductions -Shared parking reductions	
FAYETTEVILLE, AR	Minimum: 2 spaces per DU	Minimum: 1 space per BR	Minimum: 2 spaces per DU	Minimum: 1 space per DU	Minimum: none	Minimum: none	Minimum: none	Minimum: none	-Transit proximity reductions -Bike rack reductions -Shared parking -On-street parking credit	-Can increase maximums with better landscaping
	Maximum: Additional 15% of minimum required spaces	Maximum: Additional 15% of minimum required spaces	Maximum: Additional 15% of minimum required spaces	Maximum: Additional 15% of minimum required spaces	Maximum: 1 space per 100 sq. ft.	Maximum: 1 space per 250 sq. ft.	Maximum: 1 space per 300 sq. ft.	Maximum: 1 space per guest room + 75% of spaces required for accessory uses		
FLAGSTAFF, AZ	Minimum: 2 spaces plus 1 space for each BR over 4	Minimum: 1 BR: 1.5 spaces 2-3 BR: 2 spaces 4 BR: 2.5 spaces 5+ BR: 3 spaces plus 0.5 spaces for each BR over 5 Guest spaces: 0.25 per each 2+ BR units	Minimum: 1 BR: 1.5 spaces 2-3 BR: 2 spaces 4 BR: 2.5 spaces 5+ BR: 3 spaces plus 0.5 spaces for each BR over 5 Guest spaces: 0.25 per each 2+ BR units	Minimum: 1.25 spaces	Minimum: 1 space per employee + 1 space per 100 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 3 employees on largest shift + 1 space per guest room + 1 space per 3 persons at the max. capacity of each public meeting or banquet room	-Reduced parking requirements for affordable housing -Reduced parking requirements for High Occupancy housing -Transit proximity reductions -Shared parking and on-street parking -Bike parking reductions	-ADU: 1 space
	Maximum: none	Maximum: Developments over 10,000 sq. ft. or more than 25 DUs: Additional 5 % of minimum required spaces unless in parking structure	Maximum: Developments over 10,000 sq. ft. or more than 25 DUs: Additional 5 % of minimum required spaces unless in parking structure	Maximum: none	Maximum: Developments over 10,000 sq. ft.: Additional 5 % of minimum required spaces unless in parking structure	Maximum: Developments over 10,000 sq. ft.: Additional 5 % of minimum required spaces unless in parking structure	Maximum: Developments over 10,000 sq. ft.: Additional 5 % of minimum required spaces unless in parking structure	Maximum: Developments over 10,000 sq. ft.: Additional 5 % of minimum required spaces unless in parking structure		
FORT COLLINS, CO	Minimum: 1BR: 1.5 spaces per DU 2 BR: 1.75 spaces per DU 3 BR: 2 space per DU 4+ BR: 3 spaces per DU	Minimum: 1BR: 1.5 spaces per DU 2 BR: 1.75 spaces per DU 3 BR: 2 space per DU 4+ BR: 3 spaces per DU	Minimum: 1BR: 1.5 spaces per DU 2 BR: 1.75 spaces per DU 3 BR: 2 space per DU 4+ BR: 3 spaces per DU	Minimum: 1.5 spaces	Minimum: 5 spaces per 1,000 sq. ft.	Minimum: 2 spaces per 1,000 sq. ft.	Minimum: 1 space per 1,000 sq. ft.	Minimum: 0.5 spaces per unit	-Affordable housing reduction -TOD overlay zone has lower requirement for multi-family and mixed use -Transit pass reduction -Car share reduction -Transit proximity reduction -Bike share reduction	-TOD overlay has 115% maximum -In newly adopted land use code: -Affordable housing has lower minimums -Single-family dwellings 1 space per DU on >40 ft lot, 2 <40 ft lot.
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: 10 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft.	Maximum: 3 spaces per 1,000 sq. ft. or 0.75 spaces per employee on largest shift	Maximum: 1 space per unit		
GAINESVILLE, FL	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none		
	Maximum: 2 spaces per DU	Maximum: Multi-Family: 1 space per BR	Maximum: 2 spaces per DU	Maximum: 1 space per DU	Maximum: 3 spaces +1 space for each 2 seats of seating capacity	Maximum: 1 space per 250 sq. ft. (or 500 sq. ft. for large scale)	Maximum: 1 space for 300 sq. ft. or 1 space per employee (whichever is greater)	Maximum: 5 spaces + 1 space per guest room + 75% of required		

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
								spaces for accessory uses		
GOLDEN, CO	Minimum: 1 space per DU	Minimum: 1-2 BR: 1.5 spaces 3+ BR: 2 spaces Downtown/ mixed use districts: 1 space per DU if less than 800 sq. ft.	Minimum: 1-2 BR: 1.5 spaces 3+ BR: 2 spaces Downtown/ mixed use districts: 1 space per DU for less than 800 sq. ft.	Minimum: 1 space per DU	Minimum: 1 space per 3 seats Downtown/ mixed use districts: 1 space per 5 seats Outdoor seating: 1 space per 10 seats	Minimum: 1 space per 250 sq. ft. Downtown/ mixed use districts: 1 space per 350 sq. ft.	Minimum: 1 space per 300 sq. ft. Downtown/ mixed use districts: 1 space per 350 sq. ft.	Minimum: 1 space per each guest room + 1 space per two employees	-Shared parking	Unless not stated, Downtown and mixed-use districts have different parking requirements
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
HONOLULU, HI	Minimum: 1 space per 1,000 sq. ft.	Minimum: 1 space per 1,000 sq. ft.	Minimum: 1 space per 1,000 sq. ft.	Minimum: 1 space per 1,000 sq. ft.	Minimum: 1 space per 500 sq. ft.	Minimum: 1 space per 500 sq. ft.	Minimum: 1 space per 500 sq. ft.	Minimum: 1 space per 1000 sq. ft.	-Joint-use parking reductions -Bike parking reductions -Bike share reductions -Unbundled parking -Car sharing reductions	-1 additional space required for ADU
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
LAWRENCE, KS	Minimum: 2 spaces per DU	Minimum: Multi-Dwelling: 1 space per BR + 1 space per 10 units	Minimum: 1 space per BR	Minimum: 1 space per DU	Minimum: 1 space per 100 sq. ft. + 1 per employee based on largest shift	Minimum: 1 space per 300 sq. ft. (up to 45,000 sq. ft.) + 1 space per employee on largest shift	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per guest room + 1 space per 1.5 employees	-Shared parking	
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
LEXINGTON, KY	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none		- All significant developments (more than 5,000 sq. ft.) shall be required to provide a parking demand mitigation study when seeking zone map amendment
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
LONGMONT, CO	Minimum: 2 spaces per DU	Minimum: 1 BR: 1.75 spaces 2 BR: 2 spaces 3 BR: 2.25 spaces 4+ BR: 3 spaces	Minimum: 2 spaces per DU	Minimum: 1.75 spaces per DU	Minimum: none	Minimum: none	Minimum: none	Minimum: none		-For an affordable housing unit only 1 space is required -For the MU-C and MU-D zoning districts, the residential minimums are maximums
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: 12 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft.	Maximum: 1 space per unit		

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
MADISON, WI	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 15% of capacity of persons	Minimum: 1 space per 400 sq. ft.	Minimum: 1 space per 400 sq. ft.	Minimum: 0.75 spaces per bedroom	<ul style="list-style-type: none"> -Shared parking -Bike parking reduction -Off-site parking reductions -Car share reduction -Moped parking substitution 	<ul style="list-style-type: none"> -TOD overlay district has reduced requirement -ADUs have no parking minimum -EV parking requirement -With some exceptions, the following districts have no parking minimums: Central area, NMX, TSS, MXC, CC, RMX, TE, EC, SEC, IL, CC-T, SE, IG, TOD
	Maximum: 4 spaces	Maximum: 2.5 spaces per DU	Maximum: 4 spaces per DU	Maximum: 2.5 spaces per DU	Maximum: 40% of capacity of persons	Maximum: 1 space per 200 sq. ft.	Maximum: 1 space per 250 sq. ft.	Maximum: 1.5 spaces per bedroom		
MINNEAPOLIS, MN	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	-EV parking incentives	-Transit zoning areas have lower parking maximums
	Maximum: none	Maximum: for 4 units or more: 2 spaces per DU	Maximum: none	Maximum: none	Maximum: 1 space per 75 sq. ft.	Maximum: 1 space per 300 sq. ft.	Maximum: 1 space per 300 sq. ft.	Maximum: 1 space per guest room + Parking = 30% of the capacity of persons for accessory uses		
PASADENA, CA	Minimum: 1 BR or less: 1 space per DU 2 or more BR: 1.5 spaces per DU Guest: 1 space per 10 DU	Minimum: 1 BR or less: 1 space per DU 2 or more BR: 1.5 spaces per DU Guest: 1 space per 10 DU	Minimum: 1 BR or less: 1 space per unit 2 or more BR: 1.5 spaces per unit Guest: 1 space per 10 DU	Minimum: 1 space per DU	Minimum: 3 spaces per 1,000 sq. ft. 2 spaces per 1,000 sq. ft. in EC-MU-C	Minimum: 3 spaces per 1,000 sq. ft. 2 spaces per 1,000 sq. ft. in EC-MU-C	Minimum: 3 spaces per 1,000 sq. ft. 2 spaces per 1,000 sq. ft. in EC-MU-C	Minimum: 3 spaces per 1,000 sq. ft. 2 spaces per 1,000 sq. ft. in EC-MU-C	<ul style="list-style-type: none"> -Shared parking -Reduced parking for senior citizen housing developments 	<ul style="list-style-type: none"> - No parking required for first 5,000 sq. ft. of a project for retail, office, and restaurant -No parking required for first 500 sq. ft. of outdoor dining
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
PORTLAND, OR	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none		<ul style="list-style-type: none"> -They have parking requirement for standard "A" and "B" which vary based on zoning district-residential is Standard A all other uses are Standard B in this table
	Maximum: 1 space per 2 DUs	Maximum: 1 space per 2 DUs	Maximum: 1 space per 2 DUs	Maximum: 0.5 spaces per DU	Maximum: 1 space per 75 sq. ft.	Maximum: 1 space per 200 sq. ft.	Maximum: 1 space per 300 sq. ft.	Maximum: 1.5 spaces per rentable room + Required spaces for accessory uses		
RALEIGH, NC	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none	Minimum: none		
	Maximum: none	Maximum: 1BR: 1.5 spaces per DU 2BR: 2.25 spaces per DU 3BR: 3 spaces per DU 4 BR: 4 spaces per DU	Maximum: none	Maximum: 1.5 spaces per DU	Maximum: 1 space per 100 sq. ft.	Maximum: 1 space per 200 sq. ft. + 1 space per 600 sq. ft. outdoor display area	Maximum: 1 space per 200 sq. ft.	Maximum: 1.5 spaces per guest room		

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
		5+ BR: 5 spaces per DU								
SALT LAKE CITY, UT	Minimum: 2 spaces per DU	Minimum: 1 BR: 1 space per DU 2+ BR: 1.25 spaces per DU	Minimum: 2 spaces per DU	Minimum: 1 space per DU	Minimum: Indoor: 2 spaces per 1,000 sq. ft. Outdoor: 2 spaces per 1,000 sq. ft.	Minimum: 2 spaces per 1,000 sq. ft.	Minimum: 3 spaces per 1,000 sq. ft.	Minimum: 1 space per guest room	<ul style="list-style-type: none"> -Shared parking -Affordable and senior housing reduction -Community parking credits -Car share 	<ul style="list-style-type: none"> -Max parking does not apply to parking within structure -Commercial uses: Lower or no requirements in urban center and transit contexts
	Maximum: 4 spaces per DU	Maximum: 4 spaces per DU Multi-family: 1 BR: 2 spaces per DU 2+ BR: 3 spaces per DU	Maximum: 4 spaces per DU	Maximum: 2 spaces per DU	Maximum: Indoor: 7 spaces per 1,000 sq. ft. Outdoor: 4 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft.	Maximum: 4 spaces per 1,000 sq. ft.	Maximum: 1.5 spaces per guest room		
SAVANNAH, GA	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per 100 sq. ft. (including outdoor seating)	Minimum: 1 space per 250 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per guest room	<ul style="list-style-type: none"> -Downtown parking reduction area -Streetcar area parking reductions -Shared parking reductions 	<ul style="list-style-type: none"> -ADUs have no minimum parking requirement
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		
SEATTLE, WA	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 1 space per DU	Minimum: 0.5 space per DU	Minimum: 1 space per 250 sq. ft.	Minimum: 1 space per 500 sq. ft.	Minimum: 1 space per 1,000 sq. ft.	Minimum: 1 space per 4 rooms	<ul style="list-style-type: none"> -No additional required parking for an ADU -Shared parking reduction -Transit proximity reduction -Car share reduction -Lower restrictions for affordable and elderly housing -Moderate or low- income units do not have min. reqt. 	<ul style="list-style-type: none"> -Other maximums for some overlay districts -Min. reqt. for parking impact overlay near university: 1BR: 1 space/DU 2BR: 1.5 space/DU 3BR: 0.25 spaces per bedroom
	Maximum: 145 spaces surface parking in most commercial zones	Maximum: 145 spaces surface parking in most commercial zones,	Maximum: 145 spaces surface parking in most commercial zones	Maximum: 145 spaces surface parking in most commercial zones	Maximum: 145 spaces surface parking in most commercial zones, 10 spaces per commercial use in multifamily zones	Maximum: 145 spaces surface parking in most commercial zones, 10 spaces per commercial use in multifamily zones	Maximum: 145 spaces surface parking in most commercial zones, 10 spaces per commercial use in multifamily zones	Maximum: 145 spaces surface parking in most commercial zones, 10 spaces per commercial use in multifamily zones		

Attachment C - Comparable City Parking Research Matrix

City	Detached Dwelling Unit	Attached Dwelling Unit	Duplex	Efficiency Unit	Restaurants	Retail	Office	Hotel	Parking Incentives?	Notes
TEMPE, AZ	Minimum: 2 spaces per DU (up to 5 BR) 3 spaces per DU (6 or more BR)	Minimum: 1 BR: 1.5 spaces per DU 2 BR: 2 spaces per DU 3 BR: 2.5 spaces per DU 4 BR: 3 spaces per DU Guest: 0.2 spaces per DU	Minimum: 2 spaces per DU	Minimum: 1 space per DU	Minimum: Indoor: 1 space per 75 sq. ft. Outdoor: (no parking for first 300 sq. ft.) 1 space per 150 sq. ft.	Minimum: Indoor: 1 space per 300 sq. ft. Outdoor: (no parking required for first 300 sq. ft.) 1 space per 500 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per unit + Parking for accessory uses	-Shared parking reductions -Downtown district has waived/ reduced parking minimums	
	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement	Maximum: 125% of minimum requirement		
TUCSON, AZ	Minimum: 2 spaces per DU + 0.25 spaces per unit for guest parking	Minimum if under 70 units/acre: 1 BR: 1.5 spaces per DU 2 BR: 2 spaces per DU 3 BR: 2.25 spaces per DU 4+ BR: 2.5 spaces per DU Minimum if over 70 units/acre: 1.25/ DU	Minimum: 1 space per DU	Minimum: 1 space per DU (under 400 sq. ft), 1.5 spaces per DU (over 400 sq. ft) Minimum if over 70 units/acre: 1.25/ DU	Minimum: 1 space per 100 sq. ft. (including outdoor seating areas)	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per 300 sq. ft.	Minimum: 1 space per rental unit+ 1 space per 300 sq. ft. of accessory uses	-Reduction for public open space -On-street parking reductions -EV parking reductions -Bike parking reductions -Landscaping and screening reductions -Lower residential requirements for elderly housing	-In R-1 zone, single-family with 5BR has min. of 3 plus 1 space per additional BR.
	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none	Maximum: none		

Comparable City Research: Bike Parking Requirements

City	Residential	Restaurant	Office	Retail	Hotel
BOULDER	2 spaces per DU	1 space per 750 sq. ft., Min of 4	1 space per 1,500 sq. ft., Min of 4	1 space per 750 sq. ft., Min of 4	1 space per 3 guest rooms, Min of 4
ANN ARBOR, MI	1 space per 5 DU	1 space per 750 sq. ft.	1 space per 3,000 sq. ft.	1 space per 3,000 sq. ft.	N/A
ARVADA, CO	1 space per 4 DU	1 space per 20 required motor vehicle spaces; 10% long-term	1 space per 20 required motor vehicle spaces; 10% long-term	1 space per 20 required motor vehicle spaces; 10% long-term	1 space per 20 required motor vehicle spaces; 10% long-term
BERKELEY, CA	1 space per DU or 1 space per 3 BR	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.
BLOOMINGTON, IN	10% of motor vehicle spaces or 1 space per 5 BR (whichever is more)	5% of motor vehicle spaces	2% of motor vehicle space	5% of motor vehicle spaces	5% of motor vehicle spaces
BOISE, ID	1 space per 10 required motor vehicle spaces	1 space per 10 required motor vehicle spaces	1 space per 10 required motor vehicle spaces	1 space per 10 required motor vehicle spaces	1 space per 10 required motor vehicle spaces
BOZEMAN, MT	10% of motor vehicle spaces	10% of motor vehicle spaces	10% of motor vehicle spaces	10% of motor vehicle spaces	10% of motor vehicle spaces
BROOMFIELD, CO	N/A	N/A	N/A	N/A	N/A
CAMBRIDGE, MA	Short-Term: 0.1 spaces per DU Long-Term: 1 space per DU for first 20 units; 1.05 spaces per DU for more than 20 units	N/A	Short-Term: N/A Long-Term: 0.3 spaces per 1,000 sq. ft.	Short-Term: 0.6 spaces per 1,000 sq. ft. Long-Term: 0.1 spaces per 1,000 sq. ft.	N/A
CHAMPAIGN, IL	1 space per 1-2 DU or 2-4 BR	1 space per 10 motor vehicle spaces	1 space per 20 motor vehicle spaces	1 space per 20 motor vehicle spaces	1 space per 20 motor vehicle spaces
COLORADO SPRINGS, CO	0.5 spaces per 1,000 sq. ft.	0.5 spaces per 1,000 sq. ft.	1 space per 1,000 sq. ft.	0.5 spaces per 1,000 sq. ft.	0.5 spaces per 1,000 sq. ft.
COLUMBIA, MO	10-50 Vehicle spaces: 4 bike parking spaces 51-99 vehicle spaces: 8 bike parking spaces 100-199 vehicle spaces: 12 bike parking spaces 200-299 vehicle spaces: 15 bike parking spaces 300 or more vehicle spaces: 5% number of vehicle spaces or 50 spaces (whichever is less)	10-50 Vehicle spaces: 4 bike parking spaces 51-99 vehicle spaces: 8 bike parking spaces 100-199 vehicle spaces: 12 bike parking spaces 200-299 vehicle spaces: 15 bike parking spaces 300 or more vehicle spaces: 5% number of vehicle spaces or 50 spaces (whichever is less)	10-50 Vehicle spaces: 4 bike parking spaces 51-99 vehicle spaces: 8 bike parking spaces 100-199 vehicle spaces: 12 bike parking spaces 200-299 vehicle spaces: 15 bike parking spaces 300 or more vehicle spaces: 5% number of vehicle spaces or 50 spaces (whichever is less)	10-50 Vehicle spaces: 4 bike parking spaces 51-99 vehicle spaces: 8 bike parking spaces 100-199 vehicle spaces: 12 bike parking spaces 200-299 vehicle spaces: 15 bike parking spaces 300 or more vehicle spaces: 5% number of vehicle spaces or 50 spaces (whichever is less)	10-50 Vehicle spaces: 4 bike parking spaces 51-99 vehicle spaces: 8 bike parking spaces 100-199 vehicle spaces: 12 bike parking spaces 200-299 vehicle spaces: 15 bike parking spaces 300 or more vehicle spaces: 5% number of vehicle spaces or 50 spaces (whichever is less)
DENVER, CO Pg. 415	1 space per 4 DU	1 space per 10,000 sq.ft.	1 space per 10,000 sq.ft.	1 space per 10,000 sq.ft.	1 space per 10,000 sq.ft.
DURANGO, CO	N/A	1 bike parking space per 10 off-street parking spaces. No less than 3 and no more than 30 should be required	1 bike parking space per 10 off-street parking spaces. No less than 3 and no more than 30 should be required	1 bike parking space per 10 off-street parking spaces. No less than 3 and no more than 30 should be required	1 bike parking space per 10 off-street parking spaces. No less than 3 and no more than 30 should be required
EUGENE, OR	1 space per DU (in lot w/5 or more DU)	1 space per 600 sq. ft.	1 space per 3,000 sq. ft.	1 space per 3,000 sq. ft.	1 space per 10 guest rooms
FAYETTEVILLE, AR	1 bike rack per 30 parking spaces (each bike rack holds 2 bikes)	1 bike rack per 20 parking spaces	1 bike rack per 20 parking spaces	1 bike rack per 20 parking spaces	1 bike rack per 20 parking spaces
FLAGSTAFF, AZ	2 bike parking spaces or 5% of required vehicle parking spaces	2 bike parking spaces or 5% of required vehicle parking spaces	2 bike parking spaces or 5% of required vehicle parking spaces	2 bike parking spaces or 5% of required vehicle parking spaces	2 bike parking spaces or 5% of required vehicle parking spaces
FORT COLLINS, CO	1 space per BR	1 space per 1,000 sq. ft.	1 space per 4,000 sq. ft.	1 space per 4,000 sq. ft.	1 space per 4 units
GAINESVILLE, FL	10% of vehicle parking spaces Single/two family dwellings: none	10% of vehicle parking spaces	10% of vehicle parking spaces	10% of vehicle parking spaces	4 spaces
GOLDEN, CO	10% of vehicle parking spaces	10% of vehicle parking spaces	10% of vehicle parking spaces	10% of vehicle parking spaces	10% of vehicle parking spaces
HONOLULU, HI	Short-Term: 1 space per 10 DU Long-Term: 1 space per 2 DU	Short-Term: 1 space per 2,000 sq. ft or 1 space per 10 vehicle spaces Long-Term: 1 space per 12,000 sq. ft. or 1 space per 30 vehicle spaces	N/A	Short-Term: 1 space per 2,000 sq. ft or 1 space per 10 vehicle spaces Long-Term: 1 space per 12,000 sq. ft. or 1 space per 30 vehicle spaces	Short-Term: 1 space per 20 rooms Long-Term: 1 space per 10 rooms
LAWRENCE, KS	Short-Term: 1 space per 20 BR Long-Term: 1 space per 6 BR	Short-Term: 1 space per 1,000 sq. ft. Long-Term: 1 space per 10,000 sq. ft.	Short-Term: 1 space per 5,000 sq. ft. Long-Term: 1 space per 10,000 sq. ft.	Short-Term: 1 space per 4,000 sq. ft. Long-Term: 1 space per 10,000 sq. ft.	Short-Term: 1 space per 20 rooms Long-Term: 1 space per 200 rooms

Attachment C - Comparable City Parking Research Matrix

City	Residential	Restaurant	Office	Retail	Hotel
LEXINGTON, KY	1 space per 10 motor vehicle spaces	1 space per 10 motor vehicle spaces	1 space per 10 motor vehicle spaces	1 space per 10 motor vehicle spaces	1 space per 10 motor vehicle spaces
LONGMONT, CO	5% of required motor vehicle spaces	5% of required motor vehicle spaces	5% of required motor vehicle spaces	5% of required motor vehicle spaces	5% of required motor vehicle spaces
MADISON, WI	1 space per DU	5% of capacity of persons	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.	1 space per 10 rooms
MINNEAPOLIS, MN	1 space per DU	N/A	1 space per 4,000 sq. ft.	1 space per 5,000 sq. ft.	
PASADENA, CA	1 space per 6 dwelling units	>15,000 sq. ft.: 4 spaces <15,000 sq. ft.: 5% of motor vehicle spaces	>15,000 sq. ft.: 4 spaces <15,000 sq. ft.: 5% of motor vehicle spaces	>15,000 sq. ft.: 4 spaces <15,000 sq. ft.: 5% of motor vehicle spaces	>15,000 sq. ft.: 4 spaces <15,000 sq. ft.: 5% of motor vehicle spaces
PORTLAND, OR	For 5 or more units: Short-Term: 1 space per 20 units Long-Term: 1.5 spaces per unit	Short-Term: 1 space per 1,000 sq. ft. Long-Term: 1 space per 2,300 sq. ft.	Short-Term: 1 per 20,000 sq. ft. Long-Term: 1 per 1,800 sq. ft.	Short-Term: 1 space per 2,700 sq. ft. Long-Term: 1 space per 3,800 sq. ft.	Short-Term: 1 per 40 rooms Long-Term: 1 per 20 rooms
RALEIGH, NC	Short-Term: 1 space per 20 units (min of 4) Long-Term: 1 space per 7 BR	Short-Term: 1 space per 50,000 sq. ft. (min of 4) Long-Term: 1 space per 25,000 sq. ft. (min of 4)	Short-Term: 1 space per 10,000 sq. ft. (min of 4) Long-Term: 1 space per 5,000 sq. ft. (min of 4)	Short-Term: 1 space per 5,000 sq. ft. (min of 4) Long-Term: N/A	Short-Term: N/A Long-Term: 1 space per 20 rooms
SALT LAKE CITY, UT	1 space per 2 DU	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.	1 space per 2,000 sq. ft.
SAVANNAH, GA	1 space per 10 DU	5% of required motor vehicle spaces	5% of required motor vehicle spaces	5% of required motor vehicle spaces	5% of required motor vehicle spaces
SEATTLE, WA	Short-Term: 1 space per 20 DU Long-Term: 1 space per DU	Short-Term: 1 space per 1,000 sq. ft. Long-Term: 1 space per 5,000 sq. ft.	Short-Term: 1 space per 10,000 sq. ft. Long-Term: 1 space per 2,000 sq. ft.	Short-Term: 1 space per 2,000 sq. ft. Long-Term: 1 space per 4,000 sq. ft.	N/A
TEMPE, AZ	0.5 spaces per unit (0.75 spaces for 3+ BR)	1 space per 1,000 sq. ft.	1 space per 10,000 sq. ft.	1 space per 10,000 sq. ft.	N/A
TUCSON, AZ	Short-Term: 0.10 per BR Long-Term: 0.5 spaces per BR (min of 2)	N/A	Short-Term: 1 space per 20,000 sq. ft. Long-Term: 1 space per 6,000 sq. ft.	Short-Term: 2 spaces per 12,000 sq. ft. Long-Term: 1 space per 12,000 sq. ft.	Short-Term: 2 space per 6,000 sq. ft. Long-Term: 1 per 20 guest rooms

Characteristics of Comparable Cities

	Population	Persons/ HH	Land Area	Population/ Sq. Mile	University Size	Median Rent	Median Value of Housing Units
Boulder	104,175	2.26	26.33	4,112	University of Colorado: 30k	\$1588	736k
Ann Arbor, MI	121,536	2.25	28.2	4,094	University of Michigan: 45k	\$1299	347k
Arvada, CO	123,436	2.55	38.91	3,028	N/A	\$1444	424k
Berkeley, CA	117,145	2.4	10.43	10,752	UC-Berkeley 45k	\$1767	1.06 million
Bloomington, IN	79,968	2.18	23.23	3,472	Indiana University: 32k	\$946	219k
Boise, ID	237,446	2.38	84.03	2,591	Boise State University: 22k	\$1009	283k
Bozeman, MT	54,539	2.17	20.6	1950	Montana State University: 17k	\$1145	413k
Broomfield, CO	75,325	2.54	32.97	1,692	N/A	\$1711	451k
Cambridge, MA	117,090	2.13	6.39	16,469	Harvard:6k, MIT: 12k	\$2293	843k
Champaign, IL	89,114	2.3	22.93	3,613	University of Illinois Urbana-Champaign: 33k	\$922	167k
Colorado Springs, CO	483,956	2.51	195.4	2,140	University of Colorado at Colorado Springs: 13k, Colorado College: 2k	\$1196	295k
Columbia, MO	126,853	2.31	66.54	1,720.1	University of Missouri: 30k	\$890	208k
Denver, CO	711,463	2.44	153.08	3,922.6	University of Denver: 12k; University Colorado Denver: 19k; Metro State: 20k	\$1397	428k
Durango, CO	19,223	2.3	14.71	1,701	Fort Lewis College: 4k	\$1297	473k
Eugene, OR	175,096	2.29	44.18	3,572.2	University of Oregon: 23k	\$1075	305k
Fayetteville, AR	95,230	2.23	54.14	1,366	University of Arkansas: 27k	\$837	232k
Flagstaff, AZ	76,989	2.45	66.03	1,031.3	Northern Arizona University: 25k	\$1286	363k
Fort Collins, CO	168,538	2.56	57.21	2,653	Colorado State University: 23k	\$1373	399k
Gainesville, FL	140,398	2.33	63.15	2,028	University of Florida: 34k	\$965	180k

Attachment C - Comparable City Parking Research Matrix

Golden, CO	19,871	2.4	9.63	1,901	Colorado School of Mines: 7k	\$1495	541k
Honolulu, HI	1 million	2.98	600.63	1,586	University of Hawaii: 13k	\$1779	702k
Lawrence, KS	95,256	2.28	34.15	2,611.2	University of Kansas: 28k	\$953	205k
Lexington, KY	321,793	2.36	283.64	1042	University of Kentucky: 30k	\$920	201k
Longmont, CO	100,758	2.59	28.78	3,294	N/A	\$1437	396k
Madison, WI	269,196	2.2	79.57	3,037	University of Wisconsin: 44k	\$1147	262k
Minneapolis, MN	425,336	2.28	54	7,088	University of Minnesota: 51k	\$1078	268k
Pasadena, CA	135,732	2.44	22.96	5,969	Cal Tech: 3k	\$1787	822k
Portland, OR	641,162	2.29	133.45	4,375	Portland State University: 17k	\$1325	439k
Raleigh, NC	469,124	2.4	147.12	2,826	North Carolina State University: 25k	\$1175	267k
Salt Lake City, UT	200,478	2.37	110.34	1,678	University of Utah: 33k	\$1050	346k
Savannah, GA	147,088	2.55	106.85	1,321.2	Savannah College of Art & Design: 12k	\$1049	162k
Seattle, WA	733,919	2.08	83.83	7,251	University of Washington: 46k	\$1702	714k
Tempe, AZ	184,118	2.37	39.94	4,050	Arizona State University: 75k	\$1230	288k
Tucson, AZ	543,242	2.4	241	2,294	University of Arizona: 45k	\$861	167k



1

Off-Street Parking Standards Background

Current vehicle and bicycle parking standards are outlined in Section 9-9-6 of the Boulder Municipal Code.

Required parking is based on zone district and use type. For example:

Table 9-1: RESIDENTIAL MOTOR VEHICLE PARKING REQUIREMENTS BY ZONING DISTRICT AND UNIT TYPE

Zone District Standard	RR, RE, MU-1, MU-3, BMS, DT, A, RH-6	RMX-2, MU-2, MH, IMS	RL, RM, RMX-1, RH-1, RH-2, RH-4, RH-5, BT, BC, BR, IS, IG, IM, P	RH-3	MU-4, RH-7
Minimum number of off-street parking spaces for a detached dwelling unit (DU)	1	1	1	1	0
Maximum number of off-street parking spaces for an attached DU or each unit of a duplex	N/A	N/A	N/A	N/A	1 space per DU
Minimum number of off-street parking spaces for an attached DU or each unit of a duplex	1	1 for 1- or 2-bedroom DU 1.5 for 3-bedroom DU 2 for a 4- or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4- or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4- or more bedroom DU	0
Accessible space requirement	Must meet the requirements of the Americans with Disabilities Act, as amended.				

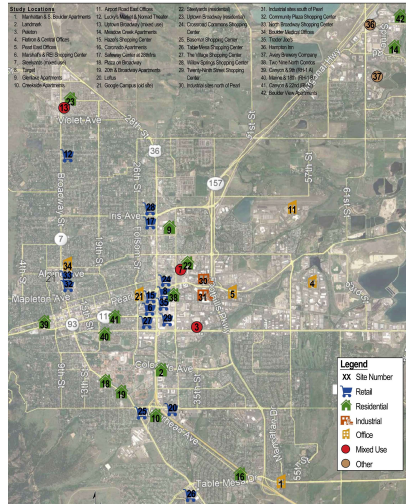
3

Off-Street Parking Standards Background

16,500+ parking spaces observed at 50 sites between 2014 and 2019, refreshed with new 2024 data.

Peak times, off peak, and specific times of interest (e.g. Target during CU move in)

Focus is on peak times for occupancy data.



Study locations by land use type



4


Retail Parking Summary



6

Off-Street Parking Standards
Retail Parking Summary


- Per Code:
 - Typically about one parking space per 300 or 400 square feet
 - Certain uses can require one space per 250 square feet or up to one space per 100 square feet
 - Other retail uses have specific requirements (e.g. restaurants, retail centers, etc.)



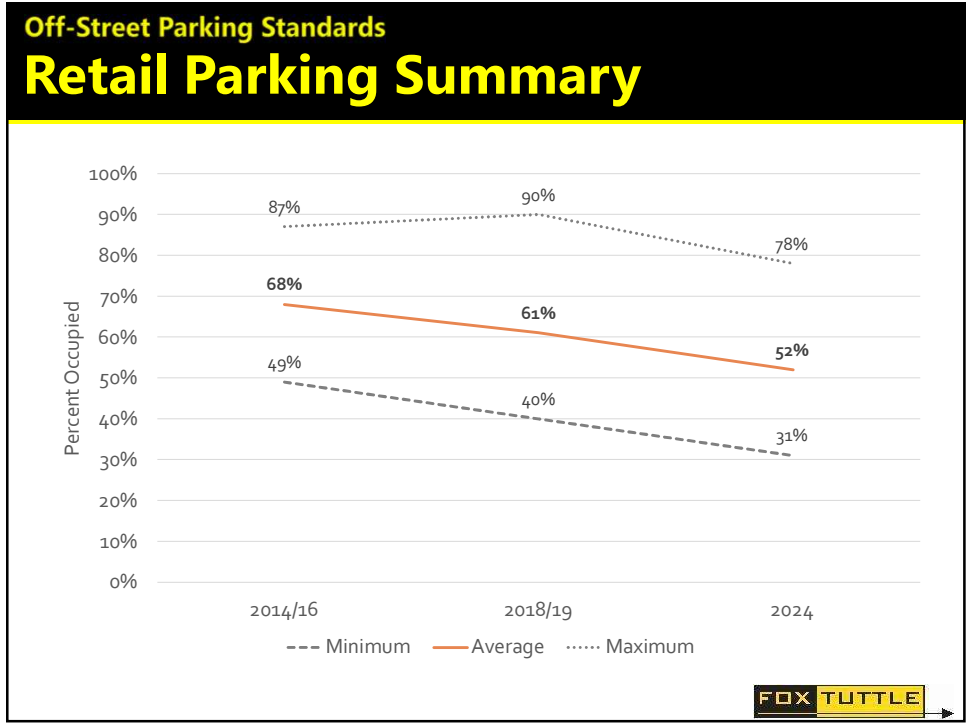
7

Off-Street Parking Standards
Retail Parking Summary

- 16 sites observed in 2024
- 9,030 parking spaces
- Peak time: Weekday Evenings and Saturday Midday
- **Average Parking Occupancy: 52%**
- Minimum Observed Occupancy: 31%
- Maximum Observed Occupancy: 78%



8



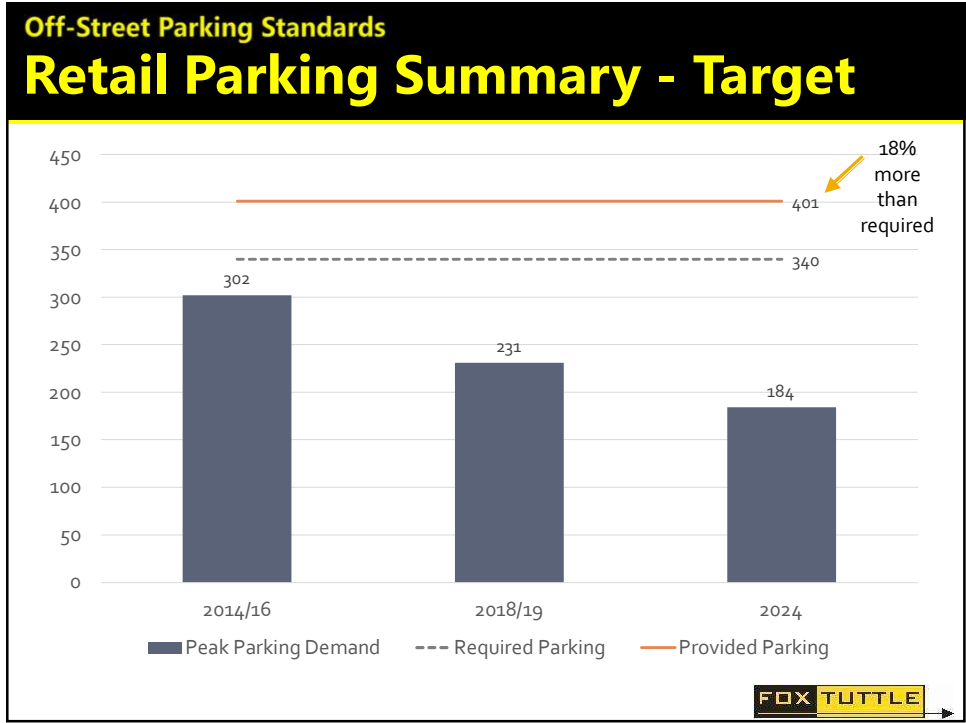
9

Off-Street Parking Standards Retail Parking Summary

- **9% reduction** in average occupancy since 2018/19
- **16% reduction** in average occupancy since 2014/16

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12

Off-Street Parking Standards Retail Parking Summary - Target

- Provided **18% more parking than required**
- Peak occupancy only reached 89% of the **required** parking at the highest observed
- 2024 data showed **46% peak occupancy of provided parking** (54% of required parking)

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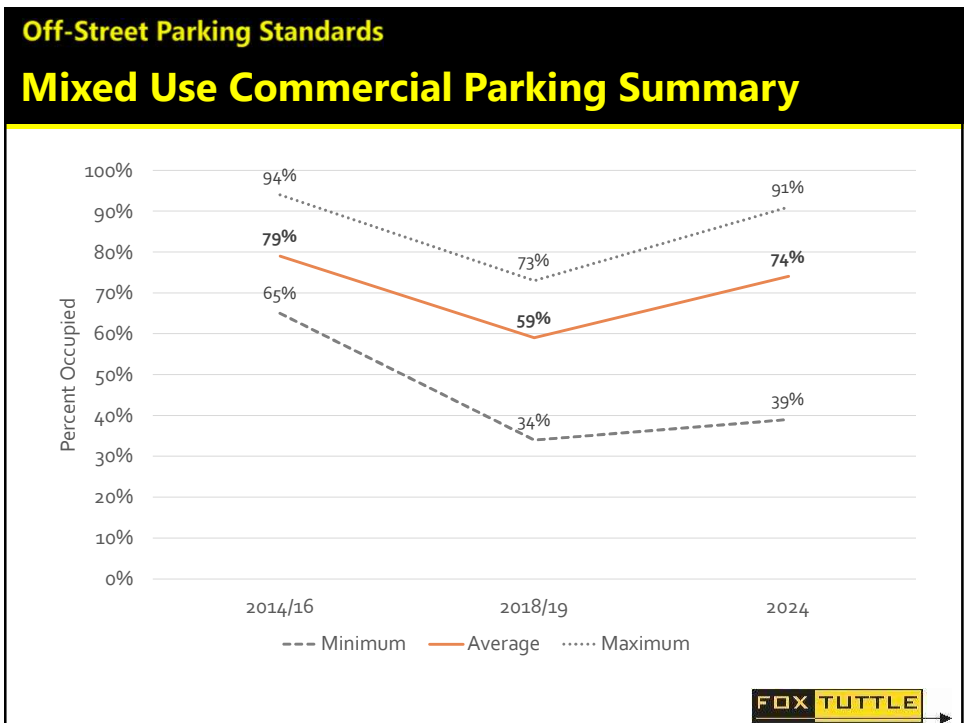
13

Off-Street Parking Standards
Mixed Use Commercial Parking Summary

- Commercial spaces in mixed use projects
- 4 sites observed in 2024
- 402 parking spaces
- Peak time: Weekday Afternoon
- **Average Parking Occupancy: 74%**
- Minimum Observed Occupancy: 39%
- Maximum Observed Occupancy: 91%

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Off-Street Parking Standards

Mixed Use Commercial Parking Summary

- Average and maximum occupancy is **relatively unchanged** over time
- **Greater variation** in 2024 than earlier



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Office Parking Summary




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Off-Street Parking Standards Office Parking Summary

Table 9-3: NONRESIDENTIAL MOTOR VEHICLE PARKING REQUIREMENTS BY ZONING DISTRICT

Zone District Standard	RH-3, RH-6, RH-7, MU-4 (within a parking district)	RH-3, RH-6, RH-7, MU-4 (not in a parking district)	DT, MU-3, BMS (within a parking district)	BCS, BR-1, IS, IG, IM, A	RMX-2, MU-2, IMS, BMS (not in a parking district)	MU-1, MU-3 (not in a parking district)	RR, RE, RL, RM, RMX-2, RH-2, RH-5, RH-4, BT, BC, BR-2, P (not in a parking district)
Minimum number of off-street parking spaces per square foot of floor area for nonresidential uses and their accessory uses	0			1:400	1:400 if residential uses comprise less than 50 percent of the floor area; otherwise 1:500	1:300 if residential uses comprise less than 50 percent of the floor area; otherwise 1:400	1:300
Maximum number of off-street parking spaces per square foot of floor area for nonresidential uses and their accessory uses	N/A	1:400 if residential uses comprise less than 50 percent of the floor area; otherwise 1:500	N/A				
Accessible parking requirement	Must meet the requirements of the Americans with Disabilities Act, as amended.						


Generally: One parking space per 300 or 400 square feet



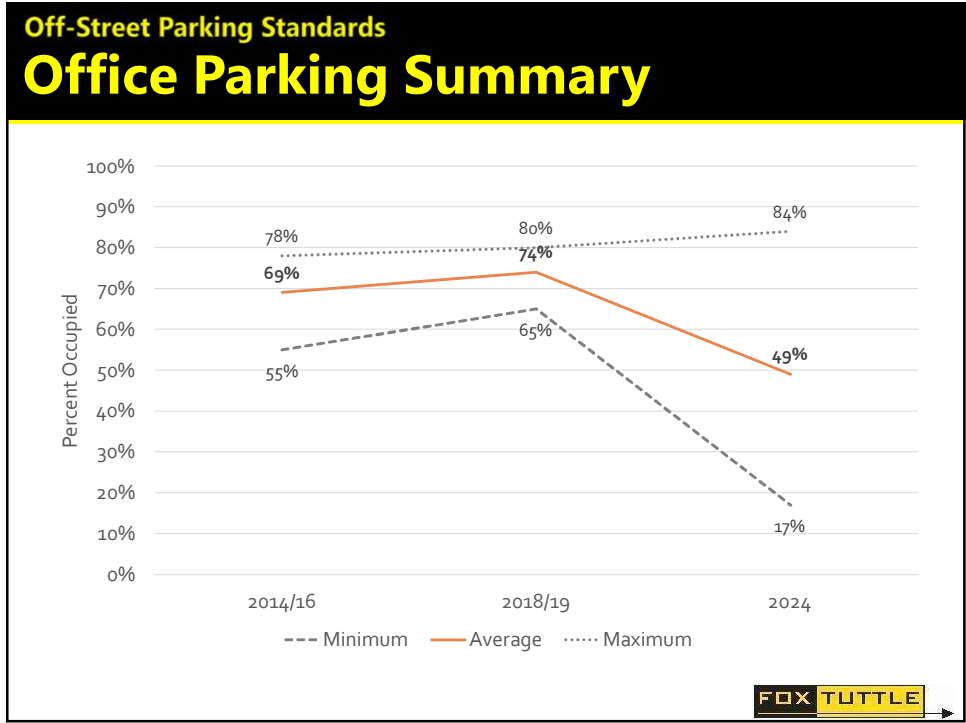
18

Off-Street Parking Standards Office Parking Summary

- 6 sites observed in 2024
- 2,471 parking spaces
- Peak time: Weekday Mornings
- **Average Parking Occupancy: 48%**
- Minimum Observed Occupancy: 34%
- Maximum Observed Occupancy: 73%



19



20

Off-Street Parking Standards Office Parking Summary

- **25% reduction** in average occupancy since 2018/19
- **20% reduction** in average occupancy since 2014/16
- Much more variation post-COVID

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Off-Street Parking Standards
Office Parking – Google Campus

- Required Parking per Code: 825 spaces
- Provided Parking: 716

24% reduction


- Observed Peak Parking Demand: 590
- Observed Peak Parking Occupancy:
 - 82% of provided
 - 72% of required



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Off-Street Parking Standards
Medical Office Parking Summary

- 1 site observed in 2024
- 148 parking spaces
- Peak time: Weekday Afternoon
- **Observed Parking Occupancy: 86%**
- **Peak occupancy unchanged** compared to 2018/19



24



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Off-Street Parking Standards Industrial Parking Summary

Table 9-3: NONRESIDENTIAL MOTOR VEHICLE PARKING REQUIREMENTS BY ZONING DISTRICT

Zone District Standard	RH-3, RH-6, RH-7, MU-4 (within a parking district)	RH-3, RH-6, RH-7, MU-4 (not in a parking district)	DT, MU-3, BMS (within a parking district)	BCS, BR-1, IS, IG, IM, A	RMX-2, MU-2, IMS, BMS (not in a parking district)	MU-1, MU-3 (not in a parking district)	RR, RE, RL, RM, RMX-1, RH-1, RH-2, RH-4, RH-5, BT, BC, BR-2, P (not in a parking district)
Minimum number of off-street parking spaces per square foot of floor area for nonresidential uses and their accessory uses	0			1:400	1:400 if residential uses comprise less than 50 percent of the floor area; otherwise 1:500	1:300 if residential uses comprise less than 50 percent of the floor area; otherwise 1:400	1:300
Maximum number of off-street parking spaces per square foot of floor area for nonresidential uses and their accessory uses	N/A	1:400 if residential uses comprise less than 50 percent of the floor area; otherwise 1:500	N/A				
Accessible parking requirement	Must meet the requirements of the Americans with Disabilities Act, as amended.						

Generally: One parking space per ~400 square feet

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Off-Street Parking Standards
Industrial Parking Summary

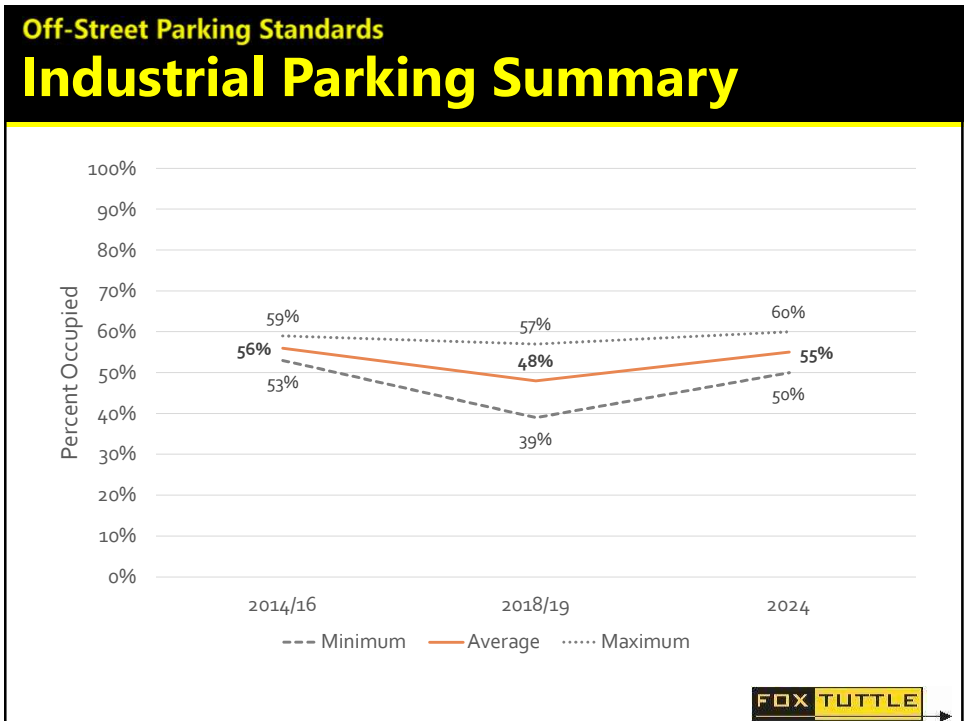
- 2 sites observed in 2024
- 513 parking spaces
- Peak time: Weekday Mornings

- **Average Parking Occupancy: 55%**

- Minimum Observed Occupancy: 50%
- Maximum Observed Occupancy: 60%

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Off-Street Parking Standards


Industrial Parking Summary

- Parking occupancy is **relatively unchanged** over time
- Maximum observed occupancy **did not exceed 60%** of the available supply



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Lodging/Hotel Parking Summary



31

Off-Street Parking Standards
Lodging/Hotel Parking Summary

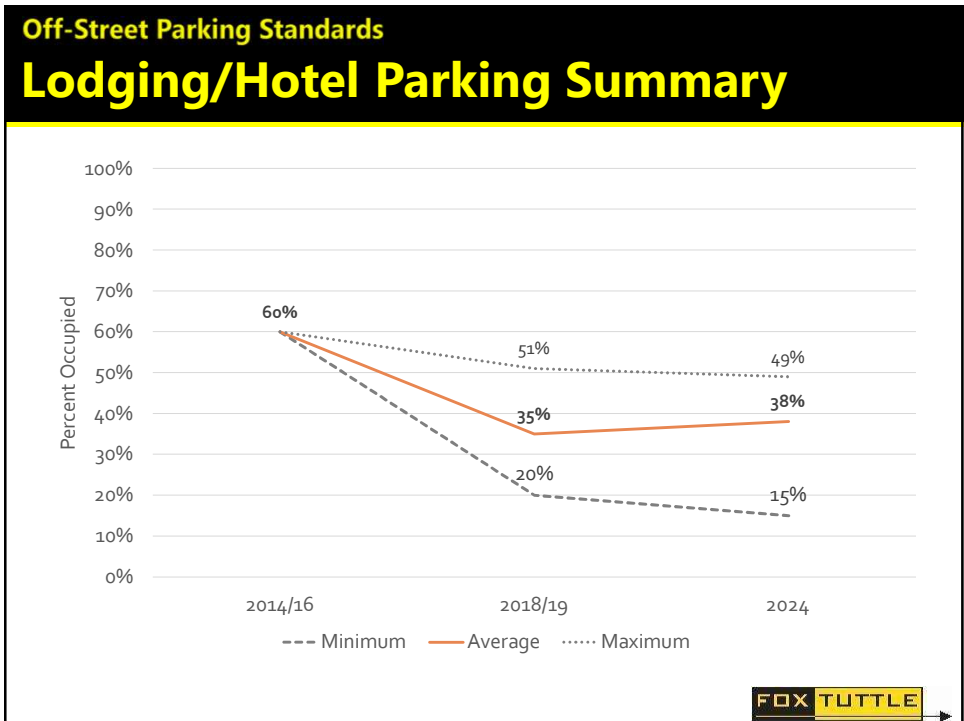
- 3 sites observed in 2024
- 786 parking spaces
- Peak time: Weekday Overnight

- **Average parking occupancy: 38%**

- Minimum observed occupancy: 15%
- Maximum observed occupancy: 49%

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Off-Street Parking Standards

Lodging/Hotel Parking Summary

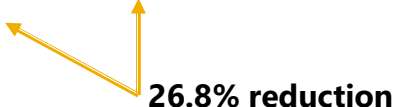
- Parking occupancy is **relatively unchanged** compared to 2018/19
- Maximum observed occupancy **did not exceed 60%** of the available supply




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Off-Street Parking Standards

Lodging/Hotel Parking – Embassy Suites/Hilton Garden Inn

- Required Parking per Code: 560 spaces
- Provided Parking: 410 
- Observed Peak Parking Demand: 230
- Observed Peak Parking Occupancy:
 - 56% of provided
 - 41% of required



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Off-Street Parking Standards Residential Parking Summary

Table 9-1: RESIDENTIAL MOTOR VEHICLE PARKING REQUIREMENTS BY ZONING DISTRICT AND UNIT TYPE

Zone District Standard	RR, RE, MU-1, MU-3, BMS, DT, A, RH-6	RMX-2, MU-2, MH, IMS	RL, RM, RMX-1, RH-1, RH-2, RH-4, RH-5, BT, BC, BR, IS, IG, IM, P	RH-3	MU-4, RH-7
Minimum number of off-street parking spaces for a detached dwelling unit (DU)	1	1	1	1	0
Maximum number of off-street parking spaces for an attached DU or each unit of a duplex	N/A	N/A	N/A	N/A	1 space per DU
Minimum number of off-street parking spaces for an attached DU or each unit of a duplex	1	1 for 1- or 2-bedroom DU 1.5 for 3-bedroom DU 2 for a 4- or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4- or more bedroom DU	1 for 1-bedroom DU 1.5 for 2-bedroom DU 2 for 3-bedroom DU 3 for a 4- or more bedroom DU	0
Accessible space requirement	Must meet the requirements of the Americans with Disabilities Act, as amended.				

- HB 24-1304: prohibits multifamily residential parking minimums near transit
 - Effective June 30, 2025

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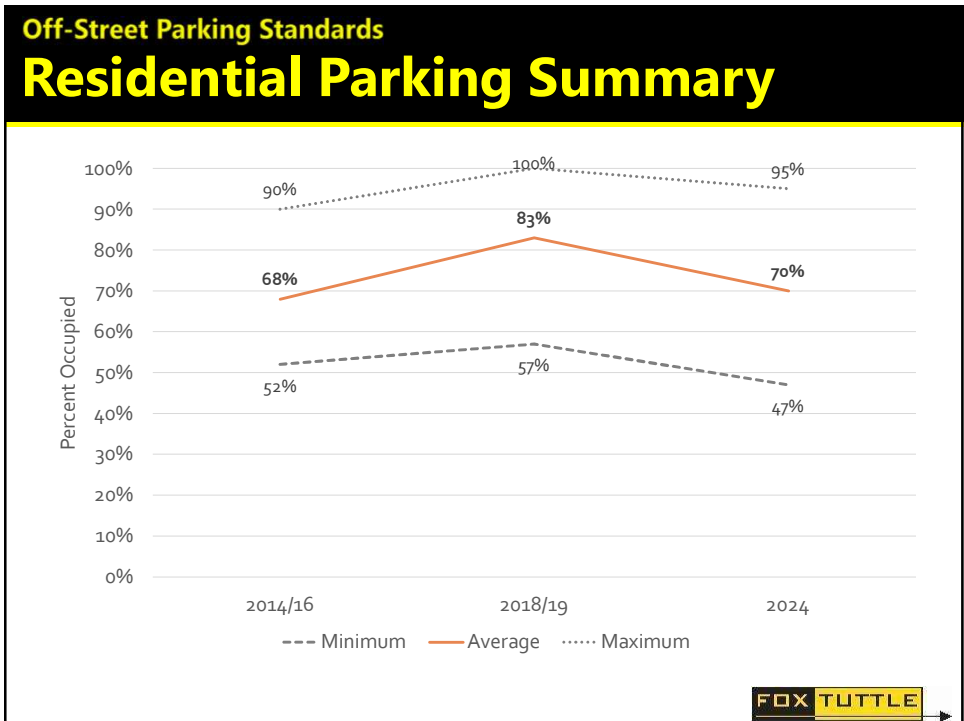
38

Off-Street Parking Standards
Residential Parking Summary

- 14 sites observed in 2024
- 2,691 parking spaces
- Peak time: Weekday Overnight
- **Average Parking Occupancy: 70%**
- Minimum Observed Occupancy: 47%
- Maximum Observed Occupancy: 95%

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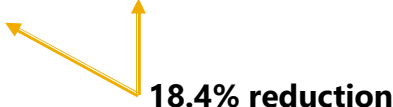
Off-Street Parking Standards
Residential Parking Summary


- **13% reduction** in occupancy compared to 2018/19
- Average occupancy **relatively unchanged** compared to 2014/16
- Highest occupancy of all land uses



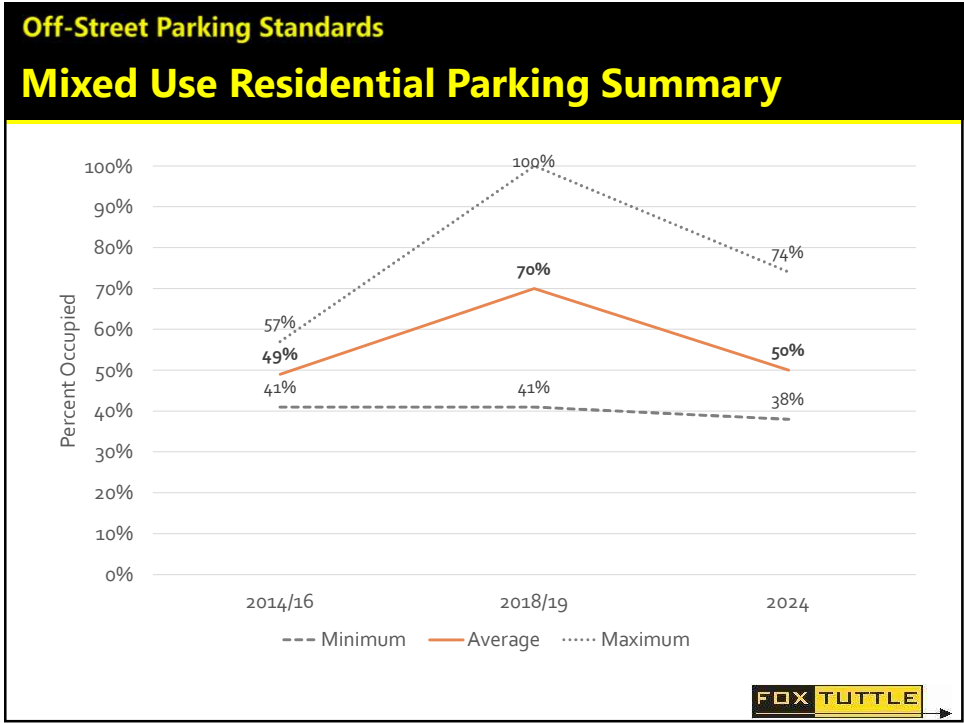
41

Off-Street Parking Standards
Residential Parking – Diagonal Crossing

- Required Parking per Code: 591 spaces
- Provided Parking: 482 
- Observed Peak Parking Demand: 325
- Observed Peak Parking Occupancy:
 - 67% of provided
 - 55% of required



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Off-Street Parking Standards

Mixed Use Residential Parking Summary

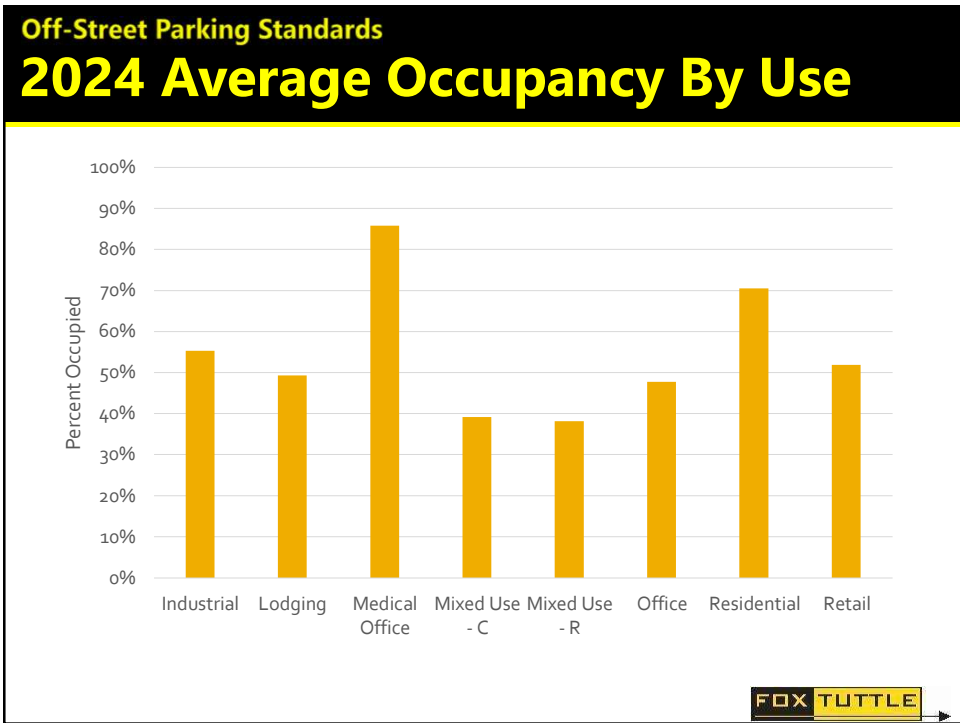
- Residential parking occupancy is **lower in mixed use** projects
- Average occupancy **relatively unchanged** compared to 2014/16

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Overall Parking Trends

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Off-Street Parking Standards
Key Takeaways

- More parking is available than used at peak times

Land Use	Observed Amount of Excess Parking Provided* at Peak Times
Retail	22% to 69%
Office	27% to 66%
Medical Office	14%
Industrial	40% to 50%
Lodging/Hotel	51% to 85%
Residential	5% to 53%
Mixed Use Residential	26% to 62%
Mixed Use Commercial	9% to 61%

**Not based on parking required by code*




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Off-Street Parking Standards
Key Takeaways

- Projects that were granted parking reductions from code minimum have **more parking than used at peak times**

Project	Land Use	Minimum Code Required	Reduction From Code	Parking Provided	Maximum Observed Peak Demand	Amount Excess Parking Provided (%)
Google Campus	Office	825	24.0%	716	590	126 18%
Embassy Suites	Lodging/Hotel	560	26.8%	410	230	180 44%
Diagonal Crossing	Residential	591	18.4%	482	325	157 33%



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